

Terms and Conditions for the Supply of Goods and Services. The Customer's attention is drawn in particular to the provisions of clause 11 (Limitation of Liability).

1 INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Applicable Law means (i) any law, statute, regulation, by-law or subordinate legislation in force, from time to time, to which a party is subject and/or which is applicable in any jurisdiction that the Goods or Services are provided to or in respect of; (ii) the common law and laws of equity as applicable to the parties (or either of them), from time to time; (iii) any binding court order, judgment or decree as applicable to the parties (or either of them), from time to time; or (iv) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over that party or any of that party's assets, resources or business;

Business Day means a day other than a Saturday, Sunday or public holiday in England;

Conditions means the terms and conditions set out in this document;

Contract means the contract between the Supplier and the Customer for the sale and purchase of the Goods, and/or the supply of Services, in accordance with these Conditions;

Customer means the person or firm who purchases the Goods and/or Services from the Supplier;

Customer Default means a breach of the Contract by the Customer, including a failure or delay in the Customer complying with its obligations under clauses 7.1, 8 and 9;

Customer Personal Data means any Personal Data which the Supplier receives pursuant to the performance of the Services and or delivery of the Goods;

Data Protection Legislation means all applicable data protection legislation including Regulation (EU) 2016/679 (the General Data Protection Regulation or the GDPR) and any national implementing laws, regulations and secondary legislation (or if the UK leaves the European Union, all equivalent legislation enacted in the UK in respect of the protection of Personal Data) (all as amended, updated or re-enacted from time to time);

Delivery Location has the meaning given in clause 4.2;

Force Majeure Event has the meaning given in clause 12;

Goods means the goods (or any part of them) set out in the Quotation;

Insolvency Event means when the party in question: (i) ceases or threatens to cease to carry on its business or any material part thereof; (ii) voluntarily or involuntarily suspends or discontinues its business, liquidates or sells its assets or a substantial part thereof, makes an assignment for the benefit of its creditors, becomes, or admits in writing that it is unable to pay its debts as they mature or becomes insolvent; or (iii) is the subject of any reorganisation, moratorium, insolvency or similar proceedings for the relief of financially distressed debtors instituted by or against such party; (iv) has a receiver, liquidator, trustee in bankruptcy or other third party appointed over any of its assets or business; (v) is the subject of bankruptcy, winding-up, dissolution or liquidation (judicial or non-judicial) proceedings initiated by such party or its creditors; (vi) any event occurs or proceeding is taken, with respect to such party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above; or (vii) being an individual 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;

Order means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's written acceptance of the Quotation or the Customer's purchase order issued on the basis of the Quotation, as the case may be;

Personal Data, Data Subject, Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation;

Property Issue means a structural defect or similar issue with the building in which the Goods are to be installed/Services supplied which has not been notified to the Supplier before the Quotation is given and is not recorded in the Quotation, including things such as the wall in which the Goods are to be installed not being structurally sound or asbestos being discovered, which would need to be disturbed in the course of the Services;

Quotation means the quotation provided by the Supplier for the Goods and/or Services on which the Order is based;

Services means the services (or any part of them) set out in the Quotation;

Specification means any specification for the Goods and/or Services, including any related plans and drawings, that are agreed in writing by the Customer and the Supplier; and

Supplier means Freelance Entry Solutions Limited (registered in England and Wales with company number 04539127).

1.2 Interpretation:

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

1.2.2 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.

1.2.3 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.

1.2.4 A reference to writing or written includes fax and email.

2 BASIS OF CONTRACT

2.1 Quotations issued by the Supplier are generally honoured for 20 Business Days but they do not constitute an offer and the Supplier reserves the right to withdraw or vary them at any time before the Contract is formed.

2.2 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order at which point, and on which date, the Contract shall come into existence.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.6 Any samples, drawings, descriptive matter or advertising produced or provided by the Supplier or its suppliers are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.7 If there is any conflict between the provisions of these Conditions and the provisions of the Quotation, the provisions of the Quotation will prevail.

2.8 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. The Customer acknowledges that it has not relied on and have shall no remedy in respect of any statement, promise assurance, warranty or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

3 GOODS AND SERVICES

3.1 The Goods and Services are described in the Quotation together with any Specification.

3.2 The Supplier reserves the right to amend any Goods and/or the Services (including any Specification) if required by any applicable statutory or regulatory requirements or to deal with any Property Issues identified.

3.3 Any changes which the Customer requests to the Goods, Services and/or any Specification after a Contract has been entered into may be accepted by the Supplier at its absolute discretion. If any such change will increase the costs for the Goods and/or Services, the Supplier shall notify the Customer in writing of such increased costs implications, which shall be payable by the Customer in addition.

3.4 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 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 reasonable 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 out of or in connection with the Supplier's use of the Specification. This clause 3.4 shall survive termination of the Contract.

4 DELIVERY AND INSTALLATION

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note.

4.2 The Supplier shall deliver the Goods to the location set out in the Supplier's Quotation or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

- 4.3 Delivery of the Goods shall be completed on completion of unloading the Goods at the Delivery Location or, where the Supplier is installing them, on completion of the installation.
- 4.4 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.5 Any dates quoted for delivery and/or performance of Services are approximate only, and the time of delivery and/or performance of Services is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods or performance of the Services that is caused by:
- 4.5.1 a Force Majeure Event;
- 4.5.2 the discovery of a Property Issue;
- 4.5.3 a Customer Default; or
- 4.5.4 any delay by the product manufacturer in supplying the Supplier with the Goods.
- 4.6 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract;
- 4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- 4.6.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If ten Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.8 Subject to clauses 4.9 and 11, if the Supplier fails to deliver the Goods or perform the Services, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods and services of similar description and quality in the cheapest market available, less the price of the Goods and Services. This clause 4.8 constitutes the Customer's exclusive remedy and the Supplier's only liability in respect of such failure, and is subject to clause 11.
- 4.9 The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, a Property Issue or a Customer Default.
- 5 QUALITY**
- 5.1 The Supplier warrants that on delivery the Goods shall conform in all material respects with their description as set out in the Quotation and any applicable Specification.
- 5.2 The Supplier does not manufacture the Goods and, save as and subject to, the conditions set out in this clause 5, the Supplier only sells the Goods with the benefit of any manufacturer's warranty which the Customer may be entitled to.
- 5.3 The Supplier will use reasonable endeavours to provide the Goods with the benefit of any applicable manufacturer's warranty and will provide the Customer with written details of any such warranty.
- 5.4 The Supplier will not be responsible for any loss suffered by the Customer arising out of any failure or delay by a manufacturer in repairing Goods under a manufacturer's warranty or otherwise.
- 5.5 If the Supplier installs the Goods that it supplies, the Supplier will ensure that its installation services (**Installation Services**) are carried out using reasonable care and skill and that, for 5 years from the date of completion of the Installation Services (**Warranty Period**) the Supplier shall (at its option and subject to clause 11) repair, replace or refund:
- 5.5.1 any damage to the Goods; or
- 5.5.2 reasonable damage to any property into which any Goods have been installed, which has resulted from the Supplier's failure to use reasonable care and skill in carrying out the Installation Services (**Installation Warranty**). The repair or replacement will include associated works such as timber/uPVC finishing or otherwise, which is part of the installation. The Services which the Supplier provides to rectify the warranty issue shall themselves be subject to the Installation Warranty for the remainder of the original Warranty Period (and they shall not be subject to their own, separate warranty period). If, as part of the rectification of any warranty issue, the Supplier replaces any Goods and those Goods are the subject of a manufacturer's warranty, the replacement Goods will be covered by the manufacturer's warranty for the remainder of the term of the manufacturer's warranty on the original Goods.
- 5.6 The Installation Warranty will only apply if:
- 5.6.1 the Supplier supplies and installs new Goods (i.e. a new, complete door and/or automation system). Where Goods are installed to become part of an existing product, e.g. a remote operator is supplied and installed to an existing garage door, then the Installation Services relating to the new motor are covered for the 5 year Warranty Period but any existing product or mechanism is not;
- 5.6.2 the Customer informs the Supplier of the Customer's claim under the Installation Warranty during the Warranty Period and within a reasonable time of discovery that the Installation Services have not been carried out in accordance with the Installation Warranty;
- 5.6.3 the Supplier is given a reasonable opportunity to inspect any damage to the Goods or any property and assess whether that is due to a cause which is covered by the Installation Warranty. If there is no legitimate claim under the Installation Warranty the Customer may be liable for the costs of the inspection visit. Any necessary works to rectify the issue, where it is not covered by the Installation Warranty, will be quoted for the Customer's consideration;
- 5.6.4 the Customer has complied with all guidance and instructions regarding servicing and maintaining the associated Goods, as specified by the Supplier or the manufacturer of the Goods. In particular, the Goods must be serviced by the Supplier annually (or as otherwise agreed between the Supplier and the Customer) in order for the Installation Warranty to remain valid). It will be the Customer's responsibility to instruct the Supplier to attend each year (or as otherwise agreed between the Supplier and the Customer) to carry out the servicing and this will be chargeable;
- 5.6.5 the damage to the Goods or property has not arisen, or been made worse, as a result of:
- (a) reasonable wear and tear, wilful damage, negligence or abnormal working conditions, or alterations or repairs carried out by the Customer or a third party without the Supplier's written consent; or
- (b) a structural defect or similar issue with the building in which the Goods are installed which was not notified to the Supplier before the Supplier's quotation was given and was not recorded in the Supplier's quotation;
- 5.6.6 the Goods and the surrounding structure are not altered by the Customer or anyone else. The Customer should contact the Supplier in writing with regards to any alterations or changes that the Customer may wish to make so the Supplier can discuss and log any potential implications. This applies to both the Installation Warranty as well as the manufacturer's warranty on the Goods; and
- 5.6.7 any issue which occurs is not as a result of:
- (a) deterioration of any original structural parts on which the installation of the Goods is reliant, e.g. rotting of timber frames/joists, rusting of supporting steelwork, or blown concrete, brickwork, render and such like;
- (b) movements of the surrounding structure which is not as a result of the Goods having been installed, e.g. natural settlement of new build structures, subsidence, movement associated with temporary structures, or expansion and contraction of materials which may occur with changes in temperature or moisture; or
- (c) a fault or failure of the Goods. Such an issue will not be covered under the Installation Warranty but may well be covered under the manufacturer's guarantee of the Goods.
- 5.7 The Installation Warranty is separate and in addition to any manufacturers guarantee of the Goods.
- 5.8 The Supplier may need to order parts in order to carry out a repair. Those parts may be subject to lead times from the manufacturers. Any parts that are replaced under the Installation Warranty will become the Supplier's property at the time they are replaced.
- 5.9 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 6 TITLE AND RISK**
- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 6.2.1 the Supplier receiving payment in full (in cash or cleared funds) for the Goods and Services, in which case title to the Goods shall pass at the time of payment of all such sums; and
- 6.2.2 the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

- 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3 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;
- 6.3.4 notify the Supplier immediately if it becomes subject to an Insolvency Event; and
- 6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 6.4.1 it does so as principal and not as the Supplier's agent; and
- 6.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer, the Customer becomes subject to an Insolvency Event, then, without limiting any other right or remedy the Supplier may have, the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately, and the Supplier may at any time require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product, 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.
- 7 CUSTOMER OBLIGATIONS**
- 7.1 The Customer shall:
- 7.1.1 ensure that the terms of the Quotation and any Specification are complete and accurate;
- 7.1.2 co-operate with the Supplier in all matters relating to the delivery of the Goods and the provision of the Services including, where applicable, using its reasonable endeavours to resolve any Property Issues identified;
- 7.1.3 provide the Supplier (including its employees, agents, consultants and subcontractors) with access to the Customer's premises at all reasonable times and as may be reasonably required by the Supplier in order for the Supplier to deliver the Goods and/or provide the Services;
- 7.1.4 provide the Supplier with such information, materials and other resources as the Supplier may reasonably require to supply the Services (including access to and use of (at the Customer's expense) electrical and water utilities);
- 7.1.5 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; and
- 7.1.6 comply with any other obligations set out in the Quotation or otherwise agreed in writing between the Customer and the Supplier.
- 7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any Customer Default:
- 7.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend delivery of Goods and/or performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 7.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer 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; and
- 7.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 8 CHARGES AND PAYMENT**
- 8.1 The price of the Goods and Services (if applicable) shall be the price set out in the Quotation (as may be amended in accordance with these Conditions).
- 8.2 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, 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 Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 8.3 The Customer must pay the first instalment as set out in our quotation within 2 Business Days of the Supplier accepting the Order and the balance will be due within 5 Business Days of completion of delivery of the Goods or performance of the Services as appropriate. Time of payment is of the essence and any delay in paying the first instalment may impact on delivery/performance dates.
- 8.4 The Supplier may, by giving notice to the Customer at any time before delivery (or where a Property Issue is identified before or during the performance of the Services, as soon as it becomes aware of the same), increase the price of the Goods and/or Services to reflect any increase in the cost of the Goods and/or Services and extend any estimated delivery/installation dates where they result from:
- 8.4.1 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- 8.4.2 a Customer Default; or
- 8.4.3 the discovery of any Property Issue.
- 8.5 Subject to clause 8.6, the Supplier may invoice the Customer for the first instalment for the Goods or Services on acceptance of the Order and the balance on or at any time after the completion of delivery and, if applicable, performance of the Services, in accordance with the Contract.
- 8.6 If the Supplier is prevented from completing the Services or delivering the Goods as a result of a Customer Default or an unresolved Property Issue, the Supplier will be entitled to invoice the Customer within 10 days of the notification to the Customer of the existence of a Customer Default or Property Issue.
- 8.7 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time but at 4% a year for any period when that base rate is below 0%. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.8 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.
- 9 DATA PROTECTION**
- 9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.
- 9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and the Supplier is the Data Processor in respect of Customer Personal Data. Clause 9.7 sets out the nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 9.3 Without prejudice to the generality of clause 9.1, the Customer will ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the Customer Personal Data to the Supplier for the duration and purposes of the Contract.
- 9.4 Without prejudice to the generality of clause 9.1, the Supplier shall, in relation to any Customer Personal Data processed by it in connection with the performance by the Supplier of its obligations under the Contract:
- 9.4.1 process that Customer Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Law to process Customer Personal Data otherwise than in accordance with the Customer's written instructions. Where the Supplier is relying on Applicable Law as the basis for processing Customer Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Law unless the Applicable Law prohibits the Supplier from so notifying the Customer;
- 9.4.2 immediately inform the Customer if the Supplier becomes aware of a written instruction given by the Customer under clause 9.4.1 that, in the Supplier's opinion, infringes Data Protection Legislation and the Supplier shall be entitled to suspend the supply of Goods and/or Services (or, at the Supplier's discretion, just the part thereof which is impacted by the infringement) until such time as the parties have agreed appropriate amended instructions which are not infringing;
- 9.4.3 ensure that it has in place appropriate technical and organisational measures:
- (a) to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, 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 (those measures may include, where appropriate, pseudonymising and encrypting Customer Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Customer Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it); and
- (b) in so far as possible and taking into account the nature of the processing, to assist the Customer in the fulfilment of the Customer's obligations to respond to any request from a Data Subject relating to Customer Personal Data;
- 9.4.4 ensure that all personnel who process Customer Personal Data are obliged to keep the Customer Personal Data confidential except where disclosure is required in accordance with Applicable Law;
- 9.4.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities;
- 9.4.6 at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination or expiry of the Contract unless required by Applicable Law to store the Customer Personal Data; and
- 9.4.7 maintain, and on request provide to the Customer, information to demonstrate its compliance with this clause 9 and allow for audits by the Customer or the Customer's designated auditor subject to the Customer: giving the Supplier reasonable prior notice of such information requests or audits; keeping all information obtained or generated thereby strictly confidential (save for disclosure required by Applicable Law); and ensuring that such audit or inspection is undertaken during normal business hours and with minimal disruption to the Supplier's business.
- 9.5 The Customer consents to the Supplier appointing subcontractors to perform all or part of the Services (including any warranty related work) and support the Supplier's business, such as IT providers, as third-party processor(s) of Customer Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 9. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 9.5.
- 9.6 The Customer shall indemnify and keep indemnified the Supplier in respect of all reasonably incurred costs (including legal costs) and expenses, claims, actions, interest, losses, damages, fines, penalties, sanctions and liabilities suffered or incurred by, or awarded against, the Supplier arising from or in connection with any (i) non-compliance by the Customer with the Data Protection Legislation; (ii) breach by the Customer of any of its obligations under this clause 9; or (iii) processing carried out by the Supplier, or any third party processor it appoints, pursuant to a written instruction given by the Customer under clause 9.4.1.
- 9.7 This clause 9.7 sets out the nature and purpose of processing by the Supplier, the duration of the processing by the Supplier, the types of Personal Data and the categories of Data Subject:
- 9.7.1 **Purpose of processing:** For the purpose of the supply by the Supplier of the Goods and/or Services to the Customer in accordance with the Contract.
- 9.7.2 **Nature of processing:** Contacting and liaising with employees, customers and tenants of the Customer to gain access to deliver the Goods and perform the Services.
- 9.7.3 **Duration of processing:** The term of the Contract.
- 9.7.4 **Types of Personal Data:** Names, addresses, email addresses and contact telephone numbers for customers and tenants of the Customer. Names, email addresses and contact telephone numbers for employees of the Customer.
- 9.7.5 **Categories of Data Subject:** Data in relation to employees, customers and tenants of the Customer.
- 10 **TERMINATION AND SUSPENSION**
- 10.1 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all deliveries of Goods under the Contract if:
- 10.1.1 a Property Issue is identified;
- 10.1.2 there is an ongoing Customer Default; or
- 10.1.3 the Customer is subject to an Insolvency Event, or the Supplier reasonably believes that the Customer is about to become subject to an Insolvency Event.
- Where suspension is on the basis of clause 10.1.1 or 10.1.2 the Supplier shall (without prejudice to its other rights and remedies under the Contract) resume the supply once the Property Issue or Customer Default is resolved to the Supplier's reasonable satisfaction.
- 10.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 10.2.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 15 days after receipt of notice in writing to do so; or
- 10.2.2 the other party is subject to an Insolvency Event.
- 10.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if a Property Issue is identified and the parties do not agree on how to resolve the same within 5 Business Days.
- 10.4 On termination of the Contract the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest 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 Customer immediately on receipt.
- 10.5 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and 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.
- 10.6 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 11 **LIMITATION OF LIABILITY**
- 11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 11.1.2 fraud or fraudulent misrepresentation;
- 11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 11.1.4 defective products under the Consumer Protection Act 1987; or
- 11.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 11.2 Subject to clause 11.1:
- 11.2.1 the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under, or in connection with, the Contract; and
- 11.2.2 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 the price of the Goods and Services ordered by the Customer.
- 11.3 Subject to clause 11.1, the Supplier shall have no liability to the Customer for any loss or damage caused to any property in respect of which Services are performed where that loss occurs as a result of a Property Issue.
- 12 **FORCE MAJEURE**
- The Supplier shall not be in breach of contract, nor liable for any failure or delay in performing its obligations under the Contract, to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond the Supplier's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 13 **GENERAL**
- 13.1 **Assignment and other dealings.**
- 13.1.1 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.

13.1.2 Subject to clause 13.1.3 the Customer may not 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.

13.1.3 The Customer may transfer the benefit of the Supplier's Warranty without the consent of the Supplier.

13.2 Notices

13.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause 13.2.1, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail.

13.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the proper address; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

13.2.3 The provisions of this clause 13.2 shall not apply to the service of any proceedings or other documents in any legal action.

13.3 **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.

13.4 **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.

13.5 **Third Party Rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.

13.6 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing.

13.7 **Governing 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 construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.