

THE FLOORBRITE GROUP LIMITED

TERMS AND CONDITIONS

(these "Terms and Conditions")

1. Definitions

In this Agreement:

1.1 The following terms shall have the following meanings unless the context otherwise requires:

"Accommodation": any accommodation provided by you for use by us in the provision of the Services, including staff rest area and storage rooms;

"Agreement": these Terms and Conditions together with the relevant Proposal, the Schedules referred to in that Proposal, and any document referred to in these Terms and Conditions, the Proposal or the Schedules;

"Breach of Duty": the breach of any: (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract; or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);

"Business Day": any day other than: (i) a Saturday; (ii) a Sunday; or (iii) a day when the clearing banks in the City of London are not physically open for business;

"Claims": has the meaning given to it in Clause 10.3.3;

"Commencement Date": the date on which this Agreement is signed by each of the Parties;

"Confidential Information": any information in any form or medium obtained by or on behalf of either Party from or on behalf of the other Party in relation to this Agreement which is expressly marked as confidential or which a reasonable person would consider to be confidential, whether disclosed or obtained before, on or after the date of this Agreement, together with any reproductions of such information or any part of it;

"Controller": has the meaning set out in the Data Protection Act 2018;

"Customer", "you" or "your": the recipient of services from us under this Agreement, as stipulated in the Proposal;

"Customer Equipment": any equipment, tools, devices and other such items and property supplied or made available to us by you for our provision of the Services, as agreed in writing between the Parties from time to time or as set out in the Specification;

"Data Protection Laws": in relation to any personal data which is processed in the performance of this Agreement, the Data Protection Act 2018 and the UK GDPR, in each case together with any national implementing laws, regulations, secondary legislation and any other applicable or equivalent data protection or privacy laws, as amended or updated from time to time, in the UK, and any successor legislation to such laws;

"Data Sharing Summary": the summary set out in Clause 13.2 setting out the scope, nature and purpose of Processing by us, and the duration of the Processing, the types of Personal Data that we are to Process, and categories of Data Subject;

"Data Subject": has the meaning set out in the Data Protection Act 2018;

"DBS Charges": has the meaning given to it in Clause 9.3;

"Deliverables": any deliverables, materials or documents provided or to be provided (or in respect of which Services are to be provided) or made available by us to you in relation to this Agreement as may be more particularly described as being required to be delivered in or pursuant to a Proposal;

"Employees": those employees whose contracts of employment the Parties believe will transfer to us from you/the Outgoing Supplier on commencement of this Agreement and whose details have been provided by you to us;

"Employee Liability Information": has the meaning set out in regulation 11(2) of TUPE;

"Event of Force Majeure": has the meaning given to it in Clause 17.1;

"Fees": The Product Fees and the Services Fees;

"Final Staff List": the list of all our Personnel engaged in or wholly or mainly assigned to the provision of the Services or any part of the Services at the date of the Service Transfer;

"Floorbrite Equipment": our equipment, devices, plant, materials, uniforms and such other of our items used by us in the provision of the Services and the performance of our obligations under this Agreement;

"Goods": any goods supplied, or to be supplied, by us to you pursuant to this Agreement, as more particularly identified in the Proposal and/or any relevant Schedule;

"Hired Equipment": any equipment to be hired by you from us, subject to a separate hire agreement, to be used by us in the provision of the Services;

"Intellectual Property Rights": copyright and related rights, trademarks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;

"Leap Year": a year, occurring once every four years, which has 366 days including 29 February as an intercalary day.

"Liability": liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and, for the purposes of this definition, all references to "this Agreement" shall be deemed to include any collateral contract);

"Liability Limit": the value set out in the Proposal;

"Location(s)": the location(s) at which we are to perform the Services, as stipulated in the Proposal;

"Notice Provisions": the notice provisions for the termination of this Agreement for convenience as may be set out in the Proposal and to the extent that the Proposal does not expressly refer to a prescribed period of notice which must be given by the relevant Party in order to terminate this Agreement for convenience, such period of notice shall be three full calendar months;

"Outgoing Services": any services which are identical or substantially similar to any of the Services and which you receive prior to the commencement of this Agreement, whether those services are provided by you internally or by any third party;

"Outgoing Supplier": any supplier of any identical or substantially similar services to the Services prior to the commencement of this Agreement;

"Personal Data": has the meaning set out in the Data Protection Act 2018, and relates only to personal data, or any part of such personal data, of

which you are the Controller and in relation to which we are the Processor and providing services under this Agreement;

"Personal Data Breach": has the meaning set out in UK GDPR;

"Processing": has the meaning set out in the Data Protection Act 2018 and "Process" shall be interpreted accordingly;

"Processor": has the meaning set out in the Data Protection Act 2018;

"Proposal": the written document we provide to you containing specific information relating to the particular products and services supplied or to be arranged to be supplied by us to you;

"Party": us or you, and "Parties" means both of us and you;

"Personnel": all persons employed or engaged by us to provide the Services;

"Processes": specifications, reports, notes, records, research, results, processes, descriptions, systems, methodologies, flowcharts, tools, ideas, concepts, information, data, diagrams and designs that we may use to provide the Services or the Deliverables;

"Products": the Goods and the Supplied Equipment;

"Product Fees": the fees payable by you to us under this Agreement for our provision of the Products, as stipulated in the Proposal and/or the relevant Schedule as may be altered from time to time in accordance with the express terms of this Agreement;

"Provisional Staff List": a list prepared and updated by us of all our Personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of preparation of the list;

"Quantity": the quantity of any Products we are to supply to you, as stipulated in the Proposal or the relevant order in accordance with Clause 4.1;

"Rates": our time and materials rates from time to time for the provision of Services by the Personnel, which, in respect of the Services and as at the date of this Agreement, shall be as set out in the Proposal and subject to change on notice to you from time to time;

"Records": any records, data or information provided or made available by you to us, or otherwise discovered by us, in relation to the Services;

"Replacement Services": any services which are identical or substantially similar to any of the Services and which you receive in substitution for any of the Services following the termination or expiry of this Agreement or any Schedule, whether those services are provided by you internally (known as in-sourcing) or by any third party;

"Replacement Supplier": any supplier of Replacement Services appointed by you from time to time;

"Schedule": a schedule containing a further description of the services or products provided by us to you, including further rights and obligations for the Parties in relation to such services and products;

"Services": the services we are to provide under this Agreement, as more particularly described in the Proposal and/or any relevant Schedule;

"Services Fees": the fees payable by you to us under this Agreement for our provision of the Services, as stipulated in the Proposal and/or the relevant Schedule as may be altered from time to time in accordance with the express terms of this Agreement;

"Services Start Date": the date on which we are to commence the provision of the Services, as the Parties agree from time to time;

"Service Transfer": has the meaning given to it in Clause 10.9;

"Specification": the specification of the Services, as set out in the Proposal or otherwise set out in a separate document issued by us to you which may accompany the Proposal, in each case as updated in accordance with Clause 23;

"Staffing Information": in relation to all persons detailed on the Provisional Staff List, such information as you may reasonably request (subject to Data Protection Legislation), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employees, workers, self-employed, contractors or consultants, agency workers or otherwise;
- (c) the identity of their employer or relevant contracting party;
- (d) their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes;
- (e) the current wages, salaries, profit sharing, incentive and bonus arrangements applicable to them;
- (f) details of other employment related benefits including medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and car schemes applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work; and
- (i) copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals);

"Supplied Equipment": any equipment supplied, or to be supplied, by us to you pursuant to this Agreement, as more particularly identified in the Proposal and/or any relevant Schedule;

"Term": has the meaning given to it in Clause 16.1;

"Transferring Employees": those of our employees whose contract of employment will be transferred to you or a Replacement Supplier pursuant to TUPE on expiry or termination or expiry of this Agreement or any Schedule;

"TUPE": The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) or any regulations which replace or amend them; and

"UK GDPR": the retained EU law version of General Data Protection Regulation (EU) 2016/679 in the United Kingdom.

- 1.2 references to **"Clauses"** are to clauses of these Terms and Conditions; references to **"Paragraphs"** are to paragraphs of a Schedule;
- 1.3 the headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;
- 1.4 a **"person"** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.5 a reference to a Party includes its personal representatives, successors or permitted assigns;
- 1.6 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm, partnership, trust, association, government or local authority department or other authority or body (whether corporate or unincorporated);
- 1.7 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.8 any phrase introduced by the terms **"including", "include", "in particular"** or any similar expression, shall be construed as illustrative, shall not limit the sense of the words preceding or following those terms, and shall be deemed to be followed by the words "without limitation" unless the context requires otherwise; and

1.9 a reference to **"writing"** or **"written"** includes in electronic form and similar means of communication.

2. Agreement

2.1 The terms of this Agreement apply to the exclusion of any terms and conditions submitted, proposed or stipulated by you in whatever form and at whatever time. These Terms and Conditions apply to all Services.

2.2 The Proposal, when signed by you (subject to Clause 2.3), constitutes an offer by you to purchase the Services from us in accordance with these Terms and Conditions. We shall only be deemed to have accepted that offer when we issue written acceptance of the Proposal, at which point and on which date this Agreement shall come into existence.

2.3 Notwithstanding any other provision in this Agreement, in circumstances where you do not sign the Proposal or otherwise return a signed version of the Proposal to us, your continued receipt of those Services which we have proposed to provide to you in that Proposal shall be deemed to constitute your unequivocal acceptance of all of the terms of this Agreement.

2.4 This Agreement constitutes the entire agreement between the Parties. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in this Agreement.

2.5 In the event of a conflict between these Terms and Conditions, Schedules and the Proposal, then:

- 2.5.1 the Proposal shall prevail over
- 2.5.2 these Terms and Conditions, which shall prevail over
- 2.5.3 a Schedule.

2.6 Each contract entered into in respect of a Proposal, with its relevant Schedules, constitutes a separate agreement. There may be more than one agreement between the Parties in force at the same time as this Agreement.

3. Services

3.1 In consideration of the payment to us of the Services Fees by you, we shall provide the Services in accordance with the Proposal (including the Specification).

3.2 We warrant that:

- 3.2.1 we shall use our reasonable skill and care in providing the Services;
- 3.2.2 our employees, agents and subcontractors have the necessary skill to provide any Services;
- 3.2.3 any Services will be provided in a professional, competent and workmanlike manner;
- 3.2.4 we have all necessary consents, rights and permission to enter into, and perform our obligations under, this Agreement;
- 3.2.5 any advice or recommendations that we provide as part of the Services will be independent and unbiased;
- 3.2.6 we shall ensure that our employees, agents and subcontractors co-operate with, and make themselves available at all reasonable times for, discussion and meetings with, you and your employees, agents or subcontractors;
- 3.2.7 we shall use our reasonable endeavours to ensure that whilst our employees, agents and subcontractors are on your

premises they conform to your normal codes of staff and security practice as are advised to them in advance by you;

3.2.8 we shall report to you any concerns, issues, comments or queries in respect of the Services that need to be addressed or resolved;

3.2.9 we shall comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of our rights and performance of our obligations under this Agreement; and

3.2.10 in connection with our performance of the Services, we will have due regard to and shall comply with our policies relating to anti-bribery and modern slavery (copies of which are available from us on request).

3.3 We are not responsible for any people, equipment, deliverables or services that we are not expressly stipulated to provide in this Agreement. You are responsible for any people, equipment, deliverables and services that you need to obtain from someone other than us. Except for any matter in relation to which we specifically agree in writing to advise or do, we shall not be responsible, or have any Liability (subject to Clause 15.2) for advising on, or failing to advise on, or doing, or failing to do, anything else.

3.4 Subject to us performing the Services within any timeframe agreed as being necessary for the performance of the Services, we may select our own working times and location provided that the nature of particular services does not require those particular services to be undertaken during particular working times or at a particular location (in which situation you shall be entitled to request that we perform the Services at such working times and location as are reasonable in the circumstances).

3.5 We shall use our reasonable endeavours to perform our obligations under this Agreement within any timescales set out in this Agreement. However, subject to Clause 15.2, we shall not have any Liability for any delays or failures to accurately perform our obligations:

- 3.5.1 if we have used those endeavours; or
- 3.5.2 if caused by any failure or delay on your part or on the part of your employees, agents or subcontractors or by any breach by you of this Agreement or any other agreement.

If there is any slippage in time, we shall use our reasonable endeavours to reschedule delayed tasks to a mutually convenient time.

3.6 If we are delayed or hindered in providing any Services as a result of any breach, delay or failure by you to perform any of your obligations under this Agreement or of any other agreement between us and you, then we may charge you at the Rates from time to time for:

- 3.6.1 any time reasonably incurred as a result of the hindrance or breach (including any wasted time for which we had anticipated that our Personnel would provide Services under this Agreement but become unable to provide the Services at that time as a result of your act or omission); and
- 3.6.2 any time that we were going to spend in providing the Services, in addition to the time we actually do spend in providing the Services.

3.7 We shall not be obliged to provide any Services where such provision would, in our reasonable opinion, expose our Personnel to the risk of physical injury. In the event that we consider there is such risk, we shall inform you of the nature of the risk, the Services we are not able to provide as a result of the risk and any consequential effect on the Services Fees or other terms of this Agreement. We will also, where reasonably possible, specify what actions you should take in order for us to be able to reinstate the provision of the Services. For the avoidance of doubt, we shall not have any Liability (subject to Clause 15.2) for any failure by us to provide Services pursuant to this Clause 3.7 and you shall not be entitled to terminate this Agreement pursuant to any such failure.

- 3.8 Except as specifically stipulated in this Agreement we:
- 3.8.1 shall not be responsible for providing or achieving any particular results or outcomes or within a particular time; and
- 3.8.2 exclude all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Services.
- 4. Products**
- 4.1 You may place orders for further Products, in addition to those listed in the Proposal, from time to time, and:
- 4.1.1 any such order shall be subject to these Terms and Conditions;
- 4.1.2 you shall be responsible for ensuring that the terms of any such order is complete and accurate; and
- 4.1.3 any such order shall be deemed accepted by us only when we have issued a written acceptance of it, at which point we shall be legally obliged to supply the Products that are the subject of that order.
- 4.2 We shall ensure that each delivery of the Products is accompanied by a delivery note which shows the date of this Agreement, all relevant reference numbers, special storage instructions (if any) and, if the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered.
- 4.3 Unless we and you agree otherwise in writing, we shall deliver the Products to the relevant Location on the dates we agree from time to time with you for such delivery.
- 4.4 We cannot leave Products at the relevant Location if you, or someone you have authorised to accept delivery, are not present to accept delivery. Anyone at the relevant Location will be deemed to be authorised to accept delivery.
- 4.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Subject to Clause 15.2, we shall not have any Liability for any delay in delivery of the Products that is caused by an Event of Force Majeure or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.6 If you are not available to take delivery of the Products, we may leave instructions to arrange redelivery. We may also pass on to you any costs incurred by us as a consequence of no-one being available to take delivery.
- 4.7 If delivery of the Products is delayed by your unreasonable refusal to accept delivery, if you are not at the relevant Location on the delivery date that we agree with you, if you refuse to sign for the delivery of the Products on delivery or if you do not (within one week of our first attempt to deliver the Products to you) accept delivery, then we may (without prejudice to any other right or remedy available to us, whether under this Agreement or at law):
- 4.7.1 charge you for our reasonable storage fees and other costs reasonably incurred by us, including redelivery costs; and/or
- 4.7.2 resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Products or charge you for any shortfall below the price of the Products.
- 4.8 If we fail to deliver the Products, our Liability shall be limited (subject to Clause 15.2) to the costs and expenses incurred by you in obtaining replacement products of similar description and quality in the cheapest market available, less the price of the Products.

- 4.9 We may deliver the Products by instalments, which we may invoice and require payment for separately. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
- 4.10 Risk in the Products shall pass to you, and delivery of the Products shall be completed, on the completion of unloading of the Products from our delivery vehicle at the relevant Location.
- 5. Title**
- 5.1 Notwithstanding delivery, title to and ownership of the Products shall not pass to you until we have received in full (in cash or in cleared funds) all sums due to us in respect of:
- 5.1.1 the Products; and
- 5.1.2 all other sums which are or which become due to us from you on any account;
- ("Payment").
- 5.2 Until Payment, you shall:
- 5.2.1 hold the Products on a fiduciary basis as our Bailee;
- 5.2.2 hold the Products in good, saleable conditions and keep them insured against all risks for their full price from the date of delivery;
- 5.2.3 keep an up-to-date list of the location of our property and present this to us on request;
- 5.2.4 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
- 5.2.5 store the Products separately from other goods and equipment or in any way so that they remain readily identifiable as our property.
- 5.3 If the Products are attached to or incorporated into any other materials or goods, the property in the new material or good shall vest in us until Payment in the proportion of the value of the Products to the other constituent elements.
- 5.4 We may at any time until title passes under this Clause 5 without notice recover possession of the Products which are our property. You hereby grant, or procure the grant, to us and our employees, agents and subcontractors, an irrevocable licence to enter for that purpose any premises then occupied by or in the ownership or possession of you or your direct or indirect customer. You shall indemnify us against all claims, losses, damages, liabilities, costs and expenses so arising.
- 5.5 We shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from us.
- 5.6 On termination or expiry of this Agreement, or any Schedule, for any reason, our rights contained in this Clause 5 shall remain in full force and effect.
- 6. Personnel**
- 6.1 We shall provide uniforms to all Personnel and ensure that such uniforms are kept clean and in proper repair.
- 6.2 Subject to Clause 6.3, we shall be fully responsible for any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services by Personnel or any payment or benefit received by the Personnel in respect of the Services, where such recovery is not prohibited by law.
- 6.3 In the event that you request the removal of any of the Personnel from the performance of the Services, and this results in a dismissal, you acknowledge and agree that you shall be fully responsible for any termination and compensation payments due including any accrued wages/salary, bonus, commission, holidays, expenses, national

- insurance and pension contributions, income tax, and notice pay and legal costs.
- 6.4 You shall:
- 6.4.1 at your cost, arrange for all security passes to the Location as required by us to perform the Services;
- 6.4.2 at your cost, provide lighting, hot water, drainage, electricity and such other utilities as we may reasonably require for our performance of the Services;
- 6.4.3 be responsible for the safety and well-being of the Personnel in accordance with relevant laws (including the Health and Safety at Work Act 1974) and including the provision of fully operational lifesaving equipment and emergency procedures including fire alarms, means of fire escape (including signage), emergency lighting, fire extinguishers and fire sprinklers;
- 6.4.4 deliver to us keys or alarm codes or anything else required for access to the Location(s) together with written details and instructions in respect of anything which may be reasonably required by us for the proper performance of the Services at the Location(s); and
- 6.4.5 prior to the commencement of the Services, inform us of any dangers or hazards, whether hidden or not, which we are likely to encounter during the performance of the Services.
- 6.5 At your request, we will undertake the setting, arming and/or disarming of intruder alarm systems at the Location. Subject to Clause 15.2, we shall not have any Liability for any cost arising out of human error on the part of Personnel or triggering of the alarm system or any fault or malfunction thereof of any kind whatsoever as a result of undertaking such task.
- 6.6 In the event that any Personnel is required to attend the Location outside of their normal working hours, due to any malfunction or triggering of your alarm system, you shall agree to pay any additional costs incurred by us as a result. Subject to Clause 15.2, we shall not have any Liability for the security of the Location, including the closing and/or locking of any door, window, barrier, container or otherwise that may be construed as a security duty that is not set out in the Specification.
- 6.7 In the event that you supply keys to any Personnel, you accept full responsibility for any security operations and you shall indemnify us, and keep us indemnified, 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 us in connection with the issue of keys or their use.
- 7. Equipment and Accommodation**
- 7.1 We shall be responsible for the procurement, provision, installation and maintenance of all Floorbrite Equipment used in connection with the Services. Floorbrite shall have no responsibility for the Customer Equipment, the Hired Equipment or the Supplied Equipment except to the extent set out in this Agreement. The Customer Equipment shall be provided by you, and the Customer Equipment, the Hired Equipment and the Supplied Equipment shall be serviced and maintained by you.
- 7.2 The Floorbrite Equipment shall at all times remain our property and you shall have no right, title or interest in or to the Floorbrite Equipment.
- 7.3 The Customer Equipment shall at all times remain, and the Supplied Equipment shall become (subject to Clause 5), your property and we shall have no right, title or interest in or to the Customer Equipment, or the Supplied Equipment following passing of title to you in accordance with Clause 5.
- 7.4 The Hired Equipment shall be subject to the relevant hire agreement under which we hire such equipment to you.
- 7.5 We shall inform you if we become aware of any defects appearing in or losses of or damage occurring to the Customer Equipment or the

Supplied Equipment. We shall be responsible to pay to you the cost of any replacement equipment necessary as a result of loss of or damage to the Customer Equipment or the Supplied Equipment caused deliberately or negligently by the Personnel. We will not use the Customer Equipment or the Supplied Equipment following a fault report until you confirm in writing that the repair has been completed satisfactorily and the Customer Equipment or the Supplied Equipment is safe to use.

7.6 We shall ensure that any Floorbrite Equipment used in the provision of the Services is:

7.6.1 of satisfactory quality and fit for purpose; and

7.6.2 maintained in good working order in compliance with manufacturer's instructions and in compliance with any applicable legislation.

7.7 We shall ensure that portable appliance testing is carried out annually on all mobile electrical Floorbrite Equipment we use in the provision of the Services.

7.8 All Floorbrite Equipment stored and used at the Location is for the use of Personnel only. Subject to Clause 15.2, we shall not be responsible for the use of any Floorbrite Equipment by any person other than Personnel. You shall indemnify us, and keep us indemnified, 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 us in connection with:

7.8.1 any such use; and/or

7.8.2 the loss, theft, misuse, damage or breakage of the Floorbrite Equipment whilst it is stored at the Location.

7.9 You shall make such Accommodation as is necessary for our performance of the Services available to us at your cost from the Services Start Date until termination or expiry of this Agreement.

7.10 We acknowledge that the Accommodation is not available to us permanently, and that, subject to reasonable notice, we may be required to vacate any accommodation and relocate to alternative accommodation from time to time during the Term. We are not granted exclusive possession of any Accommodation.

7.11 You shall ensure that any Accommodation is fit for purpose and in good condition. If any Accommodation is damaged, destroyed or otherwise unusable, you shall provide suitable alternative accommodation.

7.12 We will:

7.12.1 keep all Accommodation clean and tidy;

7.12.2 not alter any Accommodation without your consent; and

7.12.3 vacate all Accommodation on termination or expiry of this Agreement or on your reasonable request during the Term.

8. Your obligations

8.1 You shall:

8.1.1 ensure that the terms of the Proposal, the Schedules and any specification or instructions you provide to us for the Services and/or the Products, are complete and accurate;

8.1.2 provide proper, adequate, safe, comfortable and suitable environmental and operating conditions if we undertake any work at your premises;

8.1.3 inform us in writing a reasonable time before the commencement of any Services of any regulations relevant to us when working at any premises under your control;

8.1.4 be present and available at your premises at the required times to enable us to perform our obligations at the times we reasonably require under this Agreement;

8.1.5 sign a confirmatory note upon any of the Services (in whole or in part) having taken place, or any of the Products having been delivered, if we reasonably require you to do so;

8.1.6 ensure that your employees, agents and subcontractors fully co-operate with, and make themselves available at all reasonable times for discussion and meetings with, us and our employees, agents and subcontractors and to enable us to promptly perform our obligations under this Agreement;

8.1.7 promptly provide to us such data, information and assistance that will enable us to carry out fully, accurately and promptly our obligations under this Agreement to the best of our ability;

8.1.8 have all rights, permissions and consents to enter into, and perform your obligations under, this Agreement; and

8.1.9 comply with all applicable laws, statutes, regulations and by-laws in relation to the exercise of your rights and performance of your obligations under this Agreement.

8.2 It is your responsibility to ensure that the Services and Products are sufficient and suitable for your purposes and meet your individual requirements.

8.3 Where the Services include advisory or consultancy work, it is your responsibility to ensure that:

8.3.1 any decision or implementation made by you and your employees, agents or other contractors as a result of any advice, recommendation or course of action proposed in the provision of the Services by us is made in your best interests; and

8.3.2 the process of making such decision or implementation by you and your employees, agents and other contractors is made in compliance with your relevant risk and other internal strategies; and you bear exclusive responsibility and Liability for the consequences of any such decision or implementation.

8.4 Where it is included in the Specification that the Services includes the transfer of waste from receptacles within the Location to designated waste collection points, you shall ensure that only objects or items which are intended to be discarded or construed as waste shall be placed next to, adjacent to, in or on any waste receptacle which is scheduled to be emptied or removed by us. In the event that objects, items or materials are deposited next to, adjacent to, in or on any waste receptacles and we subsequently remove such items in the belief that they are waste, will shall have no Liability, subject to Clause 15.2, for loss to you or your employees.

9. Fees and variations

9.1 In consideration of obtaining the relevant Services and Products we provide pursuant to this Agreement, you shall pay to us the Fees. The Fees are calculated to exclude the provision of the Services on all non-Business Days unless otherwise agreed in writing between the Parties.

9.2 You shall pay the Fees to us at such times and in such instalments as we may direct from time to time. Unless set out otherwise in this Agreement, we may issue invoices to you for the Fees at such intervals as we may, at our absolute discretion, consider appropriate. The issue by us and payment by you of our invoices shall under no circumstances whatsoever be affected by, or be contingent upon, you giving to us a purchase order number. Any purchase order (and any terms and conditions attached or referred to in it) or purchase order number shall be purely for your administrative purposes and shall not form part of this Agreement.

9.3 In addition to the Fees, in order for us to provide the Services in accordance with statutory regulations, it is necessary for us to obtain a Disclosure and Barring Service check ("DBS Check"), or other similar checks or clearances (including renewal of such checks), in order for our Personnel to work with children or vulnerable adults at a rate of £52.00 for a "basic" check, and £67.57 for an "enhanced check" if requested ("DBS Charges"). You must pay all DBS Charges set out in the Proposal. The DBS Charges are not refundable if the Agreement is terminated for any reason by either Party, nor if the Personnel in relation to whom the checks were carried out cease to be engaged by us. We reserve the right to increase the DBS Charges if third party administrative costs increase.

9.4 Unless otherwise set out in the Proposal, all sums due under this Agreement are exclusive of VAT or other sales, import or export duties or taxes (if applicable) which shall be payable in addition at the same time as payment of any sums due.

9.5 You shall pay us all Fees:

9.5.1 in accordance with the payment terms set out in the Proposal;

9.5.2 by any payment method that we may stipulate from time to time; no payment shall be considered paid until we have received it in cleared funds in full;

9.5.3 in the currency in force in England from time to time or such other currency as we may stipulate from time to time for the Fees; and

9.5.4 in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9.6 If you are late in paying any part of any monies due to us under this Agreement and such payment remains outstanding for seven days following us providing notice to you of such outstanding payment, we may (without prejudice to any other right or remedy available to us whether under this Agreement or by any statute, regulation or bye-law) do any or all of the following:

9.6.1 charge interest and other costs on the overdue amount due but unpaid at the annual rate of interest set under Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 from time to time from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly;

9.6.2 sell or otherwise dispose of any Products and apply the proceeds of sale to the overdue amount;

9.6.3 recover our costs and expenses and charges (including legal and debt collection fees and costs) in collecting the late payment; and

9.6.4 suspend performance of this Agreement (or the relevant Schedule) until payment in full has been made.

9.7 In circumstances where we suspend our performance of this Agreement pursuant to Clause 9.6.4, you acknowledge and agree that we will continue to incur costs and expenses in connection with the Services (including without limitation staffing costs). As such, you shall continue to be responsible for, and shall pay, the Fees in full pursuant to the terms of this Agreement during any period of suspension, together with any other costs or expenses we incur under Clause 9.6.3 or otherwise.

9.8 We shall be entitled to increase or decrease (as appropriate) the Services Fees, on reasonable notice to you, in proportion to any change imposed by legislation in the United Kingdom which has as its effect increases or decreases in our costs of performing the Services, including changes in National Insurance, VAT, holiday entitlement, sickness entitlement, minimum wage and living wage.

9.9 We reserve the right to increase the Fees in respect of any Services or Products not included in the Proposal which we may agree, at our

absolute discretion, to provide to you in addition to those Services and Products set out in the Proposal.

9.10 In the case of a Leap Year, we will invoice you for one extra day for the month of February, in addition to the standard February invoice. The extra day's charge will be calculated by dividing the weekly cost of the Services by the number of days' Service provided each week.

9.11 We reserve the right to increase the Product Fees in respect of any Products, by giving notice to you at any time before delivery, to reflect any increase in the cost of the Products to us that is due to:

9.11.1 any factor beyond our control (include foreign exchange fluctuations, tax and duty increases and increase in supplier costs);

9.11.2 any request by you to change the delivery date(s), Quantity or type or design of Products ordered; and/or

9.11.3 any delay caused by your instructions in respect of the Products or your failure to give us adequate or accurate information or instructions in respect of the Products.

9.12 Where written notice to terminate is given by either Party in accordance with this Agreement, you shall continue to be responsible for, and shall pay, the Fees in full (at the then current rate) during any notice period, and any increase in the Fees during any such notice period shall apply to the Fees payable by you.

10. TUPE

10.1 The Parties acknowledge that, at the commencement of this Agreement, TUPE may operate with the effect that we may become the employer of the Employees.

10.2 You represent, warrant and undertake to us that:

10.2.1 no persons are employed or engaged in the provision of the Services other than the Employees;

10.2.2 none of the Employees has given or received notice terminating their employment or will be entitled to give such notice as a result of the provisions of this Agreement;

10.2.3 full particulars of the terms of employment of all the Employees (including all remuneration, incentives, bonuses, expenses and other payments and benefits whatsoever payable other than the pension benefits of any Employees) have been provided to us prior to the commencement of this Agreement;

10.2.4 in relation to each of the Employees (and so far as relevant to each of your former employees who were employed or engaged in the provision of the Outgoing Services), you or the Outgoing Supplier (as appropriate) has:

(a) maintained adequate and suitable records regarding the service of such Employees;

(b) complied with all collective agreements and customs and practices for the time being dealing with such relations or the conditions of service of such Employees; and

(c) complied with all relevant orders and awards made under any statute affecting such Employees' conditions of service;

10.2.5 no amounts due to or in respect of any of the Employees (including PAYE and National Insurance and pension contributions) are in arrears or unpaid;

10.2.6 no monies or benefits other than in respect of contractual emoluments are payable to any of the Employees and there is not at present a claim, occurrence or state of affairs which may hereafter give rise to a claim against you arising out of the

employment or termination of employment of any of the Employees for compensation for loss of office or employment or otherwise and whether under contract or any statute or regulations or otherwise;

10.2.7 you have, or have procured that the Outgoing Supplier has, provided the Employee Liability Information to us regarding each of the Employees either in writing or by making it available to us in a readily accessible form;

10.2.8 the Employee Liability Information contains information as at a specified date not more than 14 days before the date on which the information was provided to us;

10.2.9 you have, or have procured that the Outgoing Supplier has, notified us in writing of any change in the Employee Liability Information since the date on which it was provided; and

10.2.10 the Employee Liability Information was provided not less than 28 days before the commencement of this Agreement.

10.3 You shall indemnify us in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising incurred or suffered by us including all legal expenses and other professional fees (together with any VAT thereon) in relation to:

10.3.1 the termination by you of the employment of any of the Employees;

10.3.2 anything done or omitted to be done in respect of any of the Employees which is deemed to have been done by us by virtue of TUPE; and

10.3.3 any claim made at any time by any of your employees other than the Employees who claim to have become an Employee of or have rights against us by virtue of TUPE (the "Claims");

provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission by us.

10.4 We will promptly:

10.4.1 take such action in connection with the Claims as you shall from time to time reasonably request;

10.4.2 provide free of charge all such assistance and information as you may reasonably request relating to the Claims to enable the Claims to be pursued;

10.4.3 subject to any restriction imposed by law, provide you and your legal and other advisers with access to all documents, records or other information held by us relating to the Claims; and

10.4.4 provide assistance as you may reasonably request in order to ensure the due and timely prosecution of the Claims.

10.5 All salaries and other emoluments including holiday pay, taxation and National Insurance contributions and contributions to retirement benefit schemes relating to the Employees shall be borne by you up to and including the date of commencement of this Agreement and by us with effect from the date of commencement of this Agreement.

10.6 We shall indemnify you in full for and against all claims, costs expenses or liabilities whatsoever and howsoever arising, incurred or suffered by you including reasonable legal expenses and other professional fees (together with any VAT thereon) in relation to:

10.6.1 any failure by us to comply with our obligations pursuant to TUPE; and

10.6.2 anything done or omitted to be done by us in respect of any of the Employees whether before or after the commencement of this Agreement.

10.7 During the Term we will provide to you any information you may reasonably require relating to any individual employed, assigned or

engaged in providing the Services under this Agreement (subject to Data Protection Legislation).

10.8 If you terminate this Agreement before the end of the Term (save in circumstances where you are entitled to terminate this Agreement in accordance with Clause 16.3), or you reduce the volume of the Services you require us to provide, you will indemnify us in respect of the value of all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by us including all legal expenses and other professional fees (together with any VAT thereon) in relation to the employment or termination of employment of employees as a result.

10.9 This Agreement envisages that, subsequent to the commencement of this Agreement, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or expiry of this Agreement, or part, or otherwise) resulting in a transfer of the Services in whole or in part ("Service Transfer"). If a Service Transfer is a relevant transfer for the purposes of TUPE then, in such event, you or a Replacement Supplier would inherit liabilities in respect of the Transferring Employees. For the avoidance of any doubt this covers any decision that you will provide the Services in-house, known as in-sourcing.

10.10 We agree that, subject to compliance with Data Protection Legislation:

10.10.1 within 20 days of the earliest of:

(a) receipt of a notification from you of a Service Transfer or intended Service Transfer; or

(b) receipt of the giving of notice of termination of this Agreement or any part thereof in accordance with its terms;

and, in any event, on receipt of a written request of you at any time, we will provide the Provisional Staff List and the Staffing Information to you or, at your direction, to a Replacement Supplier and we will provide an updated Provisional Staff List when reasonably requested by you or any Replacement Supplier;

10.10.2 at least 28 days before the date of the Service Transfer, we will prepare and provide to you and/or, at your direction, to the Replacement Supplier, the Final Staff List, which shall be complete and accurate in all material respects. The Final Staff List will identify which of the Personnel named are Transferring Employees;

10.10.3 you will be permitted to use and disclose the Provisional Staff List, the Final Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Supplier for any services which are substantially the same type of services (or any part thereof) as the Services; and

10.10.4 on your reasonable request we will provide you or, at your reasonable request, the Replacement Supplier, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as you reasonably request.

10.11 In connection with a relevant transfer to which TUPE applies, we agree that we will perform and discharge all our obligations in respect of all the Transferring Employees and their representatives for our own account up to and including the Service Transfer Date. We will indemnify you and any Replacement Supplier in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by you or any Replacement Supplier including reasonable legal expenses and other professional fees (together with any VAT thereon) in relation to:

10.11.1 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including all wages, bonuses, PAYE, National Insurance contributions, pension

contributions and otherwise) payable in respect of any period on or immediately before the date of the Service Transfer; and

10.11.2 any act or omission by us in relation to our obligations under regulation 11 of TUPE, or in respect of an award of compensation under regulation 12 of TUPE except to the extent that the liability arises from your or Replacement Supplier's failure to comply with regulation 11 of TUPE.

10.12 You will indemnify us against all claims arising from your or the Replacement Supplier's failure to perform and discharge any obligation and against any claims in respect of any Transferring Employees arising from or as a result of:

10.12.1 any act or omission by you or the Replacement Supplier relating to a Transferring Employee occurring on or after the date of the Service Transfer; and

10.12.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the date of the Service Transfer.

10.13 The Parties shall co-operate, acting reasonably and in good faith, to ensure that any requirement to inform and consult employee representatives in relation to any relevant transfer as a consequence of a Service Transfer will be fulfilled.

10.14 You shall assume (or shall procure that the Replacement Supplier shall assume) our outstanding obligations in relation to any Transferring Employees in respect of accrued holiday entitlements and accrued holiday remuneration before the date of the Service Transfer.

11. Insurance

We shall maintain in force such insurance policies with reputable insurance companies as we consider reasonably necessary to cover our relevant potential liabilities in connection with this Agreement.

12. Confidentiality

12.1 Each Party shall keep the other Party's Confidential Information confidential and shall not:

12.1.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement; or

12.1.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 12.

Each Party shall use adequate procedures and security measures to protect the other Party's Confidential Information from inadvertent disclosure or release to unauthorised persons.

12.2 A Party may disclose the other Party's Confidential Information to those of its employees, agents and subcontractors who need to know such Confidential Information provided that:

12.2.1 it informs such employees, agents and subcontractors of the confidential nature of the Confidential Information before disclosure; and

12.2.2 it does so subject to obligations equivalent to those set out in this Clause 12.

12.3 A Party may disclose the Confidential Information of the other Party to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 12.3, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

12.4 The obligations of confidentiality in this Clause 12 shall not extend to any matter which either Party can show:

12.4.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or

12.4.2 was independently developed by it; or

12.4.3 was independently disclosed to it by a third party entitled to disclose the same; or

12.4.4 was in its written records prior to receipt.

12.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in this Agreement are granted to the other Party, or to be implied from this Agreement.

12.6 We may identify you as our client and the type of Products and Services provided by us to you, provided that, in doing so, we shall not reveal any of your Confidential Information (without your prior written consent).

12.7 On termination or expiry of this Agreement, each Party shall:

12.7.1 return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;

12.7.2 erase all the other Party's Confidential Information from its computer systems (to the extent possible); and

12.7.3 certify in writing to the other Party that it has complied with the requirements of this Clause 12.7, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.

12.8 The provisions of this Clause 12 shall continue to apply after termination or expiry of this Agreement.

13. Data protection

13.1 The Parties acknowledge that, for the purposes of the Data Protection Laws, and to the extent that we Process Personal Data under this Agreement, you are the Controller of Personal Data, and we are a Processor acting on your behalf.

13.2 For the purposes of Data Protection Laws, the subject-matter and duration of the Processing, the nature and purpose of the Processing, the type of Personal Data and categories of Data Subjects are as follows:

Nature and purpose of the Processing	To enable us to perform, or during our performance of, the Services.
Duration of Processing	The term of this Agreement.
Types of Personal Data Processed	Such Personal Data as you make available to us during our provision to you of the Services.
Categories of Data Subject	<ul style="list-style-type: none"> Your employees Your customers

13.3 Each Party confirms that it holds, and during the term of this Agreement will maintain, all registrations and notifications required in terms of the Data Protection Laws which are appropriate to its performance of the obligations under this Agreement.

13.4 Each Party confirms that, in the performance of this Agreement, it will comply with Data Protection Laws.

13.5 We will:

13.5.1 Process Personal Data only on documented instructions from you, unless required to do so by Data Protection Laws or any

other applicable law to which we are subject; in such a case, we shall inform you of that legal requirement before Processing, unless that law prohibits us to so inform you;

13.5.2 ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

13.5.3 ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, 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 Personal Data, ensuring confidentiality, integrity, availability and resilience of our systems and services, ensuring that availability of and access to 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 us);

13.5.4 notify you as soon as reasonably practicable before appointing any subcontractor in respect of Processing of Personal Data, and ensure that any such subcontractor complies with the provisions of this Clause 13 as if it was a Party; if you (acting reasonably) disagree with the appointment of the subcontractor for reasons relating to the Processing of Personal Data, you shall have the right to terminate this Agreement on 30 days' written notice;

13.5.5 taking into account the nature of the Processing, assist you by putting in place appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the Data Subject's rights laid down in Data Protection Laws, to the extent that such requests relate to this Agreement and our obligations under it;

13.5.6 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

13.5.7 at your option, delete (to the extent practicable) or return all the Personal Data to you after termination of this Agreement or otherwise on your request, and delete existing copies (to the extent practicable) unless applicable law requires our ongoing storage of the Personal Data;

13.5.8 inform you immediately if, in our opinion, an instruction from you infringes (or, if acted upon, might cause an infringement of) Data Protection Laws;

13.5.9 make available to you all reasonable information necessary to demonstrate our compliance with this Clause 13.5, and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you; and

13.5.10 not transfer any Personal Data outside of the United Kingdom or the European Economic Area unless we have obtained your prior written consent.

13.6 Each Party will notify the other Party as soon as is reasonably practicable if it becomes aware of a Personal Data Breach relating to either Party's obligations under this Agreement.

- 13.7 You shall undertake appropriate data protection impact assessments to ensure that Processing of Personal Data complies with Data Protection Laws. We will provide you with reasonable assistance, where necessary and upon your request, in carrying out any data protection impact assessment and undertaking any necessary prior consultation of the Supervisory Authority.
- 13.8 It is your responsibility to ensure that Personal Data is dealt with in a way that is compliant with the "data protection principles" set out in Data Protection Laws.
- 13.9 You shall ensure that:
- 13.9.1 you are able to justify the Processing of Personal Data as lawful in accordance with Data Protection Laws (including, where applicable, obtaining any and all consents of Data Subjects required in order to commence the Processing), and that you have recorded or documented this in accordance with the record keeping requirements of Data Protection Laws;
- 13.9.2 where Personal Data falls within the Special Categories of Personal Data, the Processing of such Special Categories of Personal Data is justified as lawful under Data Protection Laws before Processing takes place;
- 13.9.3 where the Processing of Special Categories of Personal Data is not justified as lawful under Data Protection Laws, no such data will be sent to us; and
- 13.9.4 you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to us for the duration and purposes of this Agreement.
- 14. Intellectual Property Rights**
- 14.1 The Parties acknowledge that, as between the Parties:
- 14.1.1 you and your licensors own all Intellectual Property Rights in the Records provided by you to us, whether or not we had any involvement in using your Records; and
- 14.1.2 we and our licensors own all Intellectual Property Rights in the Deliverables and the Processes.
- 14.2 You hereby grant to us a royalty-free, worldwide, perpetual, non-exclusive, assignable, sub licensable licence to use the Records for performing this Agreement.
- 14.3 We hereby grant to you a non-assignable, non-sub licensable, non-exclusive, perpetual licence to use any such Deliverables as are owned by us (and not a third party) for your usual internal business purposes.
- 15. Limitation of Liability**
- 15.1 This Clause 15 prevails over all of this Agreement and sets forth our entire Liability, and your sole and exclusive remedies, in respect of:
- 15.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or any services or deliverables in connection with this Agreement; or
- 15.1.2 otherwise in relation to this Agreement or entering into this Agreement.
- 15.2 Neither Party excludes or limits its Liability for:
- 15.2.1 its fraud; or
- 15.2.2 death or personal injury caused by its Breach of Duty; or
- 15.2.3 any breach of the obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
- 15.2.4 any other Liability which cannot be excluded or limited by applicable law.

- 15.3 Subject to Clause 15.2, we do not accept, and we hereby exclude, any Liability for Breach of Duty other than any Liability arising pursuant to the terms of this Agreement.
- 15.4 Subject to Clause 15.2, we shall not have any Liability in respect of any:
- 15.4.1 indirect or consequential losses, damages, costs or expenses;
- 15.4.2 loss of actual or anticipated profits;
- 15.4.3 loss of contracts;
- 15.4.4 loss of use of money;
- 15.4.5 loss of anticipated savings;
- 15.4.6 loss of revenue;
- 15.4.7 loss of goodwill;
- 15.4.8 loss of reputation;
- 15.4.9 loss of business;
- 15.4.10 ex gratia payments;
- 15.4.11 loss of operation time;
- 15.4.12 loss of opportunity;
- 15.4.13 loss caused by the diminution in value of any asset; or
- 15.4.14 loss of, damage to, or corruption of, data;
- whether or not such losses were reasonably foreseeable or we or our agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 15.4.2 to 15.4.14 (inclusive) of this Clause 15.4 apply whether such losses are direct, indirect, consequential or otherwise.
- 15.5 Subject to Clause 15.2, we shall not have any Liability for loss or damage to tangible property (including real property) save to the extent that it arises due to the Breach of Duty of us, our employees, subcontractors or agents acting within the course of their employment, during the performance of our obligations under this Agreement.
- 15.6 Subject to Clause 15.2, our total aggregate Liability arising out of or in connection with all claims in aggregate (including warranty claims and losses relating to breach of warranty) shall be limited to the Liability Limit.
- 15.7 The limitation of Liability under Clause 15.6 has effect in relation both to any Liability expressly provided for under this Agreement and to any Liability arising by reason of the invalidity or unenforceability of any term of this Agreement.
- 15.8 You acknowledge and accept that we only provide the Products and the Services to you on the express condition that we will not be responsible, nor shall we have any Liability (subject to Clause 15.2), directly or indirectly, for any act or omission of, you or your employees, agents or subcontractors, or any third party.
- 15.9 Subject to Clause 15.2, we shall not have any Liability for the breaking or disintegration, during provision of the Services, of any previously cracked, defective or broken part of your property. You shall inform us of any such breakage of or damage to any article at the Location caused by Personnel within forty-eight hours of the occurrence. Upon being so informed, we shall investigate and, where appropriate, rectify the matter without expense to the extent that it can be determined that such damage or breakage was attributable to or caused by us. We reserve the right to make good any damage caused by us in lieu of making payment in respect of it.
- 16. Termination**
- 16.1 This Agreement shall commence on the Commencement Date. Unless terminated earlier in accordance with the termination provisions under this Agreement and subject to the Notice Provisions, this Agreement shall continue in full force and effect until the latest of:

- 16.1.1 the completion of the provision of the Services in accordance with the Proposal and each relevant Schedule; or
- 16.1.2 the conclusion of payment of all sums due under this Agreement;
- (the "Term")
- 16.1.3 The client termination notice period outlined in the proposal takes precedent, but in the absence of a Proposal title page, our standard termination notice period of three full calendar months shall apply from receipt of written instruction. Either party shall give the other party written notice to terminate
- 16.2 Without prejudice to any of our rights or remedies whether under this Agreement or at law, we may terminate this Agreement with immediate effect (or such other notice period as we see fit at our absolute direction) by giving written notice to you if:
- 16.2.1 you fail to pay any amount due under this Agreement on the due date for payment and such amount remains in default not less than seven days after being notified to make such payment; and/or
- 16.2.2
- 16.2.3 if your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under this Agreement has been placed in jeopardy.
- 16.3 Without prejudice to any of our rights or remedies whether under this Agreement or at law, either Party may terminate this Agreement with immediate effect by giving notice in writing to the other Party if:
- 16.3.1 the other Party commits a material breach of this Agreement which is irremediable, or (if such breach is remediable) fails to remedy that breach within a period of five Business Days after being notified in writing to do so;
- 16.3.2 the other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order, or the other Party applies to court for or obtains a moratorium under Part A1 of the Insolvency Act 1986; or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction; and/or
- 16.3.3 the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 16.4 Termination or expiry of this Agreement (or a Schedule) shall be without prejudice to any accrued rights or remedies of either Party.
- 16.5
- 16.6 On termination or expiry of this Agreement (or a Schedule) for any reason:
- 16.6.1 we shall cease to provide the Products and the Services under this Agreement (or the relevant Schedule);

- 16.6.2 you shall grant us access to the Location on request to remove any Floorbrite Equipment remaining at the Location; and
- 16.6.3 you shall pay to us all amounts owing to us under this Agreement (or the relevant Schedule), whether invoiced or not.
- 16.7 Clauses 1, 5, 9, 10, 11, 12, 15, 16.5, 16.6, 16.7, 17.1, 17.6, 18, 19, 20, 21, 22, 23.3, 24 and 26 shall survive any termination or expiry of this Agreement for any reason.
- 16.8 If you terminate this Agreement before the end of the Term (save in circumstances where you are entitled to terminate this Agreement in accordance with Clause 16.3), you will indemnify us in respect of all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by us including all legal expenses and other professional fees (together with any VAT thereon) in relation to:
- 16.8.1 any equipment, tools, vehicles or other accessories that we have obtained (whether by purchase, rental, hire purchase or otherwise) in order to provide the Services to you (including in respect of the termination of any hire contracts that we have entered into for such purposes);
- 16.8.2 any property or office space that we have occupied in order to provide the Services to you; and/or
- 16.8.3 any depreciation, redeployment, amortisation or capital losses we suffer as a result of such termination.
- 17. Force Majeure**
- 17.1 Subject to Clause 15.2, we shall have no Liability for any breach, hindrance or delay in performance of our obligations under this Agreement which is caused by an Event of Force Majeure, regardless of whether the circumstances in question could have been foreseen. An **'Event of Force Majeure'** means any cause outside of our reasonable control, including act of God, actions or omissions of third parties (including hackers, suppliers, couriers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, disease, virus, epidemic or pandemic (including Covid-19 and any potential mutation or variant of it and any subsequent similar outbreak), government requirements and acts or omissions, quarantine requirements, lockdown, fire, explosion, storm, flood, drought, adverse weather conditions, loss at sea, earthquake, natural disaster, accident, collapse of building structures, failure of plant machinery or machinery or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation.
- 17.2 We shall inform you upon becoming aware of an Event of Force Majeure, such information to contain details of the circumstances giving rise to the Event of Force Majeure.
- 17.3 The performance of our obligations shall be suspended during the period that the circumstances persist and we shall be granted an extension of time for performance equal to the period of the delay.
- 17.4 Each Party shall bear its own costs incurred by the Event of Force Majeure.
- 17.5 If the performance of any of our obligations is delayed under this Clause 17, you shall nevertheless accept performance as and when we shall be able to perform.

- 17.6 If we are affected by an Event of Force Majeure and the Event of Force Majeure continues without a break for more than one month, we may terminate this Agreement immediately by notice to you, in which event we shall not have any Liability (subject to Clause 15.2) to you by reason of such termination.
- 17.7 If we have contracted to provide identical or similar products and/or services to more than one client and we are prevented from fully meeting our obligations to you due to an Event of Force Majeure, we may decide at our absolute discretion which contracts we will perform and to what extent.
- 18. Notices**
- 18.1 Any notice given to either Party under or in connection with this Agreement shall be in writing, and either:
- 18.1.1 sent by email to the relevant Party at the email address given in the Proposal or such other email address as that Party may have specified to the other Party in writing, provided that a confirmatory copy is given by hand or sent in accordance with Clause 18.1.2 within one Business Day of transmission; or
- 18.1.2 addressed to the relevant 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, and shall be delivered personally, sent by pre-paid first class post, recorded delivery or commercial courier.
- 18.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 18.1; 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 email, at the time of transmission (and the confirmation of sending shall be conclusive evidence of proof that a notice was sent by e-mail).
- 18.3 The provisions of this Clause 18 shall not apply to the service of any proceedings or other documents in any legal action.
- 19. Assignment**
- You may not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of your obligations under it, without our prior written consent (such consent not to be unreasonably withheld or delayed).
- 20. Severance.**
- 20.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 20.2 If any invalid, unenforceable or illegal provision of this Agreement 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.
- 21. Waiver**
- A waiver of any right or remedy under this Agreement 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 this Agreement 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.
- 22. Third party rights**

- A person who is not a Party shall not have any rights under or in connection with this Agreement.
- 23. Change Control**
- 23.1 We and you shall meet regularly during the Term to discuss the Products and Services. If either Party wishes to change the scope or execution of the Services and/or provision of the Products, it shall submit details of the requested change to the other Party in writing, and, in such case, we shall, within a reasonable time, provide a written estimate to you of:
- 23.1.1 the likely time required to implement the change;
- 23.1.2 any necessary variations to the Fees arising from the change; and
- 23.1.3 any other impact of the change on this Agreement.
- If you wish us to proceed with the change, we have no obligation to do so unless and until the Parties have agreed the necessary variations to the Fees, the Services, the relevant Specification, the Products and any other relevant terms of this Agreement to take account of the change and this agreement has been varied by signature of each of the Parties (or their authorised representatives) in writing.
- 23.2 Notwithstanding Clause 23.1, we reserve the right to:
- 23.2.1 from time to time and without notice, change the Services and/or the Products in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services and/or the Products;
- 23.2.2 amend the relevant Specification and the Fees in consultation with you if, following entry into this Agreement and before the Services Start Date, we undertake an operational visit to the Location and/or receive TUPE information in respect of Employees, that means that the relevant Specification and/or the Fees are not appropriate for the Services we are to provide; and/or
- 23.2.3 in the event that there is a change in legislation, regulations or bye-laws applicable to this Agreement, make relevant amendments to the Specification, without your approval, to comply with such legislative changes by giving to you reasonable notice; for the avoidance of doubt, this Clause 23 shall not apply in the event that we make such amendments.
- 23.3 Without prejudice to Clause 10, if you terminate this Agreement, or reduce the volume of the Services you require us to provide, or we otherwise suspend our performance of this Agreement in accordance with its terms, and as a direct consequence of such termination, reduction or suspension it is necessary for us to:
- 23.3.1 terminate any contracts in respect of equipment, tools, vehicles or other accessories, including hire purchase and rental contracts;
- 23.3.2 sell any equipment, tools, vehicles or other accessories;
- 23.3.3 terminate any contract for our occupation of any property or office space; and/or
- 23.3.4 make any personnel redundant;
- or we suffer any depreciation, redeployment, amortisation or capital losses as a result of such change, you shall indemnify us, and keep us indemnified, 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 us in connection with such actions.
- 24. No partnership**
- Nothing in this Agreement shall constitute a partnership or employment or agency relationship between the Parties.

25. Disputes

- 25.1 In the event that you have any concern or complaint in respect of the Services and/or the Products, you shall send it to us in writing within forty-eight hours of it coming to your attention. Upon receipt of any such communication, we shall investigate and, at our discretion, take all such reasonable and practicable actions to rectify the matter.
- 25.2 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it, then either Party shall give to the other Party written notice of the dispute, setting out its nature and full

particulars, together with relevant supporting documents. On service of such notice, the Parties shall attempt in good faith to resolve the Dispute. Nothing shall prevent either Party commencing or continuing court proceedings in relation to the dispute under Clause 26.

26. Governing law and jurisdiction

- 26.1 This Agreement 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 the laws of England.

- 26.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.