

Terms & Conditions

OUR TERMS

1. THESE TERMS

- 1.1 **What these terms cover.** These are the terms and conditions (“**conditions**”) on which we supply products to you, whether these are goods or services (“**products**”). Please note, if there is more than one of you as customer (whether business or consumer) each such person’s/entities’ obligations hereunder shall be joint and several.
- 1.2 **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms, please contact us to discuss.
- 1.3 **Are you a business customer or a consumer?** In some areas you will have different rights under these terms depending on whether you are a business or consumer. You are a consumer if: you are an individual; or you are buying products from us wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession). You may be referred to as the ‘customer’ in these terms and conditions.
- 1.4 **If you are a business customer this is our entire agreement with you.** If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. 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 these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1 **Who we are.** We are Floramedia (U.K.) Ltd of Axis Two, Brunel Way, Severalls Business Park, Colchester, Essex, CO4 9QX, a company registered in England and Wales. Our company registration number is 01567452. Our registered VAT number is 360-3050-01.
- 2.2 **How to contact us.** You can contact us by telephoning on 01206 771040 or by writing to us at Info@floramedia.co.uk or at our registered office address set out in clause 2.1.
- 2.3 **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.
- 2.4 **"Data Protection Legislation" means** the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.
- 2.5 **"Insolvency Event"** shall mean any of the events described in clause 9.7.
- 2.6 **"UK Data Protection Legislation"** means any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation
- 2.7 **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails and reference to “parties” shall mean both us and you with reference to “party” being reference to one of us or you as applicable.
- 2.8 **"Working Day"** means any day other than a Saturday or Sunday on which banks in the City of London are ordinarily open for business.



3. OUR CONTRACT WITH YOU

- 3.1 Quotations given by us to you are subject to withdrawal at any time before receipt of an order from you and shall be deemed withdrawn if not accepted within 5 Working Days from their date unless otherwise stated in writing by us at the time of quoting.
- 3.2 **How we will accept your order.** Upon receipt of an order from you, we will endeavour to issue an Order Confirmation, once it appears to us that your order has been agreed. Where the order relates only to stock items purchased over the telephone or by post/fax, we may simply deliver to you the goods ordered. Either of the above shall constitute a contracting coming in to existence between you and us ("**contract**").
- 3.3 No contract for the sale of goods and/or supply of services shall be concluded until we have issued an Order Confirmation or (if earlier) we deliver the goods and/or services to you. Our failure to issue an Order Confirmation shall have no effect on the creation of a binding contract with you.
- 3.4 **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.
- 3.5 **Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.
- 3.6 The quantity and description of the goods and/or services shall be as set out in the Order Confirmation unless they shall have been delivered to you without an Order Confirmation having been produced.
- 3.7 Once an Order Confirmation has been sent by us to you or, if none, the goods and/or services have been supplied, a binding contract shall be concluded and you shall be liable to pay the price for the goods and/or services in accordance with these conditions notwithstanding any error contained in the Order Confirmation even if such error shall have been ours, subject to the content of clause 15.5 of these conditions.

4. OUR PRODUCTS

- 4.1 **Products may vary slightly from their pictures.** The images of the products on our website or other illustrative materials are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images. Although we have made every effort to be as accurate as possible, because some of our products are custom made, all sizes, weights, capacities, dimensions and measurements indicated on our website or other illustrative materials have a 5% tolerance.
- 4.2 **Product packaging may vary.** The packaging of the product may vary from that shown in images on our website or other illustrative materials.

5. YOUR RIGHTS TO MAKE CHANGES

If you wish to make a change to the product(s) you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product (which we have the right to amend and determine in our sole discretion), the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.



6. OUR RIGHTS TO MAKE CHANGES

6.1 **Minor changes to the products.** We may change the product:

- (a) to reflect changes in relevant laws and regulatory requirements;
- (b) should there be any increase in the cost to us of any goods, raw materials or components or labour or transport or by reason of any other cause whatsoever beyond our control;
- (c) should there be any additional cost in accordance with clauses 7.2 and/or 7.3; and
- (d) to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect your use of the product.

6.2 **More significant changes to the products and these terms.** In addition, as we informed you in the description of the product on our website and/or other illustrative materials and as set out in these conditions, we may make more substantive changes to these terms or the product which may affect your use of the products, but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received.

7. YOUR SPECIFICATION AND MATERIAL AND PRELIMINARY WORK

7.1 Where products are provided or made to your specification, instruction or design, you shall be fully responsible for the suitability and accuracy of the specification, instructions or design and undertake to indemnify us and keep us indemnified on a continuing basis against any infringement of any registered design, trade mark, trade name, copyright or other intellectual property rights and against all losses, damage or expense which we may incur by reason of such infringement or of any matter printed for you being unlawful, illegal or defamatory.

7.2 **Making sure your measurements are accurate.** If we are making the product to measurements you have given us you are responsible for ensuring that these measurements are correct. We shall have no liability for inaccurate measurements or information you provide, including but not limited to any approval of a proof produced by us that contains errors or omissions – once approved, this proof is legally-binding on you and we shall have no liability for performing the proof if it contains errors or omissions.

7.3 Where materials are supplied or specified by you:

- (a) we may reject any paper, plates or other materials supplied or specified by the you which we considers to be unsuitable or likely to result in civil or criminal proceedings. In the event that any such materials prove unsuitable during production we reserve the right to adjust the price of any products by an amount equal to any increase in the cost of the production suffered by us as a consequence and the price of the products shall increase accordingly;
- (b) no liability for defective goods is accepted by us where such defect has arisen wholly or partly as a result of or out of use of materials supplied by or whose use is directed by you; and/or
- (c) quantities of materials supplied by you shall be sufficient to cover normal spoilage.

7.4 We may in the course of our business use pictures and/or other images which are subject to our copyright. Where we use images in your products and projects, those images remain subject to our ownership and copyright and you shall not be entitled to use them for any purpose including, but not limited to, using such pictures or images for internet or other digital promotion purposes. If you want to use pictures or images subject to our copyright you must obtain express, prior, written consent from us.

7.5 All pre-contractual design and artwork carried out on your behalf shall be charged and paid for by you forthwith or in advance if we so require. A charge may be made to cover any additional work involved where copy supplied by you is not clear or legible. We shall not be liable for any



errors in proofs submitted by us for your approval and you shall be solely responsible for the accuracy of the products produced on the basis of those proofs and shall indemnify and keep indemnified us from and against all liabilities, losses, damages, costs and expenses (including, without limitation, legal expenses) incurred by us arising out of errors in those products. The cost of any additional proofs which are required shall be in addition to the quoted price as will items left to our sole discretion and alterations to those items shall be an addition to the quoted price.

8. PROVIDING THE PRODUCTS

- 8.1 Where products are to be delivered by us to you, such goods will be delivered to the location set out in the Order Confirmation or otherwise notified by you to us and expressly agreed by us in writing. Unless it is otherwise agreed in writing, such products shall be delivered by means chosen by us. You shall provide at your expense adequate and appropriate equipment and manual labour for loading and/or unloading the products.
- 8.2 Time shall not be of the essence in respect of delivery times by us and delivery times and dates are estimates only. Furthermore, we are not liable for any delays in delivery caused by your failure to provide us with any information requested as part of the order or fulfilment process, irrespective of a contract being formed once the Order Confirmation is issued. We shall be entitled to deliver the products in one or more consignments. Each separate consignment shall be invoiced and paid for in accordance with the provisions of these conditions. Each consignment shall be a separate contract and no cancellation or termination of any one contract relating to a consignment shall entitle you to rescind any other contract or consignment.
- 8.3 Whilst we shall endeavour to deliver the quantity of products ordered, you accept a margin of error of up to 10% of the quantity contained in the Order Confirmation and shall not be entitled to object to or reject the products or any of them by reason of any surplus or shortfall within this margin. In that event the price for the products shall be adjusted at the run-off rate and we shall not be in breach of the contract.
- 8.4 The quantity of any consignment of products as recorded by us on despatch from our place of business shall be conclusive evidence of the quantity received by you on delivery.
- 8.5 We shall not be liable for any non-delivery of products (even if caused by our negligence) unless you give written notice to us of the non-delivery within 5 Working Days of the date on which the products would in the ordinary course of events have been received.
- 8.6 Any liability of ours for non-delivery of the goods shall be limited to replacing the products within a reasonable time or issuing a credit note at the pro-rata contract rate against any invoice raised for such products.
- 8.7 If the products are lost or damaged in transit notification in writing must be given by you to the carrier and us in writing of the loss or damage within 2 days of delivery.
- 8.8 We may at our option cancel or suspend (or suspend and later cancel) all further deliveries under the contract in the event of (a) default by you in making any payment due under the contract or under any other contract between us and you; or (b) you shall suffer an Insolvency Event; or (c) anything similar or analogous to any of the foregoing shall occur under the laws of any applicable jurisdiction.
- 8.9 **Delivery costs.** The costs of delivery will be as displayed to you on your order and any Order Confirmation that we issue to you.
- 8.10 **We are not responsible for delays outside our control.** If our supply of the products is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may



contact us to end the contract and receive a refund for any products you have paid for but not received.

- 8.11 **If you are not at home when the product is delivered.** If no one is available at your address to take delivery and the products cannot be posted through your letterbox, we will leave you a note informing you of how to rearrange delivery.
- 8.12 **If you do not re-arrange delivery.** If, after a failed delivery to you, you do not re-arrange delivery we will contact you for further instructions and may charge you for storage costs and any further delivery costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery we may end the contract and clause 12.2 will apply.
- 8.13 **What will happen if you do not give required information to us.** We may need certain information from you so that we can supply the products to you. If so, we will notify you of this and request any information that we required, that is not provided by you as part of the order process. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract (and clause 12.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.
- 8.14 **Reasons we may suspend the supply of products to you.** We may have to suspend the supply of a product to: deal with technical problems or make minor technical changes; update the product to reflect changes in relevant laws and regulatory requirements; make changes to the product as requested by you or notified by us to you (see clause 6).
- 8.15 **Your rights if we suspend the supply of products.** We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product for longer than 3 continuous months we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 3 continuous months and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.
- 8.16 **We may also suspend supply of the products if you do not pay.** If you do not pay us for the products when you are supposed to (see clause 15.6) and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. We will not charge you for the products during the period for which they are suspended. As well as suspending the products we can also charge you interest on your overdue payments (see clause 15.14).

9. TITLE AND RISK

- 9.1 All products to be delivered to you shall be at your risk from the time of delivery.
- 9.2 Risk in all property and materials of yours supplied to us by or on behalf of you shall at all times remain with you.
- 9.3 We shall not be liable for any loss of any kind to you arising from any damage to the products occurring after the risk has passed to you, howsoever caused, nor shall any liability of you to us be diminished or extinguished by such loss.
- 9.4 Property in the products shall not pass to you until all sums due to us from you under the contract(s) or any other contract have been paid in full in cleared funds. Until such payment you shall hold the goods as bailee for us and shall, so far as reasonably practicable, store the products separately from all other products and so that they are readily identifiable as our property.



- 9.5 You shall have a licence to sell the products to a third party in the ordinary course of your business on condition that, until payment of the products to us, you shall hold the proceeds of such sale on trust for us. The trust declared in this clause shall be subject to any trust in like terms arising by operation of law in favour of us.
- 9.6 You shall: (a) not destroy, deface or obscure any identifying mark or packaging on or relating to the products; (b) maintain the products in satisfactory condition and keep them insured on our behalf for their full price against all risks to the reasonable satisfaction of us. On request, you shall produce the policy of insurance to us; (c) not pledge the products nor allow any lien to arise over them; (d) not deal with nor dispose of the products nor any interest in them other than by a sale to an independent purchaser buying for full value in the ordinary course of your business; (e) not hold yourself out as our agent in respect of the products whether selling on your own account or not.
- 9.7 Your right to possession of the products shall terminate immediately if: (a) you default in the punctual payment of any sum owing to us in which event we shall be entitled to the immediate return of all products sold by us to you in which property has not passed to you; (b) you have a bankruptcy order or a Debt Relief Order made against you or make an arrangement or composition with your creditors, or (being a body corporate) convenes a meeting of creditors with a view to entering into liquidation or a petition is presented for liquidation (except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation), or have a receiver and/or manager appointed over your assets or undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of you or notice of intention to appoint an administrator is given by any person, or you suffer or allow any execution to be levied on your property or obtained against you, or fail to observe or perform any of its obligations under the contract or any other contract between us and you, or are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or you cease to trade or suffer any event that would constitute "insolvency proceedings" under article 2(a) of the EC Regulation on Insolvency Proceedings 2000 (an "Insolvency Event"); or (c) you in any way encumber any of the products, and you hereby authorise us to recover the products or documents and grant an irrevocable right and licence to us to enter any premises of yours for the above purposes or to inspect them as we shall in our absolute discretion decide.
- 9.8 Demand for or recovery of the products or documents by us shall not of itself discharge either your liability to pay the whole of the price and take delivery of the goods or our right to sue for the whole of the price of the products.
- 9.9 On termination of this or any contract between us, howsoever caused, our (but not your) rights contained in this Clause 9 shall remain in effect.

10. YOUR RIGHTS TO END THE CONTRACT

- 10.1 **You can always end your contract with us.** Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract and whether you are a consumer or business customer:
- 10.2 **If what you have bought is faulty or misdescribed you may have a legal right to end the contract** (or to get the product repaired or replaced or a service re-performed or to get some or all of your money back), **see** clause 13 if you are a consumer and clause 14 if you are a business.
- 10.3 **Ending the contract because of something we have done or are going to do.** If you are ending a contract for a reason set out at (a) to (e) below the contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to compensation. The reasons are:
- (a) we have told you about an upcoming change to the product or these terms which you do not agree to (see clause 6.2);

- (b) we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;
- (c) there is a risk that supply of the products may be significantly delayed because of events outside our control;
- (d) we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 3 continuous months; or
- (e) you have a legal right to end the contract because of something we have done wrong.

10.4 **Exercising your right to change your mind if you are a consumer (Consumer Contracts Regulations 2013).** If you are a consumer then for most products bought online you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

10.5 **When consumers do not have a right to change their minds.** Your right as a consumer to change your mind does not apply in respect of:

- (a) services, once these have been completed, even if the cancellation period is still running;
- (b) and products are bespoke goods being made to order for the consumer;
- (c) any products which become mixed inseparably with other items after their delivery.

10.6 **How long do consumers have to change their minds?** If you are a consumer how long you have to change your mind depends on what you have ordered and how it is delivered.

(a) **Have you bought services?** If so, you have 14 days after the day we provide you with Order Confirmation. However, once we have completed the services you cannot change your mind, even if the period is still running. If you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind.

(b) **Have you bought goods?**, if so you have 14 days after the day you (or someone you nominate) receives the goods, **unless**:

(i) **Your goods are split into several deliveries over different days.** In this case you have until 14 days after the day you (or someone you nominate) receives the last delivery;

(ii) **Your goods are for regular delivery over a set period).** In this case you have until 14 days after the day you (or someone you nominate) receives the first delivery of the goods; or

(iii) **Your goods are bespoke goods.** In this case, you will have no right to change your mind.

10.7 **Ending the contract where you are a consumer, we are not at fault and there is no right to change your mind.** Even if we are not at fault and you are not a consumer who has a right to change their mind (see clause 10.1), you can still end the contract before it is completed, but you may have to pay us compensation. A contract for goods is completed when the product is delivered and paid for. A contract for services is completed when we have finished providing the services and you have paid for them. If you want to end a contract before it is completed where we are not at fault and you are not a consumer who has changed their mind, just contact us to let us know. The contract will end immediately and we will refund any sums paid by you for products not provided but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for the net costs we will incur as a result of your ending the contract including but not limited to a 10% restocking fee, such fees to be determined in our sole discretion.

11. HOW TO END THE CONTRACT WITH US (INCLUDING IF YOU ARE A CONSUMER WHO HAS CHANGED THEIR MIND)

11.1 **Tell us you want to end the contract.** To end the contract with us, please let us know by doing one of the following:

- (a) **Phone or email.** Call us on 01206 771040 or by writing to us at Info@floramedia.co.uk. Please provide your name, home address, details of the order and, where available, your phone number and email address.
- (b) **By post.** Print off the attached cancellation form and post it to us at the address on the form. Or simply write to us at that address, including details of what you bought, when you ordered or received it and your name and address.

11.2 **Returning products after ending the contract.** If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person to where you bought them, post them back to us at the address we specify. Please call us on 01206 771040 or by writing to us at Info@floramedia.co.uk to arrange return. If you are a consumer exercising your right to change your mind you must send off the goods within 14 days of telling us you wish to end the contract.

11.3 **When we will pay the costs of return.** We will pay the costs of return:

- (a) if the products are faulty or misdescribed;
- (b) if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong; or
- (c) if you are a consumer exercising your right to change your mind.

In all other circumstances (including where you are a consumer exercising your right to change your mind) you must pay the costs of return.

11.4 **How we will refund you.** If you are entitled to a refund under these terms we will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make deductions from the price, as described below.

11.5 **When we may make deduction from refunds if you are a consumer exercising your right to change your mind.** If you are exercising your right to change your mind:

- (a) We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. If we refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.
- (b) The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.
- (c) We may deduct from any refund an amount for the supply of the good and/or service for the period for which it was supplied and the work done to provide this, ending with the time when you told us you had changed your mind as well as a 10% re-stocking fee as well as any other charges incurred and payable by you, in our sole discretion. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the contract.



11.6 When your refund will be made. We will make any refunds due to you as soon as possible. If you are a consumer exercising your right to change your mind then:

- (a) If the products are goods, your refund will be made within 14 days from the day on which we receive the product back from you or, if earlier, the day on which you provide us with evidence that you have sent the product back to us. For information about how to return a product to us, see clause 11.2.
- (b) In all other cases, your refund will be made within 14 days of your telling us you have changed your mind

12. OUR RIGHTS TO END THE CONTRACT

12.1 We may end the contract if you break it. We may end the contract for a product at any time by writing to you if:

- (a) you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;
- (b) any of the circumstances set out in clause 9.7 arise in any form whatsoever, your credit rating is affected in any way whatsoever, or
- (c) you default in any way whatsoever, under any ongoing order or contract with us, which will entitle us to terminate all other orders and contracts and claim full payment of those orders in our sole discretion;
- (d) you do not in a timely manner and within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products; or
- (e) you do not, within a reasonable time, allow us to deliver the products to you.

12.2 You must compensate us if you break the contract. If we end the contract in the situations set out in clause 12.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract as well as all outstanding costs and charges.

13. YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A CONSUMER

13.1 If you are a consumer we are under a legal duty to supply products that are in conformity with this contract. See the box below for a summary of your key legal rights in relation to the products. Nothing in these terms will affect your legal rights.

Summary of your key legal rights

This is a summary of your key legal rights. These are subject to certain exceptions. If your product is **goods**, the Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. **During the expected lifespan of your product** as indicated by us on any literature involving the products/your order, your legal rights entitle you to the following:

- a) Up to 30 days: if your goods are faulty, then you can get an immediate refund if we are unable to replace or repair in our sole discretion.
- b) Up to six months: if your goods can't be repaired or replaced, then you're entitled to a full refund, in most cases.
- c) Up to six years: if your goods do not last a reasonable length of time you may be entitled to some money back.

See also clause 10.4.



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

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

See also clause 10.3.

13.2 Your obligation to return rejected products. If you wish to exercise your legal rights to reject products you must either return them in person to where you bought them or post them back to us. We will pay the costs of postage. Please call us on 01206 771040 or by writing to us at Info@floramedia.co.uk for a return label.

14. YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A BUSINESS

14.1 If you are a business customer we warrant that on delivery, and for a period of 90 days from the date of delivery ("**warranty period**"), any products which are goods shall be free from material defects in design, material and workmanship.

14.2 Subject to clause 14.4, if:

- (a) you give us notice in writing during the warranty period within a reasonable time of discovery that a product does not comply with the warranty set out in clause 14.1;
- (b) we are given a reasonable opportunity of examining such product; and
- (c) you return such product to us at our cost,

we shall, at our option, repair or replace the defective product, or refund the price of the defective product in full.

14.3 You must provide us with 5 Working Days' notice of your intention to return such products, and the products are to be returned at the time and to the location specified by us following such notification. Products in transit to us for this purpose shall be at your risk. You shall be responsible for the cost of returning the goods to us.

14.4 We will not be liable for a product's failure to comply with the warranty in clause 14.1 if:

- (a) you make any further use of such product after giving a notice in accordance with clause 14.2(a);
- (b) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) good trade practice or otherwise improperly used the products (as determined by us in our sole discretion);
- (c) the defect arises as a result of us following any drawing, design or specification supplied by you;
- (d) you alter, modify or repair the product without our written consent;
- (e) you otherwise damage the products by your acts or omissions; or
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.



- 14.5 You shall inspect the products immediately on delivery and shall within 5 Working Days from such delivery give notice to us in writing of any matter or thing by which you may allege that the goods are not in accordance with the contract or are defective. If you shall fail to give such notice the products shall be conclusively presumed to be in all respects in accordance with the contract and free from any defect and you shall be deemed to have accepted the products accordingly. In the event that you establish to our reasonable satisfaction that the products are not in accordance with the contract or are defective, we may elect to replace the products or to refund the purchase price at the pro-rata contract rate against the return of the products.
- 14.6 Nothing in these conditions shall exclude, restrict or limit any liability of ours in respect of liability which cannot under the law be excluded, restricted or limited such as liability for death or personal injury resulting from negligence or breach of duty. All terms implied by statute or otherwise (including any implied term as to title, correspondence of the goods with any contract description given, satisfactory quality or fitness for any particular purpose) are excluded.
- 14.7 Except as provided in this clause 14, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 14.1.
- 14.8 These terms shall apply to any repaired or replacement products supplied by us under clause 14.2.

15. PRICE AND PAYMENT

- 15.1 Time shall be of the essence in respect of payments under this clause 15.
- 15.2 **Where to find the price for the product.** The price of the product (which includes VAT) will be the price indicated on the order pages and/or Order Confirmation when you placed your order. We take all reasonable care to ensure that the price of the product advised to you is correct. However please see clause 15.5 for what happens if we discover an error in the price of the product you order.
- 15.3 **We will pass on changes in the rate of VAT.** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
- 15.4 All prices for the products as quoted by us, are: ex works and exclusive of Value Added Tax and you shall pay all taxes, duties and other charges payable in respect of the products, together with transport and insurance costs of us for delivery of the products to you; and net and not subject to any discount
- 15.5 **What happens if we got the price wrong.** It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order.
- 15.6 **When you must pay and how you must pay.** We accept payment with all major credit and debit cards.
- 15.7 All accounts shall be due for payment not later than 30 days after the date of invoice unless an alternative agreement is reached and advised in writing by us prior to delivery of the products. No payment shall be deemed to have been received until we have received cleared funds.
- 15.8 If payment is overdue in whole or in part, all amounts then outstanding to us shall immediately become payable whether or not such monies would have been payable but for this clause 15.8.
- 15.9 You shall purchase at the price stated within the contract (including but not limited to any order and/or Order Confirmation) all stocks, finished or unfinished, which we hold for the purpose of



meeting your requirements under the contract even if the contract is terminated for whatever reason.

- 15.10 We reserve the right to cancel credit accounts that fall below a turnover (excluding VAT) of £500 per annum.
- 15.11 Upon the termination of the contract for whatever reason, all sums then outstanding under the contract shall become immediately due and payable to us by you.
- 15.12 Any payment by you to us under the contract and/or these conditions shall be deemed to discharge the oldest debt then outstanding notwithstanding any stipulation to the contrary by you.
- 15.13 **Our right of set-off.** You must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 15.14 **We can charge interest if you pay late.** If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 6% a year above the base lending rate of Barclays Bank PLC from time to time. This 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. You must pay us interest together with any overdue amount. Alternatively, we reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998

16. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A CONSUMER

- 16.1 **We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
- 16.2 **We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products as summarised at clause 13.1; and for defective products under the Consumer Protection Act 1987
- 16.3 **When we are liable for damage to your property.** We are not liable whatsoever for any damage to your property caused by any delivery companies or representatives engaged for such purposes. Those delivery personnel are contractors and therefore, not employed by us and we are not liable for their actions or omissions whatsoever. We are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover while providing the services. We are also not liable whatsoever for any issues, liabilities or claims made where the products we provide are attached to others in any way and sold, transferred or otherwise dealt with onwards.
- 16.4 **We are not liable for business losses.** If you are a consumer we only supply the products for to you for domestic and private use. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as set out in clause 17.
- 16.5 We shall not in any circumstances be liable to you for loss of profit, loss of business or depletion of goodwill, whether direct or indirect, or for any consequential loss which arises out of or in connection with the contract.



17. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A BUSINESS

17.1 Nothing in these terms shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) defective products under the Consumer Protection Act 1987.

17.2 Except to the extent expressly stated in clause 14.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.

17.3 Subject to clause 17.1:

- (a) we shall not be liable to you, 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 any contract between us; and
- (b) our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the price of the Products as actually paid by you.

17.4 We shall not in any circumstances be liable to you for loss of profit, loss of business or depletion of goodwill, whether direct or indirect, or for any consequential loss which arises out of or in connection with the contract.

18. HOW WE MAY USE YOUR PERSONAL INFORMATION

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. Our obligations to you are as set out within our privacy policy, a copy of which is available at www.floramedia.com/unitedkingdom/privacy-policy and the full extent of which is deemed as incorporated in to these conditions for the avoidance of doubt.

19. OTHER IMPORTANT TERMS

19.1 **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation without notice or liability to you. You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing.

19.2 This contract is between you and us. No other person shall have any rights to enforce any of its terms.

19.3 Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

19.4 If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you



at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

- 19.5 These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.
- 19.6 If you are a business, any dispute or claim arising out of or in connection with a contract between us or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.
- 19.7 We shall be relieved of all liability otherwise arising under these terms and conditions to the extent that we are unable to carry out any of our obligations hereunder by reason of any cause whatsoever beyond our control. We expressly reserve the right to defer the date of delivery or to cancel a contract or reduce the volume of products ordered as we shall in our absolute discretion decide.
- 19.8 Any notice given under or pursuant to any contract may be sent by hand or by post or by electronic transmission to the address of us or you as the customer as shown on your order or any other documentation provided as part of the contract, or such other address as you or we may by notice to the other have substituted and shall be deemed validly and effectively given (i) in the case of postal delivery on the next working day, (ii) in the case of personal service at the time of service and (iii) in the case of electronic delivery at the time of transmission.
- 19.9 In the event of any condition or any part of any condition being determined to be invalid, unlawful or unenforceable to any extent, such condition or part of such condition shall be severed from the body of any contract made upon these conditions and the remainder of such contract shall continue to be valid and enforceable to the fullest extent permitted by law.
- 19.10 All contracts shall be upon these conditions which supersede any other terms and exclude any terms introduced by you as the customer. No signing by us of any of your documentation shall imply any modification of these conditions and their terms. These conditions shall not be varied or added to unless such variations or additions are in writing between us and you.

FLORAMEDIA - AUGUST 2018

