

**STANDARD TERMS AND CONDITIONS OF SALE (“CONDITIONS”)  
THE CUSTOMER’S NOTICE IS DRAWN IN PARTICULAR TO CLAUSE 11, WHICH LIMITS THE  
LIABILITY OF THE COMPANY**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in these Conditions.

**Company:** UK Sundecks Ltd, a company registered in England and Wales with company no. 06559186 whose registered office is at 227 London Road, Brandon, Suffolk, England, IP27 0NE;

**Consumer:** an individual acting for purposes which are wholly or mainly outside of that individual’s trade, business, craft or profession;

**Contract:** the contract between the Company and the Customer for the sale and purchase of Product(s) formed by the Company’s acceptance of the Customer’s Order, as evidenced by the Order Confirmation and incorporating these Conditions;

**Customer:** the person, firm or company who purchases a Product from the Company as specified in the Order Confirmation;

**Customer’s Premises:** the place where installation of the Products is to take place as specified in the Order Confirmation;

**Deposit:** the deposit on the Purchase Price if required by the Company as specified in the Order Confirmation;

**End Consumer:** the individual Consumer(s), if any, who purchase the Products from the Customer after such Products have been sold to the Customer by the Company;

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

**Order:** an order placed by the Customer with the Company for the purchase of Products;

**Order Confirmation:** the written confirmation sent by the Company to the Customer confirming the Order and specifying the Products to be supplied and installed;

**Purchase Price:** the total price payable by the Customer to the Company for the Products and installation as specified in the Order Confirmation (subject to variation in accordance with clause 6);

**Product:** the product(s) and (if applicable) installation to be supplied by the Company as set out in the Order Confirmation;

**Specification:** the specification for a Product as detailed in the Order Confirmation or the Company’s quotation (as amended from time to time);

**Survey:** means the survey of the Customer’s Premises and plot by the Company’s surveyor to confirm the details and sizes supplied by the customer are correct.

**Working Days:** means a day other than a Saturday, Sunday or public holiday in England.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to all other genders.

1.5 Clause headings do not affect the interpretation of these Conditions.

1.6 Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding or following those terms.

**2. APPLICATION OF TERMS**

2.1 The Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer’s purchase order, confirmation of order, specification or any other Customer document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These Conditions apply to all of the Company’s sales and any variation to these Conditions and any representations about the Products shall have no effect unless expressly agreed in writing and signed by the Company. The Customer acknowledges that it has not relied on, or been induced by, any statement, promise or representation made or given by or on behalf of the Company which is not set out

in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 The Order shall be deemed to be an offer by the Customer for the purchase of Products subject to these Conditions, which the Company shall be free to accept or decline in its absolute discretion. If the Company accepts the Order, it shall do so by issuing the Order Confirmation.

2.5 No Order placed by the Customer shall be deemed to be accepted by the Company until an Order Confirmation is issued by the Company and, if required by the Company, the Deposit is paid, or (if earlier), the Company delivers the Products to the Customer, at which point and on which date the Contract shall come into existence.

2.6 On receipt of the Order Confirmation, the Customer shall ensure that the terms of its Order and the Specification are complete and accurate. If the Customer needs to amend the Order following receipt of the Order Confirmation, the Customer should contact the Company as soon as possible. The Company will let the Customer know if the change is possible and, if so, whether there are any changes to the Purchase Price, terms and conditions or date for delivery.

2.7 A Survey is required on all Orders. If, during the Survey, the Company's surveyor identifies additional work that is required in order for the Company to comply with the Order, the Company shall contact the Customer to advise them of any additional work required and any impact that may have on delivery dates, Purchase Price or other terms and conditions. If the Company's surveyor determines that the Customer's Premises are unsuitable for the Products, or the Customer does not agree to the additional work, the Contract shall terminate and any Deposit paid (if applicable) will be refunded to the Customer.

2.8 Any quotation given by the Company shall not constitute an offer, and is given on the basis that no Contract shall come into existence until the Company issues an Order Confirmation to the Customer. Any quotation is valid for a period of 30 calendar days only from its date of issue or, if earlier, until the date it is withdrawn by the Company. Please note that if the Customer fails to confirm the quotation within 30 calendar days from its date of issue, once the Customer places an Order, the Company will provide the Customer with an updated delivery date and, if applicable, updated Purchase Price and terms and conditions.

2.9 The Company reserves the right to refuse any Order placed by the Customer.

2.10 The Customer acknowledges that the Contract is made between the Customer and the Company only, and that the Company has no contractual relationship with, or liability to, the End Consumer, notwithstanding that the Company may have introduced the End Consumer to the Customer or agreed any part of the Specification with the End Consumer. To the extent that the Company makes any agreement with the End Consumer, the Company is acting as the agent of the Customer, for the purpose of making a contract between the Customer and the End Consumer.

2.11 The Customer shall indemnify the Company against all liabilities, expenses, costs, claims, damages and losses suffered or incurred by the Company arising out of or in connection with any action, error or omission of the End Consumer relating to the Contract or any contract between the Customer and the End Consumer.

### **3. DESCRIPTION**

3.1 The quantity and description of the Products shall be as set out in the Order Confirmation. Items shown in photographs or illustrations of the Products, for example, photographic props, plants, ornaments are not included in the sale of the Product unless included in the Specification.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract. Immaterial deviations shall not form the basis of any claim against the Company. Any typographical, clerical or other errors or omissions in such documents or in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the Company's part.

3.3 The Company may make minor alterations to the design of a Product or substitute materials used in the construction of the Product at any time without reference to the Customer unless such alterations or substitutions require amendment of the Specification in which case clause 3.5 shall apply.

3.4 Where the Company agrees to provide Specifications or plans which have been specifically designed for the Customer, the Customer is responsible for checking the accuracy and suitability of the Specifications and/or plans and the Company shall not be liable for any omissions or inaccuracies in the details of the measurements given. Any Specifications and plans prepared by the Company are, and remain, the Company's property and shall not be reproduced in whole or in part without the Company's prior written consent.

3.5 The Company reserves the right to make alterations to the design of Products or substitute materials, fixtures or fittings used in the construction of the Products with a similar alternative, where the agreed design, materials, fixtures or fittings are unavailable for any reason, and the Specification (as amended) shall be substituted for the Specification referred to in the Order Confirmation or quotation.

**THE FOLLOWING CLAUSES 3.6 TO 3.8 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS NOT A CONSUMER:**

3.6 Notwithstanding that:

- (a) a sample of the Products or a model Product may have been exhibited to and inspected by the Customer or the End Consumer; or
- (b) results of standard tests upon a sample of the Products may have been given to the Customer or the End Consumer,

the Company hereby excludes any representation or warranty (whether express or implied by statute, common law or arising from conduct or a previous course of dealing, trade custom or usage) that the Products shall correspond with such sample or will produce equivalent results to such standard tests. The Customer acknowledges that the exhibition and/or inspection of a sample of the Products or the giving of such results shall not constitute a sale by reference to a sample or model.

3.7 In the event the Company ceases production of the design of Products and gives the Customer notice that it intends to substitute another design of Products for that in the Specification the Customer shall within 5 Working Days of such notice:

- (a) approve the changes to the design of Products; or
- (b) terminate the Contract by giving written notice to the Company.

If the Customer does not notify the Company of its approval of the changes to the design of the substitute Product within 5 Working Days then the change shall be deemed to be approved.

3.8 Upon termination of the Contract in accordance with clause 3.7(b) the Deposit, if any, or any other prepayments paid to the Company shall be returned to the Customer. The Company shall have no other liability whatsoever for any loss, damage, cost, expense, action and/or claim which may be suffered or incurred by the Customer, as a result of such cancellation.

**THE FOLLOWING CLAUSE 3.9 APPLIES WHERE THE CUSTOMER IS A CONSUMER:**

3.9 Where a sample of the Products or a model Product may have been exhibited to and inspected by the Customer, the Customer acknowledges that each Product is unique and the sample or model are not intended to be representative of the Products to be purchased and the Contract is not a sale by reference to a sample or model.

**4. DELIVERY AND INSTALLATION**

4.1 Unless otherwise agreed by the Company in writing, delivery of the Products shall take place when the Company delivers the Products to the Customer's Premises ("Delivery").

4.2 Prior to the date of Delivery, the Customer shall, at its expense, be responsible for:

- (a) obtaining all licences and consents necessary (including, where applicable, from local authorities and park owners) for installation of the Products, and for ensuring that entrance to the Customer's Premises is clear and accessible;
- (b) removing services, fixtures or fittings necessary for the Company to complete the installation of the Products (for example, soil stacks, pipes or electrical, phone or television cables); and
- (c) carrying out any additional work rendered necessary to complete the installation, as identified in the Survey.

4.3 It is the Customer's obligation to insure the Products from the time of delivery of the Products at the Customer's Premises.

4.4 The Customer shall procure free and unobstructed access for the Company or its subcontractors or agents to the Customer's Premises for delivery and installation of the Products. If the Customer's Premises is located at a property that is not owned or controlled by the Customer then the Customer shall procure the right for the Company to access such property for the purposes of delivery and installation of the Products. In the event that the Company is unable to access the Customer's Premises, the Company reserves the right to deem that the Customer has not accepted delivery and installation of the Products and clause 4.5 shall apply.

4.5 If for any reason the Customer fails to accept delivery of any of the Products, or the Company is unable to deliver or install the Products because the Customer has not provided appropriate instructions, documents, licences or authorisations:

- (a) the Products shall be deemed to have been delivered and installed;
- (b) the Company shall invoice the Customer for the Products in accordance with clause 7; and

(c) the Company may store the Products until delivery to the Customer takes place, and the Customer shall be liable for all related costs and expenses (including storage, transport and insurance) incurred by the Company; and

(d) if the Customer is not a Consumer, the risk in the Products shall pass to the Customer (including for loss or damage caused by the Company's negligence).

4.6 On completion of the installation of the Products, the Customer shall carefully check the installation and notify the Company of any issues.

**THE FOLLOWING CLAUSES 4.7 TO 4.8 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS NOT A CONSUMER:**

4.7 Any dates specified by the Company for delivery and installation of the Products are intended to be an estimate and time for delivery or installation shall not be made of the essence by notice. If no dates are so specified, delivery and installation shall be within a reasonable time.

4.8 Subject to the other provisions of the Contract, the Company shall not be liable for any direct, indirect or consequential loss (including pure economic loss, loss of profits, loss of business and loss of goodwill), costs, damages, charges or expenses caused directly or indirectly by any delay or failure in the delivery or installation of the Products, nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 90 days.

**THE FOLLOWING CLAUSES 4.9 TO 4.10 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS A CONSUMER:**

4.9 The date for delivery and installation of the Products shall be confirmed by the Company and the Customer agrees that any delivery and installation dates notified by the Company are an estimate. The period for delivery and installation shall be any time up to 90 days after the date notified by the Company. The Customer agrees that delivery and installation within this period is not essential. If the Products are not delivered, and installation is not achieved, within 90 days of the said date, the Customer may terminate the Contract by giving written notice to the Company.

4.10 Subject to the other provisions of the Contract and to section 28 of the Consumer Rights Act 2015, the Company shall not be liable for any direct, indirect or consequential loss (including pure economic loss, loss of profits, loss of business and loss of goodwill), costs, damages, charges or expenses caused directly or indirectly by any delay or failure in the delivery or installation of the Products.

**5. RISK/TITLE**

5.1 Ownership of the Products shall not pass to the Customer until the Company has received in full (in cleared funds) all sums due to it in respect of:

(a) the Products; and

(b) all other sums which are or which become due to the Company from the Customer.

5.2 Until ownership of the Products has passed to the Customer, the Customer shall:

(a) store the Product safely and securely and ensure that it is readily identifiable as the property of the Company;

(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Product;

(c) maintain the Products in satisfactory condition; and

(d) keep the Products insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company; and

(e) deliver the Product immediately to the Company on demand.

5.3 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Company.

5.4 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter the Customer's Premises, or any other premises where the Products are or may be stored, in order to inspect them, or, where the Customer's right to possession has terminated, to recover them and to sell or otherwise deal with or dispose of them. The Company shall be entitled to take such steps as are necessary to recover the Product from the Customer's Premises including detaching the Product from its base, and the Company shall not be liable for any damage to the Customer's Premises or any part of it caused during the recovery of the Product from the Customer's Premises unless caused by the Company's negligence and in such circumstances the Company's liability shall be limited in accordance with clause 11. The Customer indemnifies the Company against all costs and damages that it may reasonably incur when taking possession of and removing the Product.

5.5 Where the Customer has purchased more than one Product and the Company is unable to determine which Products are the Products in respect of which the Customer's right to possession has terminated, the Company is entitled to assume that payments received from the Customer are allocated to the Products in the order they were delivered to the Customer.

5.6 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this clause 5 shall remain in effect.

## **6. PRICE**

6.1 The Purchase Price is the price set out on the Order Confirmation.

6.2 In certain circumstances, the Company may need to increase the Purchase Price of the Products after the Contract has been entered into. The Company will only do this where the increase is necessary:

- (a) to reflect any increase in the cost to the Company which is beyond its control including:
  - (i) devaluation of the pound sterling or fluctuation in the rates of foreign exchange;
  - (ii) changes in the prices of raw materials or component parts; and
  - (iii) changes in manufacturing costs or other economic circumstances; and/or
- (b) in consequence of any change in delivery dates or Specification which is requested by the Customer,

and if the Company needs to increase the Purchase Price of the Products in accordance with this clause 6.2, then it will notify the Customer in writing of the amount of the increase.

### **THE FOLLOWING CLAUSES 6.3 TO 6.5 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS NOT A CONSUMER:**

6.3 If the Customer does not agree with the amount of the increase notified in relation to 6.2(a) then the Customer may terminate the Contract by giving the Company notice in writing within 14 days of receipt of the Company's notice. Upon termination of the Contract, the Deposit, if any, or any other pre-payments paid to the Company shall be returned to the Customer. The Company shall have no other liability whatsoever for any loss, damage, cost, expense, action and/or claim which may be suffered by the Customer as a result of such cancellation. If the Customer does not notify the Company within 14 days of receipt of the Company's notice, the Customer shall be deemed to have approved such increase.

6.4 If the Customer does not agree with the amount of the increase notified in relation to 6.2(b) then the Customer may withdraw their request to change the delivery dates or Specifications by giving the Company notice in writing within 5 Working Days of receipt of the Company's notice, and the Company shall proceed to construct the Product on the basis of the unchanged Specification.

6.5 If the Customer agrees with the amount of the increase, or does not respond in accordance with clause 6.3 or clause 6.4, then the Company shall issue an amended Order Confirmation showing the amended Purchase Price, which shall be binding on the Customer.

### **THE FOLLOWING CLAUSES 6.6 TO 6.8 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS A CONSUMER:**

6.6 If the Customer does not agree with the amount of the increase, or does not respond to the Company's notice within 5 Working Days, then the Company may cancel the Order.

6.7 If the Customer does not agree with the amount of the increase notified in relation to 6.2(b) then the Customer may withdraw their request to change the delivery dates or Specifications by giving the Company notice in writing within 5 Working Days of receipt of the Company's notice. If the Customer does not withdraw their request, they will be deemed to have agreed to the amount of the increase.

6.8 If the Customer agrees with the amount of the increase then the Company shall issue an amended Order Confirmation showing the amended Purchase Price, which shall be binding on the Customer.

## **7. PAYMENT**

7.1 Unless otherwise agreed in writing, the Company shall invoice the Customer for the Purchase Price when the Company completes installation of the Products at the Customer's Premises.

7.2 If a Deposit is required from the Customer or other payment is made by the Customer with the Order, the Company shall send an invoice to the Customer with the Order Confirmation.

7.3 Subject to clause 7.6, payment of the price for the Products is due in pounds sterling by the due date stated on each invoice ("Due Date").

7.4 Time for payment shall be of the essence and failure to make any payment to the Company by the Due Date shall entitle the Company at its option to treat the Contract as repudiated and act accordingly, including forfeiting any Deposit held and retaining it without any obligation to the Customer.

7.5 No payment shall be deemed to have been received until the Company has received cleared funds.

7.6 The Customer shall make all payments due under the Contract in full and without deduction for any reason unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.

7.7 If the Customer fails to pay the Company any sum due pursuant to the Contract by the Due Date then:

(a) the Company reserve the right to suspend work on the Contract or on any other contract with the Customer until payment of all sums due under this Contract are made in full; and  
(b) the Company can give 7 Working Days' notice in writing to the Customer to terminate the Contract; and

(c) the Customer shall pay interest on such sum to the Company immediately on demand. Such interest shall accrue on a daily basis from the Due Date until the actual date of payment of the overdue amount, whether before or after judgement; and

(d) the Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses including all interest, penalties and legal costs (calculated on a full indemnity basis) suffered or incurred by the Company arising out of or in connection with the enforcement of the Contract.

**THE FOLLOWING CLAUSES 7.8 TO 7.9 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS NOT A CONSUMER:**

7.8 The interest rate referred to in clause 7.7(c) shall be at the annual rate of 5% above the base lending rate from time to time of the Bank of England. Any payment shall first be applied to any interest payable and thereafter, in settlement of the principal sum.

7.9 Notwithstanding clause 7.7(c), the Company may claim interest at its discretion under the Late Payment of Commercial Debts (Interest) Act 1998.

**THE FOLLOWING CLAUSE 7.10 APPLIES WHERE THE CUSTOMER IS A CONSUMER:**

7.10 The interest rate referred to in clause 7.7(c) shall be at the annual rate of 4% above the base lending rate from time to time of the Bank of England. Any payment shall first be applied to any interest payable and thereafter, in settlement of the principal sum.

7.11 Credit terms (if any) that may be agreed between the Company and the Customer in respect of an individual Order shall govern only the Customer's contractual obligation to make payments to the Company of the agreed invoice price in respect of that Order.

**8. CANCELLATION OF ORDERS**

8.1 An Order may be cancelled only by the Company's written acceptance of such cancellation. Where the Company accepts such cancellation, the Company reserves the right to charge the Customer for any liabilities, costs, damages, losses or expenses (including any direct, indirect or consequential losses and all other professional costs and expenses) suffered or incurred by the Company as a result of the cancellation.

8.2 Where the Customer wishes to cancel an Order the Customer should immediately contact the Company's customer services team at [sales@uksundecks.co.uk](mailto:sales@uksundecks.co.uk). The Company reserves the right to apply a charge for reasonable costs incurred, which will vary depending on the stage of manufacturing, and may be up to the full Purchase Price.

8.3 Where the Company was required to place a deposit with a supplier in respect of an Order, the Company may require the Customer to reimburse such sum in the event of cancellation.

8.4 The Company may cancel an Order if the Customer does not:

(a) make a payment by the Due Date; or

(b) within a reasonable time of the Company asking for it, provide the Company with information that is necessary for the provision of the Product.

**THE FOLLOWING CLAUSE 8.5 APPLIES WHERE THE CUSTOMER IS A CONSUMER:**

8.5 The Customer may cancel an Order in writing to the Company. The Company reserves the right to charge the Customer for any liabilities, costs, damages, losses or expenses (including any direct, indirect or consequential losses and all other professional costs and expenses) suffered or incurred by the Company as a result of the cancellation.

**9. QUALITY**

**THE FOLLOWING CLAUSES 9.1 TO 9.5 (INCLUSIVE) APPLY WHERE THE CUSTOMER IS NOT A CONSUMER:**

9.1 The Company warrants that (subject to the other provisions of these clauses) on delivery, the Products shall:

(a) accord with the Specification, provided that the Company shall not accept any liability or responsibility, after delivery, for any errors in the Specification that the Customer should have notified to the Company pursuant to clause 2.6;

(b) be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and

(c) be reasonably fit for all year round use as an outdoor decking solution.

9.2 The Company shall not be liable for a breach of any of the warranties in clause 9.1 unless:

(a) the Customer gives written notice of the defect to the Company within 14 days of the time when the Customer discovers or ought to have discovered the defect;

(b) and the Company is given a reasonable opportunity of examining the Product, after receiving notification of the default from the Customer.

9.3 Subject to clause 9.2, if any of the Products do not conform with any of the warranties in clause 9.1, the Company shall at its option repair or replace such Product (or the defective part) and, if the Company so requests, the Customer shall, at the Company's expense, return the Products or the parts of such Products which are defective to the Company. The terms of the Contract shall apply to any repaired or replacements Products or parts supplied by the Company.

9.4 If the Company complies with clause 9.3, it shall have no further liability for a breach of any of the warranties in clause 9.1 in respect of such Product.

9.5 Any defective parts or Products that have been replaced shall belong to the Company.

**THE FOLLOWING CLAUSE 9.6 APPLIES WHERE THE CUSTOMER IS A CONSUMER:**

9.6 The Company is under a legal duty to supply the Products in conformity with the Contract and in accordance with the provisions of the Consumer Rights Act 2015. In particular, the Company warrants that on delivery the Products shall:

- (a) accord with the Specification;
- (b) be of satisfactory quality within the meaning of the Consumer Rights Act 2015; and
- (c) be reasonably fit for all year round use as an outdoor decking solution.

**10. WARRANTY**

10.1 Where the Company is not the manufacturer of any components of the Products, the Company shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given to the Company on such components.

10.2 All Products come with a warranty. Full details of the warranty can be found at [www.uksundecks.co.uk/warranty-policy/](http://www.uksundecks.co.uk/warranty-policy/).

**11. LIMITATION OF LIABILITY**

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

11.1 References to liability in this clause 11 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

11.2 Where the Customer is not a Consumer, all warranties, conditions and other terms implied by statute or common law (except for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in the Contract excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

11.4 Subject to clause 11.2 and clause 11.3:

- (a) the Company's total liability shall not exceed the lower of:
  - (i) the Purchase Price of the Product giving rise to the liability; or
  - (ii) £1,000,000; and
- (b) the Company shall not be liable to the Customer for loss of profit, loss of sale or business, loss of agreements or contracts, loss of or damage to goodwill, or any indirect or consequential losses which arise out of or in connection with the Contract.

11.5 The Customer shall have sole responsibility for obtaining any necessary consents for the installation of the Product, whether from local or other authorities (including any applicable planning consents and licences, or authorisation from a park owner) and for ensuring that the installation of the Product is in accordance with the provisions of any relevant by-laws, regulations or statutes.

11.6 The Company shall not be liable for any damage caused to flowers, plants or lawns during the installation of decking. The Company shall take reasonable precaution to avoid any such damage.

**12. TERMINATION**

12.1 The Company shall be entitled to terminate the Contract immediately at any time by written notice to the Customer if:

- (a) the Customer commits a breach of any of the terms of the Contract and (if the breach is capable of remedy) fails to remedy the breach within 14 days after receipt of notice in writing to do so; or
- (b) the Customer (being an individual) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) the Customer becomes subject to an administration order; a receiver or similar is appointed over, or an encumbrancer takes possession of any of the Customer's property or assets; the Customer enters into

an arrangement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent, or ceases to be able to pay its debts as they fall due.

12.2 Subject to any contrary provisions in these Conditions, any termination of the Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it effect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

12.3 On termination of the Contract:

(a) all payments payable to the Company under the Contract shall become immediately due and; and

(b) the Customer's right to possession of any Products that have not been paid for in full shall cease, and the Company shall be entitled to retake possession in accordance with clause 5.4.

### **13. INTELLECTUAL PROPERTY RIGHTS**

13.1 All Intellectual Property Rights in all drawings, patterns, data, literature, photographs, illustrations, specifications, performance data, dimensions, weights, manufacturing and operating techniques and similar information relating to the Products (the "Information") shall be owned by the Company.

13.2 The Information shall only be used by the Customer as necessary for the purpose of use of the Product in relation to which it was supplied.

13.3 The Information shall be confidential (unless otherwise marked or indicated) and shall not be disclosed to any person unless:

(a) such Information is already in the public domain through no fault of the Customer; or

(b) such Information is required to be disclosed by any law or regulation.

13.4 The Customer shall not remove, alter or deface any of the Company's trade marks (whether registered or unregistered) as marked on the Products. The Customer shall not apply to the Products any other trade mark or written matter without the prior written consent of the Company.

### **14. FORCE MAJEURE**

If the Company is prevented from, hindered or delayed in the carrying on of its business (in whole or in part), or if such performance is rendered more onerous (in whole or in part) due to circumstances beyond the reasonable control of the Company including acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, drought, storm, earthquake or other natural disaster, nuclear, chemical or biological contamination, sonic boom, malicious damage, disease, epidemic, pandemic or other notifiable disease, public health emergency, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), default of suppliers or sub-contractors, sanctions, embargoes, accident, power failure, breakdown of plant or machinery, restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, compliance with any law or governmental order, rule, regulation or direction (including those caused directly or indirectly by the coronavirus outbreak (COVID-19)), difficulties or increased expense in obtaining raw materials, labour, fuel, parts or machinery, or import or export regulations or embargoes ("**Force Majeure Event**"), it shall have no liability to the Customer or be deemed to be in breach of the Contract in respect of the performance of such obligations as are prevented by the Force Majeure Event during the continuation of such Force Majeure Event, and for such time after they cease as is necessary for the Company to recommence its affected operations in order for it to perform its obligations, and the time for performance of any obligations shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or prevented. If the Company's performance of its obligations under the Contract is affected by a Force Majeure Event for a continuous period in excess of 6 months, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract. For the avoidance of doubt, the occurrence of a Force Majeure Event shall not release the Customer from its obligation to pay any sums due under the terms of the Contract.

### **15. DATA PROTECTION**

15.1 In the course of dealing with the Order, the Company will use personal information that the Customer provides in order to administer and process the Order and where, for example, the Company uses a third party subcontractor to carry out certain services on the Company's behalf, the Company may provide the Customer's personal information to that third party.

15.2 The Company will treat, and will ensure that any third party used by the Company also treats, any personal information that the Customer provides in connection with an Order in accordance with the Company's privacy policy, which is set out at [www.uksundecks.co.uk/privacy-policy/](http://www.uksundecks.co.uk/privacy-policy/).

### **16. GENERAL**

16.1 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract



without the prior written consent of the Company. The Company may assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

16.2 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

16.3 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted under this clause, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

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

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

16.7 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor, except as provided for in clause 2.10, constitute either party acting as the agent of another party for any purpose. Except as provided for in clause 2.10, neither party shall have authority to act as agent for, or to bind, the other party in any way.

## **17. COMMUNICATIONS**

17.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post, or by email:

(a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company, or to the Company's sales office at [sales@uksundecks.co.uk](mailto:sales@uksundecks.co.uk); or

(b) (in the case of the communications to the Customer) to the registered office of the Customer (if it is a body corporate) or (in any other case) to the address notified to the Company by the Customer in writing.

17.2 Communications shall be deemed to have been received:

(a) if sent by pre-paid first class post, two Working Days after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by email on a Working Day prior to 4.00 pm, at the time of transmission and otherwise on the next Working Day.

17.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.