



OCEANIS

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Oceanis Group Ltd

GENERAL TERMS AND CONDITIONS OF SALE

Definitions

1.

In these Conditions: -

“Additional Charges”	means the costs of carriage, any additional packaging and any other additional charges payable by the Customer in addition to the Price;
“Company”	means Oceanis Group Ltd with registered office 1 Sopwith Crescent, Wickford, Essex, SS11 8YU
“Company’s Premises”	means the Company’s premises located at: Unit 3 Bowlers Croft, Honywood Road, Basildon, Essex, SS14 3DU
“Conditions”	means the terms set out in this document and any special terms agreed in writing between the Company and the Customer;
“Contract”	means the contract for the supply of Goods and Services incorporating these Conditions;
“Customer”	means the party with whom the Company contracts;
“Force Majeure”	means an event or sequence of events beyond a party’s reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Company’s or its Company’s workforce, but excluding the Customer’s inability to pay or circumstances resulting in the Customer’s inability to pay
“Goods”	means the Goods to be supplied by the Company;
“Order”	means the Customer’s order for the Deliverables in substantially the same form as set out in the Customer’s order form;
“Price”	means the price of the Goods plus VAT plus any Additional Charges;
“Protected Data”	means personal data, as defined by data protection laws in the UK, received from or on behalf of the Customer in connection with the performance of the Company’s obligations under the Contract
“Services”	means the services set out in the Order and to be supplied by the Company to the Customer in accordance with the Contract
“Working Days”	means any day from Monday to Friday other than a statutory or public holiday; and
“Writing”	includes post, facsimile transmission and email but excludes text messages.

2. Basis of Sale

- 2.1 These Conditions apply to and form part of the Contract between the Company and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 The Customer acknowledges that Goods made from a natural stone will vary in shading, colour and texture and samples are only to provide an indication of the general colour and quality. The Customer acknowledges that such variance is acceptable. We cannot guarantee the geological properties of the goods and we strongly recommend viewing the slabs before installation. We do not accept any responsibility for dissatisfaction in the stone.
- 2.3 The Customer acknowledges that the Goods and Services will vary due to the elements of the natural stone. The Company can therefore not be responsible for any discrepancies. The Company recommends arranging to view slabs before purchase as dissatisfaction cannot be accepted as its responsibility.
- 2.4 The Customer acknowledged that all natural stones do not exactly resemble the product and the samples cannot be guaranteed. Any descriptions of material offered are guidance only and do not imply suitability for any particular purpose. Goods supplied by the Company which are natural stone products are subject to their natural markings with random variations in veining, colour/texture, grain/bed, fissures/vents and no claim in respect of such variations will be a defect in the Goods. Otherwise as confirmed in writing by the Company any testing of either material supplies or of the Goods is excluded as is any chemical treatment of the Goods.
- 2.5 These Conditions shall apply to the sale by the Company of all Goods purchased by the Customer and these Conditions shall govern the contract to the exclusion of any other terms and conditions introduced or submitted by the Customer.
- 2.6 No variation of these Conditions may be given by any of the Company’s employees unless confirmed in writing by an authorised representative of the Company and no collateral or supplemental contract may be made or construed unless confirmed in writing by an authorised representative of the Company on the Company’s official stationery.
- 2.7 Any tenders or quotations submitted to the Customer shall remain valid for the period stated therein, but if no period is specified such tenders and quotations shall be valid for 30 days from the date thereof, after which time it shall automatically lapse and be withdrawn. All tenders and quotations shall be subject to these Conditions.

2.8 Any tenders or quotations will not constitute an offer and each order or acceptance of a tender or quotation for the supply of Goods shall be deemed to be an offer by the Customer to purchase the Goods and/or Services subject to these Conditions. The Contract shall be made when the Company acknowledges the order placed by the Customer either by: -

- 2.8.1 acknowledging the order in writing; or
- 2.8.2 delivering or tendering delivery of the Goods or making the Goods available for collection

and not before. The parties agree that the Company shall not be obliged to acknowledge any order in writing, notwithstanding that the order may have been placed by technological means.

2.9 Where the Company acknowledges or confirms the details of the Contract in writing, the Customer shall be under a duty to bring any discrepancies to the Company's notice immediately, and if the Customer fails to do so, the Customer shall, if the Company so elects, be bound by the details contained, mentioned or referred to in the written confirmation of the Contract.

2.10 The Company may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Goods and/or Services and are incapable of being accepted by the Customer.

2.11 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by an authorised representative of the Company in writing. In entering into the Contract, the Customer acknowledges that it does not rely on any such representations which are not so confirmed, save that nothing in these Conditions shall exclude the Company's liability for fraudulent misrepresentation.

2.12 Any typographical, clerical or other omission in any sales literature, quotation, price, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

2.13 Marketing and other promotional material relating to the Goods and Services are illustrative only and do not form part of the Contract.

3. Price

3.1 The price for the Goods and Services are set out in the Contract or, where no such provision is set out, shall be calculated in accordance with the Company's scale of charges in force from time to time (the Price).

3.2 The Prices are exclusive of:

- 3.2.1 packaging, delivery, insurance, shipping carriage, and all other related charges or taxes or describe relevant elements of the goods and services which are not included in the standard price which shall be charged in addition at the Company's standard rates, and
- 3.2.2 VAT.

3.3 The Customer shall pay any applicable VAT to the Company on receipt of a valid VAT invoice.

3.4 The Company may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing provided that the increase does not exceed 10% of the Prices in effect immediately prior to the increase.

3.5 Notwithstanding clause 3.4, the Company may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Company of supplying the relevant Goods and Services which exceeds 10% and which is due to any factor beyond the control of the Company.

4. Payment

4.1 The Company shall invoice the Customer for the Goods and Services, partially or in full, at any time following acceptance of an Order.

4.2 The Customer shall pay all invoices:

- 4.2.1 in full without deduction or set-off, in cleared funds within 7 days of the date of each invoice unless otherwise expressly agreed in writing; and
- 4.2.2 to the bank account nominated by the Company.

4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.4

- 4.4.1 the Company may, without limiting its other rights, charge interest on such sums at 8% a year above the base rate of Barclays Bank from time to time in force, and
- 4.4.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

5. Orders and Specification

5.1 The Company reserves the right to make changes to the Goods: -

- 5.1.1 which are required so that the Goods conform with any applicable statutory or EU requirement; or
- 5.1.2 where such changes to the Goods do not materially affect the quality or performance of the Goods.

5.2 Goods supplied by the Company which are natural stone products are subject to their natural markings with random variations in veining, colour/texture, grain/bed, fissures/vents and no claim in respect of such variations will be a defect in the Goods. Otherwise than confirmed in writing by the Company any testing of either material supplies or of the Goods is excluded as is any chemical treatment of the Goods.

5.3 No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation. For the avoidance of doubt any deposit paid by the Customer shall be non-returnable in the event of a cancellation.

6. Delivery and Performance

6.1 The Goods shall be delivered by the Company, or its nominated carrier, to the location on the date specified in the Order.

6.2 The Goods shall be deemed delivered on completion of unloading only of the Goods at the location by the Company or its nominated carrier (as the case may be).

6.3 The Services shall be performed by the Company at the Location on the date specified in the Order.

6.4 The Services shall be deemed delivered by the Company only on completion of the performance of the Services at the location.

- 6.5 The Customer shall not be entitled to reject a delivery of the Goods on the basis that an incorrect volume of the Goods has been supplied.
- 6.6 The Company may deliver the Goods or perform the Services in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6.7 Each delivery or performance of the Deliverables shall be accompanied by a delivery note stating:
- 6.7.1 the date of the Order;
 - 6.7.2 the relevant Customer and Company details;
 - 6.7.3 if Goods, the product numbers and type and quantity of Goods in the consignment;
 - 6.7.4 if Services, the category, type and quantity of Services performed;
 - 6.7.5 any special instructions, handling and other requests; and
 - 6.7.6 in the case of Goods, whether any packaging material is to be returned, in which case the Customer shall, after the Goods are unpacked, make them available for collection by the Company at the Company's expense.
- 6.8 Time is not of the essence in relation to the performance or delivery of the Deliverables. The Company shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are indicative only.
- 6.9 The Company shall not be liable for any delay in or failure of performance caused by:
- 6.9.1 the Customer's failure to make the location available;
 - 6.9.2 the Customer's failure to prepare the location in accordance with the Company's instructions;
 - 6.9.3 the Customer's failure to provide the Company with adequate instructions for performance or delivery or otherwise relating to the Goods and Services;
 - 6.9.4 Force Majeure.
- 6.10 If the Customer fails to accept delivery of the Goods the Company shall store and insure the Goods pending delivery, and the Customer shall pay all costs and expenses incurred by the Company in doing so.
- 6.11 If 15 Business Days following the due date for delivery or collection of the Goods, the Customer has not taken delivery of or collected them, the Company may resell or otherwise dispose of the Goods without any obligation or liability to the Customer, except as provided for in clauses 6.11.1. The Company shall:
- 6.11.1 deduct all storage charges at the Company's then-applicable rates and reasonable costs of resale; and
 - 6.11.2 account to the Customer for any excess of the resale price over, or invoice the Customer for any shortfall of the resale price below, the Price paid by the Customer for the Goods.

7. Risk

Risk in the Goods shall pass to the Customer on delivery.

8. Title

- 8.1 Title to the Goods shall pass to the Customer once the Company has received payment in full and cleared funds for the Goods.
- 8.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 8.2.1 hold the Goods as bailee for the Company;
 - 8.2.2 store the Goods separately from all other material in the Customer's possession;
 - 8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;
 - 8.2.4 insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Company's interest on the policy;
 - 8.2.5 ensure that the Goods are clearly identifiable as belonging to the Company;
 - 8.2.6 not remove or alter any mark on or packaging of the Goods;
 - 8.2.7 inform the Company immediately if it becomes subject to any of the events or circumstances set out in clauses 17.1.1 to 17.1.4 or 17.2.1 to 17.3; and
 - 8.2.8 on reasonable notice permit the Company to inspect the Goods during the Customer's normal business hours and provide the Company with such information concerning the Goods as the Company may request from time to time.
- 8.3 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Company, or the Company reasonably believes, that the Customer has or is likely to become subject to any of the events specified in the clauses within these terms, the Company may:
- 8.3.1 require the Customer at the Customer's expense to re-deliver the Goods to the Company; and
 - 8.3.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9. Warranty

- 9.1 The Company warrants that, at the time of performance, the Goods and Services shall:
- 9.1.1 conform in all material respects to any sample, their description and to the specification;
 - 9.1.2 be free from material defects in design, material and workmanship;
 - 9.1.3 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - 9.1.4 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13; and
 - 9.1.5 any media on which the results of the Services are supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.2 The Customer warrants that it has provided the Company with all relevant, full and accurate information as to the Customer's business and needs.

- 9.3 The Company will provide an ongoing maintenance system following installation of the goods and we will not accept any liability if the Goods are not maintained and become faulty.
- 9.4 As the Customer's sole and exclusive remedy, the Company shall, at its option, correct, repair, remedy, re-perform or refund the Deliverables that do not comply with clause 9, provided that the Customer:
- 9.4.1 serves a written notice on Company not later than five Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;
- 9.4.2 such notice specifies that some or all of the Deliverables do not comply with clause 9.1 and identifying in sufficient detail the nature and extent of the defects; and
- 9.4.3 gives the Company a reasonable opportunity to examine the claim of the defective Deliverables.
- 9.5 The provisions of these Conditions shall apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.
- 9.6 The Company shall not be liable for any failure of the Goods to comply with clause 9.1:
- 9.6.1 where such failure arises by reason of wear and tear, wilful damage, negligence;
- 9.6.2 to the extent caused by the Customer's failure to comply with the Company's instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;
- 9.6.3 to the extent caused by the Company following any specification, instruction or requirement of or given by the Customer in relation to the Goods;
- 9.6.4 where the Customer modifies any Goods without the Company's prior written consent or, having received such consent, not in accordance with the Company's instructions; or
- 9.6.5 where the Customer uses any of the Goods after notifying the Company that they do not comply with clause 9.1.
- 9.7 Except as set out in this clause 9:
- 9.8
- 9.8.1 the Company gives no warranty and makes no representations in relation to the Deliverables; and
- 9.8.2 shall have no liability for their failure to comply with the warranty in clause 9.1,
- and all warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 and ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

10. **Anti-bribery**

- 10.1 For the purposes of this clause 10 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
- 10.2.1 all of that party's personnel;
- 10.2.2 all others associated with that party; and
- 10.2.3 all of that party's subcontractors;
- involved in performing the Contract so comply.
- 10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 10.4 The Customer shall immediately notify the Company as soon as it becomes aware of a breach or possible breach by the Customer of any of the requirements in this clause 10.
- 10.5 Any breach of this clause 10 by the Customer shall be deemed a material breach of the Contract that is not remediable and shall entitle the Company to immediately terminate the Contract by notice under clause 17.1.1.

11. **Anti-slavery**

- 11.1 The Company shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy.
- 11.2 The Customer undertakes, warrants and represents that:
- 11.2.1 neither the Customer nor any of its officers, employees, agents or subcontractors has:
- committed an offence under the Modern Slavery Act 2015 (an **MSA Offence**); or
 - been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
 - is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 11.2.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
- 11.2.3 it has implemented due diligence procedures to ensure compliance with the Modern Slavery Act 2015 and the Modern Slavery Policy in its business and supply chain, and those of its officers, employees, agents or subcontractors, which will be made available to the Company on request at any time throughout the Contract.
- 11.3 The Customer shall notify the Company immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Customer's obligations under clause 11.2. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.
- 11.4 Any breach of clause 11.2 by the Customer shall be deemed a material breach of the Contract and shall entitle the Company to terminate the Contract with immediate effect.

12. Indemnity and insurance

- 12.1 The Customer shall indemnify, and keep indemnified, the Company from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Company as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.
- 12.2 The Customer shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. On request, the Customer shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.

13. Limitation of liability

- 13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.
- 13.2 Subject to clauses 13.5 and 13.6, the Company's total liability shall not exceed 50% of the total cost price.
- 13.3 Subject to clauses 13.5 and 13.6, the Company shall not be liable for consequential, indirect or special losses.
- 13.4 Subject to clauses 13.5 and 13.6, the Company shall not be liable for any of the following (whether direct or indirect):
- 13.4.1 loss of profit;
 - 13.4.2 loss of revenue;
 - 13.4.3 loss or corruption of data;
 - 13.4.4 loss or corruption of software or systems;
 - 13.4.5 loss or damage to equipment;
 - 13.4.6 loss of use;
 - 13.4.7 loss of production;
 - 13.4.8 loss of contract;
 - 13.4.9 loss of commercial opportunity;
 - 13.4.10 loss of savings, discount or rebate (whether actual or anticipated);
 - 13.4.11 harm to reputation or loss of goodwill; and/or
 - 13.4.12 wasted expenditure.
- 13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by the Customer under the Contract.
- 13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 13.6.1 death or personal injury caused by negligence;
 - 13.6.2 fraud or fraudulent misrepresentation;
 - 13.6.3 any other losses which cannot be excluded or limited by Applicable Law;
 - 13.6.4 any losses caused by wilful misconduct.

14. Confidentiality and announcements

- 14.1 The Customer shall keep confidential all commercial, financial or technical information, information relating to the Goods and Services, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by the Customer in performing its obligations under, or otherwise pursuant to the Contract ("Confidential Information") of the Company and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 14.1.1 any information which was in the public domain at the date of the Contract;
 - 14.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
 - 14.1.3 any information which is independently developed by the Customer without using information supplied by the Company; or
 - 14.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- except that the provisions of clauses 14.1.1 to 14.1.3 shall not apply to information to which clause 14.4 relates.
- 14.2 This clause shall remain in force in perpetuity.
- 14.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.
- 14.4 To the extent any Confidential Information is Protected Data, such Confidential Information may be disclosed or used only to the extent such disclosure or use is in compliance with and does not conflict with any provisions of clause 15.
- ## **15. Processing of personal data**
- 15.1 The parties agree that the Customer is a controller and that the Company is a processor for the purposes of processing Protected Data pursuant to the Contract. The Customer shall at all times comply with all data protection laws in the UK in connection with the processing of Protected Data. The Customer shall ensure all instructions given by it to the Company in respect of Protected Data (including the terms of the Contract) shall at all times be in accordance with all Data Protection Laws. Nothing in the Contract relieves the Customer of any responsibilities or liabilities under data protection law.
- 15.2 The Company shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of the Contract.
- 15.3 the Customer shall indemnify and keep indemnified the Company against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation) arising out of or in connection with any breach by the Customer of its obligations under this clause 15.
- 15.4 The parties agree:

- 15.4.1 the Company shall only process the Protected Data as required, except to the extent:
- that alternative processing instructions are agreed between the parties in writing; or
 - otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest); and
- 15.4.2 if the Company believes that any instruction received by it from the Customer is likely to infringe the data protection laws it shall be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.
- 15.5 The Company shall implement and maintain the technical and organisational measures set out to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 15.6 The Company shall:
- 15.6.1 not permit any processing of Protected Data by any sub-processor without the prior specific written authorisation of the Customer;
- 15.6.2 prior to any sub-processor carrying out any processing activities in respect of the Protected Data, appoint such sub-processor under a written contract containing materially the same obligations as under this clause 15 (including those relating to sufficient guarantees to implement appropriate technical and organisational measures) that is enforceable by the Company and ensure such sub-processor complies with all such obligations;
- 15.6.3 remain fully liable to the Customer under the Contract for all the acts and omissions of each sub-processor as if they were its own; and
- 15.6.4 ensure that all natural persons authorised by the Company or any sub-processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.
- 15.7 The Customer authorises the appointment of the sub-processors.
- 15.8 The Customer shall reply to any communication from the Company requesting any further prior specific authorisation of a sub-processor pursuant to clause 15.6.1 promptly and in any event within 10 Business Days of request from time to time. The Customer shall not unreasonably withhold, delay or condition any such authorisation.
- 15.9 The Company shall (at the Customer's cost):
- 15.9.1 assist the Customer in ensuring compliance with the Customer's obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of the processing and the information available to the Company; and
- 15.9.2 taking into account the nature of the processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the data subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable data protection laws) in respect of any Protected Data.
- 15.10 The Company shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to any country or territory outside the United Kingdom or to any International Organisation without the prior written authorisation of the Customer.
- 15.11 The Company shall refer to the Customer all requests it receives for exercising any data subjects' rights under Chapter III of the GDPR which relate to any Protected Data. It shall be the Customer's responsibility to reply to all such requests as required by applicable law.
- 15.12 The Company shall, in accordance with data protection laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate the Company's compliance with the obligations placed on it under this clause 15 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent data protection laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 15.12).
- 15.13 On the end of the provision of the Services relating to the processing of Protected Data, at the Customer's cost and the Customer's option, the Company shall either return all of the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Company to store such Protected Data. This clause 15 shall survive termination or expiry of the Contract.

16. Force majeure

Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than 30 days, either party may terminate the Contract by written notice to the other party.

17. Termination

- 17.1 The Company may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if:
- 17.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
- 17.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;
- 17.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 30 days after the Company has given notification that the payment is overdue; or
- 17.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 17.2 The Company may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
- 17.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 17.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Company reasonably believes that to be the case;
- 17.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 17.2.4 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
- 17.2.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
- 17.2.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;

- 17.2.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 17.2.8 has a resolution passed for its winding up;
- 17.2.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 17.2.10 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
- 17.2.11 has a freezing order made against it;
- 17.2.12 is subject to any recovery or attempted recovery of items supplied to it by a Company retaining title in those items;
- 17.2.13 is subject to any events or circumstances analogous to those in clauses 17.2.1 to 17.2.12 in any jurisdiction.

17.3 The Company may terminate the Contract at any time by giving not less than four weeks' notice in writing to the Customer if the Customer undergoes a change of control.

17.4 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Company to terminate the Contract under this clause 17, it shall immediately notify the Company in writing.

17.5 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Company at any time up to the date of termination.

17.6 Should you terminate your contract with us, the following shall apply:

- 17.6.1 If the stone has been purchased, a restocking fee of 15% of the stone value will be required;
- 17.6.2 If the cancellation is less than 10 days prior to works starting, an admin fee of 5% of the deposit amount will be required

18. Notices

18.1 Any notice given by a party under these Conditions shall:

18.2

- 18.2.1 be in writing and in English;
- 18.2.2 be signed by, or on behalf of, the party giving it; and
- 18.2.3 be sent to the relevant party at the address set out in the Contract

18.3 Notices may be given, and are deemed received:

- 18.3.1 by hand: on receipt of a signature at the time of delivery;
- 18.3.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting;
- by Royal Mail International Signed post: at 9.00 am on the fourth Business Day after posting; and
- 18.3.3 by fax: on receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission.

18.4 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 18.1 and shall be effective:

- 18.4.1 on the date specified in the notice as being the date of such change; or
- 18.4.2 if no date is so specified, two Business Days after the notice is deemed to be received.

18.5 All references to time are to the local time at the place of deemed receipt.

18.6 This clause does not apply to notices given in legal proceedings or arbitration.

18.7 A notice given under these Conditions is not validly served if sent by email.

19. Cumulative remedies

The rights and remedies provided in the Contract for the Company only are cumulative and not exclusive of any rights and remedies provided by law.

20. Time

Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Customer's obligations only.

21. Further assurance

The Customer shall at the request of the Company, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

22. Entire agreement

22.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

22.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

22.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

23. Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

24. Assignment

24.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Company's prior written consent, which it may withhold or delay at its absolute discretion.

24.2 Notwithstanding clause 24.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Company prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.

25. Set off

25.1 The Company shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Company has with the Customer.

25.2 The Customer shall pay all sums that it owes to the Company under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

26. No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

27. Equitable relief

The Customer recognises that any breach or threatened breach of the Contract may cause the Company irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Company, the Customer acknowledges and agrees that the Company is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

28. Severance

28.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

28.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

29. Waiver

29.1 No failure, delay or omission by the Company in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

29.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Company shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Company.

30. Compliance with law

The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

31. Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

32. Costs and expenses

The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

33. Third party rights

33.1 Except as expressly provided for in clause 33.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

33.2 Any Affiliate of the Company shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

34. Governing law

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

35. Jurisdiction

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