

## SPECIALITY DRINKS LIMITED TRADE TERMS AND CONDITIONS (“TERMS AND CONDITIONS”)

### 1. DEFINITIONS AND INTERPRETATION

a) In these Terms and Conditions, the following definitions apply:

**Affiliate(s)** means any company or other legal entity which is at the relevant time a subsidiary or subsidiary undertaking or parent undertaking of Speciality Drinks Limited, as the case may be, or a subsidiary or subsidiary undertaking of such parent undertaking as defined in the Companies Act 2006 (as amended) and shall include any Group Company;

**Anti-Money Laundering Laws** means as defined in clause (15(d));

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

**Bribery Laws** means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption;

**Confidential Information** has the meaning given to it in clause 14(a);

**Contract** means the agreement between the Supplier and the Customer for the sale and purchase of Goods, consisting of: (i) the Order; and (ii) these Terms and Conditions;

**Customer** means the person who purchases the Goods from the Supplier;

**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;

**Delivery** means the meaning given in clause 6(e);

**Goods** means the goods and other physical material set out in the Order and to be supplied to the Customer by the Supplier;

**Group Company** means any company within The Whisky Exchange Holdings Limited group of companies from time to time and "Group" shall be construed accordingly;

**Intellectual Property Rights** means copyright, trademarks, service marks, logos, and trade names;

**Location** means the address for Delivery of the Goods as specified in the Order;

**Order** means an order placed by a Customer for Goods from the Supplier whether in writing via the Supplier's online ordering system, by email, or orally;

**Personal Data** has the meaning given in the Data Protection Legislation;

**Price** means the meaning given in clause 3(a);

**Supplier** means Speciality Drinks Limited (company number 04449145) of Elixir House, Whitby Avenue, Park Royal, London, NW10 7SF;

**Supplier's Trade List** means the list of Goods available to purchase from the Supplier as provided by the Supplier to the Customer and updated from time to time; and

**Terms and Conditions** means the Supplier's terms and conditions of sale as set out herein.

- b) In these Terms and Conditions, unless the context requires:
- i. any clause, schedule or other heading in these Terms and Conditions is included for convenience only and shall have no effect on the interpretation of the Terms and Conditions;
  - ii. a reference to a "party" includes that party's personal representatives, successors, and personal assigns;
  - iii. a reference to a "person" includes a natural person, corporate or unincorporated body and that person's personal representatives, successors, and personal assigns;
  - iv. a reference to a "company" includes any company, corporation, or other body corporate, whether and however incorporated or established;
  - v. a reference to a gender includes all genders;
  - vi. words in the singular include the plural and vice versa;
  - vii. any words that follow "include," "includes", "including", "in particular" or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words; and
  - viii. a reference to "writing" or "written" includes any method of reproducing words in a legible and non-transitory form, including email.

## **2. APPLICATION OF THESE TERMS AND CONDITIONS**

- a) These Terms and Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply. The Customer accepts these Terms and Conditions when it opens an account with the Customer (whether in hard copy, electronically, or on the Supplier's online ordering platform).
- b) The Customer and the Supplier may enter into additional agreements, for example for private bottlings and retrospective payments.
- c) No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.
- d) Each Order by the Customer to the Supplier shall be an offer to purchase Goods subject to these Terms and Conditions and shall remain in effect and capable of being accepted by the Supplier until such time as it is withdrawn by the Customer giving notice to the Supplier in writing (save that such withdrawal must be before the Supplier has accepted the Order).
- e) There shall be a minimum order size which the Supplier shall decide at its sole discretion (and which is subject to change at the Supplier's sole discretion).
- f) The Supplier may accept or reject an Order at its sole discretion. An Order shall not be accepted (and no Contract (or other contractual commitment to supply Goods) shall arise) until the earlier of:

- i. the Supplier's written acceptance of the Order; or
  - ii. the Supplier dispatching the Goods to the Customer.
- g) The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only and are not an offer to supply Goods and are incapable of acceptance by the Customer.
- h) Marketing and other promotional material relating to the Goods are for illustrative purposes only and do not form part of the Contract.

### **3. PRICE**

- a) The price for the Goods ("**Price**") shall be: (i) as set out in the Supplier's Trade List, or as advised by the Supplier before the date the Order is made; plus (ii) any applicable Delivery charge as referred to in clause 6(b) below.
- b) The Price is inclusive of duty, exclusive of VAT.
- c) The Customer shall pay any applicable VAT to the Supplier.
- d) The Supplier may increase the Price at any time by giving the Customer:
- i. not less than 28 Business Days' notice in writing for any Goods on the Supplier's Trade List; and
  - ii. with immediate effect by written notice to the Customer for Goods which are not on the Supplier's Trade List; and
  - iii. with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Goods and which is due to any factor beyond the control of the Supplier.

### **4. PAYMENT**

- a) The Supplier shall provide the Customer with a Delivery note for the Goods at any time after Delivery.
- b) Invoices and monthly statements of account will be sent via email directly to the contact given by the Customer, or as updated by the Customer from time to time.
- c) The Customer shall pay all invoices:
- i. in full, without deduction or set-off;
  - ii. via the agreed payment method; and
  - iii. to the bank account nominated by the Supplier, as stated on the invoice and statements.
- d) Time of payment is of the essence. Where sums due are not paid in full, by the due date:
- i. the Supplier shall, without limitation to any rights to interest that it may have under statute or the common law, charge and the Customer shall be liable to pay interest on such sums at 8% a year; and
  - ii. 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. CREDIT FACILITIES**

- a) The Supplier may provide credit facilities to the Customer. If the Supplier provides credit facilities to the Customer, the Supplier: (i) will determine a Customer's credit limit at the Supplier's sole discretion; (ii) may vary Customer credit limits from time to time, without prior notification to the Customer; and (iii) may withhold the supply of Goods if the Customer exceeds their credit limit.

- b) The Customer shall pay, on demand, all sums arising out of any credit facility provided.
- c) The Customer hereby acknowledges that the Supplier shall be entitled to use third parties (including credit agencies and insurers) to assist the Supplier in deciding if it wishes to provide credit facilities. The Supplier may terminate the Contract, under clause 13, if a credit decision on a Customer changes.

## 6. DELIVERY

- a) An Order shall specify the Location where the Goods are to be delivered by the Supplier or a carrier appointed by Supplier.
- b) The Supplier is entitled to charge reasonable fees for Delivery to the Location and the Customer shall be liable to pay the Supplier for such Delivery charges at the time of the Order. For deliveries which are under the minimum amount (as set from time to time by the Supplier and varying by delivery location) the Supplier shall charge a small additional delivery charge.
- c) The Supplier will arrange for the Goods to be delivered within a reasonable period of time from acceptance of the Order (or as specifically agreed in writing with the Customer).
- d) The Supplier shall notify the Customer of the expected date of Delivery. Time of Delivery is not of the essence. Any expected date of Delivery provided to the Customer by the Supplier shall be approximate only.
- e) The Goods shall be deemed delivered on completion of unloading of the Goods at the Location ("**Delivery**").
- f) The Goods may be delivered by instalments and any delay in Delivery or defect in an instalment shall not entitle the Customer to cancel the Contract or any other instalment.
- g) The Supplier shall not be liable for any delay in, or failure of Delivery caused by the Customer's failure to: (i) make the Location available; (ii) prepare the Location for the Delivery of the Goods; or (iii) provide the Supplier with adequate instructions for Delivery.
- h) The Customer shall not be entitled to return any Goods after Delivery without the Supplier's prior written agreement.
- i) The Customer shall not be entitled to reject any Goods on the basis that the packaging (including, for the avoidance of doubt, any glass in which the alcohol is stored) is smashed, damaged or broken unless the Customer notifies the Supplier within 24 hours of Delivery and provides photographic evidence of such damaged packaging.
- j) If:
  - i. the Supplier is delivering the Goods, and the Customer fails to accept Delivery of the Goods, the Supplier shall store the Goods pending Delivery and the Customer shall pay all the costs and expenses of the Supplier storing the Goods; or
  - ii. a carrier appointed by the Supplier is delivering the Goods and the Customer fails to accept Delivery of the Goods: (i) the Supplier shall not be liable for any losses, damages, liability, costs (including legal fees) and expenses which the Customer may suffer or incur directly or indirectly; and (ii) the Customer shall indemnify the Supplier in respect of any costs arising out of the Customer's failure to accept Delivery (including, for the avoidance of doubt, any storage or other charges charged by the carrier).

## 7. RISK

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

## **8. TITLE**

- a) Title in the Goods shall pass to the Customer at the earlier of the following dates:
  - i. once the Supplier has received payment in full and cleared funds for the Goods; or
  - ii. if the Customer resells the Goods in accordance with clause 8(c) below, immediately prior to the resale.
  
- b) Until title in the Goods has passed to the Customer, the Customer shall:
  - i. hold the Goods as bailee for the Supplier;
  - ii. store the Goods separately from all other material in the Customer's possession;
  - iii. take all reasonable care of the Goods and keep them in the condition in which they were delivered;
  - iv. 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 the Price of the Goods; and (iv) noting the Supplier's interest on the policy;
  - v. ensure that the Goods are clearly identifiable as belonging to the Supplier;
  - vi. not remove or alter any mark on or packaging of the Goods;
  - vii. inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clause 8(e) below; and
  - viii. on reasonable notice, permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
  
- c) Notwithstanding clause 8(b) above, the Customer may use or resell the Goods in the ordinary course of its business until such time as it becomes aware or ought reasonably to have become aware that an event or circumstance set out in clause 8(e) below has occurred or is likely to occur.
  
- d) If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that an event or circumstance set out in clause 8(e) below has occurred or is likely to occur, the Supplier may require the Customer to re-deliver the Goods to the Supplier; and if the Customer fails to re-deliver the Goods promptly, enter any premises where the Goods are stored and repossess the Goods.
  
- e) The following events and circumstances are relevant to this clause 8, such events and circumstances being if the Customer:
  - i. stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - ii. is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986;
  - iii. becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
  - iv. has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
  - v. has a resolution passed for its winding up;
  - vi. 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;
  - vii. 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;
  - viii. has a freezing order made against it;
  - ix. is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items; or
  - x. is subject to any events or circumstances analogous to those in clauses 8(e)(i) to 8(e)(ix) in any jurisdiction.

## **9. INTELLECTUAL PROPERTY RIGHTS**

The Supplier and the Customer may use each other's Intellectual Property to refer to the Customer being a customer of the Supplier. The Intellectual Property is, and shall remain, the property of the Supplier, or the Customer, or their retrospective licensors, as applicable.

## 10. WARRANTY

- a) The Supplier warrants that the Goods shall, for a period of 6 weeks from Delivery ("**Warranty Period**"):
  - i. conform in all material respects to the Order; and
  - ii. be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- b) The Supplier shall, at its option, repair, replace or refund the Price of any Goods that do not comply with clause 10(a) above provided that the Customer:
  - i. serves a written notice on the Supplier:
    - A. during the Warranty Period in the case of defects discoverable by a physical inspection; or
    - B. in the case of latent defect, within 6 weeks from the date on which the Customer became aware (or should reasonably have become aware) of the defect;
  - ii. provides the Supplier with sufficient information as to the nature and extent of the defects and the uses to which the Goods have been put prior to the defect arising;
  - iii. gives the Supplier a reasonable opportunity to examine the defective Goods; and
  - iv. returns the defective Goods to the Supplier at the Supplier's expense.
- c) The provisions of these Terms and Conditions, including the warranties set out in clause 10(a), shall apply to any Goods that are repaired or replaced with effect from the Delivery of the repaired or replaced Goods.
- d) The Supplier shall not be liable for any failure of the Goods to comply with clause 10(a):
  - i. where such failure arises by reason of wear and tear, wilful damage, negligence or which could be expected to arise during the normal course of the use of the Goods;
  - ii. to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Goods;
  - iii. where the Customer used any of the Goods after notifying the Supplier that they do not comply with clause 10(a).
- e) Except as set out in this clause 10:
  - i. the Supplier gives no warranties and makes no representations in relation to the Goods; and
  - ii. shall have no liability for their failure to comply with the warranty in clause 10(a), and all warranties and conditions (including the conditions implied by sections 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 by law.

## 11. INDEMNITY AND INSURANCE

- a) The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract including costs (including legal fees) associated with the Customer failing to make payment in accordance with the Contract.
- b) 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 evidence of the maintenance of the insurance and all of its terms from time to time applicable.
- c) The Supplier will insure the Goods whilst the Goods are in the Supplier's possession.

## 12. LIMITATION OF LIABILITY

- a) 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 12.
- b) Subject to clause 12(d), the Supplier's total aggregate liability under or in connection with these Terms and Conditions, shall not exceed the sum of £1,000.
- c) Subject to clause 12(d), the Supplier shall not be liable for consequential, indirect or special losses.
- d) Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
  - i. death or personal injury caused by negligence;
  - ii. fraud or fraudulent misrepresentation; and
  - iii. any other losses which cannot be excluded or limited by applicable law.

### 13. TERMINATION

The Supplier may terminate the Contract at any time by giving notice in writing to the Customer.

### 14. CONFIDENTIALITY

- a) Each party undertakes that it shall keep any information that is confidential in nature concerning the other party and its affiliates (Affiliates in respect of the Supplier) including, without limitation, any details of its business, affairs, customers, clients, suppliers, plans or strategy ("**Confidential Information**") confidential and that it shall not use or disclose the other party's Confidential Information to any person, except as permitted by clause 14(b).
- b) A party may disclose ("**Recipient**") the other party's ("**Discloser**") Confidential Information:
  - i. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know the relevant Confidential Information for the purposes of exercising the Recipient's rights or carrying out its obligations under the Contract. The Recipient shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the Discloser's Confidential Information comply with this clause 14; and
  - ii. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- c) The Recipient shall not use the Discloser's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- d) Each party recognises that any breach or threatened breach of this clause 14 may cause irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages, the parties agree that the non-defaulting party may be entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

### 15. ANTI-BRIBERY AND ANTI-MONEY LAUNDERING

- a) For the purposes of this clause 15 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- b) The Customer shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
  - i. all of the Customer's personnel;
  - ii. all others associated with the Customer; and
  - iii. all of the Customer's subcontractors;

involved in the performance of this Contract so comply.

- c) Without limitation to clause 15 (b) the Customer shall not 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.
- d) The operations of the Customer and its affiliates are and have been conducted at all times in compliance with the anti-money laundering laws of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency including any financial recordkeeping or reporting requirements (collectively, the “**Anti-Money Laundering Laws**”); and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving Customer or any of its affiliates with respect to the Anti- Money Laundering Laws is pending or, to the best knowledge of Customer, threatened.
- e) The Customer shall immediately notify the Supplier as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 15.
- f) Any breach of this clause 15 by the Customer shall be deemed a material breach of this Contract that is not remediable and shall entitle the Supplier to immediately terminate this Contract by notice under clause 13.

## **16. MODERN SLAVERY**

- a) The Customer undertakes, warrants and represents that:
  - i. neither the Customer nor any of its officers, employees, agents or sub-contractors has:
    - A. committed an offence under the Modern Slavery Act 2015 (“**MSA Offence**”); or
    - B. been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
    - C. 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;
  - ii. it shall comply with the Modern Slavery Act 2015 and the Supplier’s related policies; and
  - iii. it shall notify the Supplier 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 this clause 16. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer’s obligations.
- b) Any breach of clause 16(a) by the Customer shall be deemed a material breach of the Contract and shall entitle the Supplier to terminate the Contract in accordance with clause 13.

## **17. DISPUTE RESOLUTION**

If any dispute arises between the parties out of or in connection with this Contract, the matter shall be referred to senior representatives of each party who shall use their reasonable endeavours to resolve it.

## **18. CUMULATIVE REMEDIES**

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

## **19. TIME**



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

## **20. ENTIRE AGREEMENT**

- a) The parties agree that the Contract 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.
- b) Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- c) Nothing in these Terms and Conditions purports to limit or exclude any liability for fraud.

## **21. VARIATION**

No variation of these Terms and Conditions shall be binding unless expressly agreed in writing by the Supplier and the Customer.

## **22. ASSIGNMENT**

The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's written consent.

## **23. SET OFF**

- a) The Supplier 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.
- b) The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- c) The Supplier shall be entitled to reduce any sums owing to the Customer by an amount equivalent to any sums owing from the Customer to an Affiliate (save that, for the avoidance of doubt, this clause 23 shall have no effect on the Affiliate's rights).

## **24. 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. Neither party shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

## **25. SEVERANCE**

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

## 26. WAIVER

- a) No failure, delay or omission by the Supplier 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 right, power or remedy.
- b) No single or partial exercise by the Supplier of any right, power or remedy provided by law or under the Contract shall preclude or restrict any future exercise of that or any right, power or remedy.

## 27. THIRD PARTY RIGHTS

Except for the Affiliates, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999.

## 28. DATA PROTECTION

- a) Both the Supplier and the Customer will comply with all applicable requirements of the Data Protection Legislation. This clause 28(a) is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 28, ("**Applicable Laws**") means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and ("**Domestic UK Law**") means the UK Data Protection Legislation and any other law that applies in the UK.
- b) The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller, and the Supplier is the data processor (where ("**Data Controller**") and ("**Data Processor**") have the meanings as defined in the Data Protection Legislation).
- c) Without prejudice to the generality of clause 28(a), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Contract.
- d) Without prejudice to the generality of clause 28(a), the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Contract:
  - i. process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
  - ii. ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - iii. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

- iv. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - A. the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
  - B. the data subject has enforceable rights and effective legal remedies;
  - C. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - D. the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.
- v. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- vi. notify the Customer without undue delay on becoming aware of a Personal Data breach;
- vii. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of this Contract, unless required by Applicable Law to store the Personal Data; and
- viii. maintain complete and accurate records and information to demonstrate its compliance with this clause 28.

## **29. GOVERNING LAW AND JURISDICTION**

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