

British Harlequin plc Conditions of Sale (“Conditions”)

1 INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

"Business Day"	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
"Conditions"	the terms and conditions set out in this document as amended from time to time in accordance with clause 17.6.
"Consumer"	means an individual acting for the purposes that are wholly or mainly outside that individual's trade, business, craft or profession.
"Contract"	the contract between the Supplier and the Customer for the sale and purchase of the Goods and any associated Services in accordance with these Conditions.
"Customer"	the person or firm who purchases the Goods and any associated Services from the Supplier.
"Force Majeure Event"	has the meaning given in clause 14.
"Goods"	the goods (or any part of them) set out in the Order, as confirmed in the Supplier's acceptance of an Order as detailed in clause 2.3.
"Goods Specification"	any specification for the Goods, including any related plans and drawings, that is issued by the Supplier from time to time.
"Intellectual Property Rights"	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, 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 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, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world
"Order"	the Customer's order for the Goods and any associated Services, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, the Customer's email, the Customer's order submitted through the Supplier's website, or the Customer's request over the telephone, as the case may be.
"Order Confirmation Form"	the form used by the Supplier in order to confirm an Order placed by the Customer and the form which can be found at Schedule 1.
"Services"	the services (if any) supplied by the Supplier to the Customer as set out in the Service Specification.
"Service Specification"	the description or specification for the Services provided in writing by the Supplier to the Customer in an Order confirmation or otherwise.
"Supplier"	British Harlequin plc (registered in England and Wales with company number 01420396) and whose registered address is at Festival House, Chapman Way, Tunbridge Wells, Kent, TN2 3EF.
"Supplier Materials"	has the meaning set out in clause 8.1.7.

- 1.2 **Construction.** In these Conditions, the following rules apply:
- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - 1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.
 - 1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
 - 1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
 - 1.2.5 A reference to **writing** or **written** includes faxes and e-mails.

2 **BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods and any associated Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate. If the Customer is acting as a Consumer, then the Customer may only purchase Goods from the Supplier or through its website if the Customer is at least 18 years old.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues an Order Confirmation Form (including email confirmation as supplied by the Supplier's sales team and/or generated through a website Order), at which point the Contract shall come into existence.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures or on its website are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 If provided, a quotation for the Goods and any associated Services given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue, after which period the quotation shall be open to revision by the Supplier.
- 2.7 **Clauses 2.8-2.18 only apply if the Customer is contracting as a Consumer.**
- 2.8 Subject to clause 2.9, a Consumer Customer may cancel an order as follows:
 - 2.8.1 the Customer may cancel an Order any time before the Supplier despatches the Goods by contacting the Supplier in accordance with clauses 2.10-2.18. If the Goods have already been despatched at the time of cancellation of the Order by the Customer, the Supplier will cancel the Order once the Goods have been delivered;
 - 2.8.2 the Customer may cancel an Order before the expiry of the period set out in clause 2.12 by contacting the Supplier in accordance with clause 2.10; and
 - 2.8.3 provided no cancellation exception is set out in the Contract, the Customer may cancel an Order after expiry of the period set out in clause 2.12 on written agreement by the Supplier. The Supplier reserves the right to charge a Re-stocking Fee to the Customer for cancellations in accordance with this clause 2.8.3.

In each case set out in 2.8.1 and clause 2.8.2, the Customer shall return the Goods to the Supplier at the Customer's cost and upon receipt the Supplier shall refund the Customer for the Goods themselves (less any Re-stocking Fee in accordance with clause 2.8.2), but not any charges for delivery of the Goods or any charge for collection by or return to the Supplier following cancellation.

- 2.9 For made-to-measure Goods, as these are made to the Customer's requirements, the Customer will not be able to cancel the Order once made, but this will not affect the Customer's legal rights as a Consumer in relation to made-to-measure Goods that are faulty or not as described. A Customer may also not cancel an order for Goods where those Goods become mixed inseparably with other items after their delivery.

- 2.10 Subject to clause 2.9, to cancel a Contract in accordance with the Customer's legal right to do so when it is contracting as a Consumer (as set out in clause 2.11below), the Customer will need to let the Supplier know that it has decided to cancel. The easiest way to do this is to contact us by email at: **enquiries@harlequinfloors.com**. If the Customer uses this method, the Supplier will e-mail to confirm it has received the Customer's cancellation in accordance with its Consumer rights. The Customer can also post, e-mail or telephone the Supplier, using the details set out herein. The Customer must include details of their Order to help the Supplier identify it. If the Customer sends its cancellation notice by e-mail or by post, then the cancellation is effective from the date the Customer sends the e-mail or post the letter to the Supplier.
- 2.11 If the Customer is a Consumer, then subject to clause 2.9, the Customer has a legal right to cancel a Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 during the period set out below in clause 2.12. This means that during the relevant period, if a Consumer Customer changes their mind or decides for any other reason that it does not want to receive or keep Goods Ordered, the Consumer Customer can notify the Supplier of its decision to cancel the Contract and receive a refund. Advice about a Consumer's legal right to cancel the Contract is available from local Citizens' Advice Bureau or Trading Standards office.
- 2.12 A Consumer Customer's legal right to cancel a Contract starts from the date of on which the Supplier emails to confirm acceptance of a Customer's Order in accordance with clause 2.3, which is when the Contract is formed. A Consumer Customer's deadline for cancelling the Contract then depends on what the Consumer Customer has ordered/requested and how it is delivered, as set out in the table below:

Your Contract	End of the cancellation period
Your Contract is for a single item of Good (which is not delivered in instalments on separate days).	The end date is the end of 14 days after the day on which you receive the Good. Example: if we provide you with a confirmation of Order email on 1 January and you receive the Good on 10 January you may cancel at any time between 1 January and the end of the day on 24 January.
Your Contract is for either of the following: <ul style="list-style-type: none"> - one Good which is delivered in instalments on separate days. - multiple Goods which are delivered on separate days. 	The end date is 14 days after the day on which you receive the last instalment of the Good or the last of the separate Goods ordered. Example: if we provide you with a confirmation of Order email on 1 January and you receive the first instalment of your Good or the first of your separate Goods on 10 January and the last instalment or last separate Good on 15 January you may cancel in respect of all instalments and any or all of the separate Goods at any time between 1 January and the end of the day on 29 January.
Your Contract is for the regular delivery of a Good over a set period.	The end date is 14 days after the day on which you receive the first delivery of the Goods. Example: if we provide you with a confirmation of Order email on 1 January in respect of Goods to be delivered at regular intervals over a year and you receive the first delivery of your Good on 10 January, you may cancel at any time between 1 January and the end of the day on 24 January. 24 January is the last day of the cancellation period in respect of all Goods to arrive during the year.

- 2.13 To cancel a Contract, the Consumer Customer needs to let the Supplier know that it has decided to cancel. The easiest way to do this is to write The easiest way to do this is to contact us by email at: enquiries@harlequinfloors.com. If the Consumer Customer uses this method the Supplier will e-mail the Consumer Customer to confirm it has received cancellation notice. If the Consumer Customer sends cancellation notice by e-mail or by post, then cancellation is effective from the date the Consumer Customer sends the e-mail or posts the letter to the Supplier. For example, the Consumer Customer will have given notice in time as long as the Consumer Customer gets their letter into the last post on the last day of the cancellation period or e-mails the Supplier before midnight on that day.
- 2.14 If the Consumer Customer cancels their Contract the Supplier will:
- 2.14.1 refund the price paid for the Goods. However, please note the Supplier is permitted by law to reduce a refund to reflect any reduction in the value of the Goods, if this has been caused by the Consumer Customer's handling them in a way which would not be permitted in a shop.
- 2.14.2 refund any delivery costs the Consumer Customer has paid, although, as permitted by law, the maximum refund will be the costs of delivery by the least expensive delivery

- method the Supplier offers (provided that this is a common and generally acceptable method). For example, if the Supplier offers delivery of Goods within 3-5 days at one cost but the Consumer Customer chooses to have the Goods delivered within 24 hours at a higher cost, then the Supplier will only refund what the Consumer Customer would have paid for the cheaper delivery option.
- 2.14.3 make any refunds due to the Consumer Customer as soon as possible and in any event within the deadlines indicated below:
- 2.14.3.1 if you have received Goods and the Supplier has not offered to collect it from the Consumer Customer: 14 days after the day on which the Supplier receives the Goods back from the Consumer Customer or, if earlier, the day on which the Consumer Customer provides the Supplier with evidence that the Consumer Customer has sent the Goods back to the Supplier. For information about how to return Goods to the Supplier, see clause 2.17;
- 2.14.3.2 if you have not received the Goods or you have received them and the Supplier has offered to collect them from the Consumer Customer: 14 days after the Consumer Customer informs us of their decision to cancel the Contract.
- 2.15 If the Consumer Customer has returned the Goods to the Supplier under clauses 2.10-2.14 because they are faulty or mis-described, the Supplier will refund the price of the Goods in full, together with any applicable delivery charges, and any reasonable costs incurred by the Consumer Customer in returning the item(s) to the Supplier.
- 2.16 The Supplier will refund the Consumer Customer on the credit card or debit card used by the Consumer Customer to pay, or if the Customer has paid by other means, the Supplier will refund the Customer by such other means as the Supplier chooses.
- 2.17 If Goods have been delivered to the Consumer Customer before they decide to cancel their Contract:
- 2.17.1 then the Consumer Customer must return it/them to the Supplier without undue delay and in any event not later than 14 days after the day on which the Consumer Customer let the Supplier know that the Consumer Customer wished to cancel the Contract. The Consumer Customer can either send it back, return it to the Supplier in-store or hand it to the Supplier's authorised carrier. If the Supplier has offered to collect the Goods from the Consumer Customer (as confirmed to the Consumer Customer by email from the Supplier), the Supplier will collect the Goods from the address to which they were delivered. The Supplier will contact the Customer to arrange a suitable time for collection;
- 2.17.2 unless the Goods are faulty or not as described (in this case, see clause 5 below), the Consumer Customer will be responsible for the cost of returning the Goods to the Supplier. If the Goods are one which cannot be returned by post, the Supplier estimates that if the Consumer Customer uses the carrier which delivered the Goods to the Consumer Customer, these costs should not exceed the sums the Supplier charged the Consumer Customer for delivery. If the Supplier has offered to collect the Goods from the Consumer Customer, the Supplier will charge the Consumer Customer the direct cost to the Supplier of collection. Any charge for collection of specific Goods will be communicated to the Consumer Customer at the time of cancellation.
- 2.18 The Customer has legal rights in relation to the Goods where these are faulty or not as described, in accordance with clause 5. These legal rights are not affected by the Customer's right of return and refund in clauses 2.8-18 or anything else in these Conditions.

3 **GOODS**

- 3.1 The Goods are described on the Supplier's website or in the Supplier's catalogue as modified by any applicable Specification.
- 3.2 To the extent that any Goods may be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

3.4 The Customer acknowledges that all Orders are accepted on the condition that the Customer has used its own skill and judgment to ascertain that the Goods are reasonably fit for any particular purpose for which they are being bought and the Customer has not relied on any skill or judgment of the Supplier.

3.5 Unless expressly otherwise agreed by the Supplier, the Customer shall be wholly responsible for ensuring the Goods are used in such a manner as to ensure compliance with all laws and regulations.

4 DELIVERY

4.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after the Supplier notifies the Customer that the Goods are ready.

4.2 Delivery of the Goods shall be completed on the Goods' arrival at the entrance (if there is a defined entrance) or otherwise at the kerbside of the Delivery Location. The Customer acknowledges that the Goods may be substantial in weight, and it is not permitted to reject delivery of the Goods in this regard.

4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 Clauses 4.5 to 4.7 apply if the Customer is contracting as a Consumer.

4.5 If the Supplier fails to deliver any or all of the Goods within 30 days of the date of the Contract ("Delivery Deadline"), then the Customer may cancel the Contract if any of the following apply:

- 4.5.1 the Supplier has refused to deliver the Goods;
- 4.5.2 delivery within the Delivery Deadline was essential (taking into account all the relevant circumstances); or
- 4.5.3 the Customer told the Supplier before the Supplier accepted the Order that delivery within the Delivery Deadline was essential.

4.6 If the Customer does not wish to cancel the Contract straight away, or does not have the right to do so under clause 4.5, the Customer may give the Supplier a new deadline for delivery, which must be reasonable, and may cancel the Contract if the Supplier does not deliver the Goods by this new deadline.

4.7 If the Customer chooses to cancel the Contract for late delivery under clause 4.5 or clause 4.6, the Customer may do so for just some of the Goods or all of them, unless splitting them up would significantly reduce their value. If the Goods have been delivered to the Customer, the Customer will have to return them to the Supplier or allow the Supplier to collect them, and the Supplier will pay the costs of this. After the Customer cancels the Contract the Supplier shall refund any sums the Customer has paid to the Supplier for the cancelled Goods and their delivery.

4.8 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply or installation of the Goods. The Customer shall notify the Supplier in writing of any non-delivery of consigned Goods within 7 days of the date of the invoice for the Goods.

4.9 If the Customer fails to accept delivery of the Goods, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

- 4.9.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready;
- 4.9.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance); and
- 4.9.3 the Customer shall be liable to pay a further delivery charge, and shall be liable to the Supplier for any costs or expenses incurred by the Supplier in connection with the Customer's failure to take delivery.

4.10 If 10 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

4.11 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

4.12 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5 **QUALITY**

See Schedule 1 – “Product Guarantee & Installation Specifications” - If you are contracting as a Consumer, you have legal rights in relation to Goods that are faulty or not as described. We are under a legal duty to supply Goods that are in conformity with the Contract. The warranty set out in this clause 5 is in addition to, and does not affect, your legal rights. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Conditions will affect these legal rights.

5.1 The Supplier warrants that on delivery, and for the period set out in the Product Guarantee, all Supplier branded flooring Goods shall:

- 5.1.1 conform in all material respects with their description or any Goods Specification;
- 5.1.2 be free from material defects in design, material and workmanship;
- 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 5.1.4 be fit for any purpose held out by the Supplier.

5.2 In addition to the warranty set out in clause 5.1, the Supplier warrants that all Supplier branded flooring Goods will be free from material defects caused by usual wear and tear for the relevant period set out in the Product Guarantee.

5.3 Subject to clause 5.4, if:

- 5.3.1 the Customer gives notice in writing to the Supplier during the relevant warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clauses 5.1 or 5.2;
 - 5.3.2 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 5.3.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.4 The Supplier shall not be liable for Goods' failure to comply with the warranties set out in clauses 5.1 and 5.2 in any of the following events:

- 5.4.1 the Customer was made aware of the defect in the Goods by the Supplier prior to making the relevant Order;
- 5.4.2 the Customer fails to notify the Supplier in writing of any shortages and Goods damaged in transit with full particulars within 7 days of delivery of the Goods;
- 5.4.3 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.3;
- 5.4.4 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.4.5 the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
- 5.4.6 the Customer alters or repairs such Goods without the written consent of the Supplier;
- 5.4.7 subject to clause 5.2, the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 5.4.8 the Goods differ from their description or the Goods Specification (as appropriate) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Supplier branded flooring Goods' failure to comply with the warranties set out in clauses 5.1 and 5.2.

5.6 To the fullest extent permitted by law, for Goods which are not Supplier branded flooring Goods and which have been manufactured by and supplied to the Supplier by a third party, the Supplier shall assign the benefit of any product warranty issued to the Supplier by the third party supplier subject to the Supplier's obligations under those Conditions.

- 5.7 If a Customer makes a request for Supplier branded flooring Goods to be specifically printed according to the Customer's requirements, the Supplier may arrange for a third party to perform the printing.
- 5.8 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.9 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6 TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 6.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- 6.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.2 ; and
- 6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 6.4.1 it does so as principal and not as the Supplier's agent; and
- 6.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.2, then, without limiting any other right or remedy the Supplier may have:
- 6.5.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- 6.5.2 the Supplier may at any time:
- 6.5.2.1 require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
- 6.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7 SUPPLY OF SERVICES

- 7.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in an Order confirmation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8 CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order are complete and accurate;

- 8.1.2 co-operate with the Supplier in all matters relating to the Services;
 - 8.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
 - 8.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - 8.1.5 prepare the Customer's premises for the supply of the Services in accordance with the specifications notified to the Customer by the Supplier. For the avoidance of doubt, the Customer shall be solely responsible for all costs in this respect;
 - 8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
 - 8.1.7 keep and maintain all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorization.
- 8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
 - 8.2.1 the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - 8.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and
 - 8.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 9 PRICE AND PAYMENT**
- 9.1 The price of the Goods and any associated Services shall be the price set out in either:
 - 9.1.1 the quotation (if provided) in writing, or the verbal quotation confirmed by the Supplier in its written acceptance of the Order; or, if no price is quoted,
 - 9.1.2 the price as per the Supplier's prices in force as at the date of delivery.
- 9.2 The Supplier may (where a Customer is not acting as a Consumer), by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - 9.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 9.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification or Service Specification; or
 - 9.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 9.3 The amounts payable by the Customer under this Contract are exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer, together with any value added tax ("**VAT**"). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier the price of the Goods together with such additional charges for packaging, insurance, transport and any applicable VAT as are chargeable on the supply of the Goods.
- 9.4 Subject to clause 9.5, the Supplier requires payment by the Customer for the Goods and Services in advance of delivery, and, for Goods made-to-measure in accordance with a Goods Specification, may require payment by the Customer prior to the commencement of manufacture.
- 9.5 The Supplier at its sole discretion may agree to supply the Goods and Services to the Customer on credit, and in such circumstance the Supplier will invoice the Customer for the Goods and Services on or any time after the completion of delivery. The Customer must pay the invoice in full and in cleared funds by the date specified on the invoice in accordance with the credit terms.
- 9.6 The time for payment due under this Contract by the Customer shall be of the essence.

- 9.7 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyds Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 10 **TERMINATION AND SUSPENSION**
- 10.1 If the Customer becomes subject to any of the events listed in clause 10.2, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer.
- 10.2 For the purposes of clause 10.1, the relevant events are:
- 10.2.1 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.2.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.3 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.4 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- 10.2.5 (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- 10.2.6 a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- 10.2.7 (being an individual) the Customer is the subject of a bankruptcy petition or order;
- 10.2.8 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 10.2.9 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.2.1 to clause 10.2.6 (inclusive);
- 10.2.10 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- 10.2.11 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- 10.2.12 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 10.3 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 10.2.1 to clause 10.2.12, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 10.4 The Supplier may terminate this Contract with immediate effect if the Customer fails to pay an amount due under this Contract on the due date for payment and remains in default not less than 14 days after being notified to make the payment.

10.5 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

10.6 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

10.7 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

11 INTELLECTUAL PROPERTY RIGHTS

11.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and any associated Services shall be owned by the Supplier or its licensors.

11.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Goods and any associated Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

11.3 All Supplier Materials are the exclusive property of the Supplier.

12 CONFIDENTIALITY

A party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 12 shall survive termination of the Contract.

13 LIMITATION OF LIABILITY

If you are contracting as a Consumer, nothing in these Conditions will affect your statutory rights. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

13.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

13.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

13.1.2 fraud or fraudulent misrepresentation;

13.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

13.1.4 defective products under the Consumer Protection Act 1987;

13.1.5 where you are contracting as a Consumer, breach of the terms implied by the Consumer Rights Act 2015 where liability cannot be excluded in relation to description, satisfactory quality, fitness for purpose and samples; or

13.1.6 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

13.2 If the Customer is contracting as a Consumer, subject to clause 13.1:

13.2.1 if the Supplier fails to comply with the Contract, the Supplier shall be responsible for loss or damage the Customer suffers that is a foreseeable result of the Supplier's breach of the Contract or the Supplier's negligence, but the Supplier shall not be responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of the Supplier's breach or if it was contemplated by the Customer and the Supplier at the time of entering the Contract; and

13.2.2 the Supplier shall only supply the Goods to the Customer for domestic and private use. The Customer agrees not to use the Goods for any commercial, business or re-sale purpose, and the Supplier shall have no liability to the Customer for any loss of profit, loss of business, business interruption, or loss of business opportunity.

13.3 If the Customer is contracting as a business, subject to clause 13.1:

13.3.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any

- loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 13.3.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods and any associated Services.
- 14 FORCE MAJEURE**
- Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "**Force Majeure Event**" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 15 INFORMATION ABOUT THE SUPPLIER AND HOW TO CONTACT THE SUPPLIER**
- 15.1 The Supplier is a company in England and Wales, with company registration number 1420396 and VAT number GB467578490. The Supplier's registered office is Festival House, Chapman Way, Tunbridge Wells, Kent, TN2 3EF.
- 15.2 If the Customer has any questions or complaints, please contact the Supplier by writing to the Supplier at British Harlequin plc, Festival House, Chapman Way, Tunbridge Wells, Kent, TN2 3EF or by telephoning its customer service team on +44 (0)1892 514 888 or by e-mailing enquiries@harlequinfloors.com .
- 16 HOW THE SUPPLIER USES PERSONAL INFORMATION**
- 16.1 The Supplier will use the personal information provided by the Customer to the Supplier to:
- 16.1.1 provide the Goods and supply any associated Services
- 16.1.2 process the Customer's payment for such Goods and any associated Services; and
- 16.1.3 inform the Customer about similar products or services that the Supplier provides, but the Customer may stop receiving such information at any time by contacting the Supplier.
- 16.2 The Supplier will not give the Customer's personal data to any third parties.
- 17 GENERAL**
- 17.1 Assignment and other dealings.**
- 17.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 17.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
- 17.2 Notices.**
- 17.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- 17.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 17.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 17.3 Severance.**
- 17.3.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision

- or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 17.3.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 17.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.
- 17.7 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 17.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

PRODUCT GUARANTEE & INSTALLATION SPECIFICATIONS

PRODUCT GUARANTEE

All Harlequin products are unconditionally guaranteed against manufacturing defects provided that claims are made within six months of the despatch or installation date. Any identified product defects must be notified before installation. The Company's liability extends only to replacement of the product found to be defective and not to any incidental or consequential loss or damage.

In addition, we offer the following guarantees against defects or failure:

Activity, Actitherm, Liberty, Liberty HD, Woodspring – 25 years

Flexity Plus – 15 years

Allegro, Cascade, Fiesta, Freestyle, Marine, Reversible, Reversible Pro, Standfast, Studio – 5 years (excluding printed floors).

Ballet Barres and Brackets – 5years

For wood top surfaces, both solid and engineered, the guarantee period will depend upon the product and finish chosen.

For any top surfaces installed by Harlequin that are not Harlequin products, the guarantee for that surface falls to the manufacturer of the product.

Harlequin cannot be held responsible for any pre-installed sub-floor, or preparation of sub-floor, that has not been carried out by Harlequin. If the any Harlequin product is found to have been detrimentally affected by a defective pre-installed sub-floor the Harlequin guarantee may be reduced or declared void.

This guarantee is subject to the Harlequin product being installed, used, cleaned and maintained in accordance with Harlequin instructions.

This guarantee does not cover defects arising from incorrect or poor installation or workmanship relating to the installation, excessive moisture, chemical reaction, corrosion, extremes in temperature, abuse and abnormal usage above which the product is specified, scuffs, scratches, indentations.

Please see clause 5 of our standard terms for the conditions and limitations relevant to our guarantees and note in particular that our maximum liability under our guarantees extends only to the replacement of the defective product(s) and not to any incidental or consequential loss or damage.

INSTALLATION SPECIFICATIONS

A. Environmental Specifications

If as part of your Order we are installing your flooring, please note you are required to prepare your premises to satisfy the following conditions:

1. Environmental Conditions

- (a) **(New concrete floors)** concrete must have been laid prior to installation as follows: 10 days per 1cm thickness
- (b) **(Temperature)** temperature to be steady between 18°C - 27°C for at least 48 hours prior to, during and for at least 24 hours following installation
- (c) **(Humidity)** relative humidity to be between 40-60%
- (d) **(Floor Level)** The level of the floor must not have a differential of +/- 5mm in any 5 metre area
- (e) **(Moisture)** screed to be dry with a moisture content <15% and a relative humidity of <75%
- (f) **(Product acclimatisation)** where solid wood or Liberty panels are to be installed, an acclimatisation period of 7 days at the environmental conditions specified above is required prior to installation.

2. Access & Services

- (a) **(No other trades)** no other trades are to work in the vicinity of the installation site during the installation
- (b) **(Delivery Routes)** all delivery routes are to be kept clear

- (c) **(Clean installation site)** the installation site must be free from all other trades' refuse, packaging and any other surplus materials
- (d) **(Asbestos Clearance)** an asbestos register must be produced where relevant.
- (e) **(Services)** all electricity, water and lighting must be connected and provided free of charge.