

## Terms and Conditions

### 1 INTERPRETATION

#### 1.1 Definitions:

**Conditions'** means the terms and Conditions set out herein.

**Contract'** means these Conditions and the order/accepted Quotation agreed between the Contractor and the Customer for the carrying out of Contract Work.

**Contractor'** means the Member of the Event Supplier and Services Association which agrees to perform the Contract Work.

**Contract Work'** means any or all of the work which the Contractor agrees to perform and/or the services which the Contractor agrees to provide including the provision of Goods on hire or by sale in accordance with the relevant quotation.

**Customer'** means the person, firm or corporate body who agrees to purchase Contract Work.

**Goods'** means the goods and related accessories, spare parts and documentation and other deliverables set out in the Order and to be supplied by the Contractor to the Customer.

**Quotation'** means a quotation given by the Contractor for the Contract Work.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect the interpretation of a Contract.

1.4 A reference to one gender includes a reference to the other gender.

### 2 ORDERS AND SPECIFICATIONS

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

2.2 No variation of, or addition to, the Contract shall be effective unless in writing and signed by the Contractor and the Customer.

2.3 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Contractor which is not set out in the Contract. Nothing in this Condition shall exclude or limit the Contractor's liability for fraudulent misrepresentation.

2.4 Any typographical or clerical error or omission in any quotation, price list, acceptance, invoice or other such document issued by the Contractor shall be subject to correction without any liability on the part of the Contractor.

2.5 The letter attached to these Conditions constitutes the Contractor's Quotation for Contract Work. Any Quotation by the Contractor for the provision of Goods will be deemed to be:

2.5.1 an invitation to treat (and shall not be an offer) by the Contractor to supply Goods on and subject to these Conditions; and

2.5.2 will be valid for the period stated therein or if no period is specified three calendar months from the date of issue.

2.6 A Contract shall be created by the Customer accepting a Quotation, signing a letter of intent or continuing to accept services from the Contractor and otherwise comply with the provisions of these Conditions following the receipt of such letter of intent, or otherwise placing an order with the Contractor, irrespective of how such Quotation, acceptance or order is expressed.

2.7 Once a Contract has been accepted the Customer may not cancel the Contract unless the Contractor agrees in writing to such cancellation and then such cancellation shall only be acceptable on the terms that the Customer shall indemnify the Contractor in full against all loss (including loss of profit, costs (including the cost of all labour and materials used), claims, actions, damages, charges and expenses incurred by the Contractor directly or indirectly as a result of cancellation).

2.8 All specifications, descriptions, drawings, designs, measures or other information provided by the Contractor in relation to Contract Work and/or Goods are approximate and, in relation thereto, the Contractor reserves the right to incorporate modifications or amendments in Contract Work subject to the consent of the Customer, such consent not to be unreasonably withheld or delayed.

2.9 The Customer shall be responsible to the Contractor for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by it or on its behalf and for giving the Contractor any necessary information relating to Contract Work within a sufficient time to enable the Contractor to perform the Contract in respect thereof in accordance with its terms.

2.10 Unless otherwise stated, all artwork will be provided by the Customer as "print ready". All artwork to be supplied by the Customer for the purposes of completing the Contract Work so that the Goods are ready for delivery must, unless otherwise agreed in writing with the Contractor, be submitted to the Contractor no later than 7 working days prior to transport shipping, such date to be notified by the Contractor to the Customer from time to time. Failure to meet this timescale will result in a surcharge of 20% of the graphical value of the artwork, plus any associated costs or expenses incurred by the Contractor in making alternative shipping and delivery arrangements being applied to the Customer's account and becoming payable by the Customer.

2.11 The Contractor shall have and retain the property, copyright, design right and all other intellectual or industrial property rights in all know how, trade secrets, trademarks, service marks, drawings, designs, plans, models, specifications and/or estimates prepared by the Contractor, save that nothing in this Condition 2.11 shall transfer ownership of any of the Customer's existing trademarks or intellectual property rights to the Contractor. If the Customer uses or allows any third party to use any design or other intellectual property rights of the Contractor provided as part of the Contract Work other than as permitted under the Contract, the Customer will, without prejudice to any other remedy available to the Contractor, pay the Contractor an amount equivalent to the full price for the Contract Work under the Contract plus VAT and this is deemed a genuine pre-estimate of the Contractor's loss. For the avoidance of doubt, nothing in this Contract shall prevent the Contractor from using and copying the Goods provided that such use or copies do not incorporate any trademark or other intellectual property right of the Customer.

2.12 The Customer shall be responsible for obtaining all necessary licences and other permissions whatsoever that may be required for the performance of Contract Work.

### 3 DELIVERY AND STORAGE

3.1 The Goods will be delivered and installed at the location specified within the Quotation (the **'Delivery Location'**) on the dates specified within the Quotation.

3.2 Goods will be deemed delivered when a certificate and/or verbal confirmation of practical completion is agreed at the Delivery Location or any other location nominated by the Customer (**'Delivery'**).

3.3 If the Contractor is prevented or delayed in agreeing practical completion of the installation of the Contract Work by any cause attributable to the Customer (including but not limited to failure by the Customer to respond and/or comply with the Contractor's reasonable requests), the Contractor (without prejudice to its other rights):

3.3.1 may suspend performance of the Contract Work until the Customer remedies its default;

3.3.2 will not be liable for any costs or losses sustained by the Customer as a result of such suspension; and

3.3.3 may charge the Customer (and the Customer will pay in accordance with the Contract) costs or losses incurred by the Contractor arising from the Customer's default, subject to clause 7.

3.4 In addition to the Contractor's rights at clause 3.3 if the Customer fails to accept Delivery of the Goods the Contractor will store and insure the Goods pending Delivery, and the Customer will pay all storage and insurance charges at the Contractor's then-applicable rate.

3.5 The parties agree that the Contractor shall be responsible for the Goods up to the point of Delivery to the Customer, and shall take out an appropriate insurance policy to cover the associated risks (or such of them as the Contractor may determine as reasonably being necessary from time to time). After Delivery, the Customer shall be responsible for the Goods and shall take out an appropriate insurance policy to cover the associated risks.

3.6 The Contractor shall not be liable for any loss, damage or delay incurred by the Customer as a direct or indirect result of

3.6.1 the Delivery Location not being ready for Delivery and/or installation of the Goods on the dates specified within the Quotation;

3.6.2 any building, path, private road, open space or other property to be used in the performance of and delivery of the Contract Work being unsafe and/or unsuitable for the intended use and, without limitation of the foregoing, not being adequately served with all required public utilities.

3.6.3 any failure of the Customer in providing adequate instructions in connection with the Delivery, installation or otherwise of the Goods at the Delivery Location.

3.7 The Contractor may agree from time to time to store the Goods within its warehouse at such periods as may be required from time to time. If the Customer notifies the Contractor that it requires this service upon placing an order the Contractor's charges for this service will be stated on the Quotation or, if not so stated, shall be at the Contractor's standard per square metre cost at the prevailing time as notified to the Customer by the Contractor. Charges for storage will be invoiced separately at the frequency specified within the Quotation, or if not so specified at the frequency agreed between the parties from time to time.

3.8 At the Customer's request, the Contractor can dispose of the Goods, or any part of them, after the end of the term as specified within the Quotation. The Contractor will charge a fee for this service, which will be calculated at the time of the request. 3.9 If the Customer fails to collect the Goods at the end of the term of the Contract or request disposal of the Goods in accordance with Condition 3.8, the Contractor shall apply a minimum quarterly storage and insurance charge at its then prevailing rates. If the Customer fails to collect the Goods after a period of six months from

the end of the term of the Contract, the Contractor may dismantle the Goods and sell or dispose of the Goods in such manner as it sees fit. In the event that the Goods are sold, the Contractor shall be entitled to apply the sales proceeds towards any sums that may be owed to the Contractor. In the event that the Contractor incurs any charge in connection with the disposal of the Goods it may invoice the Customer for such charge and such sum shall become immediately due and payable upon receipt of invoice.

### 4 PRICES

4.1 The Contractor reserves the right by giving notice to the Customer at any time before the completion of the Contract Work to increase the price of the applicable Contract in the following circumstances:

4.1.1 where additional work is performed at the Customer's request; and/or

4.1.2 where additional refurbishment work is required to be performed to the Contract Works prior to any subsequent use by the Customer of the Contract Works at any subsequent exhibition or event; and/or

4.1.3 to reflect any increase in the cost to the Contractor which is due to any factor beyond the Contractor's control including without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the cost of labour, materials or other costs of performance) or any failure of the Customer to give the Contractor adequate information or instructions; and/or

4.1.4 without prejudice to the generality of Condition 4.1.2 above, to reflect any increase in the general index of retail prices compiled by the United Kingdom Department of Employment and published in the United Kingdom in the monthly digest of statistics by the Central Statistical Office or any index substantially replacing it.

4.2 Prices are exclusive of:

4.2.1 VAT (or its equivalent) and, where applicable, any additional or substitute taxes, levies, imposts, duties, fees or charges all of which shall be paid by the Customer.

4.2.2 the costs of connecting the Goods to any specialist display equipment.

4.3 Prices are stated in pounds sterling, even when applicable Contract Work is to be installed or performed outside of the United Kingdom. All Quotations for Contract Work which are to be utilised and/or performed outside of the United Kingdom are based on the current exchange rate at the time of Quotation with the applicable local currency. The applicable exchange rate shall be recalculated upon the date of issue of the invoice and the price shall be adjusted to reflect any exchange rate fluctuation.

4.4 If the Quotation refers to a **'PC Sum'**, this means that certain fixed costs relating to the display of the Goods in connection with the Contract Works are not billable at the time of providing the Quotation. The Contractor reserves the right to alter the Quotation once the costs are confirmed or as more information on the costs becomes available. The Customer will be notified of any proposed alteration to the Quotation and all invoices will show both the initial PC Sum and the final cost.

4.5 In the event that the Quotation relates to multiple contracts for the provision of Contract Works a discount may be applied, and the Quotation will detail the level of the discount that will apply to the Contract. Any discount applied shall be based on the Customer contracting for the full term of the Contract in relation to the provision of all of the required Contract Works and will be applied to the first year's payment and shown on the invoice for that payment. If the Contract is terminated early, for any reason, and a discount has previously been applied, this discount shall be cancelled and the full, undiscounted price will become immediately due and payable.

### 5 TERMS OF PAYMENT

5.1 The Customer shall be invoiced in accordance with the invoice dates specified in the Quotation. Invoices shall be payable by the Customer within 14 days of receipt of the invoice by the Customer. Receipts for payment will be issued only on request.

5.2 Time for payment shall be of the essence.

5.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Contractor, the Contractor shall be entitled, at its option at any time thereafter to:

5.3.1 impose a late payment surcharge of 2.5% of the annual Contract value as specified within the Quotation;

5.3.2 terminate the Contract and suspend further performance of Contract Work; and

5.3.3 require the immediate return of any Goods hired to the Customer; and

5.3.4 require full payment, without deduction, of the total amount due and/or which would have become due under the relevant Contract but for termination.

### 6 WARRANTY

6.1 Provided that notice is given as soon as reasonably practicable and in any event: 6.1.1 within fourteen days of any defect being discovered; and

6.1.2 within the period of hire if applicable,

if the Customer gives notice of a defect in Contract Work, and the defect was not caused in whole or in part by any matter, action or occurrence outside the Contractor's control, the Contractor shall, subject to the Contractor having the opportunity to examine the Contract Work and confirm that such Contract Work is defective, the Contractor shall in its sole discretion, either remedy the defect or refund to the Customer a reasonable proportion of the price of the Contract. The remedy set out within this Condition 6.1 shall be the Customer's sole and exclusive remedy in respect of such defect.

6.2 The Contractor will not be liable for any failure or defect of the Goods and/or the Contract Work:

6.2.1 where such failure arises by reason of fair wear and tear, willful damage, negligence, abnormal working conditions, or could be expected to arise in the normal course of use of the Goods and/or Contract Work;

6.2.2 to the extent caused by the Customer's failure to comply with the Contractor's instructions as to: (i) storage, installation, commissioning, use or maintenance of the Goods in circumstances where the Contractor isn't providing these services as part of the Contract;

6.2.3 to the extent caused by the Contractor following any design or specification or requirement of the Customer in relation to the Goods;

6.2.4 where the Customer repairs or alters any Goods and/or Contract Work without the Contractor's prior written agreement; or

6.2.5 where the Customer uses any of the Goods and/or Contract Work after notifying the Contractor of a defect pursuant to Condition 6.1.

6.3 Where the Customer is to supply goods (**'Customer's Property'**) to the Contractor in connection with the Contract Work the Contractor will not be liable to the Customer for loss of or any damage to Customer's Property unless caused by the negligent act or omission of the Contractor.

### 7 LIABILITY

7.1 The terms of Condition 6 are, to the extent legally permissible, in lieu of all conditions, warranties and statements of whatever nature in respect of Contract Work whether express or implied by statute, trade, custom or otherwise and any such condition, warranty or statement is hereby excluded.

7.2 The Contractor will be liable to the Customer for direct damage to tangible property in an amount which will not exceed the invoice value of the Contract in question.

7.3 The Contractor shall not be liable for the following loss or damage howsoever caused (even if foreseeable or in the Contractor's contemplation):

7.3.1 any loss of or failure to realise expected profit, revenue or savings or any other form of pure economic loss, whether any such loss is direct or indirect and whether sustained by the Customer or any other person; and/or

7.3.2 special, indirect or consequential loss or damage, whether sustained by the Customer or any other person; and/or

7.4 The Customer shall indemnify the Contractor against all claims, actions, costs, expenses (including professional costs) or other liabilities whatsoever in respect of:

7.4.1 any claim for breach of industrial and/or intellectual property rights arising out of compliance with any drawings, designs, specifications or order of the Customer; and/or

7.4.2 any breach of Contract or negligent or willful act or omission of the Customer in relation to a Contract.

7.5 Nothing in these Conditions excludes or limits the liability of the Contractor:

7.5.1 For death or personal injury caused by the Contractor's negligence;

7.5.2 for any matter which it would be illegal for the Contractor to exclude or attempt to exclude its liability; or

7.5.3 for fraud or fraudulent misrepresentation.

### 8 HIRE OF GOODS

8.1 Unless specifically provided by way of sale, all Goods used or supplied by the Contractor in connection with Contract Work shall be provided on hire to the Customer for the term stated in the Quotation.

8.2 Upon expiration of the term specified within the Quotation and payment in full of all sums due under the Contract property in the Goods (unless otherwise specified) which were provided by way of sale shall pass to the Customer.

8.3 Until property in such Goods passes whilst the Goods are in the Customer's possession the Customer shall:

8.3.1 hold them as bailee for the Contractor; shall

8.3.2 store them separately from all other property of the Customer or any third party, marked so as to be clearly identifiable as belonging to the Contractor;

8.3.4 keep them insured against all usual risks for their full invoice value; and, if any of the events referred to in Conditions 5.3.2, 9 or 10 occurs, the Customer shall place such Goods at the disposal of the Contractor and the Contractor shall be entitled to enter upon any premises of the Customer, or any other premises where such Goods are kept, for the purpose of removing them.

8.4 The Customer shall indemnify and keep indemnified the Contractor against all loss - damage, costs, expenses, proceedings and liabilities suffered during the period of hire whilst the Goods are in its possession unless such loss, damage, costs, expenses, proceedings and liabilities are caused by the negligent act or omission of the Contractor. The Customer shall keep hired Goods in its possession and/or under its control at all times and shall not remove them from the place where they are installed by the Contractor without the Contractor's prior written consent.

8.5 If the Contract is terminated before the period of hire has expired, the Customer shall no longer be in possession of the Goods and the Contractor may at any time without notice retake possession of such Goods and shall be entitled to enter for, or such purposes.

8.6 In respect of those Goods specifically provided by way of sale the parties hereby acknowledge that some minor parts of such Goods are not included in the sale and will be repossessed by the Contractor at the expiry or termination of the Contract. The relevant parts will be identified to the Customer within the Quotation.

### 9 FORCE MAJEURE

The Contractor shall be entitled, without liability on its part and without prejudice to its other rights, to terminate the Contract, or any unfulfilled part thereof, or, at its option, to suspend or give partial performance under it, if performance by the Contractor or by its suppliers is prevented, hindered, or delayed, whether directly or indirectly, by reason of any cause whatever beyond the Contractor's or its suppliers' reasonable control, whether such cause existed on the date when the Contract was made or not.

### 10 INSOLVENCY AND TERMINATION

10.1 If:

10.1.1 the Customer being an individual, or being a firm, if any partner in the Customer is the subject of a petition for a bankruptcy order or of an application for an interim order under Part VIII of the Insolvency Act 1986; or

10.1.2 the Customer being a company, compounds with its creditors or has a receiver or manager appointed in respect of all or of any part of its assets or is the subject of an application for an administration order or of any proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986, or enters into liquidation whether compulsorily or voluntarily otherwise than for the purpose of amalgamation or reconstruction;

10.1.3 the Contractor reasonably believes that any of the above events is about to occur;

then the Contractor shall be entitled immediately, and at any time thereafter, to terminate forthwith any Contract or any unfulfilled part thereof.

10.2 The Contractor may terminate the Contract at any time if the Customer commits a material breach, or series of breaches resulting in a material breach, of the Contract and such breach is not remediable or if capable of remedy is not remedied within 15 days of written notice to do so.

### 11 GENERAL

11.1 On termination:

11.1.1 the Customer will immediately pay all invoices of the Contractor then outstanding;

11.1.2 the Contractor will, invoice the Customer for all Contract Works completed, delivered or provided but not yet invoiced and the Customer will pay such invoice within a further [30] days;

11.1.3 the Customer will forthwith return any materials of the Contractor then in its possession or control; if it fails to do so, the Contractor may enter onto any premises owned by or under the control of the Customer and take possession of them;

11.2 Termination of the Contract shall not affect either party's accrued rights or obligations.

11.3 No waiver by the Contractor of any breach of Contract by the Customer shall be construed as a waiver of any subsequent breach of the same or any other provision.

11.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

11.5 Any dispute arising under or in connection with these Conditions or the work done by the Contractor shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party.

11.6 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Contractor.

11.7 Failure or delay by the Contractor in enforcing or partially enforcing its rights under the Contract will not be construed as a waiver of any of its rights under the Contract.

11.8 The parties to this Contract do not intend that any term of this Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

11.9 This Contract shall be governed by the laws of England 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).

### Notes

#### Insurance

It is a condition of this offer that you have adequate insurance to cover the whole of the stand exhibitions and fittings during the term of the Contract - please see Condition 3.4

#### Overseas Exhibitions

Under UK/EC VAT regulations coming into force from 1st January 2011, for supplies classified as Cultural, Educational and Entertainment Services (which includes Exhibitions) the place of supply for services to business Customers is the country in which the Customer is located. Under these rules, UK VAT is chargeable on all supplies to UK Customers regardless of the location of the exhibition. UK VAT is not chargeable against EC (Reverse Charge rules apply) and Non EC-based clients irrespective of the location of the exhibition. For non-UK customers, where an exhibition takes place outside the UK, each supply will be subject to the VAT rules of that country. This means that we are potentially subject to VAT Registration in those countries where we participate at exhibitions, subject to individual countries' VAT registration thresholds and the overall value of supplies. In the event of this being the case, Envisage reserve the right to recover VAT from you retrospectively.