

CORPORATE EVENT SERVICES LTD

TERMS & CONDITIONS FOR THE SUPPLY OF SERVICES

1. Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions

“Agreement” means the contract between the Supplier and the Client for the supply of Services in accordance with the Client Estimate and these Conditions;

“Brief” means the written brief of the Client describing the required project and the Deliverables, setting out the estimated timetable and responsibilities for the provision of the Services;

“Client” means the person to whom the Supplier is to provide services, as detailed in the Client Estimate;

“Client Estimate” means the client estimate submitted by the Supplier to the Client for the Services;

“Client's Equipment” means any equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in the supply of the Services.

“Client's Manager” means the Client's manager for the Project, appointed in accordance with clause 4.1;

“Client Works” means the works and materials provided by the Client to the Supplier, or by any third party acting for or on behalf of the Client, for incorporation into the Deliverables;

“Commencement Date” shall have the meaning ascribed to it in clause 2.1;

“Conditions” means these terms and conditions as amended from time to time in accordance with clause 17;

“Controller” has the meaning set out in Article 4(7) of the General Data Protection Regulation;

“Data Subject” means an individual who is the subject of Personal Data;

“Deliverables” means the deliverables specified in the Brief;

“Deposit” shall have the meaning ascribed to it in clause 9.1;

“Document” includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

“Input Material” means all Documents, information and materials provided by the Client relating to the Services, including computer programs, data, reports and specifications;

“Intellectual Property Rights” means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, 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.

“Participants” means all individuals invited by the Client to the Venue to participate in the Project;

“Personal Data” has the meaning set out in Article 4(1) of the General Data Protection Regulation but only in respect of personal data, or any part of such personal data, in relation to which the Client is the Data Controller and in relation to which the Supplier is providing services under this Agreement;

“Pre-existing Materials” means all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of this Agreement, including the pre-existing materials specified in the Brief;

“Price” means the price to be paid by the Client in respect of the Project, as set out in the Brief, as may be varied in accordance with clause 5;

“Processing” has the meaning set out in Article 4(2) of the General Data Protection Regulation and cognate terms shall be construed accordingly;

“Processor” has the meaning set out in Article 4(8) of the General Data Protection Regulation;

“Project” means the project as described in the Brief;

“Project Acceptance Form” means the Client's order for Services as set out in the Client's written acceptance of the Client Estimate;

“Services” means the services to be provided by the Supplier under this Agreement as set out in the Brief, together with any other services which the Supplier provides or agrees to provide to the Client;

“Supplier” means Corporate Event Services Ltd, a private company limited by shares and registered in England with company number 03152839, the registered office of which is situated at Unit 1, Marshall Road, Hillmead, Swindon, Wiltshire SN5 5FZ;

“Supplier's Equipment” means all equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Client;

“Supplier's Manager” means the Supplier's manager for the Project appointed under clause 3.3;

“VAT” means value added tax chargeable under English law for the time being and any similar additional tax; and

“Venue” means the premises at which the Project is to be delivered.

- 1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.3 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.4 This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.5 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 A reference to **“writing”** or **“written”** includes fax but not email.

2. **Commencement and duration**

- 2.1 The Project Acceptance Form constitutes an offer by the Client to purchase Services in accordance with these Conditions.
- 2.2 The date on which this Agreement shall come into existence (the **“Commencement Date”**) shall be the date on which the Supplier countersigns the Project Acceptance Form or, if earlier, the date on which the Supplier commences provision of the Services at the Client's request.
- 2.3 These Conditions apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 The Supplier shall provide the Services to the Client from the Commencement Date on the terms and conditions of this Agreement.
- 2.5 The Services supplied under this Agreement shall continue to be supplied until the Project is completed in accordance with the Brief, unless this Agreement is terminated in accordance with clause 14.
- 2.6 The Client Estimate shall not constitute an offer and is only valid for a period of 30 days from its date of issue, provided that the Supplier does not withdraw it during the 30-day period.

3. Supplier's obligations

- 3.1 The Supplier shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Client, in accordance with the Brief in all material respects.
- 3.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Brief, but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this Agreement.
- 3.3 The Supplier shall appoint the Supplier's Manager who shall have authority contractually to bind the Supplier on all matters relating to the Project. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's Manager throughout the term of Project, but may replace him or her from time to time where reasonably necessary in the interests of the Supplier's business.
- 3.4 The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Venue or any of the Client's premises and that have been communicated to it under clause 4.1(e), provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

4. Client's obligations

- 4.1 The Client shall:
 - (a) co-operate with the Supplier in all matters relating to the Services and appoint the Client's Manager in relation to the Project, who shall have the authority contractually to bind the Client on matters relating to the Project;
 - (b) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Venue and to the Client's premises, office accommodation, data and other facilities as required by the Supplier or any of them;
 - (c) provide, in a timely manner, such Input Material and other information as the Supplier may require (including, without limitation, the number and identity of Participants), and ensure that it is accurate in all material respects;
 - (d) be responsible (at its own cost) for preparing and maintaining the Venue and any other relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from such premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing the Supplier of all of the Client's obligations and actions under this clause 4.1(d);
 - (e) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Venue and any of the Client's premises;

- (f) ensure that all Client's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;
 - (g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of Input Material and the use of the Client's Equipment in relation to the Supplier's Equipment insofar as such licences, consents and legislation relate to the Client's business, premises, staff and equipment, in all cases before the date on which the Services are to start;
 - (h) keep and maintain the Supplier's Equipment in accordance with the Supplier's instructions as notified by the Supplier's Manager from time to time and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation; and
 - (i) abide with the terms and conditions of the Venue and, if the Venue and any other provider of services relating to the Brief are introduced by the Supplier but will provide such services directly to the Client, to ensure that such persons are paid in accordance with the terms of their engagement.
- 4.2 If the Supplier's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.
- 4.3 The Client shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement, subject to the Supplier confirming such costs, charges and losses to the Client in writing.
- 4.4 The Client shall not, without the prior written consent of the Supplier, at any time from the date of this Agreement to the expiry of six months after the completion of the Project, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.
- 4.5 Any consent given by the Supplier in accordance with clause 4.4 shall be subject to the Client paying to the Supplier a sum equivalent to 50% of the then current annual remuneration of the Supplier's employee, consultant or subcontractor or, if higher, 50% of the annual remuneration to be paid by the Client to that employee, consultant or subcontractor.
- 4.6 Unless the Client notifies the Supplier in writing within one month before the date on which the Project begins (or in cases where the Project is due to

begin less than one month after signing the Agreement, on the Commencement Date), that it will be arranging travel insurance for all Participants, to cover, amongst other things, the cost of cancellation, medical assistance and repatriation expenses in the event of accident or illness affecting any Participant, the Supplier shall, upon notice to the Client, be entitled to proceed with arranging such travel insurance and to charge the cost of so doing to it.

5. **Content**

5.1 The Brief must be clearly confirmed with the Supplier in writing before the Commencement Date and must be subject to only one set of minor alterations thereafter which are achievable in one working day or less. The Supplier will invoice the Client for subsequent amendments according to time spent and based on an hourly rate of £50.

5.2 The Client warrants that the Brief is accurate in so far as is possible.

5.3 The Client Estimate and any pre-set dates for supply of the Deliverables will be agreed on the basis of the Brief. The Supplier reserves the right to make additional charges for changes to the Brief resulting from:

- (a) alterations by the Client;
- (b) a delay in providing the Supplier with materials, information instructions or authorisations;
- (c) supply of poor quality assets to the Supplier by the Client; and
- (d) any other circumstances beyond the Supplier's control.

The Client fully accepts that items contained in this clause 5.3 may result in a delay in the supply of the Deliverables and that the Supplier will have no liability whatsoever in relation to the delay.

5.4 Approval by the Client of final copy, layouts, scripts, storyboards, early video cuts, voiceovers, designs and the like will be the Supplier's authority to proceed with the production or publication of Deliverables as appropriate.

5.5 Where artwork, films, motion graphics or other material is sent to the Client for final approval, the Client shall check it carefully and notify the Supplier of any errors or alterations. The Supplier will use its reasonable endeavours to effect any changes so notified but the Supplier reserves the right to make additional charges if any of these alterations go beyond or change the original Brief. Where notification of errors is either unreasonably delayed in this way or does not occur at all before publication, the Supplier will not be liable in respect of any such errors.

5.6 The Supplier will not be liable in respect of errors which may occur after the handover of artwork where the Client oversees distribution, uploading or display of the final film, graphic or other works.

5.7 Deliverables will only be publicly released by the Supplier once the Client has approved all Deliverables as complete and satisfactory and confirms this in writing.

- 5.8 The Supplier reserves the right to use part or all of any material they produce in promotional literature, including, but not exclusive to marketing DVDs, websites and printed literature.
- 5.9 If the Client does not wish to have their film used in promotional material they must state so in writing before commencement of production.
- 5.10 Except where the Supplier agrees to the contrary, it shall be the sole responsibility of the Client to ensure that the Deliverables comply with all local laws (whether consumer, public or civil), regulations and codes in all countries in which use is intended as stated in the Brief. It is also the Client's responsibility to ensure that the Deliverables carry all disclaimers, warnings and public information which any competent lawyer of the Client in any of the relevant jurisdictions would advise.

6. Intellectual property rights

6.1 *Pre-Existing Materials*

- (a) as between the Client and the Supplier, all Intellectual Property Rights and all other rights in the Pre-existing Materials shall be owned by the Supplier.
- (b) subject to clause 6.1(c), the Supplier licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Deliverables and the Services. If this Agreement is terminated under clause 14, this licence will automatically terminate.
- (c) the Client acknowledges that, where the Supplier does not own any of the Pre-existing Materials, the Client's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Client.

6.2 *Client Works*

The Client shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that any Client Works or Input Materials infringe any Intellectual Property Rights owned by a third party ("**Third Party Rights**").

6.3 *Deliverables*

- (a) On becoming aware that any material comprising Third Party Rights is used in Deliverables e.g. music or library footage, the Supplier will promptly communicate this to the Client.
- (b) Unless otherwise agreed in writing, the Client will accept full responsibility for ensuring the proper use of any materials including Third Party Rights, including full payment of all associated costs.
- (c) The Supplier cannot and will not use materials including Third Party Rights unless it is entitled to do so.

- (d) Intellectual Property Rights in the Deliverables extend to the final delivered movie or animation file, but does not include source files, final cut pro files, premiere files, photoshop files, audio tracks, motion projects, after effects files, cinema 4D files or design elements all of which will remain the property of the Supplier. If the Client requires these files from the Supplier, they are available at a fee of 25% of the total project fee.
 - (e) If any Deliverables include any Client Works, it is agreed that the Supplier shall have the right to use or allow use of such Client Works for the purpose of fulfilling the Supplier's obligations under the Agreement. The Supplier shall not gain any rights over such Client Works by virtue of such use but the Supplier shall be entitled to use the Client Works both during and after the production and supply of the Deliverables to promote and advertise its own work.
 - (f) Subject to clauses 6.3(a) to 6.3(e) and to payment in full of the Price to the Supplier by the Client, the Supplier will assign to the Client with full title guarantee to all the present and future Intellectual Property Rights in the Deliverables.
- 6.4 The Client shall indemnify and hold harmless the Supplier and the Supplier's agents and employees from any liability, cost, loss, damages award, sum payable by way of settlement or other expense of any kind (including reasonable legal fees) arising from any claim, demand or action alleging that any Input Materials, Client Works or Deliverables infringe any Third Party Rights or are contrary to any law, code or regulation in any country.
- 6.5 It shall be the Client's responsibility to ensure that all domain names used in connection with the Deliverables are wherever practicable properly registered and do not infringe any Third Party Rights.
- 7. Data Protection**
- 7.1 In the course of providing the Services to the Client, the Supplier shall Process the Personal Data of the Client's employees and Participants for the purpose of providing those Services to the Client. The Processing of the Personal Data shall be carried out for the duration of the provision of the Services.
- 7.2 At all times and for all purposes in relation to any Personal Data Processed in accordance with this Agreement, the Client shall be the Controller and the Supplier shall be the Processor.
- 7.3 The Client, as Controller, of the Personal Data, shall remain legally responsible for Processing carried out by the Supplier
- 7.4 The Client shall ensure that Personal Data is Processed lawfully, fairly and transparently in accordance with the principle of the General Data Protection Regulations.
- 7.5 The Client shall not instruct the Processor to Process Personal Data on their behalf under this Agreement where the Client does not have a secure basis in law to Process that Personal Data.

- 7.6 The Supplier shall Process the Personal Data only in accordance with the Client's documented instructions and in accordance with the General Data Protection Regulation and this Agreement.
- 7.7 The Supplier shall have in place appropriate technical and organisational security measures that protect the Personal Data it Processes on behalf of the Client from unauthorised or unlawful Processing, accidental loss, destruction or damage. The Supplier will assist the Client in ensuring compliance with the obligations in relation to security of Personal Data, the notification of Personal Data breaches and data protection impact assessments.
- 7.8 The Supplier shall have in place appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Client's obligation to respond to requests for exercising the data subject's rights.
- 7.9 The Supplier shall ensure that that anybody authorised to Process the Personal Data has committed themselves to confidentiality.
- 7.10 The Supplier shall not share the Personal Data with any third party without the prior written permission of the Client (which permission shall be deemed to have been given, subject to the rights of any data subject, for the purposes of clause 5.8) or Process Personal Data in any way or for any purpose that has not been instructed and authorised by the Client.
- 7.11 The Client consents to the sub-processing of Personal Data by any party notified to it pursuant to clause 23.2, provided that the Supplier shall impose the same data protection obligations contained in this Agreement on any such sub-processor by way of a binding contract.
- 7.12 The Supplier shall not transfer Personal Data on to any territory outside the European Economic Area unless there are appropriate safeguards in respect of the transfer.
- 7.13 The Supplier shall make available to the Client all information necessary to demonstrate compliance with the obligations laid down in the points above and allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client.
- 7.14 The Supplier will inform the Client immediately upon becoming aware an instruction may infringe the General Data Protection Regulation or other data protection law of the EU or a member state.
- 7.15 Subject to clause 5.8, the Supplier shall, at the choice of the Client, delete or return all the personal data to the Client after the end of the provision of Services relating to Processing, and delete any existing copies.
- 7.16 The Supplier shall notify the Client without undue delay after becoming aware of a security incident relating to any Personal Data Processed on behalf of the Client.
- 7.17 At the Client's request, the Supplier shall provide the Client with a copy of all Personal Data held by it in format and on media reasonably specified by the Client.

7.18 The Client acknowledges that the Supplier is reliant on the Client for direction as to the extent to which the Supplier is entitled to use and Process the Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Client's instructions.

8. **Change control**

8.1 The Client's Manager and the Supplier's Manager shall liaise as often as is reasonably necessary to discuss matters relating to the Project. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.

8.2 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Client of:

- (a) the likely time required to implement the change;
- (b) any necessary variations to the Supplier's charges arising from the change;
- (c) the likely effect of the change on the Brief; and
- (d) any other impact of the change on this Agreement.

8.3 If the Client wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Brief and any other relevant terms of this Agreement to take account of the change and this Agreement has been varied in accordance with clause 17.

8.4 Notwithstanding clause 8.3, the Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Supplier may, from time to time change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Client at least one month's notice of any change.

9. **Deposit and Cancellation**

9.1 A deposit, amounting to 50% of the Price (the "**Deposit**"), shall be paid by the Client on the Commencement Date. The Supplier shall be under no obligation to provide Services until the Deposit is received by it in cleared funds.

9.2 The Deposit is non-refundable to the Client unless the Supplier, in exceptional circumstances, in its sole discretion determines otherwise.

9.3 If the Client seeks to terminate the Agreement more than seven days but less than four weeks prior to the date on which the Project is to be finalised, such termination shall only be effective upon receipt by the Supplier of 75% of the Price.

9.4 If the Client seeks to terminate the Agreement but less than seven days prior to the date on which the Project is to be finalised, such termination shall only be effective upon receipt by the Supplier of the Price.

9.5 In the event of the termination of the Agreement pursuant to clauses 9.3 and 9.4, the Client shall, in addition to the sums payable in accordance with clauses 9.3 and 9.4, reimburse the Supplier for all expenditure either incurred and for which the Supplier has contracted or agreed with any third party to incur by the date of termination in excess of the amount of the Deposit.

10. **Charges and payment**

10.1 In consideration of the provision of the Services by the Supplier, the Client shall pay the Price and any other charges in accordance with this clause 10.

10.2 The Client shall pay the Price to the Supplier (without deduction or set-off) in instalments, as set out in the Client Estimate. At the end of a period specified in the Brief in respect of which an instalment is due, the Supplier shall invoice the Client for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in clause 10.3.

10.3 Any fixed price contained in the Client Estimate may exclude:

(a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be approved by the Client and invoiced by the Supplier;

(b) any licence fees for the use of material including Third Party Rights (unless the parties agree otherwise); and

(c) VAT, which the Supplier shall add to its invoices at the appropriate rate.

10.4 The Client shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within 28 days of receipt to a bank account nominated in writing by the Supplier. Unless otherwise agreed in writing between the parties, the Price must be paid in full prior to the date on which the Project is to be finalised.

10.5 Without prejudice to any other right or remedy that it may have, if the Client fails to pay the Supplier on the due date:

(a) the Client shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of HSBC Bank Plc 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 Client shall pay the interest together with the overdue amount; and

(b) the Supplier may suspend all Services until payment has been made in full.

10.6 All sums payable to the Supplier under this Agreement shall become due immediately on its termination, despite any other provision. This clause 10.6 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

10.7 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

11. Confidentiality and the Supplier's property

11.1 Confidentiality

(a) Each party undertakes that it shall not at any time disclose to any person technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party (the “**Disclosing Party**”), its employees, agents, consultants or subcontractors or of any member of the group of companies to which the Disclosing Party belongs and any other confidential information concerning the Disclosing Party’s business or its products which the party may obtain, except as permitted by clause 11.1(b).

(b) Each party may disclose the Disclosing Party’s confidential information:

(i) to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 11; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Each party shall not use the Disclosing Party’s confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

11.2 Announcements

The Client will not make any public disclosure relating to the subject matter of the Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the Supplier.

11.3 The Supplier's property

All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Client (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain as between the Supplier and the Client the exclusive property of the Supplier, but shall be held by the Client in safe custody at its own risk and maintained and kept in good condition by the Client until returned to the Supplier, and shall not be

disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

12. Limitation of liability - THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

12.1 Nothing in this Agreement limits or excludes the Supplier's liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

12.2 Subject to clause 12.1, the Supplier shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;
- (f) loss of use or corruption of software, data or information; or
- (g) any indirect or consequential loss.

12.3 Without prejudice to the generality of clause 12.2, the Supplier shall not be liable for any loss to the Client whatsoever and howsoever arising from the failure of:

- (a) any Supplier's Equipment, Client's Equipment or any equipment provided by a third party including but not limited to the Venue;
- (b) radio frequency equipment caused by a substandard electrical supply (or any resulting interference to microphones, computers, sound systems, projection units, etc.);
- (c) any light bulb;
- (d) poor quality reproduction of material supplied by the Client or its agent or a third party, which is not at the standard required or specified for the project;
- (e) the quality or performance of any presenters, actors, entertainers or any person subcontracted by the Supplier; or
- (f) the Venue to provide its services or from the quality or performance of the Venue.

12.4 Subject to clauses 12.1 to 12.3, the Supplier's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the equivalent of the total charges paid by the Client as set out in the Client Estimate.

12.5 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

13. **Event Insurance**

13.1 The parties may agree that the Supplier will arrange such event insurance as is available in the insurance market to cover potential loss arising from disruption to the Project including but not limited to cancellation, curtailment or abandonment or other disruption due to reasons beyond the control of either party ("**Event Insurance**").

13.2 The Event Insurance shall be either:

- (a) in the name of the Supplier, with the Client as a loss payee; or
- (b) in joint names for our respective rights and interests,

and the cost of such insurance shall be included in the Brief.

13.3 In respect of the Event Insurance, the Supplier will not be liable for any loss caused by any breach of any policy condition by the Client, and in connection with the arranging of any such insurance it is agreed that:

- (a) the Supplier is not carrying on insurance mediation by way of business; and
- (b) the Supplier is neither giving the Client advice in respect of any insurance nor making any recommendation in respect of any insurance but, if appropriate, will seek such advice and recommendation from an intermediary or direct from an insurer authorised and regulated by the Financial Conduct Authority or an equivalent regulator if outside the UK.

13.4 If the Client decides that Event Insurance is not required, the Supplier shall have no liability in respect of any loss sustained as the result of the absence of such insurance and the Client will be liable in respect of any loss, expense or liability which could have been covered by event insurance had this been taken out.

13.5 In the absence of Event Insurance, the Supplier shall be entitled to arrange insurance in respect of its own interest only, at the Supplier's sole expense, and the Client will not be entitled to make any claim under such insurance.

14. **Termination**

Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
- (d) the other party 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 a partnership) has any partner to whom any of the foregoing apply;
- (e) the other party 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 any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) 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 that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) 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 other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- (j) a creditor or encumbrancer of the other party 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 the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or

similar to any of the events mentioned in clause 14(d) to clause 14(j) (inclusive); or

- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15. **Consequences of termination**

15.1 On termination or expiry of this Agreement:

- (a) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) the Client shall return all of the Supplier's Equipment, Pre-existing Materials and Deliverables. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping;
- (c) the following clauses shall continue in force: clause 6 (Intellectual property rights), clause 11 (Confidentiality and the Supplier's property), clause 12 (Limitation of liability), this clause 15, clause 26 (Notices), clause 27 (Governing law) and clause 28 (Jurisdiction).

15.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

16. **Force majeure**

16.1 In this Agreement, "**Force Majeure Event**" means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident;
- (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);

- (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
 - (i) interruption or failure of utility service.
- 16.2 Provided it has complied with clause 16.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (“**Affected Party**”), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 16.3 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 16.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than two weeks, the party not affected by the Force Majeure Event may terminate this Agreement by giving two weeks' written notice to the Affected Party.
- 16.5 If the Force Majeure Event prevails for a continuous period of more than two months, either party may terminate this Agreement by giving 14 days' written notice to all the other party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

17. **Variation**

Subject to clause 8, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. **Waiver**

No failure or delay by a party to exercise any right or remedy provided under this Agreement 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.

19. **Rights and remedies**

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. **Severance**

- 20.1 If any provision or part-provision of this Agreement 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 this Agreement.
- 20.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement 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.

21. **Entire Agreement**

- 21.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 21.3 Nothing in this clause shall limit or exclude any liability for fraud.

22. **Conflict**

If there is an inconsistency between any of the provisions of this Agreement and the provisions of the Brief, the provisions of this Agreement shall prevail.

23. **Assignment and other dealings**

- 23.1 This Agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.
- 23.2 The Supplier may at any time subcontract, assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement, provided that the Supplier gives prior written notice of such dealing to the Client. Such prior written notice shall be deemed to have been given to any and all subcontractors referred to in the Client Estimate.

24. **No partnership or agency**

- 24.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25. **Third party rights**

No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

26. **Notices**

26.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number.

26.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) 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 or at the time recorded by the delivery service; or
- (c) if sent by fax, at 9.00 am on the next Business Day after transmission.

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

27. **Governing law**

This Agreement 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.

28. **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 Agreement or its subject matter or formation (including non-contractual disputes or claims).