

Invitation to Tender for the Provision of Promotional Distribution Services

Appendix 1 – General Conditions of Contract

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these conditions.

"Contract"	the Purchase Order and the Supplier's acceptance of it in accordance with condition 3.3;
"Compliance Handbook"	The compliance handbook issued by the Customer from time to time;
"Customer"	The ACC Liverpool Group Limited (Company Registration Number: 05204033) whose registered office is Kings Dock, Liverpool Waterfront, L3 4FP;
"Customer Materials"	all materials provided to the Supplier by the Customer in connection with this Contract;
"Deliverables"	all Documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts);
"Document"	includes, without limitation, 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;
"Equipment"	the equipment (or any part of it) agreed in the Contract to be hired by the Customer from the Supplier as set out in the Purchase Order;
"Goods"	The goods (or any part of them) agreed in the Contract to be purchased by the Customer from the Supplier as set out in the Purchase Order;
"Intellectual Property Rights"	patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer Software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such

rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Purchase Order"	the Customer's written instruction to hire the Equipment, purchase Goods and/or Services incorporating these conditions;
"Services"	the services (or any part of them), including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Purchaser Order;
"Site"	the site at which Equipment or Goods are to be delivered or supplied, or where Services are to be performed;
"Software"	any and all computer programs and computer software (of whatever type and in whatever form or media) installed on or supplied with the Equipment, Goods and/or Services at the time of its or their delivery and either necessary for its operation in the manner contemplated by the Customer or otherwise referred to in the Purchase Order;
"Supplier"	the person, firm or company who accepts the Purchase Order in accordance with condition 3.3;
"Use"	in relation to Software, includes the right to use the Software on the Equipment and any back-up or standby equipment, to make such copies as are necessary to use the Software on each part of the Equipment and to make copies for back-up purposes as well as all other ancillary rights implied by law.

1.2 Headings do not affect the interpretation of these conditions.

1.3 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Words in the singular include the plural and in the plural include the singular.

2. APPLICATION OF CONDITIONS

2.1 These conditions shall:

- (a) apply to and be incorporated in the Contract;
- (b) be in substitution of any oral or other arrangements made between the Customer and the Supplier; and

- (c) prevail over any inconsistent terms or conditions contained in or referred to in the Supplier's quotation, acceptance, correspondence or elsewhere or implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of the Purchase Order or these conditions or any of them shall be binding on the Customer unless in writing and signed by a duly authorised representative of the Customer.
- 2.3 Where the Purchase Order is for more than one item, it shall (following acceptance by the Supplier) be regarded as a single Contract for all Equipment, Goods and/or Services supplied pursuant to that Purchase Order.

3. EFFECT OF PURCHASE ORDER

- 3.1 The Customer shall only be bound by an order if it is issued on the Customer's standard Purchase Order form and signed by a duly authorised representative of the Customer.
- 3.2 The Purchase Order constitutes an offer by the Customer to hire the Equipment and/or purchase the Goods and/or Services from the Supplier in accordance with these conditions. Accordingly, any acceptance of the Purchase Order by the Supplier shall establish a contract on these conditions. Any counter-offer made by the Supplier on other conditions shall only be validly accepted if such acceptance is in writing and signed by a duly authorised representative of the Customer.
- 3.3 The execution and return of the acknowledgement copy of the Purchase Order form by the Supplier, or the Supplier's execution, commencement of work or commencement of delivery pursuant to the Purchase Order constitutes acceptance of the Purchase Order on these conditions by the Supplier.
- 3.4 These conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

4. SUPPLIER'S WARRANTY

- 4.1 the Supplier warrants to the Customer that:
 - (a) the Equipment, Goods and/or Services will conform with the quality, description and other particulars stated in the Purchase Order;
 - (b) the Equipment, Goods and/or Services will conform to all descriptions and specifications provided to the Customer by the Supplier;
 - (c) the Equipment, Goods and/or Services will conform with all standards referred to in any product packaging and/or documentation in, with or in relation to which the Equipment, Goods and/or Services are supplied;
 - (d) the Equipment and/or Goods will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any intended uses expressly or impliedly made known to the Supplier, and will be free from all defects in design, materials, workmanship and installation.

- (e) the Equipment and Goods will comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Equipment and/or Goods for the time being in force;
- (f) it shall meet any performance dates for the Services specified in the Purchase Order or notified to the Supplier by the Customer;
- (g) it shall cooperate with the Customer in all matters relating to the Services and comply with all instructions of the Customer;
- (h) it shall use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- (i) it shall ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Purchase Order, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
- (j) it shall provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (k) it shall use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (l) it shall obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- (m) it shall observe all health and safety rules and regulations and any other security requirements that apply at the Site;
- (n) it shall hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (o) it shall not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
- (p) unless the Customer and the Supplier have agreed, in writing (signed on behalf of the Customer) additional conditions for any Software before or at the same time as this Purchase Order, the Supplier has and will continue to have the full right and title to license the Customer and hereby grants to the Customer without further charge the irrevocable right and licence to Use the Software on the Equipment and/or Goods;

- (q) where any Software is licensed directly to the Customer by the Supplier's licensor, the Supplier will procure for the Customer rights in all respects no less favourable than those it would have granted had it granted the rights directly under the express licence at condition 4.1 (p) above;
 - (r) at the time of installation the Software will be free from viruses, worms, time locks or anything else that would impair performance of the Software as it might reasonably be expected to operate on the Equipment and/or Goods;
 - (s) where, at any time, the Customer has not entered into a maintenance agreement, it will be entitled to maintain the Equipment and/or Goods together with any Software itself, or by or through any third party, and in that case the definition of Use will extend to permitting such maintenance of the Software; and
 - (t) it shall provide to the Customer high quality user manuals and training and other documentation for the Equipment and/or Goods and the Software without further charge in such form and quantities as the Customer may reasonably stipulate.
- 4.2 The Customer's rights under the Contract are in addition to the statutory terms implied in favour of the Customer by the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 and any other statute.
- 4.3 The provisions in this condition 4 shall survive any delivery, inspection, acceptance, payment or performance pursuant to the Contract and shall extend to any replacement, repaired, substitute or remedial equipment provided by the Supplier.

5. QUANTITIES

- 5.1 Unless the Customer has agreed otherwise in writing, the Supplier shall deliver the exact specified quantities of Equipment and/or Goods in accordance with the Purchase Order.
- 5.2 If the Supplier:
- (a) delivers less than 5 per cent of the quantity of Equipment and/or Goods ordered, the customer may reject the Equipment and/or Goods; or
 - (b) delivers more than 5 per cent of the quantity of Equipment and/or Goods ordered, the Customer may at its sole discretion reject the Equipment and/or Goods or the excess,

and any rejected Equipment and/or Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Equipment and/or Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice.

6. INSPECTION AND TESTING OF EQUIPMENT AND/OR GOODS

- 6.1 The Supplier shall:
- (a) carefully test and inspect the Equipment and/or Goods before delivery to ensure that they comply with the requirements of the Purchase Order; and

- (b) if so requested by the Customer, give the Customer reasonable advance notice of such tests (which the Customer shall be entitled to attend).
- 6.2 The Customer reserves the right to call for certificates or test certificates for the Equipment and/or Goods. Such certificates shall clearly state the Customer's order numbers and any item numbers. If, as a result of any inspection or test, the Customer considers that the Equipment and/or Goods or any items comprised within it do not conform or are unlikely to comply with the Supplier's undertakings at clause 4.1, or are unlikely to comply with them on completion of manufacture, processing or performance, the Customer may inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 6.3 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Equipment and/or Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

7. DELIVERY, INSTALLATION AND ACCEPTANCE OF EQUIPMENT AND/OR GOODS

- 7.1 The Supplier shall deliver the Equipment and/or Goods on the date and time specified in the Purchase Order to such location as set out in the Purchase Order or as instructed by the Customer before delivery (Delivery Location). Time is of the essence as to the delivery of the Equipment and/or Goods under the Contract. If any delivery specified in the Purchase Order cannot be met, the Customer may exercise any one or more of the rights set out at Clause 24.
- 7.2 The Supplier shall ensure that the Equipment and/or Goods shall be properly packed and secured in such manner as to enable them to reach their destination in good condition. No charge shall be made for wrapping, packing, cartons, boxes, crating or containers unless specified in the Purchase Order, and the Customer shall not be responsible for returning any such materials.
- 7.3 The Supplier shall ensure that each delivery of the Equipment and/or Goods is accompanied by a delivery note which shows the date of the order, the order number, the type and quantity of the Equipment and/or Goods, special storage instructions (if any) and, if the Equipment and/or Goods are being delivered by instalments, the outstanding balance remaining to be delivered.
- 7.4 The Supplier shall ensure that if it requires the Customer to return any packaging material for the Equipment and/or Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 7.5 The Equipment and/or Goods shall be delivered by the Supplier carriage free to the place of delivery specified in the Purchase Order, or as otherwise specified by the Customer by means of advice notes quoting the Customer's order number. The Equipment and/or Goods shall be received at the place of delivery, subject to the Customer's inspection and approval. Any Equipment and/or Goods which the Customer rejects as not conforming with the Purchase Order shall be returned at the Supplier's risk and expense.

- 7.6 Unless the Customer and the Supplier have, before or at the same time as the Purchase Order, agreed in writing (signed on behalf of the Customer) additional conditions regarding preparation of or environmental requirements at the Site, the Supplier acknowledges and agrees that the Equipment and/or Goods are suitable to be installed and used at the premises at which the Customer intends to use it and that there are no additional conditions regarding Site preparation or environmental requirements.
- 7.7 Delivery of the Equipment and/or Goods shall be completed on the completion of unloading at the Site.
- 7.8 The Customer shall not deliver the Equipment and/or Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to exercise any one or more of the rights set out at Clause 24.
- 7.9 Title and risk in the Equipment and/or Goods shall pass to the Customer on completion of delivery.

8. INSTRUCTION TO SUPPLY SERVICES

- 8.1 The Supplier shall provide the Services against an official Purchase Order.
- 8.2 Services must not be supplied against a verbal order or verbal instruction. If, in the opinion of the Customer, exceptional circumstances dictate, the Supplier may act upon the verbal instruction of the Customer, however the Supplier is then responsible for requesting the relevant Purchase Order within 24 hours of the Services being requested.
- 8.3 Where Services are to be carried out on Site the Supplier has inspected the Site before quoting and has understood the precise nature and extent of the Services to be carried out and has satisfied itself in relation to all matters connected with the Services and Site.
- 8.4 If the Services to be executed on the Site are different from or additional to those described in the Purchase Order and/or if during the course of providing the Services the Supplier discovers some defect or problem that may render his further continuance with the Services abortive, the Supplier shall immediately contact the Customer for further instructions before proceeding.
- 8.5 If the Purchase Order states an authorised value for the Services detailed in the Purchase Order, the Supplier shall have no authority to execute services in excess of the authorised value recorded on the Purchase Order. If the Supplier considers that the estimated value will be exceeded as a result of:
- (a) the estimated value being inaccurate;
 - (b) variations of instructions; and
 - (c) any other reason,

the Supplier shall give notice to the Customer in a format approved by the Customer before he carries out any services in excess of the authorised value. The notice shall state a revised limit of authority and shall represent a revised estimate or the estimated increase to the order price as the case may be. This revised limit of authority shall be deemed to have been rejected, unless confirmed in writing within 5 days of receipt. Where the revised limit is rejected the maximum value of any payment shall remain as the authorised value for completion of the Services indicated on the Purchase Order.

- 8.6 The Customer may, at its sole discretion, accept a notice of increased limit of authority issued retrospectively or elect to waive the requirement for it altogether. Retrospective notices will only be accepted in extenuating circumstances.
- 8.7 The Services shall commence on the date agreed in the Purchase Order or, if no date has been specified, immediately after the Supplier has been admitted on to the Site and has received the Customer instructions to proceed with the Services. Time is of the essence as to the provision of Services.
- 8.8 The Supplier shall be responsible as required for the design, specification, installation, testing and handover of the equipment.

9. VARIATION OF THE SERVICES

- 9.1 The Customer reserves the right to give written notice to the Supplier of modifications to the quality or quantity of the Services. Any alteration to the Contract price or the completion date arising from such modifications or any changes, omissions or additions to the scope of Services must be agreed between the parties in advance. Failing agreement the matter shall be determined using the Dispute Resolution Procedure set out in condition 32 below.
- 9.2 The Supplier must agree any changes, omissions or additions to the agreed Services with the Customer in writing in advance of carrying out any such amended Services.

10. SUPPLIER'S STATUS

In carrying out the Services the Supplier shall be acting as principal and not as the agent of the Customer. Accordingly:-

- (a) the Supplier shall not, and shall procure that their agents and servants do not, say or do anything which might lead any other person to believe that the Supplier is acting as the agent of the Customer; and
- (b) nothing in this Contract shall impose any liability on the Customer in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Customer to the Supplier which may arise by virtue of either a breach of this Contract or any negligence or the part of the Customer, their staff or agents.

11. SUPPLIER'S PERSONNEL

- 11.1 The Supplier shall provide and maintain the necessary facilities and employees of appropriate qualifications and experience to undertake the tasks identified in the Purchase Order. In particular the Supplier shall:
- (a) ensure that all employees (both temporary and permanent) have received appropriate training for the execution of their duties under this Contract, which should include where appropriate health and safety, environmental and customer service training;
 - (b) ensure that untrained employees are not permitted to perform the Services specified within this Contract. It shall be the Supplier's burden to provide evidence that employees have been trained when requested by the Customer;
 - (c) maintain a training matrix which shall show as a minimum employee name, date of employment, the type and date of each training course attended. The Supplier shall, if requested, present these records to the Customer and may be required to present a sample number of qualification/attendance certificates;
 - (d) be fully responsible for the provision of resources, supplementary plant, equipment and consumables required in connection with the Services;
 - (e) ensure that all grades of employee shall be able to clearly and understandably communicate (both verbally and in writing) in the English language in line with the performance of their duties;
 - (f) hold regular briefings with all employees as appropriate. These should include feedback on performance and introduction of new initiatives and practices; and
 - (g) observe the Customer's security regulations, ensuring that all persons employed by the Supplier wear an appropriate security pass at all times, and shall use its best endeavours to ensure that no unauthorised person is permitted to enter or remain on the Site.
- 11.2 To guarantee continuity and standards of service the Supplier shall at the Customer's request provide a core team which will be available and employed at all events. The Supplier shall take all reasonable steps to avoid changes of original personnel assigned to and accepted for the Services under the Contract except where changes are unavoidable or of a temporary nature caused by sickness, holidays etc. The Supplier shall give at least one months notice to the Customer of proposals to change key personnel unless such changes are made with immediate effect in accordance with the Supplier's rights or obligations as set out in its employment agreements.
- 11.3 The Supplier shall take the steps reasonably required by the Customer to prevent unauthorised persons being admitted to the Site. Where the Customer gives the Supplier notice that any person is not to be admitted to or is to be removed from the Site or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if requested by the Customer the Supplier shall replace any person removed under this Clause with another suitably qualified person and ensure that any security pass issued to the person removed is surrendered.

- 11.4 The decision of the Customer as to whether any person is to be admitted to or is to be removed from the Site or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required in this Clause 11 shall be final and conclusive.
- 11.5 The Supplier shall bear the cost of any notice, instruction or decision of the Customer under Clauses 11.3 to 11.4.
- 11.6 If required, the Supplier shall provide a representative on-site as part of their Services, such candidates shall have the appropriate qualifications to carry out the Services and the Customer shall have the right to select such representative from a range of candidates proposed by the Supplier.
- 11.7 If so instructed, in conjunction with the Customer the Supplier will develop both pre-opening and ongoing staff training programmes and participate in the Customer's training programme.
- 11.8 The Supplier shall take all reasonable steps to ensure that any servants, employees or agents of the Supplier and any sub-Suppliers, their servants or agents employed in the execution of the Contract are entitled to obtain employment in the United Kingdom and are not claiming unemployment benefit or any other benefit payable to persons registered as unemployed

12. MANNER OF CARRYING OUT THE SERVICES

- 12.1 The Supplier shall not hinder the business operations of the Customer in general and/or at the Site and the Supplier shall observe strictly all of the Compliance Handbook. The Supplier acknowledges that, at the date hereof, it has been given a copy of the Compliance Handbook. The Supplier shall give copies of the Compliance Handbook to each of its own employees and those of its sub-Suppliers who will work on the Site. Where reasonably required by the Customer's Representative, the Supplier shall prominently display copies of the Compliance Handbook.
- 12.2 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Site without obtaining the prior consent of the Customer.
- 12.3 Access to the Site shall not be exclusive to the Supplier but only such as shall enable him to carry out the Services concurrently with the execution of work by others. The Supplier shall be expected to work closely with the relevant Customer team and Exhibition Services Supplier, if required. Furthermore, the Supplier shall co-ordinate his Services and co-operate with such others as the Customer may reasonably require and with respect to specific events or exhibitions, as the Customer may expressly state in the Purchase Order.
- 12.4 At any time during the progress of the Services the Customer shall have the authority to order, in writing:
- (a) the removal from the Site of any materials which in the opinion of the Customer are either hazardous, noxious or not in accordance with the Contract; and/or
 - (b) the substitution of proper and suitable materials; and/or

- (c) the removal and proper re-execution, notwithstanding any previous test of or interim payment for any work which, in respect of material or workmanship is not in the opinion of the Customer (at all times acting reasonably) in accordance with the Contract.
- 12.5 The Supplier shall ensure that during the course of the Services, the Site is maintained in a clean, safe and tidy condition. On the completion of the Services or on the earlier termination of the Contract the Supplier shall clear away and remove from the Site all surplus materials and waste of every kind and leave the whole of the Site clean and in a workmanlike condition to the satisfaction of the Customer's representatives.

13. DUTY OF CARE AND STANDARDS

- 13.1 The Supplier shall execute the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade to the reasonable satisfaction of the Customer's representatives.
- 13.2 The Supplier shall be responsible for the accuracy and completeness of the Services and shall not be relieved of its responsibility by any tests or inspections carried out by the Customer. The Customer's representatives may reasonably reject any part of the Supplier's work on the grounds that the workmanship is inferior, unsuitable or is otherwise not in accordance with the Contract or Purchase Order and may require such parts of the Supplier's work to be made good at the Supplier's expense which shall include all direct costs incurred by the Customer as a result of the defective work and its making good.
- 13.3 Notwithstanding any other clause or sub-clause in the Contract or in a Purchase Order, the Supplier shall not be construed as owing any greater duty in relation to the Services except the use of skill, care and diligence pursuant to clause 13.1 above.
- 13.4 Save where a specific instruction has been given to the effect that old or used materials or goods are permissible, all materials, goods and workmanship provided by the Supplier under this Contract shall be new, of a satisfactory quality and reasonably suitable for their purpose.
- 13.5 The Supplier shall be responsible for ensuring that any and all Services comply with the requirements of relevant legislation, best practice, British standards and codes of practice and the Customer's policies and procedures as a minimum.
- 13.6 The Supplier shall be responsible for compliance with the Data Protection Act 1998, and other relevant legislation, and will ensure full compliance throughout the course of this Contract.
- 13.7 In addition the Supplier shall comply with the particular standards specified under this Contract and as particularised in the individual Purchase Order(s).

14. PERFORMANCE AND MANAGEMENT

- 14.1 The Supplier's performance will be measured on the basis of timely and accurate delivery of services, added value and team working ability. To assist with

familiarisation and clarity, the Supplier shall have documentation which clearly defines the operative's tasks, frequency, equipment required and any other pertinent information. The Supplier shall share these Documents with the Customer on request. It is at the Supplier's discretion to be able to amend this documentation should the Supplier deem it necessary to improve the quality of the Services or for operational reasons provided the quality of the Services will not suffer. Any changes of a significant nature should be communicated to the Customer immediately.

- 14.2 If so instructed, the Supplier shall also provide a Contract manager as the sole point of contact for the Customer's representatives. The Contract manager shall have full authority to act for the Supplier and serve at all times to carry out the provisions of this Contract. The person appointed as Contract manager shall be subject to prior approval by the Customer.
- 14.3 The Customer will hold regular meetings during the Contract Period to review the provision of the Services. The Customer will chair the meetings and take and distribute minutes.
- 14.4 The Supplier shall be represented at all meetings, at which the Customer requires his attendance, by the person responsible for the management of the Contract, and who is empowered to make decisions on the Supplier's behalf. For the avoidance of doubt, the Supplier's attendance and/or representation at such meetings shall be at no cost to the Customer.
- 14.5 The Supplier shall operate an emergency service and will provide the Customer with a single manned telephone number to cover this eventuality and a route for escalating operational issues outside of normal working hours. Emergencies and escalations occurring outside normal working hours will be actioned and subsequently ratified. To support this service the Supplier will provide a management escalation process for use outside of normal working hours and ensure it is kept fully up-to-date.
- 14.6 The Supplier will be required for the purposes of this Contract to purchase or maintain both Software and hardware as deemed appropriate by the Customer to enable communication. As a minimum the Supplier must have the following facilities:-
 - (a) E-mail addresses;
 - (b) Specific fax numbers;
 - (c) Specific telephone numbers to be clearly defined for normal working hours and out of hours use with escalation numbers for occurrences where the first point of contact is unobtainable or the nature of the call requires escalation within the Supplier's organisational structure; and
 - (d) Microsoft Office for Contract data sent by e-mail.

15. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide the Supplier with reasonable access at reasonable times to the delivery location for the purpose of supplying the Equipment, Goods and/or Services; and
- (b) provide such information as the Supplier may reasonably request for the provision of the Equipment, Goods and/or Services as the Customer considers reasonably necessary.

16. RISK AND PROPERTY

The Equipment and Goods shall be at the risk of the Supplier until delivery to the Customer at the place of delivery specified in the Purchase Order, or as otherwise specified by the Customer. The Supplier shall off-load the Equipment and Goods at its own risk as directed by the Customer.

17. PRICES

- 17.1 All prices shall be as stated in the Purchase Order, except that if the Supplier quotes or offers to a third party lower prices or better terms for equipment, goods and/or services of a similar nature to the Equipment, Goods and/or Services (or the items comprised in it), the Customer shall be entitled to hire the Equipment, Goods and/or Services (or the relevant items comprised in it) on the same terms and shall be entitled to a refund of the amount of the difference in respect of all such Equipment, Goods and/or Services supplied after whichever is the earlier of the first quotation or the first supply at the lower price. All prices are fixed and inclusive of delivery, packaging, packing, shipping, carriage, insurance and other charges and dues, and are not subject to adjustment save as specifically provided in these conditions or the Purchase Order.
- 17.2 The charges for the Services shall be set out in the Purchase Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

18. PAYMENT

- 18.1 Unless otherwise stated in the Purchase Order, payment of invoices shall be 30 days of receipt and agreement of invoices for Equipment, Goods and/or Services supplied to the satisfaction of the Customer and in accordance with the Purchase Order.
- 18.2 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Equipment, Goods and/or Services at the same time as payment is due for the supply of the Equipment, Goods and/or Services.
- 18.3 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

18.4 The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part. The Customer may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier.

19. RECOVERY OF SUMS DUE

Whether under this Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due, or which at any later time may become due, to the Supplier under this Contract or under any other agreement or contract with the Customer.

20. INDEMNITY

20.1 The Supplier shall indemnify and hold the Customer harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages, fines and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the Customer as a result or in connection with:

- (a) any damage to the Customer's Equipment or Goods caused by the Supplier
- (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Equipment and/or Goods or in the provision of Services, to the extent that the defect is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (c) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Equipment, Goods and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
- (d) any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Equipment and/or Goods, or receipt, use or supply of the Services.

20.1 The Supplier shall maintain in force and shall require any sub-Supplier to maintain in force, with a reputable insurance company, for the duration of the Contract:

- (a) Customer's liability insurance in accordance with any legal requirements for the time being in force covering injury or death to any employee or agent of the Supplier engaged in the performance of the Services;
- (b) public liability insurance covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than five million pounds (£10,000,000) for any one claim and unlimited in total; and

- (c) professional indemnity insurance in respect of any design carried out in the sum of not less than five million pounds (£5,000,000) for any one claim and unlimited in total.

The Supplier shall maintain the above named insurances for such sum or sums and range of cover as specified above or for such sum or sums as the Customer's insurance provider deems appropriate.

- 20.2 With respect to the professional indemnity insurance at Clause 20.2(c), the Supplier warrants and undertakes to the Customer that it has maintained at all times since it commenced the Services in respect of the Contract professional indemnity insurance and will maintain for a period ending six (6) years after the termination of the Contract or completion of the last Purchase Order, whichever is the later.
- 20.3 The policy or policies of insurance referred to in this Clause 20 shall be available on request to the Customer together with satisfactory evidence of payment or premiums.

21. SAFETY

- 21.1 The Supplier shall be responsible for the observance by himself, its employees and sub-Suppliers of all safety precautions necessary for the protection of himself, their employees, sub-Suppliers and any other persons including all precautions required to be taken by or under any Act of Parliament including any regulations or bye-law of any local or other authority. The Supplier shall co-operate fully with the Customer to ensure the proper discharge of these duties.
- 21.2 The Customer believes that all accidents are preventable and actively promotes the high standard of safety consciousness demanded by this principle. All Suppliers including sub-Suppliers working on the Site are required to apply health, safety and environmental standards compatible with this aim and as published by the Customers from time to time.
- 21.3 All personnel working directly or indirectly for the Supplier may be required to attend a safety briefing and read the Compliance Handbook prior to the commencement of any Services.
- 21.4 In the event of an accident or near miss to either a person or damage to property, the Supplier shall immediately inform the Customer verbally and submit a written report in accordance with procedure.
- 21.5 The Supplier shall take all reasonable steps and precautions to prevent and to minimise the extent of any loss or damage to the Services, temporary services, materials and any items and articles for incorporation in the Site (including items and articles provided by the Customer) arising from any cause whatsoever.
- 21.6 The Supplier shall comply with the Customer's standard fire precautions for Suppliers and all permit systems.
- 21.7 The Customer will carry out event specific risk assessments, to which the Supplier may be requested by the Customer to contribute appropriately, which will address significant potential risks which shall include but shall not be limited to:

- (a) Use of cleaning chemicals & equipment;
- (b) Manual handling/lifting;
- (c) Working at height;
- (d) Working in the vicinity of vehicular traffic;
- (e) Noise;
- (f) Flashing lights; and
- (g) Violence.

21.8 If so instructed, the Supplier shall provide and leave on the Site a copy of all their safe working method statements and generic risk assessments. These are to be updated on a regular basis. Where necessary, the Supplier must use and provide clean dust sheets to protect all assets in the immediate vicinity of the area where the Services are being carried out.

22. CONFIDENTIALITY AND THE CUSTOMER'S PROPERTY

22.1 The Supplier 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 Supplier by the Customer or its agents, and any other confidential information concerning the Customer's business or its products which the Supplier may obtain. The Supplier shall restrict disclosure of such confidential material to such of its employees as need to know the same for the purpose of discharging the Supplier's obligations under the Contract, and shall ensure that such employees are subject to obligations of confidentiality corresponding to those which bind the Supplier.

22.2 All materials, equipment, tools, copyright, rights in designs and any other Intellectual Property Rights in all drawings, specifications and data supplied by the Customer to the Supplier shall at all times be and remain the exclusive property of the Customer, and shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the Customer, and shall not be disposed or used other than in accordance with the Customer's written instructions or authorisation. The Supplier shall return all copies of any such material to the Customer immediately on the Customer's first written request.

22.3 This condition 22 shall survive the termination of the Contract, however arising.

23. PATENTS, INFORMATION AND CONFIDENTIALITY

23.1 In respect of the Equipment and/or Goods and any goods that are transferred to the Customer as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

- 23.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.
- 23.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 23.4 The Supplier shall promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other Documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 23.2.
- 23.5 It is a condition of the Contract that the Services will not infringe any patent, trade mark, registered design, copyright or other right in the nature of industrial property of any third party, except to the extent that the Services incorporate design furnished by the Customer, and the Supplier shall indemnify the Customer against all actions, claims, demands, costs and expenses which the Customer may suffer or incur as a result of or in connection with any breach of this Clause.
- 23.6 All rights, including ownership and copyright in any specifications, instructions, plans, drawings, patents, models, designs, Documents or other materials:
- (a) furnished to or made available to the Supplier by the Customer shall remain vested in the Customer absolutely; and
 - (b) prepared by or for the Supplier for use, or intended use, in relation to the performance of this Contract are hereby assigned to and shall remain vested in the Customer absolutely,

And the Supplier hereby grants to the Customer an irrevocable, non-exclusive, royalty free licence to use the Documents for any purpose whatsoever in connection with the Site. Such licences shall be capable of sub-licence and transfer by the Customer.

- 23.7 The Supplier shall not and shall ensure that their servants and agents shall not (except to the extent necessary for the implementation of this Contract) without prior written consent of the Customer use or disclose any such specifications, instructions, plans, drawings, patents, models, designs, Documents or other material or any other information (whether or not relevant to this Contract) which the Supplier may obtain through the execution of this Contract, except information which is in the public domain otherwise than by reason of a breach of this provision, and in particular the Supplier shall not refer to the Customer or the Contract in any advertisement without the prior written consent of the Customer.
- 23.8 The Supplier warrants and undertakes that it will not at any time directly or indirectly, whether by itself, its employees or agents or otherwise howsoever use or employ in the course of carrying on any trade or business, claim, represent or otherwise indicate any present association with the Customer or, for the purpose of obtaining

or retaining any business or custom, claim, represent or otherwise indicate any past association with the Customer, in particular but without limitation, the Supplier warrants and undertakes not to use or to display anything in the course of its business or personally (with respect to the uniforms) bearing the Customer's logo or brand.

- 23.9 The provisions of Clauses 23.1 to 23.8 shall apply during the continuance of this Contract and after its termination howsoever arising.
- 23.10 All Documents and drawings and copies thereof or extracts there from issued in connection with this Contract and/or any Purchase Order shall, if required by the Customer, be returned to the Customer upon request.

24. REMEDIES FOR DEFAULT

- 24.1 Where the Services, or any portion of the Services, are not carried out or where the Equipment or Goods are not delivered within the time or times specified within the Contract, or where the Supplier fails to comply with any terms of the Contract, the Customer may, without limiting its other rights or remedies, exercise any one or more of the following rights, whether or not any part of the Equipment, Goods and/or Services have been accepted by the Customer:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier; or
 - (b) reject the Equipment, Goods and/or Services (in whole or in part) and return the Equipment and/or Goods to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Equipment and/or Goods so returned and/or the Services so rejected shall be paid immediately by the Supplier; or
 - (c) require the Supplier, at the Supplier's expense, either (at the Customer's option) to remedy any defect in the Equipment, Goods and/or Services and carry out such other work as is necessary to ensure that the Equipment, Goods and/or Services are in all respects in accordance with the Purchase Order or to supply replacement equipment, goods and/or services, provided that if the Supplier refuses to remedy the defects or to supply replacements within a reasonable time of receiving such a request, the Customer may hire replacement equipment, purchase replacement goods and/or services from another source and the Supplier shall reimburse the Customer for all costs and expenses reasonably incurred in doing so; or
 - (d) refuse to accept any further Equipment, Goods and/or Services without incurring any liability to the Supplier; or
 - (e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute equipment, goods and/or services from a third party; or
 - (f) where the Customer has paid in advance for Equipment, Goods and/or Services which have not been delivered or provided by the Supplier, to have such sums refunded by the Supplier; or
 - (g) in any case, to claim such damages as it may have sustained in connection with the Supplier's breach of the Contract not otherwise covered by this Clause 16.

- 24.2 Where the Supplier fails to carry out any Services in accordance with these Clauses the Customer shall be entitled, without prejudice to any other rights and remedies available, to have such Services carried out satisfactorily by other means in accordance with Clause 16.1 and, in the meantime, debar the Supplier, their servants and agents from the Site.
- 24.3 On the occurrence of a relevant termination the Supplier shall, notwithstanding such termination, co-operate in the transfer of the Services to which the termination relates to any alternative organisation under Clause 16.1 in accordance with arrangements notified to the Supplier by the Customer.
- 24.4 The provisions of Clause 16.1 shall not be invoked where failure to carry out the Services or supply Equipment and/or Goods within time is due wholly to circumstances outside the control of the Supplier.
- 24.5 For the avoidance of doubt, failure to comply with the following shall be deemed to be a serious breach of Contract and shall be dealt with as such:
- (a) failure to respond within the stated periods to the extent that they are the responsibility of the Supplier under this Contract;
 - (b) failure to submit risk assessments, test certificates and guarantees to the extent that they are the responsibility of the Supplier under this Contract;
 - (c) failure to complete maintenance records to the extent that they are the responsibility of the Supplier under this Contract;
 - (d) failure to issue attendance reports to the extent that they are the responsibility of the Supplier under this Contract; and
 - (e) failure to book in and out of the Site.

25. TERMINATION

- 25.1 The Customer may cancel the Contract (for all or part only of the Equipment, Goods and/or Services) by giving written notice to the Supplier at any time before delivery, in which case the Customer shall pay the Supplier the price for the cancelled Equipment, Goods and/or Services less any cost savings accruing to the Supplier by reason of the cancellation.
- 25.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the ability of the Customer to accept delivery of the Equipment and/or Goods is delayed, hindered or prevented by circumstances beyond its reasonable control;
 - (b) the Supplier commits any breach of its obligations under the Contract and fails to remedy that breach within 14 days of receiving written notice from the Customer requiring its remedy;
 - (c) an order is made or a resolution is passed for the winding up of the Supplier, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the Supplier; or

- (d) an order is made for the appointment of an administrator to manage the affairs, business and property of the Supplier, or Documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Supplier, or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
- (e) a receiver is appointed of any of the Supplier's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Supplier, or if any other person takes possession of or sells the Supplier's assets;
- (f) the Supplier makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt;
- (g) the Supplier ceases, or threatens to cease, to trade;
- (h) there is a change of control of the Supplier within the meaning of section 840 of the Income and Corporation Taxes Act 1988; or
- (i) the Supplier takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

25.3 In any of the circumstances in these Conditions in which the Customer may terminate the Contract where Equipment, Goods and/or Services are supplied, the Customer may instead terminate part of the Contract in respect of part of the Equipment, Goods and/or Services, and the Contract shall continue in respect of the remaining supply.

26. CONSEQUENCES OF TERMINATION

On termination of the Contract or any part of it for any reason:

- (a) where the Services are terminated, the Supplier shall immediately deliver to the Customer all Deliverables, whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (b) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- (c) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

27. FORCE MAJEURE

The Customer may defer the date of delivery or payment, or cancel the Contract or reduce the amount of Equipment, Goods and/or Services ordered, if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation strikes, lock-outs or other industrial disputes (including those involving the workforce of the Customer but not the Supplier), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-Suppliers.

28. WAIVER

- 28.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 28.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

29. ASSIGNMENT

- 29.1 The Supplier shall not, without the prior written consent of the Customer, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 29.2 The Customer may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

30. THIRD PARTY RIGHTS

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

31. NOTICES

Any notice required to be given under the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Contract (or such other address as may have been notified by that party for such purposes), or sent by fax to the other party's fax number as set out in the Contract. A notice delivered by hand shall be deemed to have been received when delivered (or, if delivery is not in business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

32. DISPUTE RESOLUTION AND LEGAL PROCEEDINGS

- 32.1 Where and to the extent that a given dispute or difference should require resolution either party may at any time and shall in the first instance invoke the Dispute Resolution Procedure set out in the clause 32.2 below.
- 32.2 In the event that a dispute or difference arises between the parties during the course of the Contract the parties agree to adopt the following procedure for resolving the said dispute or difference.
- 32.3 In the first instance the parties shall discuss the dispute or difference and attempt resolution at a meeting of the parties. If the parties fail to resolve the matter at this stage the dispute or difference shall be referred to the Directors of the parties' respective organisations.
- 32.4 Failing resolution by the Directors the parties shall mediate the dispute. A mediator shall be appointed jointly by the parties and the cost of any such mediation shall be born by the Customer and the Supplier in equal shares, which for the avoidance of doubt shall not include any cost incurred by the respective parties preparing for or taking advice prior to the mediation.
- 32.5 In the event that the parties are unable to reach an agreement through mediation either party shall be at liberty to seek the court's assistance and commence legal proceedings in accordance with Clause 33.

33. GOVERNING LAW AND JURISDICTION

- 33.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.
- 33.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract, its subject matter or formation (including non-contractual disputes or claims).