

CONDITIONS OF HIRE

Definitions

1 In these conditions;

“The Company” means Malton Marquees Ltd

“The Customer” means the person, firm or company entering into Contract with the Company

The Company is entitled to assume that any employee, representative or any agent or a Customer has the authority of the Customer. The Customer will be bound by any actions of such person.

2 General

(a) Any quotation given by the Company shall not constitute an offer but shall constitute an offer to treat.

(b) Nothing contained in these conditions shall in any way restrict the statutory rights of a Customer whether under the Consumer Protection Act 1987 or otherwise where such a Customer is also a Consumer.

(c) The Company will under no circumstances commence performance of the Contract until the Customer accepts the Company’s quotation in writing, with the accompaniment of the requested deposit.

(d) The Company shall not be liable for any opinion expressed whether by itself or through its servants or agents as to the suitability of the Goods for the performance of the Contract whether such opinions are expressed verbally or in writing or to the Customer or otherwise.

(e) The Customer agrees that it shall not in any way acquire any title whatsoever to the Goods and that the Customer is a mere bailee. The Customer agrees that the Contract is personal to it, and that it will not part with possession of the Goods and hereby grants to the Company, its servants or agents, an irrevocable license to enter the premises upon which the Goods are situated for the purpose of inspection and removal.

3 Period of Hire

The Period of Hire is understood to be the period for which the Goods are required to be ready for use and shall be deemed to commence at such time as in the opinion of the Company such Goods are ready for use.

4 Price

(a) All quotations are exclusive of VAT which shall be charged at the rate applicable at the date of invoice.

(b) The Company may increase the quoted price and the Customer shall pay such increased price if the cost to the Company of any materials to be used in the Contract or Services increases as a result of circumstances outside the control of the Company.

(c) The price includes the charges of the Company’s employees attending upon the site to carry out the Services. In the event that the Company or its employees or agents are required to attend the site other than for dismantling the Goods, the Customer shall be liable for the fees incurred by the Company in such attendance.

5 Payment

(a) The Company reserves the right to require payment against invoice of the Contract Price in whole or in part either on delivery of the Goods or at any time prior to the commencement of the Services. Where the Company does not exercise this right, payment is due 7 days after the date of the Company’s invoice to the Customer.

(b) The Company reserves the right to charge a deposit to cover part or whole of the value of the Goods, to be paid as requested.

(c) Any sums not paid to the Company by the due date are liable to interest at a rate of 4% above Nat West Bank PLC base lending rate per annum or part thereof from the date of the invoice to the date when payment is received by the Company.

(d) The time of payment shall be of the essence of the Contract.

6 Cancellation

(a) The Customer may terminate this Contract prior to any delivery of the Goods only upon paying the Cancellation Charge to the Company when giving to the Company written notice of the Customer’s intention to so terminate (“The Cancellation Notice”).

(b) The Cancellation Charge shall be calculated in the following manner;

i. where the Company receives the Cancellation Notice more than 60 (sixty) days prior to the proposed delivery date, the Cancellation Charge shall be 10% of the Contract Price

ii. where the Company receives the Cancellation Notice not more than 60 (sixty) days but not less than 30 (thirty) days prior to the proposed delivery date, the Cancellation Charge shall be 20% of the Contract Price

iii. where the Company receives the Cancellation Notice not more than 30 (thirty) days but not less than 7 (seven) days prior to the proposed delivery date, the Cancellation Charge shall be 40% of the Contract Price

iv. where the Company receives the Cancellation Notice less than 7 (seven) days prior to the proposed delivery date, the Cancellation Charge shall be equal to the Contract Price.

(c) Notwithstanding the payment of any Cancellation Charge, the Company shall retain the right to recover from the Customer any other costs which the Company incurred with respect to its performance of these conditions which it would not have otherwise incurred.

7 Performance

(a) Where a date is named for performance of the Contract unless such a period is extended by mutual consent in writing the Customer shall accept performance within that period.

(b) Any time or date for performance of the Contract named by the Company is an estimate only and (save where the provisions of clause 13 hereof apply) the Company shall not be liable for the consequences of any delay.

(c) The Customer shall provide to the Company such details as may be necessary or may be required by the Company to enable the Company to perform the Contract. If for any reason not related to any act of default by or on the part of the Company the Customer is unable to accept performance of the Contract at the time when the Company is ready and willing to perform the Contract the Customer shall indemnify the Company in respect of any losses occasioned to the Company by reason of such failure on the part of either the consignee or the Customer.

(d) Should default be made by the Customer in paying any sum due under this or any other Contract between the parties as and when it becomes due the Company shall have the right either to suspend all further performance of the Contract until default is made good or to cancel the Contract so far as any Goods remain to be delivered or Services remain to be done.

(e) Whilst the Company will endeavour to inform the Customer when the Services are to commence, the Company shall in no way be liable for failure to do so.

8 Limitation of Liability

(a) Save as herein expressly provided, no warranty, condition, description or representation to be taken to have been given or implied by these conditions nor is any warranty condition, description or representation to be taken to have been given or implied from anything said or written in negotiations between the parties or their representatives by or on behalf of the Company prior to the Contract and all statutory or other warranties conditions, descriptions or representations expressed or implied as to the subject of the Contract are hereby expressly excluded.

(b) Without prejudice to the generality of the foregoing, it is specifically agreed that the Company will in no circumstances be liable;

i. For any direct, indirect or consequential loss sustained by either the Customer or any third party as a result of any breach of Contract by the Company.

ii. For any loss occasioned to either the Customer or any third party arising out of any damage to or destruction of any property of any type on the premises of the Customer or the third party

during the performance of the Contract howsoever occasioned.

iii. For any direct, indirect or consequential loss sustained by either the Customer or any third party as a result of the Customer, its agents or employees or any third person interfering or in anyway altering the erection of the Goods.

(c) In the event of the Company being found liable for any loss or damage (notwithstanding the provisions of any of these conditions) unless expressly provided, the liability shall in no event exceed the Contract Price.

(d) Nothing in these conditions shall restrict the liability of the Company for breach of Contract by or negligence of the Company, its agents or servants which causes death or personal injury or where the Customer is a Consumer, for any breach of Contract which results in the Company being liable under part II of the Consumer Protection Act 1987.

(e) The Company’s liability shall in any event cease if:

i. The Customer shall not have paid in full any invoices from the Company on the due date,

ii. The Company’s representatives are denied full and free right of access to the Goods and/or the site where the Services have been effected.

iii. The Customer permits persons other than those approved or authorised by the Company to effect any replacement of or repairs to the Goods.

(f) In the event of any claim being made against the Customer by reason of any matter to and in respect of which the Company may be liable under these conditions the Customer shall notify the Company in writing within 14 days of receipt by him of notice of such claim. In these circumstances the Company may on its election conduct all negotiations for the settlement of the said claim and any litigation that may arise therefrom. The Customer shall not unless and until the Company shall have failed to take over the conduct of such negotiations or litigation make any admission which might be prejudicial thereto. The Customer shall at the request of the Company afford all available assistance for any such purpose. Notwithstanding the provisions of any other clause in this agreement if the Customer shall be in default of its obligations under this clause the Company shall be under no liability to indemnify the Customer in respect of any such claim.

(g) Any allegations by the Customer that the Company is in breach of the Contract by reason of the Services rendered, the Goods themselves, or the dates of the Contract, shall be made, if possible within 48 hours of the termination of the Contract and in any event within 7 working days of the termination of the Contract.

9 Health and Safety

Any liability for ensuring the compliance with any requirement statutory or otherwise concerning health safety or welfare or any other matter which may relate to or affect the specification of the Goods or the Services rests exclusively on the Customer.

10 Approvals and Consents

(a) Unless otherwise agreed in writing by the Company the responsibility for obtaining all approvals or consents for the Services maybe required by statute contract or otherwise shall be that of the Customer.

(b) Where the Company at the Customers request commences performance of the Contract before any required approvals or consents have been obtained the Customer will;

i. Indemnify the Company against any liability arising from such performance

ii. In the event of such permissions or consent being refused, indemnify the Company against all losses arising from such refusal.

11 Sub Contracting

The Company reserves the right to sub contract the performance of the whole or part of the Contract and if so sub contracted, the Customer and sub contractor shall be deemed to be subject to these conditions.

12 Waiver

No waiver of any breach of these conditions shall be held to be a waiver of any other or any subsequent breach. The failure of the Company to enforce at any time any provision of these conditions shall in no way be construed to be a waiver of such provision nor in any way affect the validity of these conditions or any part thereof or the right of the Company to enforce each and every provision thereof.

13 Notices

Any notice given hereunder shall be in writing and shall be sent by registered post or the recorded delivery services addressed in the case of a notice to the Company to its head office and in the case of a notice to the Customer to its last known place of business. Any notice sent by post shall be deemed to have been served on the day following the date on which it shall have been posted and proof of posting shall be sufficient evidence of service.

14 Termination

If the Customer shall make default in or commit breach of any of its obligations to the Company or if any judgement shall be entered against the Customer or distress or execution shall be levied upon the customer his property or assets or if the Customer shall make any offer to make any arrangement or composition with creditors or commit any act of bankruptcy, or if any petition or receiving order shall be presented or made against it, if the Customer shall be a limited company and any resolution or petition to wind up such company business shall be passed or presented otherwise than for reconstruction or amalgamation or if a receiver of the Customer’s undertaking property or assets or any part thereof shall be appointed, the Company shall have the right forthwith to determine any contract then subsisting and upon written notice of determination being posted to the Customer at the Customer’s last known address any subsisting Contract shall be deemed to have been determined without prejudice to any claim or right the Company might otherwise make or exercise.

15 Variations

No variations of these conditions will be permitted unless the same are authorised in writing by a Director of the Company

16 Arbitration

Any difference or dispute arising between the Company and the Customer in respect of any matter arising under a Contract governed by these conditions shall if the Company so agrees be referred to arbitration in conformity in all respects with the provisions of the Arbitration Acts or any statutory modification or re-enactment thereof for the time being in force.

17 Proper Law

These conditions and any Contract concluded subject thereto shall be construed in all respects in accordance with English Law and the parties agree to submit to the sole jurisdiction of the English Courts.

18 Force Majeure

The Company shall in no way be liable for any loss or damage occasioned during the Contract arising from:

i. Act of God;

ii. Any consequences of war, invasion, act of foreign enemy, hostilities (whether was be declared or not), civil war, rebellion, insurrection, military or usurped power or confiscation, requisition, destruction of or damage to property by or under the order of any Government or public or local authority;

iii. Act or omission of the Customer, servants or agents or any of them;

iv. Riots, civil commotions, lock-outs, general or partial stoppage or restraint of labour from whatever cause.