

**MERLIN ENTERTAINMENTS GROUP  
STANDARD CONDITIONS OF PURCHASE  
FOR GOODS AND SERVICES**

**1.** In these Conditions:

1.1 The following expressions shall have the following meanings:

**"Attractions"** the trading division(s) or attraction(s) of Merlin named in the Order and by or on behalf of which the Order is placed;

**"Conditions"** the standard terms and conditions of purchase of Merlin as set out herein and including any additional terms and conditions of purchase agreed in Writing by Merlin;

**"Delivery"** delivery of Goods and/or Services at the Attraction and off-loading of the Goods from any transport used and "Deliveries" and "delivered" shall be construed accordingly;

**"Delivery Date"** such date as is specified in the Order and such time on this date as the Attraction's Distribution Centre subsequently notifies to the Supplier for performance of the Supplier's obligations;

**"Delivery Requirements"** the delivery requirements of Merlin as stipulated in the Order or attached as Schedule 2 (or both as applicable);

**"Goods"** the goods (including any instalment of the goods or any part of them) which are the subject of the Order;

**"Merlin"** the legal entity within the group of companies known as The Merlin Entertainments Group (which comprises Merlin Entertainments Group Luxembourg Sarl and each of its directly or indirectly owned subsidiaries) which shall have sought the goods or services in question (regardless of the company or division named in the Order) which entity shall be considered to have acted on its own behalf and, for the purpose only of conferring on them the benefit of Merlin's rights under the relevant contract, on behalf of all other members of The Merlin Entertainments Group of companies and **"Merlin Group"** shall mean all of such entities;

**"Order"** an order placed by Merlin for the Supply of Goods and/or Services whether orally or in Writing duly signed by an authorised representative of Merlin and stating the Attraction's Order number;

**"Services"** the work, installation or services or any of them to be provided and where necessary delivered by the Supplier pursuant to the Order;

**"Supplier"** the individual, firm, company or other party who receives an Order from Merlin for the Supply of Goods and/or Services including their employees, agents or representatives;

**"Supply"** includes but shall not be limited to, where the context so admits, lease, hire or loan of Goods and supply or provision of Services and "supplies" "supplying" and "supplied" shall be construed accordingly for the term set out in the Order;

**"Writing"** includes facsimile transmission, electronic communication and comparable means of communication and "written" shall be construed accordingly;

1.2 Words importing the singular number shall include the plural and vice versa, and words importing persons shall include bodies corporate, unincorporated associations and partnerships.

1.3 Only persons authorised by Merlin to negotiate and/or enter into contracts on behalf of Merlin shall be deemed to have authority from Merlin for their instructions and acts.

1.4 In the event of any inconsistency between the printed version of these terms and conditions provided to the Supplier and the version which appears on the website [www.merlinentertainments.biz](http://www.merlinentertainments.biz), unless otherwise expressly agreed in writing by Merlin, the version which appears on such website as at the date of acceptance by Merlin of any Order shall prevail.

## **2. OFFER**

The Order constitutes an offer on the part of the Supplier to provide the Goods and/or Services to Merlin on the terms set out in the Order subject to these Conditions.

## **3. ACCEPTANCE OF ORDER**

Acceptance of an Order shall be deemed to incorporate these Conditions (and no others unless expressly agreed in Writing by Merlin in such acceptance) and shall only be valid if in Writing or if confirmed by Merlin in Writing. In the case of any conflict between these Conditions and any other terms or conditions which might otherwise apply (including, without limitation, those of the Supplier) these Conditions shall prevail.

## **4. QUALITY AND DEFECTS**

4.1 The Supplier will at all times ensure that all Goods and/or Services and all packaging and labelling relating to Goods supplied shall:

- 4.1.1 be of satisfactory quality;
- 4.1.2 correspond with the Order and any relevant specification or sample;
- 4.1.3 be fit for all purposes for which they may reasonably be used and in addition for any purpose expressly specified by Merlin;
- 4.1.4 comply with all relevant laws, governing specifications as to quantity, quality, standards or description which shall include (where applicable) as a minimum compliance with all relevant standards including, inter alia, the relevant regulations, statutes, codes of practice, best practice of the relevant trade or profession, British Standard, European Standard or International Standard applicable both to the country or state in which the Goods are manufactured and to the country or state where the Goods are to be used;
- 4.1.5 be carried out by properly trained and qualified personnel using all reasonable skill, care and diligence and in a good and workmanlike manner; and
- 4.1.6 in the case of Goods containing foodstuffs, when delivered, comply with all relevant food and hygiene legislation.
- 4.1.7 comply with such additional quality and safety standards as Merlin may from time to time notify to the Supplier in Writing (and, in this respect, Merlin will use its reasonable endeavours to provide reasonable notice of any material additional quality and safety standards).
- 4.2 It is a fundamental term of these Conditions that the Supplier will at all times ensure that all Goods and/or Services supplied and all packaging and labelling relating to such Goods are manufactured and/or designed and/or supplied in accordance with best industry standards by persons or bodies employing only adult workers working in conditions which are not injurious to health or safety and which comply with all legislation which is applicable to such manufacture, design or supply.
- 4.3 The Supplier shall provide such evidence (and shall provide such access to premises and other assistance) to Merlin and any person acting on Merlin's behalf as Merlin shall require to show that the Goods and/or Services are manufactured, designed and supplied in accordance with these Conditions (including, without limitation, Conditions 4.1 and 4.2) and the Supplier shall indemnify and keep Merlin indemnified for any loss or damage sustained by Merlin as a result of any breach of these Conditions (including, without limitation, Conditions 4.1 and 4.2).
- 4.4 Merlin reserves the right to reject any Goods which in Merlin's absolute opinion:

- 4.4.1 are faulty or do not conform to the quality quantity standard or description as specified in the Order; or
- 4.4.2 are not delivered by the Supplier on the Delivery Date; or
- 4.4.3 do not comply with these Conditions or the provisions of Conditions 4.1 and 4.2;
- 4.5 Merlin may return rejected Goods to the Supplier at the Supplier's risk and expense.
- 4.6 Without prejudice to any other rights of Merlin for breach by the Supplier where any of the Goods supplied to Merlin do not comply with these Conditions (including, without limitation, the provisions of Conditions 4.1 or 4.2) the Supplier shall at the option of Merlin forthwith upon notice being given to the Supplier replace all or any of such Goods with Goods which do so comply.
- 4.7 Merlin shall not be deemed to have accepted any Goods and/or Services until Merlin has had a reasonable time to inspect them following delivery or completion of performance or, if later, within a reasonable time after any latent defect in the Goods and/or Services has become apparent.
- 4.8 In the case of any breach by the Supplier of any provision contained in this Condition 4 Merlin shall be entitled to avail itself of any one or more of the remedies in Condition 13.

## **5. COMPLIANCE WITH REGULATIONS AND INTELLECTUAL PROPERTY**

- 5.1 The Supplier warrants and represents that:
  - 5.1.1 it shall comply with all applicable regulations or other legal requirements including British Standards, European and International Standards concerning the provision of the Goods and/or Services and concerning the design, manufacture, construction, quality, packaging, storage and Delivery of the Goods including the application of the "CE" mark to and other labelling requirements in connection with the Goods where applicable;
  - 5.1.2 the Goods shall be marked in accordance with Merlin's instructions (including, but not being limited to the attachment or inclusion of bar codes) and any applicable regulations or requirements of any carrier, and packed and secured so as to reach their destination in an undamaged condition and in compliance with these Conditions;
  - 5.1.3 the sale or use of the Goods by Merlin and/or the supply of the Services by the Supplier will not infringe the intellectual property rights or other rights of any third party, including but not being limited to, copyright, patent, trade name, trade mark or registered design;

5.1.4 The Supplier shall assign to Merlin the full and beneficial title to the copyright in and all other intellectual property rights in respect of all designs, drawings, models, plans, specifications, design details, photographs, brochures and other documents, works or data that the Supplier has produced or had produced pursuant to the contract of which these Conditions form part and additions and amendments made to them and all other intellectual property rights of a like nature in every country throughout the world for the full extent and period thereof including all extensions, revivals and renewals thereof.

5.1.5 The Supplier undertakes that it will not use any intellectual property of any member of the Merlin Group other than as expressly authorised in Writing by Merlin. The Supplier will indemnify and hold harmless Merlin in respect of any breach by the Supplier of this undertaking.

## **6. INDEMNITY**

6.1 The Supplier will indemnify Merlin in full against:

6.1.1 loss or damage or injury whatsoever and whensoever arising caused to Merlin or for which Merlin may be liable to third parties due to:

6.1.1.1 defective workmanship or unsound quality of the Goods and/or Services supplied (including, but not being limited to, any defects which become apparent after acceptance of the Goods and/or Services by Merlin or after sale of the Goods to any third party);

6.1.1.2 any wrongful or negligent act or omission on the part of the Supplier its employees agents representatives or sub-contractors in manufacturing, assembling, packing, delivering or supplying the Goods and/or Services or otherwise performing its obligations under these Conditions;

6.1.2 claims in respect of death or injury, howsoever caused, to any of the employees of the Supplier or those of the agents or sub-contractors while in or about the Attraction or other places of business of Merlin;

6.1.3 consequential loss (including loss of profits) or damage sustained by Merlin or for which Merlin may be liable, as a result of the failure of the Supplier to Supply the Goods and/or Services strictly in accordance with the provisions of the Order or these Conditions;

6.1.4 any claim against Merlin that the Goods and/or Services infringe or their importation use or resale infringes the patent, copyright, registered or unregistered design rights, trade marks or

trade names, moral right or other intellectual property rights or other rights of any individual, firm, company or other third party;

6.1.5 any loss, damage, liability, costs or expenses incurred by Merlin in connection with a recall of any defective Goods. The parties shall agree whether or not and how the goods in question should be recalled but in the absence of agreement the final decision rests with Merlin whose decision shall be final and binding on the Supplier;

6.1.6 any loss, damage, liability, costs or expenses which Merlin may suffer or incur by reason of any breach or breaches of any provision of Condition 5.

## **7. DELIVERY**

7.1 The Supplier acknowledges that the Attractions operate a just in time delivery system and that the time and date specified in the Order for performance of the Supplier's obligations under these conditions is of the essence.

7.2 Without prejudice to any other rights or remedies that Merlin may have for failure by the Supplier to Supply the Goods and/or Services in accordance with Condition 7.1 Merlin may at its option without prejudice to Condition 13, proceed with this contract and/or the Order but deduct from the price payable for the Goods and/or Services by way of partial compensation for the Supplier's failure to comply with the Delivery Date such amount as Merlin shall reasonably assess represents the loss to Merlin resulting from such delay.

7.3 Merlin only accepts responsibility for such quantities of Goods and/or level of Services as are specifically set out in the Order.

7.4 If Merlin terminates this contract pursuant to Condition 7.2 then Merlin shall pay to the Supplier only such sum as is due in respect of Goods which have been delivered to and accepted by Merlin and shall not be liable for any work in progress at the time of the termination or for any loss to the Supplier including consequential loss.

7.5 The Supplier will adhere to the stipulations set out in the Delivery Requirements.

7.6 Merlin shall not be bound to carry out any work to enable Delivery to take place but, if Merlin elects to carry out any such work, the Supplier shall pay on an indemnity basis to Merlin forthwith on receipt of a demand in Writing from Merlin all and any costs incurred by Merlin in enabling Delivery to take place.

## **8. PRICE**

- 8.1 The prices payable for Goods and/or Services ordered by Merlin shall be the prices listed in Schedule 1 (when a quotation/specification is requested by Merlin) or specified in the Order.
- 8.2 If no price has been specified pursuant to Condition 8.1 then the Supplier shall notify Merlin of the price of the Goods and/or Services specified in the Order. A contract will come into force only when Merlin has confirmed in Writing its agreement to the price stated pursuant to this Condition 8.2.
- 8.3 No variation in price will be accepted unless agreed by Merlin in Writing.
- 8.4 Where Goods and/or Services are subject to value added tax the amount legally demandable is to be rendered as a separate item of account.
- 8.5 Unless otherwise stated, the price of the Goods and/or Services shall be inclusive of all charges for packaging, packing, shipping, carriage, insurance and Delivery and any duties, impost or levies other than value added tax.
- 8.6 Merlin shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown in any price lists or other similar materials of the Supplier.
- 8.7 Merlin reserves the right to withhold, deduct or set-off from any moneys due or becoming due to the Supplier any moneys due or claimed by Merlin to be due from the Supplier to Merlin whether in respect of the Goods and/or Services supplied pursuant to the Order or otherwise.

## **9. PAYMENT**

- 9.1 Unless otherwise agreed in Writing by Merlin, payment shall be made in sterling within 45 days after the receipt by Merlin of the Supplier's invoice.
- 9.2 Invoices must be addressed to the person and address stated in the Order or as otherwise notified by Merlin from time to time and must quote the Supplier's advice number and the Attraction's Order number. Failure by the Supplier to comply with this Condition 9.2 shall result in rejection of the Supplier's invoice.
- 9.3 One invoice shall be rendered for each Order save where an Order is delivered on more than one Delivery Date when an invoice shall be rendered for each Delivery.
- 9.4 Without prejudice to Merlin's rights in relation to defective rejected or returned Goods and/or Services herein:

9.4.1 any query or dispute with regard to the amount paid in relation to an invoice which has not been resolved to the satisfaction of the Supplier must be notified in writing by the Supplier to the Purchase Ledger Department of the Attraction within 90 days of date of the invoice in respect of which the dispute relates in default of which the Supplier will be deemed to have irrevocably accepted the amount of such payment by Merlin as full and final settlement of such invoice;

9.4.2 any query or dispute with regard to any deduction made by Merlin by way of set-off or otherwise which has not been resolved to the satisfaction of the Supplier must be notified in writing by the Supplier to the Purchase Ledger Department of the Attraction within 90 days of date of the invoice in respect of which the dispute relates in default of which the Supplier will be deemed to have irrevocably accepted the amount of such payment, set-off or deduction by Merlin.

## **10. INSPECTION AND REVIEWS**

10.1 Merlin shall be allowed to inspect and test the Goods and/or Services and any material to be used in the manufacture of the Goods during any stage of manufacture and/or in the supply of the Services if Merlin so requires. If, as a result of inspection or testing, Merlin is not satisfied that the Goods and/or Services will comply in all respects with the Order and Merlin so informs the Supplier within 7 days of inspection or testing, the Supplier shall take such steps as are necessary to ensure compliance.

10.2 Such inspection shall not absolve the Supplier from responsibility or liability nor imply acceptance of the Goods and/or Services by Merlin and furthermore, acceptance of Goods and/or Services by Merlin at any stage or payment for such Goods and/or Services shall not prejudice Merlin's right of rejection of Goods and/or Services found to be defective, unsuitable or not in accordance with any sampling requirements, specifications, standards, instructions or requirements in force from time to time.

10.3 The Supplier shall meet authorised representatives of Merlin at such times and at such places as Merlin may require on not less than 3 days' notice to the Supplier to:

10.3.1 review trading performance;

10.3.2 discuss possibilities for improving sales of the Goods and/or provision of the Services; and

10.3.3 supply such information to Merlin as Merlin shall reasonably require.

## **11. RISK AND PROPERTY**

11.1 Risk of damage to or loss of the Goods shall pass to Merlin upon Delivery provided that the Goods delivered are strictly in accordance with the Order and these Conditions. For the avoidance of any doubt, loss of, or damage to the Goods prior to the passing of the title is at the risk of the Supplier.

11.2 The title to and property in the Goods shall pass to Merlin upon Delivery, unless payment for the Goods is made prior to Delivery, when it shall pass to Merlin once payment has been made and the Goods shall be appropriated by the Supplier to the Order forthwith upon such payment being made.

11.3 Notwithstanding the provisions of Condition 11.2, Merlin is entitled to resell the Goods before ownership of the Goods has passed to Merlin (for which purpose the Supplier hereby authorises Merlin to do so as its agent and to retain and apply any proceeds of sale in accordance with these Conditions).

11.4 If payment for the Goods is made prior to Delivery the Supplier undertakes that:

11.4.1 it is in possession of the Goods as bailee for Merlin until such time as they are delivered to the Attraction under the terms of these Conditions;

11.4.2 it will store the Goods separately from its own goods and/or all other goods of any third party and in such a manner which makes them readily identifiable as Merlin's Goods;

11.4.3 it will maintain the Goods in satisfactory condition insured on Merlin's behalf for their full price against all risks to the reasonable satisfaction of Merlin. The policy or policies of insurance referred to in this Condition 11.4.3 shall be shown to Merlin on request together with satisfactory evidence of payment of the premium or premiums;

11.4.4 it grants Merlin its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be (or may have been) designed, manufactured or stored in order to inspect them or to recover them;

11.4.5 the entire proceeds of such Goods or the insurance policy referred to in Condition 11.4.3 shall be held on trust for Merlin and shall not be mingled with any other money nor paid into any overdrawn bank account and shall at all times be identifiable as Merlin's money

## **12. SALE OR RETURN**

12.1 Where it has been agreed by the parties in Writing that the Goods are to be supplied on a "sale or return" basis, Merlin shall be entitled in its absolute discretion to return any unopened Goods to the Supplier at the Supplier's risk and expense:

- 12.1.1 within 21 days of the last day on which the Attraction is open to the public in any one year; or
  - 12.1.2 at a date to be agreed between the parties in Writing; or
  - 12.1.3 in the absence of agreement, 31<sup>st</sup> December in any year provided that if those Goods are perishable Goods, they are within the "use by" or "best before" date as indicated on the packaging.
- 12.2 If payment for the Goods has already been made, the Supplier shall refund by way of cheque or cash the total amount paid in respect of the returned Goods within 28 days of Merlin returning the Goods to the Supplier.
- 12.3 Without prejudice to any other provision of these Conditions, the Supplier undertakes to Merlin that if any Goods obtained supplied or procured by the Supplier are either:
- 12.3.1 "seconds"; or
  - 12.3.2 returned by a customer of Merlin; or
  - 12.3.3 rejected by Merlin in accordance with these Conditions.
- 12.3.4 Accordingly the Supplier undertakes not to convey title in any such Goods to a third party without such written consent from Merlin and without having previously removed all marks associated with Merlin and/or the Attraction. In addition, and without prejudice to the foregoing, such Goods may not be sold by the Supplier in the calendar year for which they were intended for sale by Merlin without the consent in Writing of Merlin.

### **13. BREACH AND REMEDIES**

- 13.1 Without prejudice to any other right or remedy which Merlin may have, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of these Conditions Merlin shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods and/or Services have been accepted by Merlin:
- 13.1.1 to forthwith terminate this Contract and/or the Order or any part of it by giving written notice to the Supplier at any time from the Delivery Date until Delivery of the Goods and/or provision of the Services;

- 13.1.2 to reject the Goods and/or Services (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods and/or Services so returned shall be paid forthwith by the Supplier;
- 13.1.3 at Merlin's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and/or Services or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the agreement between the parties are fulfilled;
- 13.1.4 to refuse to accept any further provision of the Goods and/or Services but without any liability to the Supplier;
- 13.1.5 to carry out at the Supplier's expense any work necessary to make the Goods and/or Services comply with the Order; and
- 13.1.6 to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of these Conditions.

#### **14. TERMINATION**

- 14.1 The Order may be cancelled at any time by Merlin giving the Supplier notice in Writing in which event a fair and reasonable price shall be paid for all work in progress at the time of the cancellation and subsequently received by Merlin but so that Merlin shall not be liable for any loss to the Supplier including consequential loss. Merlin shall have the right at any time by giving notice in writing to the Supplier to terminate the contract forthwith if:
  - 14.1.1 the Supplier commits a breach of any of the terms and conditions of the contract;
  - 14.1.2 any distress, execution or other process is levied upon any of the assets of the Supplier;
  - 14.1.3 the Supplier has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or documents are filed with the court 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, or a resolution is passed or a petition presented to any court for winding up of the Supplier or for the granting of an administration order in respect of the Supplier or

any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier;

14.1.4 the Supplier ceases or threatens to cease or Merlin has reason to believe that the Supplier shall cease to carry on its business; or

14.1.5 the financial position of the Supplier deteriorates to such an extent that in the opinion of Merlin the capability of the Supplier adequately to fulfil its obligations under the contract has been placed in jeopardy.

14.2 If Merlin terminates this contract pursuant to Conditions 13 or 14 then Merlin shall pay to the Supplier only such sum as is due in respect of the Goods and/or Services which have been supplied to and accepted by Merlin and shall not be liable for any work in progress at the time of the termination or for any loss to the Supplier including consequential loss.

14.3 The termination of the contract, however arising, will be without prejudice to the rights and duties of Merlin and the Supplier accrued prior to termination. The Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

## **15. ASSIGNMENT**

15.1 The Supplier shall not assign, transfer, sub-let or otherwise sub-contract the Order or any part thereof without the prior written agreement of Merlin.

15.2 Merlin may assign or novate all or any part of this contract to any person and the Supplier will, upon written request by Merlin, enter into such further documentation as may reasonably be required to give effect to such assignment or novation.

## **16. WAIVER**

16.1 Merlin may at any time by notice in Writing to the Supplier waive, either wholly or in part and to the extent to which it confers rights upon Merlin, any provision in the Order or these Conditions.

16.2 No waiver by Merlin of any breach of any provision in the Order or these Conditions by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision and Merlin shall not be prejudiced by any forbearance or indulgence granted by it to the Supplier.

## **17. NOTICES**

17.1 Any notice required or permitted to be given by either party to the other under the Order or these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

**18. SEVERABILITY**

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

**19. LAW**

19.1 The Order and these Conditions shall be governed by the laws of England.

19.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of England over any claim or matter arising under or in connection with the Order and these Conditions.

**20. CONFIDENTIALITY**

20.1 The Supplier shall at all times keep confidential (and to procure that its employees agents and sub-contractors shall keep confidential) any information (other than information which is in the public domain otherwise than as a result of a breach hereof) which it may acquire in relation to the business and affairs of Merlin and shall not use or disclose such information except with the consent in Writing of that other party or as required by law.

**21. INSURANCE**

21.1 The Supplier shall have in force and shall require any sub-contractor to have in force for so long as the Supplier supplies Goods and/or Services to Merlin and for a period of 6 years thereafter:

21.1.1 employer's liability insurance in accordance with any legal requirements for the time being in force; and

21.1.2 public liability insurance, professional indemnity insurance and product liability insurance covering as a minimum all matters which are the subject of the Order and these Conditions in the sum of not less than £5,000,000 (five million pounds) for any one incident (with not less than £5,000,000 of such insurance cover being available in respect of the Order as at the date

the Order is accepted and throughout the period for which such insurance is required to be held hereunder).

21.2 The policy or policies of insurance referred to in this Condition 21 shall be purchased from a reputable insurer reasonably satisfactory to Merlin, shall be on an occurrence basis and shall be shown to Merlin on request together with satisfactory evidence of payment of the premium or premiums.

## **22. REPRESENTATIONS**

22.1 The Supplier accepts and acknowledges that, in entering into this contract, Merlin has relied on information and representations made by the Supplier including but not being limited to:

22.1.1 details and information provided in response to any Invitation to Tender as set out in Schedule 3 or otherwise;

22.1.2 details inserted in any Contractor Selection and Approval Document as set out in Schedule 4 or otherwise;

22.1.3 information or specifications provided by or on behalf of the Supplier in connection with the provision of the Goods or Services prior to the date of the Order;

and the Supplier warrants and represents that all such information is true accurate and complete in all respects.

22.2 Without prejudice to any other rights or remedies that Merlin may have for failure by the Supplier to supply true accurate and complete information to Merlin in accordance with Condition 22.1 Merlin may without prejudice to Conditions 13 and 22.1, proceed with this contract and/or the Order but deduct from the price payable for the Goods and/or Services by way of compensation for the Supplier's failure to comply with Conditions 13 and 22.1 such amount as Merlin shall reasonably assess represents the loss to Merlin resulting from such failure.

## **23. THIRD PARTY RIGHTS**

23.1 Any member of the Merlin Group may, with the written consent of Merlin Entertainments Group Limited, enforce the terms of this contract in accordance with the Contracts (Rights of Third Parties) Act 1999. No other person or body who is not a party to this Agreement shall have the right to enforce any of its terms by virtue of that Act.

**24. ENTIRE AGREEMENT**

- 24.1 These Conditions and the documents referred to in them, constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of these Conditions.
- 24.2 The Supplier acknowledges that in entering into this contract, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any Merlin representative (whether party to these Conditions or not) other than as expressly set out in these Conditions as a warranty by Merlin.
- 24.3 The only remedy available to the Supplier for breach of the warranties shall be for breach of contract under the terms of these Conditions.
- 24.4 Nothing in this Condition 24 shall, however, operate to limit or exclude any liability for fraud, fraudulent misrepresentation, death or personal injury to the extent that the same may not lawfully be excluded.

**25. FORCE MAJEURE**

- 25.1 If Merlin is prevented from performing any obligation hereunder (or if such performance shall be rendered materially more costly or onerous) by any reason beyond its reasonable control ("**Force Majeure**") then such obligation shall be suspended until such Force Majeure shall have ceased.

**26. NO PARTNERSHIP**

- 26.1 Nothing contained in this Contract shall or shall be deemed to constitute a partnership or a contract of employment between the parties

**27. MERLIN ETHICAL DEALING PRINCIPLES**

- 27.1 The Supplier undertakes to comply with the provisions of Schedule 5 (Merlin Ethical Dealing Principles). Compliance with this Condition is of the essence of the agreement between Merlin and the Supplier.
- 27.2 The Supplier consents to Merlin (or any person authorised by Merlin) to conduct any investigation or audit which Merlin, acting reasonably, considers to be necessary or desirable in order to ensure compliance by the Supplier with the Merlin Ethical Dealing Principles, including, without limitation, access to the premises of the Supplier. The Supplier will provide

such assistance to Merlin in connection with such investigation or audit as Merlin may reasonable request.

27.3 If Merlin reasonably considers that the provisions of Condition 27.2 require access to the premises of the Supplier, Merlin will use reasonable endeavours to provide reasonable notice to the Supplier unless to do so would, in Merlin's reasonable opinion, be likely to materially adversely affect the effectiveness of such access.

**SCHEDULE 1 - PRICE LIST**

**SCHEDULE 2 - DELIVERY REQUIREMENTS**

**SCHEDULE 3 - INVITATION TO TENDER**

**SCHEDULE 4 - CONTRACTOR SELECTION AND APPROVAL DOCUMENT**

## SCHEDULE 5 – MERLIN ETHICAL DEALING PRINCIPLES

Revised 11.5.09

### Additional Definitions applicable to this Schedule

The following additional definitions shall apply to this Schedule:

“**Merlin’s Ethical Dealing Principles**” the Ethical Dealing Principles of the Merlin Group as set out in this Schedule;

“**Inappropriate Person**” any person or entity:

- (a) where one third of its revenue is derived from the manufacture and sale of armaments and/or pornographic material and any person or entity currently engaged in:
  - (i) the exploitation of child labour; or
  - (ii) the use of forced labour; or
  - (iii) violations of human rights; or
  - (iv) involved in breaches of the international conventions listed in paragraph 1.1.1 of these Terms and Conditions; or
  - (v) violation of animal welfare rights or laws, which, in Merlin’s reasonable opinion, is materially adverse to the reputation of any member of the Merlin Group; or
  - (vi) breach of any environmental laws, which, in Merlin’s reasonable opinion, is materially adverse to the reputation of any member of the Merlin Group; and
- (b) which Merlin, acting reasonably, notifies to the Supplier in writing that it considers might bring any member of the Merlin Group into disrepute or would be inconsistent with the values and principles of any member of the Merlin Group; and
- (c) whose association with Merlin may, in the reasonable opinion of Merlin, in any way, depreciate, tarnish, jeopardise or otherwise prejudice the goodwill and reputation associated with any member of the Merlin Group or otherwise adversely affect the reputation and image of any member of the Merlin Group or bring them into disrepute or disregard anywhere in the world.

### Ethical Dealing Principles

1.1 Without prejudice to any of the other terms of these Conditions, it is a fundamental term of any contract or relationship between Merlin and the Supplier that the Supplier at all times complies with Merlin’s Ethical Dealing Principles (which, by entering into such contract or relationship, the Supplier undertakes to do) as set out below:

1.1.1 the supply of all Goods or Services to any member of the Merlin Group has been and will be undertaken in compliance with the following international conventions:

- (a) Forced labour (C29) <http://www.unhcr.org/refworld/docid/3ddb621f2a.html>;

- (b) Freedom of Association and Protection of the Right to Organise (C87)
- (c) Right to Organise and Collective Bargaining (C98);
- (d) Equal Remuneration (C100);
- (e) Abolition of Forced Labour (C105);
- (f) Discrimination (Employment and Occupation) (C111);
- (g) Minimum Age (C138);
- (h) Worst Forms of Child Labour (C182),
- (i) the European Convention on Human Rights (CETS 005) (this can be viewed at <http://conventions.coe.int/Treaty/en/Treaties/Word/005.doc>); and
- (j) the European Money Laundering Convention (this can be viewed at <http://conventions.coe.int/Treaty/EN/Treaties/Word/198.doc>).

The conventions referred to in paragraphs (a) to (h) are adopted by the International Labour Organisation and can be viewed at <http://www.ilo.org/ilolex/english/convdisp1.htm>.

- 1.1.2 none of the Supplier, its agents, sub-contractors, connected or associated persons or any person with whom the Supplier contracts in connection with the supply of such Goods and Services is an Inappropriate Person.
- 1.2 The Supplier will take such steps as are necessary to ascertain that third parties involved in the supply of such Goods or Services comply with Merlin's Ethical Dealing Principles and shall forthwith notify Merlin in writing in the event that it becomes aware that this is not the case.

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