

These terms are available in paper form on request or at www.london2012.com/procurementterms.

1 Definitions

1.1 In this Contract:

Business Day means a day (other than a Saturday or Sunday) on which banks are generally open for normal banking business in London;

Business Hours means 9.30 a.m. to 5.30 p.m. in the relevant location on a Business Day;

Connected Persons means, in relation to the Supplier and to the extent (directly or indirectly) involved in the provision of the Supplies, any company or other entity which is at the relevant time a subsidiary or holding company of the Supplier or a subsidiary of any such holding company (the words **subsidiary** and **holding company** having the meanings given in section 736 of the Companies Act 1985) and any and all of such entities' Personnel;

Contract means the contract between LOCOG and the Supplier consisting of the PO (as accepted by the Supplier), these Terms, the Contract Details (if any) and any other documents (or parts of them) incorporated into them or notified in writing by LOCOG to the Supplier;

Contract Details means the document (if any) agreed between the parties setting out terms in addition to those in these Terms and the Purchase Order;

Games means the Games of the XXX Olympiad and the XIV Paralympic Games that are to be held in 2012 principally in London;

Games Body means each of the IOC, the IPC, the British Olympic Association, the British Paralympic Association, the Olympic Delivery Authority and (where the context admits) LOCOG or any other organising committee of an Olympic and/or Paralympic Games;

Goods mean any goods, products, materials or items (including any instalment or any part of them) that are the subject of the Purchase Order or supplied in the course of providing the Services;

Indemnified Parties means LOCOG, LOCOG's Personnel, each Games Body and each Games Body's Personnel;

Intellectual Property Rights means any and all copyright, database rights, rights in designs, trade marks, domain names, goodwill, patents, rights in confidential information and any other intellectual property rights (including, where relevant, all extensions, reversions, revivals and renewals of the same), in each case whether registered or unregistered and including all applications (and rights to apply) for protection of such rights and all similar or equivalent rights or forms of protection which now, or will in the future, subsist in any part of the world;

IOC means the International Olympic Committee;

IPC means the International Paralympic Committee;

LOCOG means The London Organising Committee of the Olympic Games and Paralympic Games Limited, a company registered in England and Wales under number 5267819, whose registered office is at One Churchill Place, Canary Wharf, London E14 5LN;

Losses means any liabilities, losses and damage, claims, actions, demands, costs, charges and expenses of any nature whatsoever, including any legal fees or other costs incurred by a person in enforcing its rights under this Contract;

Materials means all materials and works (in whatever form, including text, visual materials, information and software), or part of the same, created by or for the Supplier as part of or in connection with the provision of the Supplies (excluding materials or works, or part of the same, comprising Intellectual Property Rights subsisting before the date of this Contract and developed independently of the Supplier's obligations under this Contract);

Personnel means, in relation to a person, any and all officials, officers, trustees, members, directors, employees, consultants, advisers, agents, representatives, clients, contractors and sub-contractors of such person;

Premises means the location(s) where the Supplies are to be delivered, as specified in the PO or Contract Details (or advised by LOCOG to the Supplier within a reasonable time before such delivery);

Price means the price of the Supplies stated in the PO or Contract Details;

Protected Marks means any trade marks, trade names, logos or other Intellectual Property Rights of any Games Body, including marks and designs relating to the Games, any Olympic or Paralympic teams, the Olympic symbol (i.e. the five interlocking rings of the IOC), the Paralympic symbol (i.e. the three agitos of the IPC), the words "Olympic", "Olympian", "Olympiad", "Paralympic", "Paralympian", "Paralympiad" (and their plurals) and/or any other word(s), motto, symbol or representation protected by the Olympic Symbol etc. (Protection) Act 1995 and/or the London Olympic Games and Paralympic Games Act 2006 (whether as now in force or as amended in the future) and/or by any other legislation enacted in relation to the Games.

Purchase Order or **PO** means the document setting out the Supplies incorporating these Terms and the Contract Details (if any);

Service Levels means those standards of performance (if any) incorporated in the Contract Details to be achieved by the Supplier in providing the Supplies;

Services means any work or services (or any part of them) to be provided by the Supplier, as described in the PO or the Contract Details;

Supplier means the person that is to provide the Supplies under this Contract, as specified in the PO and whose registered number, registered address and other details have been provided to LOCOG in the Supplier Details Form;

Supplier Details Form means LOCOG's standard supplier details form as completed by the Supplier in connection with LOCOG's first order for the purchase of goods and/or services from the Supplier;

Supplies means the Goods and/or the Services, depending on the context; and

Terms means LOCOG's standard terms and conditions of procurement of goods and/or services as set out in this document.

1.2 In this Contract, unless the context otherwise requires, any reference to:

- (a) a **clause** is to a clause of these Terms;
- (b) in relation to Supplies, delivery or provision (and related words) shall be interpreted as a reference to the delivery, provision, supply, performance, licence, lease, hire and/or loan of Supplies;
- (c) including, other or any similar word shall not limit the generality of any preceding words;
- (d) **parties** means the parties to this Contract, and any reference to party shall be construed accordingly;
- (e) a **person** includes any individual, company, partnership, joint venture, association, organisation, trust, state or state agency (in each case whether or not having separate legal personality);
- (f) **writing** or **written** includes fax transmission and comparable means of communication, but not email;
- (g) the singular includes the plural and vice versa, and use of any gender includes the other genders;
- (h) headings shall be disregarded in the interpretation of this Contract;
- (i) any document to which this Contract refers shall be construed as a reference to such document as amended, varied, supplemented, novated and/or replaced in any way from time to time; and
- (j) a statute or statutory provision is a reference to that statute or statutory provision as amended, consolidated, replaced and/or re-enacted from time to time and includes any subordinate legislation from time to time in force made under it.

1.3 In this Contract, unless the context otherwise requires, an obligation imposed on the Supplier shall include an obligation on the Supplier to procure compliance by the Connected Persons with such obligation.

2 Offer and acceptance

- 2.1 Receipt of a PO by the Supplier constitutes an offer by LOCOG to obtain Supplies from the Supplier which shall be deemed to have been accepted on the Supplier either confirming its acceptance in writing duly signed by or on behalf of the Supplier or providing (or beginning to provide) all or part of the Supplies.
- 2.2 This Contract applies to the exclusion of any terms and conditions submitted in any way by or on behalf of the Supplier in respect of the Supplies (**Supplier Conditions**) despite any contrary provisions in any of the Supplier Conditions, and the Supplier waives any right that it otherwise might have to rely on the Supplier Conditions.

3 Delivery

- 3.1 The Supplier shall deliver the Supplies in accordance with the instructions and date(s) specified in the PO or Contract Details (or, if no date or timescale is specified, within 14 days after the date of the PO or such earlier time as may be reasonable in all the circumstances). Time is of the essence for delivery of the Supplies.
- 3.2 The Supplier shall ensure that:
 - (a) the Goods are marked and delivered in accordance with LOCOG's instructions (including, if required by LOCOG, using LOCOG's official logistics partner from time to time) and any applicable regulations or requirements of the carrier and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course; and
 - (b) each delivery of Goods is accompanied by a delivery note which shows the PO number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

- 3.3 Unless otherwise agreed by LOCOG in writing, all Goods shall be delivered to the Premises during Business Hours with transportation charges and any other applicable charges pre-paid by the Supplier. LOCOG shall not be obliged to carry out any work to enable delivery of Supplies to take place. The Supplier shall off-load Goods at its own risk, as directed by LOCOG. Except where expressly agreed in writing to the contrary, the Supplier shall at its own cost provide all materials, parts, components and replacements and all computer programs needed to provide the Supplies. The Supplier shall on demand provide to LOCOG, without charge, copies of the Materials, available technical data, safety data, technical bulletins and other appropriate information and material relating to the Supplies.
- 3.4 LOCOG and, if applicable, the Supplier shall inspect the Goods as soon as practicable following delivery and agree an inventory of the quality and quantity delivered. LOCOG shall not be liable for any damage found on such inspection. If LOCOG in its reasonable opinion considers any of the Goods to be in an unsuitable condition or of the wrong quantity either on delivery or subsequently, LOCOG shall notify the Supplier who shall promptly arrange repair, remedy, correction or replacement of such Goods within twenty-four (24) hours following the time of LOCOG so notifying the Supplier. If the Supplier has not fully repaired, remedied or corrected (as appropriate) such Goods by the expiration of such twenty-four (24) hour period, LOCOG shall be entitled to enforce the remedies set out in Clause 11.
- 3.5 Unless otherwise specified, the Supplier shall be responsible for installing, commissioning and decommissioning the Goods.
- 3.6 The Supplier shall give LOCOG prior written notice of the delivery under this Contract of any Goods having a hazard to the health and safety of persons or property, identifying those hazards and giving full details of any precautions to be taken by LOCOG on the delivery of such Goods and their subsequent storage or handling. The Supplier shall notify LOCOG in writing of all requirements and restrictions imposed by governmental and other authorities or persons relating to the possession, use or onward supply of the Goods.
- 3.7 The Supplier shall, and shall ensure any personnel used to supply the Supplies shall, comply with all applicable laws and regulations including where applicable monitoring under the Safeguarding Vulnerable Groups Act and all reasonable conditions of access including, where LOCOG considers appropriate, security screening and other requirements imposed by the Premises' owner(s).
- 3.8 The Supplier agrees to work with the commercial partners of LOCOG in the delivery of the Supplies.

4 Title, risk and insurance

- 4.1 Where LOCOG is purchasing Goods:
- (a) title to the Goods shall pass to LOCOG upon the earlier of delivery or the first payment by LOCOG in respect of the Goods and Supplier shall take all reasonable steps to pass title in such Goods to LOCOG including, where requested, completing a vesting certificate; and
 - (b) risk in the Goods shall only pass to LOCOG upon delivery of the Goods in accordance with this Contract.
- 4.2 Where LOCOG is hiring Goods:
- (a) title to the Goods indicated as being hired by LOCOG from the Supplier shall remain the property of the Supplier. LOCOG agrees to keep such Goods free of any encumbrance and not to sell or otherwise deal with such Goods other than in accordance with these terms. The Supplier shall supply all associated plant, tackle, tools and documentation necessary for commissioning, use and decommissioning of such Goods as set out in this Contract;
 - (b) the Supplier hereby permits LOCOG, its contractors and other entities authorised by LOCOG to assist organising the Games to use such Goods in accordance with the manufacturer's instructions and recommendations between the dates specified (**Hire Period**) subject to these terms and conditions;
 - (c) the Supplier shall not be entitled to charge for: damage comprising a level of wear and tear which due to the nature of the Games shall be equivalent to such Goods being used continually throughout the Hire Period; return by LOCOG of such Goods with any brand names still masked; damage or defect which is determined to pre-exist LOCOG's use of such Goods, whether or not identified during the course of the hand-over inspection; any modification to such Goods which has been authorised by the Supplier; any damage resulting from improper design or manufacture; any damage resulting from an action, omission or breach by the Supplier; any other damage which is not notified by the Supplier to LOCOG by the date of the final post-Games settlement invoice (together **Excluded Damage**);
 - (d) within thirty (30) days after return to the Supplier, the Supplier shall deliver an invoice to LOCOG, for the Supplier's actual, reasonable and substantiated costs to repair, remediate or correct damage other than Excluded Damage, on the same rates (if any) as in this Contract. Such invoice shall be in full and final settlement for all claims in connection with such Goods; and
 - (e) LOCOG shall have no liability or responsibility for: (i) any loss or damage to and any charges or other payments to the Supplier for, any property of the Supplier including such Goods which occurs after the date due for collection by Supplier; or (ii) theft or loss of Goods not caused by the negligence of LOCOG.

- 4.3 The Supplier shall maintain complete and accurate books and records relating to this Contract until December 31, 2014. The Supplier shall, upon the request of LOCOG, acting reasonably, provide LOCOG or its nominee with: (a) such financial information relating to the Supplier as LOCOG requests; (b) access to its lenders/bankers, and copies of any necessary authorisations to such lenders/bankers, to provide LOCOG with full disclosure of information in the possession of the lenders/bankers concerning the Supplier; (c) the right to review any and all of the Supplier's financial and production information, and will provide such access to premise and personnel, information and authorisations as are necessary for it to make such assessment and/or confirmation; and (d) access to the Supplier's production, operational and other facilities for the purposes of conducting inspections; (e) the right, upon reasonable notice to the Supplier and during the Supplier's regular business hours, to inspect or audit the Supplier's books and records to verify any matter relating to the Supplier's performance hereunder. LOCOG reserves the right to require the Supplier to enter into commitments entitling LOCOG to take possession of the Goods when LOCOG considers there is a risk of Supplier financial distress.

- 4.4 The Supplier shall, without prejudice to its obligations under this Contract or otherwise at law, at its own cost effect and maintain for the term of this Contract (and thereafter in compliance with good industry practice and applicable laws) insurance in an adequate amount (as may reasonably be expected to be maintained by a competent supplier experienced in providing supplies equivalent to the Supplies) and with a reputable insurer to cover all risks of and incidental to this Contract, including where applicable risk in the Goods before such risk passes under this Contract. The Supplier shall, on request, supply to LOCOG a copy of each insurance policy effected under this Contract, shall observe and perform all the warranties and conditions in each such policy and shall ensure that all premiums are paid when due, and that each such policy is maintained in full force and effect. The Supplier shall accept risk in any property of LOCOG which the Supplier removes from the Premises in performing this Contract.

5 Price and payment

- 5.1 The Price shall, unless otherwise agreed in writing by LOCOG, be in sterling and exclusive of VAT, but inclusive of all other taxes, duties, costs and charges (including charges for packaging, packing, shipping, carriage, insurance, warehousing prior to delivery and delivery to the Premises). LOCOG shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier.
- 5.2 LOCOG shall pay all invoices that are in LOCOG's reasonable opinion valid, correct and compliant in all respects with this clause 5, sixty days following the end of the calendar month of the date of invoice (or such greater and/or recurring period as the parties may agree in writing). This obligation shall be subject to any withholding obligations imposed on LOCOG by any authority having jurisdiction over this Contract. LOCOG reserves the right to deduct from any monies due or becoming due to the Supplier any monies due from the Supplier to LOCOG, whether in respect of this Contract or otherwise.
- 5.3 Invoices may be rendered only after the Supplies have been correctly delivered or provided in accordance with this Contract. The Supplier must issue invoices which quote the respective PO number and which, if the Supplier is VAT-registered, are valid VAT invoices. Where there are outstanding amounts after 9th September 2012 the Supplier shall promptly issue a consolidated account to LOCOG in full and final settlement of all liabilities in connection with the Contract and shall negotiate in good faith with LOCOG to reach settlement and invoicing of such amount.
- 5.4 If any sum under this Contract is not paid when due, then, as a substantial remedy for late payment, that sum shall bear interest from the due date until actual payment at 4% per annum over the base rate from time to time of Lloyds TSB Bank plc. The Supplier is not entitled to suspend deliveries of Supplies even if LOCOG is in breach (including for non payment). No payment shall be made for rejected Goods.

6 Quality of Supplies

- 6.1 The Supplier warrants, represents and undertakes that the Supplies will:
- (a) be of satisfactory quality, design, material and workmanship;
 - (b) be fit for any purpose held out by the Supplier or made known to the Supplier in writing (including, for these purposes, email) at the time when the PO is placed;
 - (c) be free from defects and any third-party lien, charge, claim, title, interest or other encumbrance;
 - (d) conform in all respects with the PO and the Contract Details (or sample approved in writing by LOCOG) and all laws, orders, regulations and bye-laws that are applicable to the Supplies;
 - (e) be provided in a proper and efficient manner by appropriately qualified, trained and experienced personnel under proper management and supervision, with all due care, skill and diligence, in accordance with good industry practice and to such high standard of quality as it is reasonable for LOCOG to expect in all the circumstances from a competent supplier experienced in providing supplies equivalent to the Supplies;
 - (f) not contain anything that is offensive or harmful, nor bring (nor will the Supplier bring) LOCOG, any other Games Body or the Games into disrepute; and
 - (g) meet the Service Levels (if any).

- 6.2 LOCOG's rights under this Contract are in addition to the statutory provisions implied in favour of LOCOG by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982.
- 6.3 The Supplier warrants and represents to LOCOG that it owns all of the rights and interests in and has title to all of the Intellectual Property Rights in the Materials and the use of the Materials or the Intellectual Property Rights in the Materials will not infringe the rights of any third party.
- 6.4 Where the Goods are hired to LOCOG the Supplier shall enforce all manufacturers' warranties applicable to such Goods for the benefit of LOCOG and shall reimburse LOCOG for any costs paid by LOCOG for repair of any such Goods, to the extent such repair is covered by a manufacturer's warranty or by or through an insurance claim.
- 6.5 The Supplier shall comply with any policies of LOCOG (including the Ethical Trading Initiative Base Code, the Code on Conflicts of Interests and the Code on Gifts and Gratuities) that are notified by LOCOG to the Supplier from time to time or published on LOCOG's website from time to time. Within 30 days of the date of the PO the Supplier shall complete the www.DiversityWorksforLondon.com "Gold Standard" Diversity Toolkit Survey and provide the results to LOCOG. The Supplier shall use all reasonable endeavours to reach "Gold Standard". By entering into this Contract the Supplier consents to LOCOG passing the Supplier's details to JobCentrePlus or any successor body running the guaranteed interview scheme for disabled candidates.

7 Intellectual property

- 7.1 In consideration of payment of the Price, the Supplier hereby unconditionally and irrevocably:
- (a) grants and assigns to LOCOG with full title guarantee the entire right, title and interest (whether vested, contingent or future), including all Intellectual Property Rights, present and (to the extent permitted by law) future, in and to the Materials to hold the same to LOCOG absolutely and throughout the world for the full period during which such rights subsist (including all renewals, revivals, reversions and extensions of the same) and thereafter (to the fullest extent possible) in perpetuity;
 - (b) to the extent that Intellectual Property Rights other than those assigned to LOCOG under clause 7.1 are required for LOCOG's use of the Supplies, grants (or, to the extent not owned or controlled by the Supplier, shall, where reasonably practicable, procure the unconditional, irrevocable grant in writing by the relevant third-party rights-holder(s) to LOCOG of) a royalty-free, non-exclusive and perpetual licence (or, where applicable, authorised sub-licence) to use, reproduce, maintain and modify such rights, together with the right to sub-licence, transfer, novate or assign such licence (or sub-licence) to the IOC and/or LOCOG's nominee at no cost to LOCOG; and
 - (c) waives and undertakes not to assert, and shall procure that all Connected Persons involved in the creation or production of the Materials shall (in writing) unconditionally and irrevocably waive and undertake not to assert, to the extent permitted by law, any moral rights or similar rights or other non-transferable rights that it or they may have in the Materials under any and all laws now or in future in force in any part of the world.
- 7.2 The Supplier acknowledges that the IOC is the exclusive owner of all rights in and relating to the Olympic Games, and the IPC is the exclusive owner of all rights in and relating to the Paralympic Games and that the Supplier shall neither acquire nor claim any title to the Protected Marks (as defined in the following clause) or the goodwill attaching to them. The Supplier shall not at any time do or suffer to be done any act or thing which is likely in any way to prejudice the validity of or title to such Protected Marks.
- 7.3 The Supplier shall execute all such documents and do all such acts (and/or procure the execution and doing) as LOCOG may reasonably require to give effect to this clause 7.

8 Data protection

The Supplier shall:

- (a) at all times comply with the Data Protection Directive (95/46/EC) and any equivalent national laws (Data Protection Legislation) in the performance of its obligations under this Contract;
- (b) in relation to its processing of any personal data (as defined in the Data Protection Legislation) transferred to the Supplier by LOCOG (or collected or generated by the Supplier on LOCOG's behalf), ensure that appropriate technical and organisational measures are taken against unlawful processing and/or accidental loss of such personal data;
- (c) promptly notify LOCOG on receipt of any subject access request requiring the release of such personal data and co-operate with LOCOG promptly in responding to any such subject access request within such reasonable timescales as may be specified by LOCOG; and
- (d) not cause any such personal data to be transferred outside the European Economic Area without LOCOG's prior written consent.

9 Confidentiality and Security

- 9.1 In this clause 9, **Confidential Information** means information (in any form whatsoever) that is confidential to a party (the **Disclosing Party**) or to any third party to whom the Disclosing Party owes a duty of confidentiality (including the provisions of the PO), but excluding confidential information

which, at the time of its disclosure by the Disclosing Party, is in the public domain otherwise than by breach of the terms of this Contract or law.

- 9.2 Without prejudice to any confidentiality undertaking signed by on or behalf of the Supplier before the date of the Contract, the **Receiving Party** shall:

- (a) treat Confidential Information as strictly confidential;
- (b) not disclose Confidential Information to any third party except: (i) to Connected Persons (if bound by equivalent obligations of confidentiality) that reasonably need to know the same in connection with the Receiving Party's obligations under this Contract; or (ii) if required to be disclosed by applicable law or order of a court of competent jurisdiction or other competent authority;
- (c) if requested, procure that each of the Connected Persons that has to whom Confidential Information is disclosed shall execute promptly and deliver a suitable confidentiality undertaking to the Disclosing Party; and
- (d) not use Confidential Information for any purpose whatsoever other than to fulfil the Receiving Party's obligations under this Contract.

- 9.3 The Supplier shall comply with the security policy and requirements as notified to it by LOCOG from time to time.

10 No marketing rights

- 10.1 In recognition of the international and historical significance of the Games, the Supplier agrees to respect and comply with the provisions of the Olympic Charter and the IPC Handbook (copies of which can be obtained from their websites) and shall not, and shall procure that none of the Connected Persons shall, knowingly participate in, facilitate or encourage any ambush marketing of the Games or act in any way which could harm the London 2012, Team GB, Paralympics GB, Olympic or Paralympic brands, trade marks or other proprietary rights or those of the sponsors of the Olympic and Paralympic families.

- 10.2 The Supplier shall, unless stated to the contrary in the Contract Details, have no right to use any of the Protected Marks or other Intellectual Property Rights (including the names "London 2012" and "LOCOG") and shall not, and shall procure that none of the Connected Persons shall, represent (directly or indirectly) that any Supplies provided by the Supplier have been endorsed or approved by LOCOG or any other Games Body, or that the Supplier, such Connected Persons or the Supplier's or such Connected Persons' products or services are in any way associated with LOCOG, the other Games Bodies or the Games (whether before, during or after the Games), including by publishing or issuing any statement (factual or otherwise) about the Games or the Supplier's provision of Supplies to LOCOG, except that the Supplier may make:

- (a) a factual statement that LOCOG is a client of the Supplier in client lists, provided that no special emphasis is placed on the statement and at least nine other clients are included in the list; and
- (b) such other statements about the Supplier's provision of Supplies to LOCOG as may be required by law.

- 10.3 Unless expressly instructed otherwise by LOCOG, the Supplier shall deliver the Supplies with no brands, logos, trade marks, trade names or other representations (whether relating to the Supplies, the Supplier, a Connected Person or anyone or anything else) (Branding) and shall follow any further instructions of LOCOG in relation to any Branding that is agreed to appear in, on or in relation to the Supplies.

- 10.4 In this clause 10.4 and clause 10.5, **Games Venue** means a venue (including any public area) at, in or through which an event (whether or not a sporting event) held as part of or in connection with the Games is to be held and any official training venue of the Games, and includes any construction site at which such venue is being constructed. The Supplier acknowledges that all Games Venues must be clean of all advertising, marketing and other branded materials, other than any materials approved in writing by LOCOG. Such approval shall always be required for Supplies to be supplied for use shortly before, during or shortly after an event held as part of or in connection with the Games. Such approval shall not be required at other times in relation to reasonable and proportionate:

- (a) manufacturer's Branding normally appearing on equipment used by the Supplier; or
- (b) Supplier's own Branding on equipment used in the ordinary course of its trade for the purpose of identification and not promotion or advertising (but excluding perimeter fencing and similar items).

- 10.5 If any individual Connected Person attends a Games Venue in a capacity other than as a spectator, the Supplier shall procure that such Connected Person shall follow the instructions of LOCOG in relation to his or her appearance and/or clothing and shall abide by the conditions of any Games accreditation granted to him or her.

- 10.6 LOCOG (and, after its dissolution, an appropriate Games Body) shall have the right to enforce the provisions of clauses 9 and 10, and the Supplier acknowledges that the provisions of such clauses are of such importance to LOCOG that damages may not be an adequate remedy for breach, and that injunctive relief may be a more appropriate remedy.

11 Remedies

- 11.1 If the Contract is terminated pursuant to Clause 14.2 or the Supplier fails, in any material respect, to provide the Supplies (or any substantial part of them) in accordance with any of the provisions of this Contract or otherwise fails to comply with this Contract, LOCOG shall be entitled to, without prejudice to its

other rights or remedies (and whether or not all or any part of the Supplies have been accepted by LOCOG):

- (a) rescind this Contract (in whole or in part);
- (b) reject the Supplies (in whole or in part) and, where possible, either: (i) return the rejected Goods to the Supplier at the risk and cost of the Supplier on the basis that a full refund for such Goods (including the cost of any such return) shall be promptly paid by the Supplier, LOCOG not being obliged to return to the Supplier any packaging or packing materials for such Goods; or (ii) request (orally, in writing or by email) that the Supplier collect the Goods at the first reasonable opportunity, failing which LOCOG may dispose of them at its discretion and recover any reasonable costs of disposal from the Supplier;
- (c) give the Supplier the opportunity, at the Supplier's expense, within 10 days after receipt of notice from LOCOG either: (i) to remedy any remediable defect in the Supplies; or (ii) to supply replacement Supplies and/or to carry out any other necessary work to ensure that the provisions of this Contract are fulfilled;
- (d) refuse to accept any further supply of the Supplies, but without any further liability to the Supplier;
- (e) recover from the Supplier any expenditure reasonably incurred by LOCOG in obtaining the equivalent supplies in substitution from another supplier;
- (f) carry out at the Supplier's expense any work reasonably necessary to make the Supplies comply with this Contract;
- (g) claim for Losses incurred in consequence of the Supplier's breach of this Contract; and/or
- (h) order acceleration of the provision of the Supplies by any or all available means provided that if the failure results from a delay by the Supplier, the resulting costs to the Supplier are for the Supplier's account or if the failure results from a delay by LOCOG, the order constitutes a change which shall be governed in accordance with this Contract. The Supplier acknowledges that due to the nature of LOCOG's obligations in relation to the Games, the Supplier may be required to effect such change on an expedited basis, even if the change (if any) in the Price as a result of such change has not yet been agreed or determined. Under no circumstances shall the Supplier delay any of the Services, including the change, pending agreement on resolution of valuation of the change.

11.2 Any remedy under this Contract shall be without prejudice to any other right or remedy which has already accrued, or subsequently accrues, to LOCOG, unless expressly agreed otherwise.

11.3 The Supplier agrees that its exclusive remedy for Losses in respect of this Contract shall be against LOCOG and no other Games Body.

12 Indemnity

12.1 The Supplier shall indemnify each Indemnified Party on demand against any Losses incurred or suffered by such Indemnified Party as a result of or in connection with:

- (a) any breach of the warranties, representations and undertakings contained in this Contract (including under clause 6.1);
- (b) any liability under the Consumer Protection Act 1987 in respect of the Goods or arising as a consequence of a breach of clause 3.7;
- (c) any act or omission of the Supplier or the Connected Persons in connection with the provision of the Supplies;
- (d) any claim that the Supplies or their possession or use by an Indemnified Party breaches any statute or regulation or constitutes, or is alleged to constitute, a tort against a third party; and/or
- (e) any infringement or alleged infringement of any Intellectual Property Rights or moral rights of any third party arising from the provision or use of the Supplies or the possession or use of any Materials supplied under this Contract.

12.2 No limitation of liability shall apply to the indemnity under clause 12.1(e).

13 Liability

13.1 Nothing in this Contract shall exclude or restrict: (a) the Supplier's liability for damage to or loss of property (including loss by theft); or (b) either party's liability for death or personal injury resulting from the negligence of that party or for any other liability which cannot be excluded by law.

13.2 Without prejudice to clause 13.1 and subject to clause 12.2, neither party shall be liable to the other under this Contract for:

- (a) any loss of profits, business, contracts, data, market shares, anticipated savings, goodwill or revenue; or
- (b) any indirect, special or consequential loss or damage whatsoever,

howsoever arising out of or in connection with the performance of its obligations under this Contract or any breach of this Contract, even if it was advised in advance of the possibility of such loss or damage.

13.3 Without prejudice to any other limitation or exclusion of liability under this Contract (but subject to clauses 12.2, 13.1 and 13.4), the total liability for all claims in contract, tort, misrepresentation, restitution or otherwise arising in

connection with the performance or contemplated performance of this Contract shall be limited to a sum equivalent to:

- (a) for LOCOG and the Games Bodies (in aggregate) to the Supplier, the Price; and
- (b) for the Supplier to LOCOG and the Games Bodies (in aggregate), 125% of the Price.

13.4 The limit on liability under clause 13.3(b) shall not apply to any liability of the Supplier to the extent that the loss is either covered by insurance of the Supplier under this Contract or would have been covered but for any act or omission of the Supplier in relation to such requirement.

14 Expiry, termination, cancellation and change

14.1 This Contract shall expire on: (a) 30 days notice by LOCOG to the Supplier; or (b) on 31 December 2012 (or such later date as the parties may agree in writing), whichever is the earlier.

14.2 LOCOG may, without prejudice to its other rights or remedies, terminate this Contract with immediate effect by giving notice to the Supplier at any time if the Supplier:

- (a) commits a material breach of this Contract and (if such breach is capable of remedy) fails to remedy the breach within 10 days (or such other period as LOCOG may reasonably specify in the circumstances) after receiving LOCOG's request in writing to do so; or
- (b) the Supplier commits repeated breaches (not being individually material) of this Contract, the cumulative effect of which constitutes a material breach and/or is sufficient to justify the reasonable inference that the Supplier would continue to deliver a sub-standard service in relation to a material provision of this Contract; or
- (c) is in breach of Clause 3.7; or
- (d) suffers an Insolvency Event (as defined in the following clause).

14.3 **Insolvency Event** means, in relation to the Supplier, that it: (a) enters into any composition or arrangement with all or any class of its creditors; or (b) is the subject of any execution, distress, sequestration or other process enforced against any part of its undertaking or assets; or (c) is unable to pay, or has no reasonable prospect of being able to pay, its debts within the meaning of sections 123, 267 and 268 of the Insolvency Act 1986 (as applicable); or (d) brings or commences, or is the subject of, winding-up, bankruptcy or any other insolvency proceedings; or (e) has a receiver, manager, administrative receiver or administrator appointed over all or any part of its undertaking or assets; or (f) takes, suffers or is the subject of (or proposes to take or is threatened with) any similar or analogous action, event or proceedings in any jurisdiction in consequence of debt; or (g) ceases, or threatens to cease, to carry on its business in the normal course.

14.4 This Contract shall terminate with effect from the date on which the IOC officially announces that the Olympic Games or the IPC officially announces that the Paralympic Games will not be held or will not continue. With effect from such date, each party shall be relieved of its obligations with respect to the cancelled games under this Contract (except for those obligations that are expressed to survive termination) and, subject to clause 14.7, LOCOG shall have no liability to the Supplier.

14.5 LOCOG may cancel any PO in respect of all or part of the Supplies, defer the date of delivery and/or payment in respect of any Supplies ordered or reduce the volume or scale of any Supplies ordered if the Supplier's performance of this Contract is prevented or delayed for more than 14 days (before 1 May 2012) or 24 hours (on or after 1 May 2012) due to acts, events, omissions or accidents which are beyond the reasonable control of either party.

14.6 LOCOG may (i) increase or decrease in part all or any part of the Supplies with a corresponding increase or reduction in the Price; or (ii) cancel in full the quantities of Supplies in any PO; at any time prior to the due date for their provision by giving the Supplier at least 14 days' notice.

14.7 Following expiry of this Contract or cancellation pursuant to Clauses 14.4, 14.5 or 14.6 of the whole or part of any PO by LOCOG:

- (a) LOCOG may return any Goods in accordance with clause 11.1(b);
- (b) LOCOG's sole liability in respect of Services shall be to pay to the Supplier a fair and reasonable price for all Services performed before the date of expiry or cancellation, provided that the Supplier submits a valid invoice for such price within 60 days after such date and provided that under no circumstances will the Supplier's claim include payment of any allowance for overhead or loss of profit; and

14.8 On any expiry, cancellation or termination the Supplier shall deliver up to LOCOG, or otherwise dispose of at LOCOG's direction, all Materials, Confidential Information and any other LOCOG property (including data) that may be in the Supplier's or any Connected Person's possession (and/or the Supplier shall procure such delivery up or disposal).

14.9 Expiry or termination of this Contract for whatever reason shall not affect either party's rights or remedies that have accrued prior to the date of termination, nor the coming into force or the continuance in force of any provision of this Contract which expressly or by implication is intended to come into or continue in force by or after expiry or termination, including clauses 1, 7, 8, 9, 10, 11, 12, 13, 14.7, 14.8, 15, 16, 17 and 18.

14.10 Except pursuant to Clause 14.6 or as otherwise permitted under this Contract, if LOCOG requests a change to the Contract the Supplier shall respond promptly to such request with a proposal for delivery and adjustment to the

Price (if any). No variation of this Contract shall have effect unless expressly agreed in writing and signed by the duly authorised representatives of LOCOG and the Supplier, and LOCOG shall not be liable for any charges or costs relating to any changes to the Supplies or additional Supplies unless such changes are so agreed.

15 Notices

15.1 Any notice to be given under this Contract shall be in writing, in English and signed by or on behalf of the party giving it and shall be served by hand, registered post (or, if posted to or from the United Kingdom, an internationally recognised courier service) or fax to:

- (a) the Supplier's address or fax number specified on the Supplier Details Form; or
- (b) LOCOG's registered office on the first page of these Terms or +44 (0)2032012001 marked for the urgent attention of Company Secretary; or
- (c) such other address or fax number as the recipient may designate in accordance with this clause.

15.2 A notice shall be deemed to have been received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by registered post, 48 hours after posting (or, if sent by an internationally recognised courier service, 48 hours from the date of delivery to the courier service); and
- (c) if transmitted by fax, at the time of successful transmission,

provided that, where delivery occurs outside Business Hours, notice shall be deemed to have been received at the start of Business Hours on the next following Business Day.

16 General

16.1 The Supplier may not, without LOCOG's prior written approval, assign, charge or otherwise dispose of all or any part of the benefit of this Contract or sub-contract any or all of its obligations under it. The Supplier shall provide LOCOG with reasonable details of any approved sub-contractors and shall remain solely liable to LOCOG for the performance of the Supplier's obligations under this Contract. Nothing in this Contract shall restrict LOCOG from assigning, charging, novating or otherwise disposing of this Contract (or any part of it).

16.2 This Contract contains the entire agreement of the parties in relation to the Supplies. Each party acknowledges that, in entering into this Contract, it is not relying on any representation or other assurance except as expressly set out or referred to in this Contract, provided that nothing in this Contract shall limit or exclude any liability for fraud. If the Supplies are to be delivered by instalments, this Contract shall be treated as a single contract and not severable.

16.3 No breach of any provision of this Contract shall be waived or discharged except with the express written consent of the parties. No failure to exercise or delay in exercising any right or remedy under this Contract shall operate as a waiver of that or any other right or remedy.

16.4 If a provision of this Contract is, becomes or is found to be illegal, invalid or unenforceable (in whole or in part), the legality, validity and enforceability of the remainder of this Contract shall not be affected.

16.5 Nothing in this Contract constitutes a partnership, relationship of agency or contract of employment between the parties.

16.6 In accordance with the Contracts (Rights of Third Parties) Act 1999 (Act), any Indemnified Party may enforce the terms of clause 12 and any Games Body may enforce the terms of clauses 6.1(f), 10, 11.3 and 12. The parties do not require the consent of any third party (including any Indemnified Party or Games Body) to rescind or terminate this Contract or to vary it in any way. Except as expressly provided in this clause 16.6, no provision of this Contract is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Contract, whether under the Act or otherwise.

17 Disputes

The parties shall use reasonable endeavours to resolve any dispute or claim arising in connection with this Contract (**Dispute**) by prompt discussion in good faith at a managerial level appropriate to the Dispute. Such discussion shall not be a pre-condition to the commencement of legal proceedings before any court. Unless this Contract has already been terminated, the parties shall continue to perform their obligations under this Contract regardless of the nature of the Dispute.

18 Governing law and jurisdiction

This Contract shall be governed by, and construed in accordance with, the law of England and Wales. Each party irrevocably submits for all purposes in connection with this Contract to the exclusive jurisdiction of the courts of England and Wales.