

DZA Technical Ltd - Terms and Conditions of Business

These Conditions apply to and form part of the Contract between DZA Technical Ltd, a company registered in England and Wales and whose registered office is at 41b Beach Road Littlehampton BN17 5JA ("DZA"), and you, the Customer ("You/Customer"). These Conditions supersede any previously issued terms and conditions of purchase or supply.

1. Interpretation

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

1.1. Definitions:

Commencement Date - the date upon which DZA receives an Order in writing placed by a Customer in response to a Quotation, together with receipt for the Deposit in cleared funds, or an authorised purchase order for the value of the deposit or quotation value.

Conditions - these terms and conditions and any amendment to them made in accordance with this agreement.

Contract - the contract between DZA and the Customer for the supply of Goods and/or Services in accordance with these Conditions which includes these terms and conditions, along with any agreed project specification, project brief and accepted Quotation.

Customer - the company, person, or firm which purchases the Goods and/or Services from DZA whether on their own behalf or as agent for a third party.

Customer Materials - Customer's own materials required for use in the Project including the Customer's logo and branding for which the Customer owns or licenses the Intellectual Property Rights.

Delivery date - The date on which DZA delivers the project to the client's address / Project Location, or other agreed delivery address.

Deposit - Unless otherwise stated in the Quotation, a payment by the Customer for sixty percent (60%) of the total amount quoted for the Project in the Quotation.

Data Protection Legislation - all legislation and regulatory requirements as amended extended or re-encated from time to time relating to the use of personal data and the privacy of electronic communications, including the UK implementation of the General Data Protection Regulation (UK-GDPR), Data Protection Act 2018 or any successor legislation.

Force Majeure Event - means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement including without limitation, strikes, lock-outs, labour disputes, acts of God, natural disasters, war, riots, civil commotion, malicious damage, imposition of sanctions, embargo, law, governmental order, rule, regulation or direction, accident, fire, explosion, unforeseen traffic or road closures, building collapse, flood, drought, storm, pandemic or epidemic, nuclear or chemical or biological contamination or terrorism. Inability to pay, delays in receiving payment from third parties or group companies, changes in budgeting or postponement or cancellation of events for reasons other than the aforementioned events are not Force Majeure.

Goods - the materials and goods (or any part of them) set out in the Order to be supplied by DZA to the Customer as part of the Project but excluding DZA Materials.

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

Order - the Customer's order for the supply of Services and/or Goods in respect of the Project as set out in DZA's Quotation and accepted by DZA in writing and any subsequent amendment to it agreed between the parties in accordance with the terms set out in these Conditions.

Project - the project for which the Customer requests a Quotation for specific Goods and Services to be provided and undertaken by DZA in respect of a project to be undertaken in accordance with the Project Specification.

Project End Date - the completion of the Project as agreed by the parties or at the latest the time at which DZA has met its obligations.

Project Location - such location as may be agreed in writing by the parties for the installation of a Project.

Project Specification - the detailed specifications for the Project provided to DZA by the Customer.

Quotation - DZA's quotation for the supply and/or maintenance of Goods and/or Services for the Project based on the Customer's Project Specification or request.

Services - the services supplied by DZA to the Customer as set out in the Quotation and accepted by the placing of the Order by the Customer.

DZA Materials - DZA's own materials used by DZA in respect of the Project including but not limited to rental assets, stock scenic flats, any temporary walls, furniture and electrical equipment.

1.2. Any reference to 'writing' or 'written' in these Conditions includes any method of reproducing words in a legible and non-transitory form, including email, but excluding fax;

1.3. a reference to a 'party' means either DZA or the Customer and includes that party's personal representatives, successors and permitted assigns;

1.4. any clause or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;

1.5. words in the singular include the plural and vice versa; and

1.6. any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words.

1.7. Any reference to one gender shall include the other genders

2. Formation of the Contract

DZA will upon request, provide the Customer with a Quotation for the Project. Any Project Specification and specific instructions must be provided prior to DZA producing the Quotation, otherwise DZA reserves the right to amend the Quotation where applicable, in which case the previous Quotation shall cease to be available for the Customer to accept and this clause 2 shall apply to the amended Quotation. The Customer shall promptly respond to DZA's request for any further information that it requires to prepare a Quotation. Once provided to the Customer a Quotation is valid for 28 days unless otherwise agreed.

2.1. The Quotation constitutes an offer which if accepted by the Customer in writing together with a payment of a non-refundable Deposit (or as otherwise stated in the Quotation) to DZA constitutes an Order. The Contract to fulfil the Order in respect of the Project shall come into existence on the Commencement Date.

2.2. An Order by the Customer is an obligation to purchase the Goods and/or Services detailed in the Quotation in accordance with any terms set out in the Quotation and in these Terms & Conditions.

2.3. If a Customer seeks to accept a Quotation after the expiry of the period that the Quotation is valid for, then this shall not constitute an Order and DZA has the right to accept the request, refuse the request or to provide a revised Quotation to the Customer

2.4. In the event that following receipt of the Quotation the Customer does not wish to place an Order then the Customer agrees to forthwith return or destroy the Quotation within 7 days of such decision and undertakes not to show the Quotation to any third party or to use any designs, plans or concepts set out in the Quotation at any time or for any purpose and the Customer acknowledges that the content of the Quotation at all times remains the intellectual property of DZA.

2.5. Any samples, drawings, descriptive matter or advertising issued by DZA and any illustrations or descriptions of the Services contained in DZA's catalogues or brochures or on DZA's website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them, which do not form part of the Quotation and shall not form part of the Contract or have any contractual force.

2.6. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. DZA does not trade on any Customer terms of business and they are specifically excluded from the Contract.

2.7. All of these Conditions shall apply to the supply of both Goods and Services and the use of DZA's Materials by DZA under the terms of the Contract in respect of the Project.

3. Supply of Goods and Services

3.1. The Goods and/or Services supplied by DZA in respect of the Project are as specified in the Quotation.

3.2. Any changes to the requirements of the Customer in respect of either the Goods or Services or use of DZA Materials to be provided in respect of the Project or any changes in details in respect of transportation, delivery, accommodation or access to a Project Location will be subject to a renegotiation of timescales and prices and may incur additional cost to the Customer which may at the discretion of DZA be invoiced separately.

3.3. Maintenance of Goods whether electronic, mechanical, due to finish, general wear and tear, misuse or multiple use will be subject to a separate Quotation and charge to the Customer. For the avoidance of doubt, DZA gives no warranty in respect of the life span of any perishable parts which if they perish must be replaced at the expense of the Customer subject to any relevant and enforceable manufacturer's warranty.

3.4. DZA reserves the right not to accept any changes to the Order in the 14 days prior to the Project delivery date, and in any event if in DZA's opinion the proposed change is unreasonable.

3.5. DZA reserves the right to amend the Project Specification if required by any applicable law, health and safety or regulatory requirement, and DZA shall notify the Customer in any such event.

3.6. Any dates quoted for delivery of the Project or the assembly and installation required to be completed at the Project Location are approximate and DZA will use its reasonable endeavours to comply with agreed delivery and installation requirements.

3.7. DZA shall not be liable for any delay in delivery of the Project to the Project Location or its installation that is caused by a Force Majeure Event or the Customer's delay or failure to provide DZA with adequate information or fulfil any obligation in respect of travel arrangements, accommodation, access, parking or delivery instructions or any other instructions that are relevant.

3.8. Where DZA transports the Project to the Project Location for initial installation it will be responsible for the insurance of the same. The Customer shall be responsible for insuring the Project from arrival at the Project Location, and during transportation for any subsequent installations of the same Project. Risk in the Goods shall pass to the Customer upon arrival at the Project Location for their assembly and installation, or, where DZA are responsible for installation, risk in the Goods shall pass to the Customer upon completion of the installation.

3.9. Where the Customer requires any part of the Project to be removed by DZA following the initial installation, the Customer shall ensure that it has sufficient insurance for the Project during removal and whilst in storage with DZA.

3.10. Ownership of and title to the Goods shall not pass to the Customer until all payments in respect of the Contract have been paid in full in accordance with the terms set out in clause 5 of this agreement.

3.11. The materials used in connection with the Project which are DZA's Materials shall remain at all times the property of DZA. Ownership of DZA's Materials shall not pass to the Customer and remain the property of DZA.

3.12. All Goods and DZA's Materials shall be removed on the Project End Date at the Customer's expense in accordance with the terms agreed between the parties in line with the Order. The Goods will be dealt with in accordance with the Customer's instructions regarding retention or destruction.

3.13. In the event that the Customer requires DZA to store its Goods for later collection then the Customer shall pay additional charges in respect of storage at the fixed rate of £15 per (exclusive of VAT at the prevailing rate) square foot, per day, for a maximum of 7 days, after which DZA reserves the right to dispose of uncollected items at the Customer's expense. For the avoidance of doubt, storage fees are not included in the Contract price for the Project. DZA's Materials remain at all times the property of DZA and shall be returned to DZA in good working order.

3.14. If DZA fails to deliver the Goods and/or DZA Materials to the Project Location or to fulfil its obligations under the terms of this Contract for a reason other than a reason set out in clause 3.6 above, DZA's total liability shall be limited to the payments made by the Customer to DZA in respect of the Project. For the avoidance of doubt, DZA shall have no liability for consequential losses of the Customer or any third party howsoever caused, further details of which are set out in clause 9.

3.15. DZA warrants to the Customer that the Services will be provided using reasonable care and skill.

3.16. DZA reserves the right to sub-contract part or parts of the work to be undertaken in respect of the provision of Goods, DZA Materials or Services in connection with the Project or any element of the Project with reputable sub-contractors. In the event that the assembly and installation of the Project at the Project Location is undertaken by a third party on behalf of DZA, then DZA shall ensure that such work is properly overseen.

3.17. DZA shall engage the services of a structural engineer in circumstances where it is either requested by the Customer or in circumstances where it is deemed a requirement by DZA to ensure that the construction of the Project at the Project Site is safe.

3.18. DZA reserves the right to engage the services of a structural engineer where DZA was not asked to quote for or engage a structural engineer but DZA deems there to be a clear element of risk or where there are additional factors not notified or considered by the Customer or its instructing agent. These include but are not limited to structural stability, weight, height, hazards, complexity of structure, abrasive surfaces, weather conditions, a statutory requirement or where in the absolute discretion of DZA it is regarded as necessary due to its substance, location or proposed usage. If the Quotation for a Project did not include the requirement for a structural engineer but the services of a structural engineer are deemed a requirement by DZA then DZA will require the Project to be signed off by a structural engineer at the Customer's expense.

4. Customer's Obligations

4.1. The Customer shall:

a) ensure that the terms of the Order and any information it provides in the Project Specification (or subsequently) is complete and accurate at all material times whether provided by the Customer or by the Customer as agent for a third party;

b) supply the name and contact details of a key contact who shall be solely responsible for decision making in respect of the Project and who will be available to attend at such premises as DZA may require and with whom all schedules and matters arising can be discussed and agreed;

c) co-operate with DZA in all matters relating to the provision of the supply of the Goods and provision of the Services to enable delivery of the Project to the Project Location;

d) ensure that all information regarding travel, accommodation, parking, access and Project Location are up to date and that any changes are notified forthwith to DZA;

e) provide DZA, its employees, agents, consultants and subcontractors, with access to the Project Location and other facilities as reasonably required by DZA to provide the Services;

f) obtain and maintain all necessary licences, permissions and consents which may be required in respect of the Services before the date on which the Services are to start and to provide copies to DZA upon request;

g) comply with all applicable laws, including health and safety laws and manual handling guidelines and ensure that any electrical equipment supplied is properly tested and maintained;

h) keep all DZA Materials, the Goods and any other equipment, documents and other property of DZA at the Project Location in safe custody and maintain the Project without interference or changes until collected by and/or returned to DZA on the Project End Date;

i) comply with and meet the cost of any additional obligations as required by the Customer or by DZA for the proper performance of the Services and installation of the Project at the Project Location including in respect of any maintenance required or remedial works to any of the Customer's materials or the Goods caused by misuse at the Project Location, adverse weather conditions resulting in a product failure, or in respect of wear and tear or reuse or multiple use of the same by the Customer or by DZA at the Customer's request.

j) pay DZA's chargeable rates (as applicable at the time and notified to the Customer) in addition to any charges for accommodation, travel or other expenses, for any Services;

i) undertaken in addition to the Order; or

ii) in respect of maintenance and/or remedial works which DZA undertakes and such remediation is not due to any fault of DZA; or

iii) to install the Project at the Project Location;

k) ensure that where DZA has agreed to undertake maintenance work and/or remedial work on site at a Project Location, the Customer shall provide a suitably qualified member of its site or management team to be present throughout to supervise such work and to ensure that health and safety standards are met at the Project Location to facilitate the work.

l) upon receipt of an invoice from DZA make interim payments as required by DZA in addition to the payment terms set out in the Order in respect of additions or amendments requested by the Customer.

4.2. If DZA's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to provide accurate information or perform any relevant obligation (Customer Default):

a) without limiting or affecting any other right or remedy available to it, DZA shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays DZA's performance of any of its obligations; and

b) DZA shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from DZA's failure or delay to perform any of its obligations; and

c) the Customer shall reimburse DZA on written demand for any costs or losses sustained or incurred by DZA arising directly or indirectly from the Customer Default.

4.3. In the event that the Customer and/or the Customer's agent requires DZA to remain anonymous in respect of the Project or to promote only the Customer's brand at the Project Site by wearing the Customer's branded clothing then the Customer shall notify this in writing to DZA and get written agreement from DZA prior to the Customer accepting the Quotation. Any such Customer branded clothing which DZA has agreed in writing to wear at the Project Site shall be supplied separately by the Customer and at the Customer's own expense and the Customer shall indemnify DZA in respect of any claim of any nature against DZA arising out of the Customer's requirement for DZA to hold itself out as being a representative of the Customer. In the event that no such agreement is reached in writing before the commencement of the Project then DZA shall be entitled to wear its own branded clothing at the Project Site.

4.4. The Customer shall ensure that at all times the Goods, DZA's Materials and any other materials used in connection with the Project are used only for the specific purpose for which they have been provided in accordance with the Project Specification and that they are used only for the Project at the specific Project Location where they have been erected.

4.5. The Customer shall not move, change or use for any other purpose than was clearly indicated to DZA in the Project Specification and agreed in the Quotation, any Goods or DZA's Materials or any other materials that relate to the Project. In the event that the Customer makes any changes in requirements (statutory or otherwise), use, structure, mobility, complexity, access, handling, structure, weight, stability, materials, design, fixings, height, width, hazard, surfaces, purpose or location (including indoor or outdoor) of the Project, or any part of it, or the Customer fails to prevent any third party from taking such action without the express advanced written consent of DZA, then such action will be entirely at the Customer's own risk and expense and the Customer hereby indemnifies DZA and holds DZA harmless in respect of any loss or damage of any nature arising from such actions of the Customer or any third party.

5. Payment Terms

5.1. The price for the Project shall be the price set out in the Quotation as accepted by the Order (subject to any additional charges as detailed in clause 6.2) and subject to the provisions of clause 11 is payable as follows, unless otherwise stated in the Quotation:

- a) the Deposit (60% of the Quotation total) is payable on the Commencement Date when the Quotation is accepted and the Order is placed; and
- b) 20% of the total amount stated in the Quotation, is payable on installation of the Project at the Project Location or such earlier date as may be agreed between the parties;
- c) The balance to be paid 28 days after project delivery.
- d) any additional costs chargeable in accordance with these Conditions shall be invoiced by DZA and payable by the Customer within 28 days of the date stated on the invoice.

5.2. DZA reserves the right to give notice to the Customer at any time to reflect any increase in the price of the Project or to raise interim invoices for additional charges that are due to:

- a) any factor beyond the control of DZA (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs), branded clothing travel or accommodation costs;
- b) any request by the Customer to change the delivery date(s) or the Project Specification or the Project Location.
- c) any delay caused by any instructions of the Customer in respect of the Project or failure of the Customer to give DZA adequate or accurate information or instructions in respect of the Project Specification or the Project Location.
- d) the requirement to engage the services of a structural engineer as detailed in clause 4.6 above.
- e) hire charges in respect of any of DZA's Materials not included in the Quotation for the Project.

5.3. The Customer shall pay each advance payment or invoice submitted by DZA in full in cleared funds to a bank account nominated in writing by DZA, and time for payment shall be of the essence of the Contract.

5.4. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by DZA to the Customer, the Customer shall, on receipt of a valid VAT invoice from DZA, pay to DZA such additional amounts in respect of VAT as are chargeable.

5.5. If the Customer fails to make any payment due to DZA under the Contract by the due date, then, without limiting DZA's remedies DZA shall be under no obligation to undertake any further work or to complete the Project until payment of the overdue sum has been received including statutory interest accruing on a daily basis at the current rate. At the time of writing this is 8% + The Bank of England base rate, per year from the due date for payment.

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

6. Intellectual Property Rights

6.1. All Intellectual Property Rights in or arising out of or in connection with the preparation of the Quotation, the Order and any agreed amendments to the same in connection with the Project (other than Intellectual Property Rights in any materials specifically provided by the Customer) shall be owned at all times by DZA.

6.2. DZA grants to the Customer the use of its knowhow, Services and DZA Materials for use in connection with the Project only until the Project End Date and only for the purposes specifically agreed in the Project Specification. The Customer shall not sub-license, assign or otherwise transfer any of the rights granted to it by this clause 6.2.

6.3. The Customer grants to DZA a limited, irrevocable, worldwide, transferrable license to use the Customer's materials in connection with the Project and for DZA's own marketing purposes including but not limited to use on DZA's website, social media, brochures and other marketing materials in any format.

6.4. To the extent that the Goods and/or DZA's Materials for use in the Project are to be constructed in accordance with the Project Specifications and contain logos, branding, trademarks and other intellectual property supplied by the Customer, the Customer warrants that it has obtained the rights for use as part of the Project and the Customer agrees to indemnify DZA against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by DZA arising out of or in connection with any claim made against DZA for actual or alleged infringement of any third party's Intellectual Property Rights arising out of or in connection with DZA following the Customer's Project Specification or other information supplied by the Customer.

7. Data Protection and Data Processing

7.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

7.2. The parties shall have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data (as defined in the Data Protection Legislation) and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures to:

- a) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- b) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the Customer or DZA has provided appropriate safeguards in relation to the transfer; and
- c) notify the other without undue delay on becoming aware of a Personal Data breach and where appropriate notify the Information Commissioners Office within 72 hours of the Personal Data breach; and
- d) at the written direction of the other, delete or return Personal Data and copies thereof unless required by any applicable law to store the Personal Data.

8. Confidentiality

8.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 8.2 and 6.3.

8.2. Each party may disclose the other party's confidential information:

- a) to its agents, employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its agents, employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information shall comply with this obligation: or

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

8.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

9. Limitation of Liability

9.1. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- a) death or personal injury caused by negligence; and
- b) fraud or fraudulent misrepresentation.

9.2. DZA's total liability including liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall not under any circumstances whatsoever, exceed the price paid by the Customer to DZA for the Project under the Conditions of the Contract.

9.3. DZA's total liability to the Customer in respect of the Contract shall not exceed the cap referred to in clause 9.2.

9.4. DZA shall not be liable for any: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; indirect or consequential loss.

9.5. This clause 9 shall survive termination or expiry of the Contract.

10. Termination

10.1. The Contract is for the specific purpose of the Project and will terminate following the Project End Date subject to the Conditions having been fulfilled in accordance with the terms of the Contract.

10.2. Without affecting any other right or remedy available to it, DZA may terminate the Contract with immediate effect by giving written notice to the customer if:

- a) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- b) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- c) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

10.3. Without affecting any other right or remedy available to it, DZA may terminate the Contract or suspend the supply of Services and/or Goods under the Contract or any other contract between the Customer and DZA, if the Customer fails to pay any amount due under the Contract on the due date for payment.

10.4. Except where the Quotation states otherwise, the Customer may cancel or postpone the Project or any part of the Project no less than 28 days prior to the intended date of installation at the Project Location.

10.5. Any charges incurred by DZA due to or before cancellation (including in the event of Force Majeure) or postponement (even where at least 28 days' notice has been given by the Customer) including but not limited to plant hire, transport costs or sub-contract labour, hotel and insurance costs, will be payable by the Customer.

11. Consequences of Postponement, Cancellation or Termination

11.1. In the event that the Customer postpones or delays the performance of the Contract for any reason or cancels the Contract prior to completion for any reason whatsoever then the following provisions shall apply:

- a) the Deposit is non-refundable (except for cancellations in accordance with clause 12) and any costs incurred in respect of Services already undertaken prior to cancellation or postponement which exceeds the total amount of the Deposit (including services and labour costs incurred on unfinished construction or items during the build phase) shall be chargeable by DZA to the Customer; and
- b) In the event that DZA is required by the Customer to complete any additional work caused by postponement or delay in respect of removal / derigging of an event or any item, such additional work will be chargeable to the Customer and will be invoiced by DZA including the charges referred to in clause 11.2.
- c) In the event that DZA is required to transport items back to its business premises or those of any third party (for example, in the event of failed or rejected delivery) the cost of such transport will be chargeable to the Customer and will be invoiced by DZA.
- d) Any storage which is necessary due to postponement or delay will incur an additional charge and will be charged at DZA's standard storage rates in force at that time and will be chargeable to the Customer and will be invoiced by DZA.
- e) Notwithstanding DZA's usual payment terms, upon postponement or cancellation all items to the date of cancellation or postponement will be charged for whether completed or not and whether installed or not.

11.2. On postponement or cancellation of the Contract for any reason DZA will raise invoices for all outstanding charges for goods and services including constructional build costs and labour costs for unfinished items which have not previously been invoiced and the items referred to in clause 11.1 a) to e) where applicable. All invoices shall become payable immediately upon receipt by the Customer.

11.3. On termination or expiry of the Contract the Customer shall immediately return all of DZA's Materials. In respect of Services and Goods supplied but for which no invoice has been submitted, DZA shall submit an invoice, which shall be payable by the Customer immediately upon receipt.

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

11.5. Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

12. Force Majeure Event

12.1. Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from Force Majeure. In such circumstances a party shall immediately notify the other party upon becoming aware of such unforeseen circumstances and the obligations of the parties shall be suspended for so long as the Force Majeure prevents or delays performance of the Contract. Where the Force Majeure:

- a) prevents or delays performance of the Contract for longer than twelve (12) months; or
- b) continues uninterrupted for a period of 180 calendar days or more, either party may terminate the Contract, subject always to clause 10.5 and 11.

13. Notices

13.1. Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

- a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its principal place of business (in any other case); or
- b) sent by email to the address notified for this purpose from time to time with evidence of receipt.

14. Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

15. Waiver

15.1. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

15.2. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.

15.3. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

16. No Partnership or Agency

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

17. Entire Agreement

The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all or any previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18. Third Parties Rights

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

19. Variation

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

20. Governing Law

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim.