

TERMS & CONDITIONS FOR THE SUPPLY OF SERVICES

The Customer's attention is particularly drawn to the provisions of Condition 8.4

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this Condition apply in these terms and conditions (**Conditions**).

Additional Stock: such Linen Stock requested in addition to the existing Linen Stock provided to the Customer.

Additional Stock Premium: such amount chargeable to the Customer under Condition 4.7

Commencement Date: as specified within the Supplier's Quotation or as otherwise agreed between the parties following acceptance by the Customer of the Supplier's Quotation.

Contract: the Customer's acceptance of a quotation for the supply of Services by the Supplier under Condition 2.2.

Customer: the person, firm or company who purchases Services from the Supplier.

Linen Stock: any article of bed linen, table linen, catering clothing, roll cages and such other articles initially provided by the Supplier or its subcontractors under Condition 4.1 and thereafter altered in accordance with Condition and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

Permitted Use: the reasonable commercial use of Linen Stock in the hotel or catering trade carried out by the Customer on the Customer's premises or such other use as agreed in writing by the Supplier.

Services: the services to be provided by the Supplier under the Contract as set out in the quotation accepted by the Customer, together with any other services which the Supplier provides, or agrees to provide, to the Customer.

Stocking Fee: a daily fee of £0.10 (ten pence) for each article of Linen Stock held at the Customer's premises at the time the Services were suspended.

Supplier: Express Linen Services Limited (Company number 06432394)

Supplier's Quotation: the quotation for the supply of Services provided to the Customer by the Supplier and accepted by the Customer in accordance with Condition 2.2.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 Headings in these Conditions shall not affect their interpretation.

- 1.3 A reference to a “Person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5 A reference to **writing** or **written** includes faxes and e-mails.
- 1.6 Any obligation in the Contract on the Customer not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.7 References to Conditions are to the conditions of the Contract.

2. APPLICATION OF CONDITIONS

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 The Customer's acceptance of a quotation for Services by the Supplier, constitutes an offer by the Customer to purchase the Services on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:

- (a) by a written acknowledgement issued and executed by the Supplier; or
- (b) (if earlier) by the Supplier starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Contract.

2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with Condition 2.2. Any quotation is valid for a period of 30 days from its date, provided that the Supplier has not previously withdrawn it.

3. COMMENCEMENT AND DURATION

3.1 The Services supplied under the Contract shall be provided by the Supplier to the Customer from the Commencement Date.

3.2 Subject to Condition 10, the Services supplied under the Contract shall continue to be supplied for a period of 12 months (“Initial Minimum Term”) and, after that, shall continue to be supplied unless the Contract is terminated by one of the parties giving to the other not less than 3 months' prior written notice with the exception of Contracts continuing for a period greater than 9 years from the end of the Initial Minimum Term which shall require not less than 6 months' prior written notice.

4. PROVISION OF LINEN STOCK

4.1 On or before the Commencement Date the Supplier shall provide to the Customer Linen Stock in the types and quantities specified in the Supplier's Quotation or as agreed between the parties following acceptance of the Supplier's Quotation.

4.2 Unless agreed in writing by the Supplier the quantity of Linen Stock shall not be reduced by more than 15% howsoever calculated by the Supplier by reference to the individual articles of Linen Stock provided on or before the Commencement Date in accordance with Condition 4.1.

4.3 On receipt of processed or newly laundered Linen Stock the Customer must within 48 hours notify the Supplier of any unsatisfactory Linen Stock received and (if in the reasonable opinion of the Supplier found to be unusable) the Supplier shall have those items of Linen Stock replaced free of charge.

4.4 Failure to notify the Supplier in accordance to Condition 4.3 is deemed to be acceptance by the Customer of the processed or newly laundered Linen Stock as being satisfactory and the Customer may not request free of charge replacement Linen Stock.

4.5 In the event the Customer wishes to increase the quantity and/or alter the type of Linen Stock, the Customer must notify the Supplier in writing detailing the Additional Stock requested.

4.6 The provision of Additional Stock is subject to availability and shall be provided at the absolute discretion of the Supplier.

4.7 In the event the Customer reduces the quantity and/or alters their Linen Stock within 6 months of the Supplier satisfying a request for Additional Stock, the Supplier

reserves the right to charge an Additional Stock Premium in respect of the Additional Stock provided.

5. SUPPLIER'S OBLIGATIONS

5.1 The Supplier shall use reasonable endeavours to provide the Services, and to deliver the Services to the Customer, in accordance in all material respects with the Supplier's Quotation.

5.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Supplier's Quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

6. CUSTOMER'S OBLIGATIONS

6.1 The Customer agrees:

- (a) to co-operate with the Supplier in all matters relating to the Services;
- (b) to provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises;
- (c) to provide to the Supplier, in a timely manner, such information as the Supplier may require and ensure that it is accurate in all material respects;
- (d) to inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
- (e) to obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Permitted Use of the Linen Stock, in all cases before the Commencement Date;
- (f) to hold and use the Linen Stock in accordance with the Supplier's instructions as notified in writing from time to time, and shall not dispose of or use the Linen Stock other than in accordance with the Supplier's written instructions or authorisation; and
- (g) to be responsible for all loss, damage, or abuse to Linen Stock howsoever caused (other than by reasonable wear and tear in the opinion of the Supplier) and shall be liable to the cost of replacement at the absolute discretion of the Supplier; and
- (h) at all times during the Contract hold and maintain with a reputable insurance company suitable insurance so it shall be insured for its full replacement value against any potential loss, damage, theft, or abuse to Linen Stock whilst held on the Customer's premises.

- (i) that all Linen Stock is the property of the Supplier and only the Supplier or its nominated representatives, agents or contractors may clean, process, alter or remove from the Customer's premises, the Linen Stock; and
- (j) that it shall be responsible for the distribution, collection, and control of all Linen Stock within the Customer's premises, unless a written alternative has been agreed; and
- (k) to grant the Supplier, its agents and employees an irrevocable licence at any time to enter any of the Customer's premises for the purpose of inspecting the Linen Stock or as required under Condition 10.4 (b); and

6.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

6.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer's failure to perform or delay in the performance of any of its obligations under the Contract and/or any breach of its obligations in Condition 6.1, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

7. CHARGES AND PAYMENT

7.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the Supplier's Quotation or such revised charges in accordance with Condition 7.2.

7.2 The parties agree that the Supplier may review and increase the charges set out in the Supplier's Quotation, provided that such charges cannot be increased more than twice in any twelve month period. The Supplier will give the Customer written notice of any such increase one month before the proposed date of the increase. If such increase is not acceptable to the Customer, the Customer may, within one month of such notice being received or deemed to have been received in accordance with Condition 10 and 19, terminate the Contract in accordance with Condition 3.2.

7.3 The Customer shall pay each invoice submitted to it by the Supplier within 30 days of receipt to a bank account nominated in writing by the Supplier.

7.4 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:

- (a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Clydesdale Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before after any judgment and the Customer shall pay the interest immediately on demand or;
- (b) claim interest on such sum from the due date for payment under the Late Payment of Commercial Debts (Interest) Act 1998; and
- (c) suspend all Services until payment has been made in full.

7.5 In the event Services are suspended under Condition 7.4 (c), the Customer shall be liable to pay the Stocking Fee for the duration of the time during which the Services are suspended.

7.6 Time for payment shall be of the essence of the Contract.

7.7 All sums payable to the Supplier under the Contract (including any Stocking Fee and/or Additional Stock Premium) shall become due immediately on its termination, despite any other provision. This Condition 7.7 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

8. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

8.1 This Condition 8 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:

- (a) any breach of the Contract;
- (b) any use made by the Customer of the Services and use of the Linen Stock or any part thereof; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

8.3 Nothing in these Conditions limits or excludes the liability of the Supplier:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.

8.4 Subject to Condition 8.2 and Condition 8.3:

- (a) the Supplier shall not be liable for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill and/or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of use; or
 - (viii) loss of corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- (b) the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.

9. DATA PROTECTION

The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier in connection with the Services.

10. TERMINATION

10.1 Notwithstanding Condition 3.2, either party may terminate the Contract without prejudice to any other rights or remedies which the parties may have and without liability to the other immediately on giving notice to the other if:

- (a) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (b) the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or

- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party [other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- (f) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- (g) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- (h) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (i) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 11.1(d) to Condition 11.1(h) (inclusive); or
- (j) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

10.2 The Supplier may terminate the Contract immediately on giving notice if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment.

10.3 The parties acknowledge and agree that any breach of Conditions 4, 6, and 7 shall constitute a material breach for the purposes of this Condition 10.

10.4 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) the Customer shall return all of the Linen Stock. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and

- (c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10.5 On termination of the Contract (however arising), the following Conditions shall survive and continue in full force and effect:

- (a) Condition 7;
- (b) Condition 8;
- (c) Condition 13;
- (d) Condition 14;
- (e) Condition 15;
- (f) Condition 17;
- (g) Condition 18; and
- (h) Condition 20.

11. FORCE MAJEURE

The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that, if the event in question continues for a continuous period in excess of 14 days, the Customer shall be entitled to give notice in writing to the Supplier to terminate the Contract.

12. VARIATION

12.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Supplier may, from time to time change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Customer at least 1 months' notice of any change.

12.2 Subject to Condition 13.1 and 7.2, no variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

13. WAIVER

- 13.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14. SEVERANCE

- 14.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 14.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15. ENTIRE AGREEMENT

- 15.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 15.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as expressly provided in the Contract.
- 15.3 Nothing in this Condition shall limit or exclude any liability for fraud.

16. ASSIGNMENT

- 16.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Contract.

16.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

16.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

17. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

18. RIGHTS OF THIRD PARTIES

The parties to the Contract do not intend that any term of the Contract shall be enforceable by any other Person and the Contracts (Rights of Third Parties) Act 1999 shall not apply.

19. NOTICES

19.1 Any notice or other communication required to be given under these Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery, or by commercial courier;

(a) (in case of communications to the Supplier) to its premises at [TBC] or such changed address as shall be notified to the Customer by the Supplier; or

(b) (in the case of the communications to the Customer) to any address of the Customer set out in the Supplier's Quotation or the registered office of the Customer or such address as shall be notified to the Supplier by the Customer.

19.2 Any notice or other communication shall be deemed to have been received:

(a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

19.3 Communications addressed to the Supplier shall be marked for the attention of Senior Management.

19.4 This Condition 19 shall not apply to the service of any legal proceedings or other documents in any legal action.

19.5 A notice or other communication required to be given under or in connection with the Contract shall not be validly served if sent by e-mail.

20. GOVERNING LAW AND JURISDICTION

20.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

20.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).