



320 Western Road, Wimbledon, London, England, SW19 2QA

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APPENDIX A

# Terms and Conditions of Business

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## 1. INTERPRETATION

### 1.1. Definitions

In these Terms and Conditions, the following definitions apply:

**"Agreement"** the Event Services Agreement entered into between XPO and the Client to which these Terms and Conditions apply and under which separate Client Orders are placed for the purchase of Event Services;

**"Build Up Period"** the Build Up Period is the period utilized to construct and install exhibition stands and facilities, such period being specified by the Client;

**"Client"** an Events Organiser that has entered into an Agreement with XPO in connection with Event(s) or Exhibition(s);

**"Client Order"** a Client's written acceptance of a Quotation, evidenced by a purchase order setting out the Event Services (including any Equipment and the number of items of Equipment) required by the Client for a particular Event;

**"Client Order Acceptance"** XPO's confirmation that the Client Order has been received and accepted by XPO which may be evidenced by the issuance of an invoice, or by confirmation in writing (including by email) from XPO to the Client;

**"Cut Off Date"** unless otherwise stated the Cut Off Date will be 30 calendar days prior to the first day of the Build Up Period;

**"Construction"** the process of building exhibition stands, features and associated graphics in connection with an Event;

**"Dismantle Period"** the period after the Open Period during which an Event is dismantled;

**"Duration of the Event"** the period comprising the Build Up Period, Open Period and Dismantle Period;

**"Equipment"** all equipment, property, plant, machinery, Interior Fittings, electrics, lightings, furnishings and other items supplied by XPO to the Client in connection with the supply of Event Services and Exhibitor Services;

**"Event"** any public or trade event which may consist of exhibitions, seminars, conferences, receptions or gatherings. Where the Agreement relates to a single Event, Event means that specific Event for which this Agreement applies and in all other cases Events means all those Events organised, launched or acquired by the Client during the term of the Agreement;

**"Event Prices"** the prices charged by XPO for providing the Event Services;

**"Event Services"** Event Services are the range of services offered by XPO to the Client and may include the provision of advice, supply of Equipment, and labour for the construction and installation and running of the Event(s). The Client will submit Client Orders in respect of the Event Services required for each Event;

**"Event Services Cost"** the total price (including VAT) of the Event Services for each Event as set out in the Quotation;

**"Exhibition"** an Exhibitor's exhibition at or in connection with an Event;

**"Exhibition Services"** means the range of services XPO offers to provide to Exhibitors in connection with the Event(s);

**"Exhibitor"** an individual or organisation, contracting with the Client to take space at an Event. An Exhibitor may be, but will not necessarily be, a client of XPO;

**"Exhibitor Manual(s)"** manuals issued to Exhibitors in connection with an Event;

**"Exhibitor Order Forms"** XPO's standard order form which Exhibitors use to order Services from XPO, where XPO also provides Services to Exhibitors;

**"Exhibitor Prices"** means the prices charged by XPO for each Exhibitor Service.

**"Force Majeure Event"** has the meaning given to it in clause 14;

**"XPO"** means Whitespace XPO Limited (a company registered in England and Wales with company number 13229370), or any of its subsidiaries from time to time;

**"Fully Costed Rate"** the Fully Costed Rate is the hourly cost of labour, incorporating a pro rata proportion of indirect costs and overheads from time to time, such rate being available to the Client upon request from XPO;

**"Group Company"** means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006;

**"Hired Equipment"** equipment which is hired (and not Purchased Equipment) by the Client from XPO in connection with the Services;

**"Intellectual Property Rights"** means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**"Interior Fittings"** Interior Fittings comprise optional extras including shelving, storage, security sheet, special flooring, ceiling covers, notice boards, coat racks, garment rails, panel colour changes, literature racks, curtains, additional wall panels and doors;

**"Labour and Material Costs"** the labour and material costs of any work undertaken by XPO in order to fulfil the Client Order at XPO's Fully Costed Rates;

**"Late Orders"** Client Orders made after the Cut Off Date;

**"Open Period"** the period during which an Event is open to visitors;

**"Organiser"** the Customer or promoter of an Event as identified in the Agreement;

**"Other Services"** Other Services include, but are not restricted to, the hire of furniture, carpets and carpet tiles, electrical fittings, flowers and management and consultancy services;

**"Purchased Equipment"** equipment purchased outright by the Client from XPO in accordance with section 11;

**"Quotation"** a quotation provided by XPO to a Client setting out the Event Services Cost;

**"Services"** Event Services, Exhibition Services or Other Services provided by XPO;

**"Site"** location of the Event;

**"Site Orders"** orders placed on Site;

**"Terms and Conditions"** these terms and conditions of business as amended from time to time.

## 1.2. Construction

In these Terms and Conditions, the following rules apply:

1.2.1. a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2. a reference to a **party** includes its personal representatives, successors or permitted assigns;

1.2.3. a reference to a **statute** or **statutory provision** is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

- 1.2.4. any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5. a reference to **writing** or **written** includes faxes and e-mails.

## 2. INTRODUCTION

- 2.1. A Client Order constitutes an offer by the Client to purchase Event Services (including the hire of any Equipment) in connection with an Event from XPO in accordance with the Agreement and these Terms and Conditions.
- 2.2. Without prejudice and subject to section 3.2, the Client Order shall only be deemed to be accepted when XPO delivers a Client Order Acceptance.
- 2.3. In placing a Client Order with XPO, the Client accepts, with no reservations, that the Agreement (including these Terms and Conditions) and the Quotation accepted by the Client constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any other document, prior written or oral agreement, statement, representation or warranty. These Terms and Conditions apply to the Agreement to the exclusion of any Client's terms and conditions of purchase or hire, or any other terms that the Client seeks to impose or incorporate.
- 2.4. XPO will supply the Services in accordance with these Terms and Conditions.

## 3. ORDERS

### 3.1. Order Placing

- 3.1.1. Any Quotation given by XPO shall not constitute an offer and is only valid for a period of 14 days.
- 3.1.2. A Client Order must be evidenced in writing by the Client sending to XPO written acceptance of XPO's Quotation. Except where otherwise stated, these Terms and Conditions will apply to Quotations, Client Orders, Site Orders, Late Orders and any other sales orders placed with XPO by a Client and apply to any variation or cancellation of a Client Order.
- 3.1.3. With the exception of Site Orders, all Client Orders must be received before the Cut Off Date. Late Orders may be subject to a surcharge rate of 20%. The surcharge rates will also apply to any Client request to change a Client Order and/or additional Client Orders made after the Cut Off Date.

### 3.2. Order Acceptance

- 3.2.1. Acceptance of a Client Order by XPO will be evidenced by the delivery of a Client Order Acceptance by XPO.
- 3.2.2. Acceptance of a Client Order is conditional on timing of the Client Order (section 3.1.2 above) and on the availability of Equipment. XPO reserves the right to supply in lieu and in place of the Equipment ordered, any Equipment which is substantially similar and is fit for the general purpose of the required items of Equipment.

## 4. PRICES AND VARIATIONS

### 4.1. Price

- 4.1.1. Event Prices in a Quotation are confirmed once a Client Order has been placed.
- 4.1.2. The price for Hired Equipment is for the Duration of the Event for which such Hired Equipment is made available for hire by the Client (provided the total hire period does not exceed 14 days). A delivery charge may be applied, and such charge will be included in the Quotation.
- 4.1.3. All Event Prices and Exhibitor Prices quoted are exclusive of VAT.

### 4.2. Variations

- 4.2.1. Where a Client wishes to amend a Client Order before or during the periods set out at section 3.1.3 above, the parties must agree to a variation in writing detailing the changes to the Client Order and the revised Event Prices. Any work that is cancelled as part of the variation to the Client Order during the periods set out in section 3.1.3 will be subject to the terms set at section 3.1.3 and such costs will be incorporated in the revised Event Prices.
- 4.2.2. Where a Client wishes to amend a Client Order after work has commenced on Site, the Client will be charged in accordance with the terms set out below at section 4.3. XPO will only proceed to make any change if the variation to the Client Order is agreed in writing. Labour time incurred by XPO or its contractors will be charged at XPO's Fully Costed Rate.

### **4.3. Change Orders**

XPO will take into account all appropriate constraints and costs associated with the timely Construction within the timescales set by the Client and notified to XPO. To the extent that XPO has no control over such conditions, XPO's Event Prices will be subject to change as follows, and any additional costs payable by the Client will be set out in further invoices provided by XPO to the Client:

- 4.3.1. in the event that there are changes to the dates for the Build Up Period or Dismantle Period or times of the Opening Period of the Event such that additional labour is required to meet the new timescales, the modified Event Price to the Client will represent the additional labour (and materials where appropriate) incurred in order to meet the new timescales or requirements. The charges for additional labour will be calculated using XPO's Fully Costed Rates;
- 4.3.2. if truck or fork truck access to the Site changes from that described to XPO by the Client, any additional costs incurred by XPO in respect of these items will be passed on to the Client together with a handling charge of 10% of the invoiced amount;
- 4.3.3. for additional costs due to a change in the Site. Such additional costs incurred for materials and sub contract services together with XPO's Fully Costed Rates in respect of additional labour will be passed onto the Client together with a handling fee of 10% of amounts invoiced from sub-contractors;
- 4.3.4. if, after the Client Order has been received by XPO, the Client or any authorities including police, fire service, or local authorities changes the conditions and rules governing the construction, health and safety, or any other matter which may affect XPO's supply of Services, then any additional costs incurred by XPO will be invoiced on the same basis as set out in section 4.3.3 above;
- 4.3.5. if the final amount of stand area built is less than 95% of the area anticipated by the Client, and used by XPO as a basis of the Quotation, XPO will charge the Client the full value of the Quotation for that Event together with any extra work carried out by way of contract variation;
- 4.3.6. where the specification of Organiser Packages is changed XPO will charge in accordance with sections 4.2.1 and 4.2.2, whichever is applicable;
- 4.3.7. in the event that the electrical mains layout (in particular the layout of blocks of stands) is different to that upon which the Quotation is based or is varied subsequent to XPO submitting the electrical mains requirements to the Client, XPO will be entitled to charge the Client:
  - a) the additional costs incurred, including additional charges from the Site for labour and electrical mains charges;
  - b) the amount by which an electrical mains bill from the Site exceeds the electrical mains revenue from the Event;
  - c) the full value of supplying all the anticipated electrical packages, as set out in XPO's Quotation, in the event that the amount by which XPO's revenue received is less than 95% of the anticipated revenue for the supply of electrical fittings set out in the Quotation.
- 4.3.8. in the event that the Client requires floor coverings to be laid in a different manner to that which XPO considers to be the optimum use of materials and labour (as set out in its Quotation or oral briefings, the additional Fully Costed Rates for labour and materials incurred will be invoiced to the Client. Should a Client change the layout of an Event within the four week period prior to commencement of the Build Up Period such that the mix of

- carpet styles or colours varies from that already agreed the additional Fully Costed Rates for labour and materials incurred will be invoiced to the Client;
- 4.3.9. if the cost of any changes result in any costs incurred by XPO, XPO will be entitled to charge the full amount of the additional costs so incurred at XPO's Fully Costed Rate for labour and materials;
- 4.3.10. where the Client requires design changes in accordance with sections 4.2.1 and/or 4.2.2, required additional design time shall be charged at XPO's Fully Costed Rate for time spent on revising drawings, work schedules and associated administration;
- 4.3.11. where Exhibitors are also clients of XPO, and where the Client liaises with XPO on behalf of the Exhibitors, Client undertakes to ensure that Exhibitors are informed of any changes in the Exhibitor Prices to be charged by XPO as set out in sections 4.1, 4.2, and 4.3 of these Terms and Conditions. Any unilateral waiver of these Terms and Conditions by the Client or failure to comply with the requirements of this section will result in the Client being held jointly and severally liable with Exhibitor for any shortfall.

## **5. DELIVERY**

- 5.1. Any dates quoted for delivery of Equipment are approximate only, and the time of delivery is not of the essence. XPO shall not be liable for any delay in delivery of Equipment that is caused by a Force Majeure Event or a failure by the Client to give access to the Site or the Client's failure to provide XPO with adequate delivery instructions or any other instructions that are relevant to the delivery of the Equipment.
- 5.2. XPO may deliver the Equipment by instalments.
- 5.3. It is the duty of the Client to provide at an Event, a duly authorised representative to accept delivery of the Equipment and any other goods ordered, and, if required by XPO, to provide a written receipt. Acceptance of delivery by such representative shall constitute evidence that the Client has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended.

## **6. WARRANTY**

- 6.1. XPO warrants that on delivery, the Equipment shall substantially conform to the specifications set out in the Quotation and be of satisfactory quality and fit for the purpose held out by XPO.
- 6.2. Provided the Open Period has not commenced, in the event of non-delivery or if the Client is not satisfied that the Equipment ordered has been delivered in conformity with section 6.1 above, then the Client must notify a member of XPO team on Site immediately, and in any event prior to the commencement of the Open Period of the Event. If the Client is not satisfied with the remedial action proposed or taken by XPO, the matter should be raised with a senior member of XPO team on Site.
- 6.3. In the event of a complaint or dispute that cannot be resolved on Site, the Client will submit its complaint in writing to XPO as soon as possible and in any event, within 3 days of the Event's Open Period commencing. XPO will consider the complaint and respond to the Client within 10 business days.
- 6.4. Subject to sections 6.1–6.3, and on XPO being given a reasonable opportunity to examine the Equipment concerned, XPO shall, at its option, repair or replace the defective Equipment, or refund the amount of the Events Price in respect of the defective Equipment.
- 6.5. XPO shall not be liable for the Equipment's failure to comply with section 6.1 if:
- 6.5.1. Client makes any further use of the Equipment after raising a complaint under section 6.2;
- 6.5.2. the defect arises because Client failed to follow XPO's oral or written instructions as to the storage, installation, commissioning or use of the Equipment or good trade practice;
- 6.5.3. the defect arises as a result of XPO following any specific specifications or drawings supplied by Client;

- 6.5.4. the Client alters or attempts to repair the Equipment without XPO's written consent;
  - 6.5.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
  - 6.5.6. the Equipment differs from its description as a result of changes made to comply with applicable statutory or regulatory standards.
- 6.6.** If, after return, apparently defective Equipment is found by XPO to meet specification and is fully operational, then the Client will be charged for XPO's costs in recovering and replacing the item with all costs calculated at XPO's Fully Costed Rate.
- 6.7.** Except as provided in this section 6, XPO shall have no liability to Client in respect of the Equipment's failure to comply with section 6.1.

## **7. HIRED EQUIPMENT**

- 7.1.** All Equipment and any other goods supplied by XPO shall be on hire only (Hired Equipment) unless otherwise agreed between the parties in accordance with section 11 below.
- 7.2.** From its delivery, the risk of loss, theft, damage or destruction of the Hired Equipment shall pass to the Client. The Client will be responsible for the safety of XPO's Hired Equipment throughout the Duration of the Event and until the Hired Equipment is collected from the Site by XPO or returned to XPO's premises, and will be responsible for any damage to XPO's Hired Equipment caused by the actions of the Client or its customers or visitors to its Event.
- 7.3.** Hired Equipment shall at all times remain the property of XPO and the Client shall have no right, title or interest in or to the Hired Equipment (save the right to possession and use subject to these Terms and Conditions).
- 7.4.** XPO shall enter the Site to collect and to remove its Equipment following the expiry of the Open Period and before the end of the Dismantle Period.
- 7.5.** During the period of hire, the Client undertakes:
- 7.5.1. to use the Hired Equipment in accordance with its usual purpose, to do nothing nor allow anything to be done that could lead to its damage or its disappearance, to give it the normal maintenance required, to maintain, at Client's expense, the Hired Equipment in good and substantial repair, and to comply with XPO's particular recommendations, specific advice for use, and appropriate warnings including any warnings in these Terms and Conditions, the Agreement, any Quotations, any specification sheets, any oral or other advice given by XPO and/or any documents handed over to the Client on delivery of the Equipment;
  - 7.5.2. to keep the Hired Equipment fully insured to its full replacement value against all risks and not to do anything which might invalidate the insurance. Clients are reminded that the period of the insurance shall include at least five days prior to the Opening Period of the Event for which the Hired Equipment is hired, and at least five days after the Opening Period has concluded;
  - 7.5.3. not to carry out any modification or repair to the Hired Equipment whatsoever;
  - 7.5.4. not to nail, apply adhesive or paint, or damage the Hired Equipment in any way without XPO's written consent;
  - 7.5.5. to permit any of XPO's representatives or persons authorised by the latter, unrestricted access to the Hired Equipment installed for purposes of maintenance or inspection;
  - 7.5.6. to return goods to XPO free of any mortgage, charge, lien or any other encumbrance;
  - 7.5.7. to be responsible for any electrical item connected to a socket or mains connection installed by XPO and to accept full responsibility and all consequential costs resulting from the connection of a faulty or inappropriate electrical item connected to a socket or mains connection installed by XPO;
  - 7.5.8. not use the Hired Equipment for any unlawful purpose;
  - 7.5.9. if requested by XPO, to ensure the Hired Equipment is identifiable as being XPO's property;
  - 7.5.10. to pay XPO an amount equal to the cost of repair or replacement (as appropriate) for any item of Hired Equipment damaged whilst in the care of the Client however caused;

7.5.11. to indemnify XPO on demand against all losses, costs, charges, damages and expenses incurred as a result of a breach of this section 7.5.

- 7.6. XPO disclaims all responsibility concerning documents, objects, samples, Hired Equipment or other goods present in / under / on the Equipment hired by the Client.
- 7.7. All Hired Equipment should be emptied of personal belongings immediately at the end of the Open Period of the Event, in order that Hired Equipment may be removed from Site as quickly as practicable. XPO accepts no responsibility for the safe custody of goods left in cabinets, draws or any other storage items.

## **8. PAYMENT**

- 8.1. Payments in respect of any invoice raised by XPO must be made in accordance with the Agreement, the terms of XPO's invoice and this section 8.
- 8.2. All payments made to XPO must include VAT, and payments may be made by cheque, bank transfer, draft (deemed without costs and returned accepted by the Client within eight working days from its being sent), promissory note or transfer or with the payment of an additional charge by credit card as set out in XPO's invoice.
- 8.3. In the event of late payment, with reference to the terms detailed in an invoice issued by XPO, XPO reserves the right to charge interest at a rate of 5% per annum over Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.
- 8.4. The Client shall pay all amounts due under the Agreement and any invoice in full without any set-off, counterclaim, deduction or withholding except as required by law. XPO may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by XPO to the Client (if any).
- 8.5. The Client will not be granted any discount for early payments.
- 8.6. Unless otherwise agreed in writing by XPO, and without prejudice to any other right or remedy available to XPO, the Client's failure to pay any sums due on or before the due date specified in an invoice will give XPO the right to suspend its obligations under a Client Order or the Agreement or terminate the Client Order or the Agreement with immediate effect.

## **9. SITE STANDARDS AND CONSENTS**

- 9.1. The Client warrants in respect of each Event that:
  - 9.1.1. the Site is fit for purpose for the Event;
  - 9.1.2. the Site complies with the legal, legislative and statutory conditions of safety, lighting, and other requirements in force for the Event;
  - 9.1.3. the owner or user of the Site where the Event is taking place has expressly given its consent for the transport and assembling of the Equipment ordered, and the Construction, and if required, the Client will present a copy of the Site owner's consent to the Event; and
  - 9.1.4. the Client has all necessary consents and licences required in connection with the Event and the Services to be supplied by XPO.
- 9.2. The Client undertakes to:
  - 9.2.1. supply XPO, with the details of any Site constraints including underground / overhead network, ground resistance or any other constraints no later than 30 business days before the first day of the commencement of the Build Up Period;
  - 9.2.2. comply with all conditions imposed by any promoters of the Event other than the Client or of the Site and shall be solely responsible for obtaining written consent from those persons for any modifications or waivers of those conditions (as required).

- 9.3.** Any failure to meet the warranties and undertakings set out at sections 9.1 and 9.2 above will result in a material breach of the Agreement. XPO will be entitled to terminate the Agreement and (without prejudice to the indemnity provisions in section 9.4 below) will be entitled to reimbursement on the basis of section 3 above.
- 9.4.** The Client undertakes to fully indemnify XPO 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 and other reasonable professional costs and expenses) suffered or incurred by XPO resulting from a failure of the Client to observe the provisions in this section 9.

## **10. DAMAGE TO SITE**

Any damage caused to the Site from the supply of Equipment or Services, or the use of the Equipment will be the sole responsibility of the Client except for damage caused as a result of XPO's negligence. XPO accepts no responsibility for damage which arises as a direct consequence of actions taken based on the specific instructions received from the Client (whether in writing or orally).

## **11. SALE OF EQUIPMENT**

- 11.1.** In some limited circumstances, a Client may wish to purchase outright some or all of the Equipment (Purchased Equipment) in connection with, or separate to any Services provided by XPO. If a Client wishes to purchase any Equipment, it must first request a quotation for that Equipment ("Equipment Sale Quotation") from XPO for the Equipment required. An Equipment Sale Quotation shall not constitute an offer, and is only valid for a period of 14 days from its date of issue. Written acceptance of an Equipment Sale Quotation will constitute an offer by the Client to purchase Equipment. The issuance of an invoice by XPO to the Client will constitute an acceptance of the Client's offer to purchase Equipment. The Client must pay for all Equipment ordered under this section 11.1 in accordance with the payment terms in section 8.
- 11.2.** Title to any Equipment purchased in accordance with this section 11 shall not pass to the Client until the price in respect of that Equipment and any interest (where applicable), has been fully paid in cleared funds. If the Client wishes to transform, resell, or incorporate Purchased Equipment into other goods it shall first pay to XPO the balance in full.
- 11.3.** The transfer of risk takes place when: (i) the Client is notified that the Purchased Equipment is available to the Client for collection at a location specified, in the Quotation or otherwise agreed (including at XPO's workshops); or (ii) when XPO delivers the Purchased Equipment on Site. Consequently, it is the Client's obligation to check the state of the Purchased Equipment in XPO's presence and to carry out any recourse against it in the event of damage.

## **12. INTELLECTUAL PROPERTY RIGHTS, ILLUSTRATIONS AND PHOTOGRAPHS**

- 12.1.** All Intellectual Property Rights shall remain the exclusive property of the party owning it. Any future Intellectual Property Rights created during the term of the Agreement or in connection with any Client Order shall vest in and be owned absolutely by the party creating or developing it. For the avoidance of doubt, the Intellectual Property Rights in any floor plans, designs, sales literature, or any other literature prepared or originated by XPO belongs to XPO.
- 12.2.** Each party shall use reasonable endeavours not to do anything, during the term of the Agreement, which may damage the other party's Intellectual Property Rights.
- 12.3.** For the avoidance of doubt, all designs, drawings, plans, models, and any other materials prepared by XPO remain XPO's property and its copyright and are provided to Clients solely for their use in connection with the Agreement for the purchase of Services in respect of the identified Event(s).
- 12.4.** Any samples, drawings, illustrations, photographs, and other descriptive matter featured in the sales documentation (irrespective of the medium) are for guidance only are not binding specifications and shall not form part of the Agreement or any Client Order or have any contractual force.

- 12.5. Clients may photograph work carried out by XPO for their own marketing purposes only and attention is drawn to section 12.2 above regarding the use of XPO designs.

### 13. EFFECTS OF TERMINATION

Upon termination of the Agreement, or the cancellation of any Client Order, however caused:

- 13.1. XPO's consent to the Client's possession of Hired Equipment shall terminate and XPO may, by its authorised representatives, without notice and at the Client's expense, retake possession of the Hired Equipment, or Purchased Equipment which has not been paid for in full and for this purpose may enter the Site or any premises at which the Equipment is located; and
- 13.2. Without prejudice to any other rights or remedies of the Client, the Client shall pay to XPO on demand:
- 13.3. all sums due but unpaid at the date of such demand together with any interest accrued;
- 13.4. any costs and expenses incurred by XPO in recovering the Equipment and/or in collecting any sums due (including any storage, insurance, repair, transport, legal and remarketing costs).

### 14. GENERAL

#### 14.1. Variation

Except as set out in these Terms and Conditions, no variation of the Agreement, or any Client Order, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing.

#### 14.2. Waiver

A waiver of any right under the Agreement, these Terms or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Agreement or these Terms or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

#### 14.3. Severance

If any provision or part-provision of the Agreement or these Terms 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 section shall not affect the validity and enforceability of the rest of the Agreement or these Terms. If any provision or part-provision of the Agreement or these Terms is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

#### 14.4. Assignment and Other Dealings

XPO may at any time assign, transfer, mortgage, charge, subcontract, or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party. The Client shall not, without the prior written consent of XPO, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Agreement or these Terms.

#### 14.5. Notices

Any notice or other communication given to a party under or in connection with this Agreement and these Terms and Conditions shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this section, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or email. A notice or other communication shall be deemed to have

been received: if delivered personally, when left at the address referred to in this section 14.5; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

**14.6. No Partnership or Agency**

Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

**14.7. Third Parties**

A person who is not a party to the Agreement shall not have any rights to enforce its terms.

**14.8. Governing Law and Jurisdiction**

The Agreement (including these Terms and Conditions) 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. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).