

TELEHOUSE STANDARD TERMS AND CONDITIONS FOR SUPPLIERS

1. INTERPRETATION
	1. In these Terms and Conditions the following expressions shall have the following meanings unless inconsistent with the context:

**“Confidential**

**Information”** means all information obtained in connection with the discussions leading up to or the performance of these Terms and Conditions in whatever form or media obtained (and whether verbal, electronic or written) which is marked or notified to the recipient as being confidential, or which in the normal course of business would be considered to be of a confidential nature.

**“Contract”** any contract between the Supplier and Telehouse for the sale or purchase of the Goods or supply of the Services formed in accordance with **Condition 2**;

**“Goods”** any goods which the Supplier provides to Telehouse (including any of them or any part of them) under a Contract.

**“Services”** means the services to be supplied by the Supplier to Telehouse.

**“Supplier”** means the person(s), firm or company who accepts the order from Telehouse for the Goods or Services.

**“Telehouse”** Telehouse International Corporation of Europe Limited;

**“Terms and**

**Conditions”** the standard terms and conditions set out in this document together with any special terms agreed in writing between Telehouse and the Supplier.

**“VAT”** means value added tax.

* 1. The expressions “in writing” and “written” include facsimile transmission and e-mail.
1. CONTRACT
	1. Subject to any variation under **Condition 9.6**, the Contract will be on these Terms and Conditions to the exclusion of all other terms and conditions and all previous oral or written representations including any terms or conditions which the Supplier purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.
	2. Each order or acceptance of a quotation for Goods and/or Services will be deemed to be an offer by Telehouse to purchase Goods and/or Services upon these Terms and Conditions. The Contract is formed when the order is accepted by the Supplier by way of a written acknowledgement of order. No contract will come into existence until a written acknowledgement of order is issued by the Supplier to Telehouse.
	3. Delivery of the Goods or commencement of the performance of the Services will be deemed to be conclusive evidence of the Supplier’s acceptance of these Terms and Conditions.
	4. Telehouse may cancel the Contract at any time prior to delivery of the Goods or provision of the Services.
2. PRICE AND PAYMENT
	1. The price of the Goods and/or Services shall be the price quoted by the Supplier and prevailing at the date of Supplier’s acceptance of Telehouse’s order.
	2. All orders must be confirmed by a Telehouse purchase order, (sample available upon request from the Finance dept), duly signed and approved by a Telehouse Director.
	3. The Supplier agrees to submit all valid invoices to the following address:

For the attention of: The Accounts Department

 Telehouse International Corporation of Europe Limited

Coriander Avenue

London

E14 2AA

* 1. Invoices will be accepted after the date of delivery of Goods, and/or Services have been provided.
	2. The Telehouse Purchase Order number must be clearly quoted upon all invoices relating to the order.
	3. All prices and rates are exclusive of VAT which if applicable, will be charged at the prevailing rate.
	4. Telehouse requires all suppliers of Goods and Services to issue a full statement of account on a monthly basis. Payments are only issued against reconciled Supplier accounts.
	5. Payment will be made on the last day of the month for all invoices submitted by Suppliers in accordance with these Terms and Conditions, which are a minimum of thirty (30) days from the tax point date.
1. LIABILITY

4.1 The following provisions set out the entire liability of each Party (including, without limitation, any liability for the acts and omissions of their respective employees, agents or subcontractors) to the other in respect of any act or omission, including:

4.1.1 any breach by that Party of its contractual obligations under this Agreement;

4.1.2 any breach of statutory duty or restitution; and

4.1.3 any representation, statement or tortious act or omission including (without limitation) negligence, wilful default and/or negligent misrepresentation, arising under or in connection with this Agreement.

* 1. Any act or omission on the part of a Party or its employees, agents or sub-contractors falling within **Condition 4.1** shall be known as “Defaults”.

4.3 Neither Party excludes or limits its liability to the other:

4.3.1 for death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors;

4.3.2 for its fraud (including, without limitation, fraudulent misrepresentation) or theft by it or its employees;

4.3.3 any regulatory losses, fines, expenses or other losses arising from a breach by that Party of any law or regulation;

4.3.5 under **Condition 6** (Confidentiality); and

4.3.6 for any matter which it would be illegal for it to exclude or to attempt to exclude its liability;

4.4 Subject to **Condition 4.3** above, neither Party shall be liable to the other whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or indirect or consequential loss (both of which terms include, without limitation, pure economic loss, loss of production, loss of profits or of contracts, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with any Defaults.

4.5 Subject to Condition 4.3 and 4.4 the Supplier shall indemnify Telehouse against and shall hold Telehouse harmless from and against any and all losses, claims, actions, judgements, demands, liabilities, damages, costs and expenses whatsoever which Telehouse incurs or suffers in respect of:

4.5.1 any breach by Supplier of its obligations arising under this Agreement and the Contract;

4.5.2 any representation, statement of tortuous act or omission, including negligence, on the part of the Supplier or its employees, agents or sub-supplier arising under or in connection with these Agreement; and

4.5.3 any direct loss or damage to any intangible property or information held in any of Telehouse’s computer or Telehouse’s server or to any tangible property (real or personal) of Telehouse or of any third Party, whether sustained by Telehouse or by any person to whom Telehouse may be responsible, resulting from the negligence of the Supplier or its employees, agents or sub-supplier’s howsoever arising out of the performance of this Agreement.

5. **INSURANCE**

5.1 The Supplier shall effect and maintain throughout the continuance of this Agreement insurance policies relevant to the performance of its obligations under this Agreement. The aforementioned insurance policies are to be as a minimum as follows:

5.1.1 Public Liability Insurance providing for coverage in force with a limit of indemnity of not less than two million pounds (£2,000,000) in any one occurrence/unlimited in the number of occurrences in a policy period.

5.2 The full details of the Supplier’s insurances are to be provided to Telehouse for approval prior to commencement of the Agreement. The Supplier is required to forward copies of the relevant insurance details to Telehouse at the time of renewal to enable Telehouse to confirm their continuance and maintenance as required by Condition 5.1.

6. CONFIDENTIALITY

6.1 Subject to the provisions of this **Condition 6** each party will keep confidential:

6.1.1 the terms of these Terms and Conditions; and

6.1.2 any and all Confidential Information it may acquire in relation to the other party.

6.2 The obligations on a party set out in **Condition 6.1** will not apply to any information which:

6.2.1 is publicly available or becomes publicly available through no act or omission of that party; or

6.2.2 a party is required to disclose by law or a court of competent jurisdiction.

6.3 Either party shall be entitled to disclose any Confidential Information to its professional advisers, including, without limitation, its insurers, accountants, lawyers, financial advisers and/or lenders, provided that each party shall ensure that such persons are bound by similar obligations of confidentiality to those set out in this **Condition 6**.

6.4 The provisions of this **Condition 6** will survive any termination of these Terms and Conditions.

7. TERMINATION

7.1 Telehouse shall be entitled to terminate these Terms and Conditions by giving one (1) month’s written notice to the Supplier. In the event of such termination Telehouse shall make payment to the Supplier in consideration for all Goods provided and Service(s) satisfactorily performed up to the date of the termination. The Supplier shall not be entitled to any payment in respect of damages, loss of profit, loss of income or the like. Telehouse shall not be under any obligation to provide a reason for such termination.

7.2 Either party may by written notice terminate the Contract immediately if the other party is in material breach of the Contract and, if the breach is remediable, such breach is not remedied within thirty (30) days after service of a written notice from the party not in breach, or if the other party enters into insolvency, bankruptcy, makes any arrangement with its creditors or any other arrangement or situation which has a like effect.

7.3 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liability of either the Supplier or Telehouse accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.

8. FORCE MAJEURE

8.1 Neither party shall be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under the Contract due to any cause outside its reasonable control including, without limitation, acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, compliance with statutory obligation, failure or shortage of power supplies, supplier failure, acts or omissions of government or regulators, highways authorities, third party telecommunications operators and /or suppliers or other competent authority, an act of terrorism and national emergencies. Such delay or failure shall not constitute a breach of the Contract and the time for performance of the affected obligation shall be extended by such period as is reasonable.

9. GENERAL

9.1 Time for performance of all obligations of the Supplier is of the essence.

9.2 The Supplier agrees to comply with Telehouse's then current health and safety instructions and security procedures if entering Telehouse’s premises to provide any Services or deliver any Goods.

9.3 Each right or remedy of Telehouse under the Contract is without prejudice to any other right or remedy of Telehouse whether under the Contract or not.

9.4 If any condition or part of the Contract is found by a court or other competent authority to be invalid, unlawful or unenforceable then such part shall be severed from the Contract which shall continue to be valid and enforceable to the fullest extent permitted by law.

9.5 No failure to exercise and no delay in exercising on the part of either party any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude the enforcement of any other right, power or privilege nor shall the waiver of any breach of any provision herein be taken or held to be a waiver of the provision itself. Any waiver to be effective must be in writing.

9.6 These Terms and Conditions may only be varied or amended in writing and signed by an authorised signatory of Telehouse.

9.7 Telehouse may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.

9.8 The Supplier may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without Telehouse’s prior written consent.

9.9 The Contract and any specification contains all the terms which Telehouse and the Supplier have agreed in relation to the Goods or Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Goods or Services. The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Telehouse which is not set out in the Contract or any specification.

9.10 The parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

9.11 Any notice in connection with the Contract will be in writing addressed to the other party at its registered office, or principal place of business and will be delivered by hand, by facsimile transmission, by electronic mail or first class or special delivery post. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service by facsimile or electronic mail, immediately upon transmission provided that the sender does not receive any indication that the facsimile transmission or electronic mail message have not been successfully transmitted to the intended recipient and a copy is sent by first class post or by hand by the end of the next day (other than Fridays, Saturdays and bank and public holidays) or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.

9.12 The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by English law. The English courts will have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with the Contract. The parties agree to submit to that jurisdiction.

## **To be completed by the Supplier**

I, ………………………………………………………………………………………………………...(print name & sign), on behalf of

………………. ………………………………………….. , agree to accept orders for goods, supplies, installations and/or services from Telehouse International Corporation of Europe Limited, under the above terms and conditions of payment.