

JEWELLEX INTERNATIONAL 2010

STANDARD TERMS AND CONDITIONS OF CONTRACT

1. DEFINITIONS

In this agreement unless the context otherwise requires, the words, expressions and phrases set out below shall have the meanings hereunto ascribed to them and cognate expressions shall have the corresponding meanings:

- 1.1 "the Organiser"
The Jewellery Council of South Africa and/ or its Successor/s-in-title or assigns.
- 1.2 "the Exhibitor"
The party whose application to exhibit at the exhibition has been accepted by the Organiser as provided for herein and/or who has agreed to rent a stand at the exhibition pursuant to any other agreement with the Organiser.
- 1.3 "this contract"
The standard terms and conditions of contract recorded herein read with all of the particulars recorded on any application to exhibit at the exhibition made by the Exhibitor, the brochures distributed by the Organiser pertaining to the exhibition and such other printed matter as may be distributed by the Organiser to the Exhibitors prior to acceptance by the Organiser of the Exhibitor's application to exhibit.
- 1.4 "the exhibition"
The exhibition, show, display, fair or function described in this contract.
- 1.5 "the stand"
The exhibition stand/s hired by the Organiser to the Exhibitor.
- 1.6 "shell scheme"
The movable space dividing and shelving systems installed or to be installed in or on the stand in terms of this contract.
- 1.7 "the installation"
All fixtures, fittings, display materials and other appurtenances, erections and improvements installed or used by or on behalf of the Exhibitor in or on the stand but excluding shell scheme.
- 1.8 "the exhibition site"
The property upon which the exhibition is to be held.
- 1.9 "the landlord"
The party from whom the Organiser derives its right to occupy the exhibition site for the purpose of holding the exhibition and shall include any person from whom such landlord in turn derives its right.

2. BINDING AGREEMENT

- 2.1 If the terms and conditions contained in this document contradict or are in any way at variance with the provisions of an application to exhibit made by the Exhibitor or any brochures or other documents distributed by

the Organiser (whether same form a part of this contract as defined or otherwise) the Organiser shall be entitled in its discretion to elect which of the contradictory or varied provisions prevail OR if such election or right of election renders this contract void and voidable, the provisions of this documents shall be deemed to prevail.

- 2.2 The Organiser shall be bound by this contract only against signature by its authorised representative of the Exhibitor's application to exhibit or otherwise if the Organiser has recorded its agreement hereto in writing by its authorised representative.
- 2.3 Any application or offer to exhibit made by the Exhibitor shall be deemed to have been made subject to these terms and conditions.
- 2.4 Notwithstanding and without limiting the generality of the foregoing all dates, exhibition particulars, particulars and promotional matter recorded in brochures and/or other documents distributed by the Organiser shall be variable prior to commencement of the exhibition, in the discretion of the Organiser.

3. THE STAND

- 3.1 The Organiser hereby lets to the Exhibitor which takes in hire, the stand, upon all of the terms and conditions recorded in the contract.
- 3.2 The Organiser shall be entitled to vary the size of the stand at any time prior to the commencement of the exhibition by an area not more than 15% (FIFTEEN PERCENTUM) of the agreed area. If the Organiser exercises its said right to vary the size of the stand by an amount of 5% (FIVE PERCENTUM) or more of the agreed stand area the consideration payable by the Exhibitor to the Organiser in terms of this contract shall be reduced/ increased proportionally such reduction/ increase being levied against/payable with the final payment due by the Exhibitor to the Organiser.
- 3.3 If the precise area or location of the stand is not agreed between the parties such failure shall not per se invalidate this contract in such event the area or location, which is not agreed to, shall be determined at the Organiser's reasonable discretion.
- 3.4 Whilst the Organiser shall do everything in its power to ensure that the location of the stand within the exhibition is as agreed in this contract, the Organiser shall have the right to relocate the stand at its discretion.
- 3.5 Whilst the Organiser will do everything within its power to ensure that access to and vacant possession of the stand is given to the Exhibitor for the purpose of preparation and use of the stand upon the dates agreed in this contract, such dates shall be variable in the discretion of the Organiser so as to be compatible with the successful organisation of the exhibition as a whole.

- 3.6 The Organiser does not warrant that the stand is suitable for the purposes intended by the Exhibitor or that the stand is or shall be in any particular condition or state of repair. The Exhibitor acknowledges that it has satisfied itself that the stand is of suitable condition and is suitable for the purpose intended.
- 3.7 Companies may not share stands, unless they are willing to only have 1 name in the Buyers Guide and on their Facia

4. CONSIDERATION AND PAYMENT

- 4.1 The consideration recorded on the Exhibitor's application to exhibit if accepted by the Organiser or otherwise agreed by the Organiser in writing, shall be payable strictly on the dates agreed.
- 4.2 If no time for payment of the consideration is recorded in the Exhibitor's application to exhibit or otherwise agreed between the parties then the consideration shall be payable as to 50% (FIFTY PERCENTUM) thereof upon conclusion of this contract and 50% (FIFTY PERCENTUM) thereof by not later than 30 (THIRTY) days prior to the proposed first day of the exhibition, if there is any dispute as to when payment is due to be made then such payment shall be deemed to be due by no later than the timing recorded above.
- 4.3 Interest shall be payable on all arrear payments due by the Exhibitor to the Organiser from whatsoever cause arising at a rate of 2% (TWO PERCENT) above the overdraft borrowing rate charged to the Organiser by its bankers from time to time and shall be calculated and payable monthly in arrears compounded. A certificate issued by the manager for the time being of the Organiser's bankers shall constitute full and sufficient proof as to the applicable rate of interest.
- 4.4 If any one payment due by the Exhibitor to the Organiser from whatsoever cause arising is not paid on due date or if the Exhibitor fails to timeously perform any obligation due by it in terms hereof, the full balance of the Exhibitor's indebtedness to the Organiser shall forthwith become due and payable.
- 4.5 In the event of any cancellation of booked stands or exhibition space by exhibitors, the following shall apply:
- 4.5.1 90 days prior to the function date, the full deposit will be refunded;
- 4.5.2 60 days prior to the function date a cancellation fee equal to 25% of the value of the amount stated on the application to exhibit will be charged to and will be payable by the exhibitor;
- 4.5.3 30 days prior to the function date a cancellation fee equal to 50% of the value of the amount stated on the application to exhibit will be charged to and will be payable by the client.

4.5.4 Between 1 and 29 days prior to the function date a cancellation fee equal to 75% of the value of the amount stated on the application to exhibit will be charged to and will be payable by the exhibitor.

- 4.6 If Value Added Tax or like taxes or duties be or become payable in respect of this contract or any part thereof, unless otherwise expressly agreed to the contrary, such taxes and/or duties are not included in the stated consideration and shall be paid by the Exhibitor.
- 4.7 Payment of all amounts due by the Exhibitor to the Organiser from whatsoever causes arising shall be made at the Organiser's principal place of business or at such other address as the Organiser may from time to time direct in writing and such payment shall be made free of exchange, unconditionally and without deduction or set off for any reason whatsoever the Organiser being entitled to ignore any condition purportedly imposed by the Exhibitor upon any such payment.
- 4.8 The use of the postal service or telegraphic transfer for the purpose of making payments by the Exhibitor shall be at the sole risk of the Exhibitor.
- 4.9 The Organiser shall be entitled to appropriate payments received from the Exhibitor to the reduction of such indebtedness of the Exhibitor to the Organiser as the Organiser may in its discretion decide. The Organiser:
- 4.9.1 shall not be obliged to inform the Exhibitor of any appropriation made by it unless requested to do so.
- 4.9.2 shall be entitled to vary any prior appropriation in its discretion.
- 4.9.3 shall be entitled to ignore any purported allocation or appropriation made by the Exhibitor even if payment is purportedly made conditionally upon such appropriation.
- 4.10 The consideration shall be deemed to be increased if the statutory, provincial, municipal, local authority or landlord's levies, duties, taxes or other charges or rental payable by the Organiser relating to the holding of the exhibition or the use of the exhibition site are increased after the conclusion of this contract, such increase being borne by the Exhibitor in the same proportion of the total thereof as is borne between the area of the stand and the total area let by the Organiser to Exhibitors at the exhibition. Such increase shall be payable by the Exhibitor to the Organiser on demand.
- 4.11 If the Exhibitor is a company or corporation with limited liability then despite conclusion of this contract the Organiser shall be entitled within a period of 30 (THIRTY) days from the conclusion of this agreement to call upon the Exhibitor to procure the signature of written

suretyships by its directors as sureties for and co-principal debtors with the Exhibitor for its obligations to the Organiser in terms of this contract upon terms and conditions acceptable to the Organiser in its discretion and should the Exhibitor, despite such demand by the Organiser fail to deliver such suretyships within 7 (SEVEN) days from the date of demand therefore the Organiser shall be entitled in its discretion to terminate this contract.

5. STAND PREPARATION

- 5.1 The shell scheme hired by the Exhibitor in terms hereof shall be installed by or on behalf of the Organiser by not later than the first day of the exhibition. The design and layout of the shell scheme shall be in the discretion of the Organiser. The remainder of the installation shall be prepared and installed entirely at the Exhibitor's cost and in accordance with the provisions hereof.
- 5.2 The Organiser shall be entitled to issue written directives from time to time with regard to the general and specific standards, methods and materials of construction, layout, design and quality of the installation. Without limiting the scope of any directives given by the Organiser pursuant hereto:
 - 5.2.1 the installation shall be constructed only of materials previously approved by the Organisers.
 - 5.2.2 the installation and all things displayed thereon shall be removed at the instance of the Organiser they are unsafe, unsightly or otherwise undesirable.
 - 5.2.3 the installation shall strictly comply with all statutes, ordinances, municipal regulations, title deeds and agreements of lease or other rights under which the Organiser enjoys title to the exhibition site and which relate to the use or occupation of the exhibition site.
- 5.3 The Exhibitor will timeously comply with any directives issued by the Organiser in terms of paragraph 5.2 above.
- 5.4 In constructing the installation and preparing and using the stand the Exhibitor shall not:
 - 5.4.1 cause damage to the floor, walls, ceiling, roof, shell scheme or any other part of the exhibition site.
 - 5.4.2 connect, disconnect or otherwise interfere with any electrical, gas, steam, water or other services or fittings relating to the stand, and/or exhibition site without the prior written consent of the Organiser.
- 5.5 At any time prior to the commencement of the exhibition the Organiser shall be entitled to call upon the Exhibitor to deliver within 7 (SEVEN)

days, pro forma plans and specifications detailing the intended installation and the intended preparation and use of the stand by the Exhibitor generally. Should the Organiser approve such pro forma plans and specifications in writing the Exhibitor shall not be entitled to deviate therefrom in any material respect without the prior written consent of the Organiser. Any such pro forma plans shall include a timing schedule in respect of the preparation and use of the stand which shall similarly be timeously complied with by the Exhibitor once approved by the Organiser. At any time within 30 (THIRTY) days from the proposed first day of the exhibition the Organiser shall be entitled to call upon the Exhibitor to deliver final plans and specifications regarding the foregoing matters which if approved by the Organiser shall not be deviated from by the Exhibitor without the Organiser's prior written consent.

- 5.6 The Organiser shall at all times be entitled to free and undisturbed access to the stand during the preparation and use thereof by the Exhibitor.
- 5.7 The Exhibitor shall exercise its rights of access to the stand and shall prepare and use the stand without interfering with the rights of other Exhibitors at the exhibition.
- 5.8 A contractor designated by the Organiser for the purpose of preparing the stand and erecting the installation if the Organiser makes the designation then:
 - 5.8.1 the Exhibitor shall not be entitled itself or through any other contractor to prepare the stand save to the extent that the designated contractor declines to do so.
 - 5.8.2 the Organiser shall incur no liability or responsibility for the due and proper performance by the designated contractor of its obligations in terms of the contract concluded with the Exhibitor.
 - 5.8.3 the contract shall be concluded between the Exhibitor and the designated contractor shall be subject to the prior written approval of the Organiser.
- 5.9 If the Organiser elects not to designate a contractor as provided for above then any contract between the Exhibitor and a contractor in respect of the preparation of the stand shall be subject to the prior written approval of the Organiser and shall in all circumstances contain an exclusion of the contractor's builder's lien.
- 5.10 The Exhibitor shall discharge its obligations towards any contractor or sub-contractors employed in the preparation of the stand timeously.
- 5.11 In any event the stand shall be prepared and the installation shall be constructed to a

standard at least equal to the general standard of the remaining stands rented by other Exhibitors at the exhibition.

5.12 After completion of the installation the Organiser shall be entitled to require the Exhibitor to make such additions or changes to the installation as it in its discretion requires.

5.13 If for any reason whatsoever the Exhibitor fails to prepare the stand timeously or properly as provided in this contract, the Organiser shall be entitled in its discretion and without prejudice to any of its other rights in terms hereof, to complete or procure the completion of the preparation of the stand in which event:

5.13.1 the Organiser shall bear no responsibility to the Exhibitor if the preparation of the stand is in any way unfit or unsuitable to the Exhibitor's purpose.

5.13.2 all costs and expenses incurred by the Organiser in completing or procuring the completion of the preparation of the stand plus an amount equal to 15 (FIFTEEN PERCENTUM) thereof shall be paid by the Exhibitor to the Organiser on demand.

5.13.3 the Organiser shall be entitled to make such variations to the plans and specifications relating to the stand as it deems expedient in the circumstances.

5.14 Under the circumstances the installation shall be completed and the stand shall be ready for use by not later than 12 (TWELVE) hours prior to the proposed opening time of the exhibition. The Exhibitor shall not remove or dismantle any portion of the installation before termination of the exhibition. The Exhibitor shall dismantle and remove the installation and return the stand to the condition in which it was when access thereto for the purpose of preparing the stand was given to the Exhibitor, fair wear and tear only expected, by not later than noon on the day following the last day of the exhibition.

5.15 Ownership in and to the shell scheme shall not pass to the Exhibitor nor shall the Exhibitor enjoy any rights in respect of the shell scheme save and except for those specifically granted to it in terms hereof. Upon the termination of the exhibition the Exhibitor shall return the shell scheme to the Organiser in good order and condition fair wear and tear accepted. During the course of the exhibition the Exhibitor shall maintain the shell scheme in good order and condition and shall follow all of the Organiser's instructions from time to time with regard to the use and care thereof.

6. USE OF THE STAND

6.1 The Exhibitor shall use the stand solely for the purpose described in this contract or otherwise agreed in writing by the Organiser. Without

limiting or derogating from the foregoing the Exhibitor shall not use the stand for any purpose which is incompatible with the exhibition generally.

6.2 In using the stand and otherwise exercising its rights in terms hereof, the Exhibitor shall not:

6.2.1 do anything that might reasonably bring the Organiser or the remaining Exhibitors into disrepute or in any way degrade, undermine or prejudice the exhibition generally.

6.2.2 disturb, restrict or otherwise interfere with the rights of the remaining Exhibitors to the free and undisturbed use and enjoyment of their stands and the exhibition site.

6.2.3 cause a nuisance to the remaining Exhibitors, the Organisers or the landlord.

6.2.4 contravene any law, ordinance, regulation, bye-law, conditions of insurance relating to the exhibition site or the exhibition or any lawful directive given pursuant thereto or the title deeds in respect of the exhibition site or the rights of the landlord to the use of the exhibition site.

6.3 Without limiting or derogating from the generality of the foregoing the Exhibitor shall:

6.3.1 timeously and at its cost use the stand in compliance with all applicable health and security regulations and laws which may be applicable to the use of the stand and the exhibition site including any regulations which may from time to time be issued by the Organiser in the interest of the exhibition.

6.3.2 not introduce to the stand or exhibition site nor have permit in or about the stand or exhibition site any explosives, inflammable articles which are dangerous, objectionable or unsanitary.

6.3.3 not use in, on or about the stand or the exhibition site equipment of whatever nature which records, reproduces or copies sounds or actions of other Exhibitors, performers or visitors.

6.3.4 not distribute literature or printed matter other than that pertaining to its product, nor display, affix or otherwise exhibit such printed matter, literature or posters in any part of the exhibition other than its stand.

6.3.5 not cede, assign, transfer, make-over, sub-let, alienate or burden any of its rights in terms of this contract

nor otherwise sub-let or grant possession or occupation of the whole or part of its stand to any person.

- 6.3.6 not display any prices of the products exhibited, either on the products themselves or in any other way whatsoever.
- 6.4 At any time prior to commencement of the exhibition the Organiser shall be entitled to call upon the Exhibitor to deliver within 7 (SEVEN) days, a pro forma program of the activities for which the Exhibitor intends to use the stand together with a timetable therefore. Should the Organiser approve such pro forma program in writing the Exhibitor shall not be entitled to deviate therefrom in any material respect without the prior written consent of the Organiser.
- 6.5 The persons employed by the Exhibitor to manage and organise the Exhibitor's use of the stand shall be personable, shall not impair the dignity of the exhibition and it shall be the responsibility of the Exhibitor to ensure that such persons are legally bound to comply with the Exhibitor's obligations in terms of this contract where applicable, failing which the Exhibitor and/or the Organiser shall have the right to forbid such person access to the exhibition.
- 6.6 The opening hours of the exhibition shall be in the discretion of the Organiser which shall have the right to extend or restrict such hours before or during the exhibition and to restrict the access of persons to the exhibition or parts thereof to particular days and hours.
- 6.7 The Exhibitor shall keep the stand open and adequately staffed whenever the exhibition is open.
- 6.8 If the Exhibitor fails to use the stand in accordance with the provisions of this contract then the Organiser shall be entitled to do all things necessary for and on behalf of the Exhibitor, in its name, place and stead, in rem suam, so as to ensure that the Exhibitor shall use the stand in compliance herewith to which end this contract shall constitute an irrevocable power of attorney granted by the Exhibitor in favour of any representative of the Organiser nominated by the Organiser. Without limiting or derogating from the generality of the foregoing the Organiser shall be entitled to employ staff to man the stand during the exhibition. Should the Organiser exercise any of its rights in terms of this paragraph then all costs of and incidental to doing so plus a service fee of 15% (FIFTEEN PERCENTUM) of such costs, shall be borne by the Exhibitor and paid on demand.
- 6.9 The nature of the services to be provided to the stand or the exhibition site shall be in the sole and absolute discretion of the Organiser.
- 6.10 Save with the prior written consent of the Organiser the Exhibitor shall not be entitled to

conduct any trade on the stand or exhibition site.

7. THE EXHIBITION

- 7.1 The right of admission to the exhibition shall in all circumstances be reserved to and in the discretion of the Organiser.
- 7.2 All of the provisions relating to the conduct of the Exhibitor in relation to the stand shall apply mutatis mutandis in relation to the exhibition site.
- 7.3 Whilst the Organiser will make every effort to ensure that adequate parking, loading and unloading facilities are provided to the Exhibitor and its staff in relation to the preparation and use of the stand, the Organiser is not obliged to do so. If such facilities are provided to the Exhibitor then it shall use such facilities in compliance with all of the provisions relating to its use of the stand, mutatis mutandis.
- 7.4 Whilst the Organiser will do everything within its power to ensure that the marketing and other objectives of the exhibition are successfully achieved this contract is not conditional or in any way dependant thereon. Failure by the Organiser to procure the participation in the exhibition of any one or more proposed Exhibitor/s or the withdrawal from the exhibition for any reason of any Exhibitor shall not entitle any other Exhibitor to terminate or vary this contract, or to reduce, delay or withhold any payment of the consideration payable in terms hereof.
- 7.5 The Organiser shall be entitled in its discretion to make such directives with regard to the admission of persons to the exhibition including but not limited to the charge of an entrance fee as it deems fit.
- 7.6 The Organiser does not warrant the number of persons expected to attend the exhibition.

8. MEETINGS AND BULLETINS

- 8.1 The Exhibitor shall attend all exhibition meetings convened by the Organiser. If the Exhibitor fails to attend any such meeting or fails to comply with any directives issued by the Organiser at such meetings, the Organiser shall not be liable to the Exhibitor for any loss or prejudice suffered by the Exhibitor as a result thereof.
- 8.2 The Organiser shall have the right to issue any directives to the Exhibitor at the aforesaid meetings or in the form of exhibition bulletins issued from time to time and such directives shall be binding on the Exhibitor and failure to comply therewith by the Exhibitor shall be deemed as a breach of contract provided such directives:
- 8.2.1 have come to the notice of the Exhibitor for which purpose any directive issued at an Exhibitor's meeting shall be deemed to have

come to the notice of the Exhibitor and are reasonably in the interests of the successful organisation of the exhibition.

9. PROMOTION

- 9.1 All aspects of the promotion of the exhibition shall be in the sole and absolute discretion of the Organiser.
- 9.2 The Exhibitor shall not be entitled to directly or indirectly promote the exhibition without the prior written consent and approval of the Organiser. Without limiting or derogating from the generality of the foregoing any advertising material used by the Exhibitor in connection with its business which makes reference to or is in any way associated with the exhibition shall be subject to the prior written approval of the Organiser.
- 9.3 The Organiser shall have the right to use the Exhibitor's name and program for the Exhibitor's intended use of the stand in connection with the promotion of the exhibition.
- 9.4 If an Exhibitor at the exhibition whose stands comprise more than 50% (FIFTY PERCENTUM) of the total area of the stands occupied for the purposes of the exhibition elect that all of the Exhibitors at the exhibition shall contribute towards a co-operative advertising and/or promotional activity relating to the exhibition then the Exhibitor shall be obliged to contribute to the cost of such co-operative advertising and/or promotion in proportions which are equal to the proportions borne between the area of the stands hired by the Exhibitor and the total area of the stands occupied for the purpose of the exhibition.

10. CANCELLATION

If for any reason whatsoever the Organiser elects to cancel the exhibition then it shall return to the Exhibitor all amounts then paid by the Exhibitor to the Organiser less expenses incurred in terms of this contract and the Exhibitor shall have no further claims against the Organiser on account of such cancellation whether for damages or from whatsoever other cause arising.

11. DISPUTES

11.1 If:

- 11.1.1 there is any dispute between the Organiser and the Exhibitor with regard to the interpretation of the contract the implementation hereof or the enforcement of the Organiser's rights in terms hereof; or
- 11.1.2 there is any dispute between the Exhibitor or any other Exhibitor at the exhibition in relation to any matter arising from their respective rights and obligations vis a vis the

Organiser or with regard to the conduct of the exhibition generally; or

11.1.3 there is any dispute between the Exhibitor and the landlord in relation to any matter arising from their respective rights and obligations vis a vis the Organiser or with regard to the conduct of the exhibition generally; or

11.1.4 there is any dispute between the Exhibitor and a person attending the exhibition arising from his attendance at the exhibition; or

11.1.5 there is a dispute between the Exhibitor and a designated contractor pursuant to the provisions of paragraph 5.8 above in relation to the preparation of the stand;

Then:

11.1.6 the Exhibitor shall forthwith notify the Organiser in writing of the full particulars of such dispute and the names and addresses of the parties thereto:

11.1.7 the Organiser shall have the right to declare that the whole or any portion of such dispute shall be referred to arbitration upon and subject to the terms and conditions recorded hereunder:

11.1.8 if the Organiser elects to refer such dispute to arbitration then the Exhibitor shall not be entitled to avail itself of any other legal remedy which it may have arising from such dispute unless the other protagonist/s in such dispute is/are for any reason not legally bound to abide by the decision of such arbitration:

11.1.9 if the other protagonist/s is/are not legally bound by such arbitration then the Exhibitor shall in any event refrain from instituting any legal proceeding against such protagonist /s until the exhibition has been completed unless such delay shall preclude the Exhibitor from obtaining substantial redress against such protagonist/s.

11.2 Any dispute referred to arbitration pursuant to the provisions of paragraph 11.1 above shall be dealt with in the following manner:

11.2.1 the Organiser shall at its discretion appoint the arbitrator who shall be an advocate of the Supreme Court who has practised as such for a period of no less than 5 (FIVE) years.

11.2.2 the arbitration shall be informal and the arbitrator shall be entitled to

- dispense with the requirement for pleadings, legal representation and any of the formalities including those relating to the evidence as he may in his discretion determine.
- 11.2.3 the decision of the arbitrator shall be final and binding upon the parties including his decision as to who shall bear the cost of such arbitration.
- 11.2.4 any party to such arbitration proceedings shall be entitled in its discretion to apply to court to have the award of the arbitrator made an Order of Court such application being at the cost of the party seeking such order save to the extent that such application may be opposed in which event the costs of opposition shall be borne by the opposing party on the scale as between an attorney and his own client.
- 11.3 Any dispute of the type referred to in paragraph 11.1 above which comes to the attention of the Organiser other than by notice from the Exhibitor shall likewise be subject to the provisions of paragraph 11.1 above, mutatis mutandis.
- 11.4 The provisions of this contract shall not be construed as placing any obligation on the Organiser to enforce its rights against any one or more Exhibitor at the exhibition.
- 11.5 The referral to arbitration by the Organiser of any dispute to arbitration pursuant to the provisions of paragraph 11.1 above shall not be construed as limiting or vitiating in any way the Organiser's right to enforce the provisions of this contract despite and simultaneously with such referral to arbitration.

12. BREACH

- 12.1 Should the Exhibitor fail to make payment due to the Organiser in terms of this contract on the due date for payment thereof (or within 3 (THREE) days of demand for payment if such amount is payable on demand) or should the Exhibitor breach any of its other obligations in terms of this contract or any warranties given by it in terms hereof then without prejudice to any other remedies available to the Organiser at law or in terms of this contract, the Organiser shall be entitled to:
- 12.1.1 without prior notice take physical possession of the installation and/or any property of the Exhibitor located on the stand or the exhibition site and thenceforth hold same in pledge as security for the due payment by the Exhibitor of all amounts payable by it to the Organiser from whatsoever cause arising and the Organiser shall be entitled to realise such pledged property without recourse to law; and
- 12.1.2 if the Exhibitor fails to comply with its obligations in terms of paragraphs 6.6 and 6.7 above then, without limiting or derogating from the Organiser's other rights consequent upon such breach, the Exhibitor shall be obliged to pay the Organiser the sum of R1 000-00 (ONE THOUSAND RAND) per stand per day for each day or part thereof whilst the Exhibitor has failed to comply with its said obligations. The Exhibitor agrees and acknowledges that the aforesaid sum represents a genuine and reasonable pre-estimate of the liquidated damages which the Organiser shall have suffered by reason of the Exhibitor's said breach of this contract; and
- 12.1.3 summarily terminate this contract in which event:
- 12.1.3.1 the Exhibitor's rights of access to the stand shall forthwith cease; and
- 12.1.3.2 the Organiser shall be entitled to remove the installation from the stand; and
- 12.1.3.3 the Organiser shall be entitled to dress the stand to the Organiser's requirements and standards at the discretion of the Organiser in such manner as not to impair the general standard and appearance of the exhibition and the costs and expenses incurred thereby shall be borne and paid for by the Exhibitor to the Organiser on demand; and
- 12.1.3.4 the Organiser shall be entitled to claim and obtain payment by the Exhibitor of all damages suffered by the Organiser as a result of such breach and or termination which damages shall include, without limitation, any consequential damages in respect of loss of profits or loss of goodwill sustained by the Organiser which damages shall not be less than the balance of the consideration then due and payable by the Exhibitor to the Organiser in terms of this contract plus the sum of R1 000-00 (ONE

- THOUSAND RAND) per stand per day for so long as the stand is not occupied by the Exhibitor pursuant to this contract; and
- 12.1.3.5 the Organiser shall be entitled to retain as its own all monies then paid to it by the Exhibitor in terms of this contract which the Exhibitor shall be deemed to have forfeited: or in the alternative to paragraph 12.1.3 above: 12.1.4 enforce specific performance of all the provisions of this contract.
- 12.1.4 in any event, withhold the exhibition's right of access to and use of the stand and installation of the shell scheme for so long as the Exhibitor remains in breach.
- 12.2 For all purposes under this agreement each of the obligations of the Exhibitor to the Organiser shall be deemed to be material and time shall be deemed to be of the essence in the performance thereof.
- 12.3 The Exhibitor shall be deemed to have breached this contract if:
- 12.3.1 it commits an act which would, if the Exhibitor were an individual, constitute an act of insolvency in terms of the Insolvency Act No. 24 of 1939 or if it permits circumstances to prevail which could reasonably result in its being wound up.
- 12.3.2 its estate is provisionally or finally sequestrated, surrendered, wound up or placed under judicial management or an application is made or resolution passed therefore; and
- 12.3.3 its assets or any of them are attached in execution or otherwise by Order of Court:
- 12.3.4 a judgement is entered against it by default which judgement is not satisfied within 7 (SEVEN) days of its entry or rescinded within 21 (TWENTY-ONE) days of its entry:
- 12.3.5 it has misrepresented any facts to the Organiser which are relevant to the conclusion or implementation of this contract.
- 12.4 All risk in the installation and the Exhibitor's property brought upon by the stand or the exhibition site shall at all times remain vested in the Exhibitor notwithstanding that the Organiser may have taken into its possession pursuant to the provisions of paragraph 12.1.1 above, the Organiser being discharged from all responsibility with regard to the said property whether or not it is damaged or lost as a result of the fault, act or omission, whether grossly negligent or otherwise, of the Organiser, its employees, agents, servants or invitees.
- 12.5 The provisions of this contract shall not in any way be construed so as to limit or prejudice the landlord's hypothec enjoyed by the Organiser over the property of the Exhibitor located on the stand, the Organiser being entitled to avail itself of its rights in regard thereto in addition to or in the alternative to its other rights in terms of this contract, in its discretion.
- 12.6 Any costs incurred by the Organiser in exercising its rights in terms of paragraph 12.1.1 and/or 12.1.3.2 above shall be borne and paid for by the Exhibitor to the Organiser together with an amount of 15% (FIFTEEN PERCENTUM) of such costs, on demand.
- ### 13. WARRANTIES
- 13.1 The Organiser does not warrant that:
- 13.1.1 the stand is or will be suitable or fit for any purpose for which it may be used by the Exhibitor in terms hereof.
- 13.1.2 the Exhibitor will be granted or provided with any licences, consents, authorities, services or permits in respect of the stand which may be necessary to enable the Exhibitor to use the stand for any purpose for which it may be used by the Exhibitor in terms hereof:
- 13.1.3 the whole or any portion of the exhibition site shall be used or occupied during the exhibition by any specific Exhibitor or otherwise:
- 13.1.4 the shell scheme is fit for the purpose for which it is intended.
- 13.2 The Exhibitor warrants that:
- 13.2.1 it is possessed of the required finance, expertise and product to enable it to fulfil its obligations in terms of this contract:
- 13.2.2 it is not legally bound from whatsoever cause in a manner which might prevent or restrict it from complying with its obligations in terms of this contract.
- ### 14. EXCLUSION OF LIABILITY
- 14.1 The Organiser shall not be responsible for any direct, indirect or consequential loss or damage to the stand or other property of any kind brought into the exhibition by the Exhibitor, its servants, employees, agents,

contractors or invitees for any injury to the person of the Exhibitor, or any of its servants, employees, agents, contractors or invitees howsoever such loss or damage to the stand or property, or injury to person may be caused and notwithstanding that such loss or damage to the stand or property, or injury to person may have been occasioned by the fault, neglect or gross negligence of the Organiser, its employees, servants, agents, contractors or invitees or by the exhibition site being in or falling into a defective state of repair.

- 14.2 The Exhibitor hereby indemnifies the Organiser against all and any actions, claims, demands, costs, charges or expenses arising or resulting directly or indirectly from any act, omission or negligence by the Exhibitor, its servants, employees, agents, contractors or invitees notwithstanding that such action, claim, demand, cost, charges or expenses may have been occasioned in whole or part by the fault, neglect or gross negligence by the Organiser, its employees, servants, agents, contractors or invitees, or by the exhibition site or any installations thereon being or falling into a defective state of repair.

15. GENERAL

- 15.1 This contract constitutes the whole agreement between the Organiser and the Exhibitor. No warranties or representations, express or implied, which may be made by the Organiser or its agents shall be binding on the Organiser save for those recorded in this contract.
- 15.2 No variation of this contract or waiver, abandonment or release by the Organiser of any of its rights in terms of this contract nor any relaxation or indulgence granted by the Organiser to the Exhibitor shall be binding on the Organiser unless reduced to writing and signed by a director of the Organiser. No such waiver, abandonment, release, relaxation of indulgence which the Organiser may grant to the Exhibitor or agree to shall in any way prejudice the Organiser's other rights or constitute a waiver or notation of the Organiser's other rights in terms of this contract.
- 15.3 For the purpose of delivery of all notices and or processes arising from or in connection with this contract, the Exhibitor chooses as its domicilium citandi et executandi the address stated in the Exhibitor's application to exhibit OR the registered office of the Exhibitor.
- 15.4 For the purpose of all or any proceedings related hereto or arising herefrom the Exhibitor hereby consents to the jurisdiction of the Magistrate's Court having territorial jurisdiction in terms of Section 29 of the Magistrate's Court Act of 1944, as amended, notwithstanding that the amount in dispute exceeds the jurisdiction of such Court in which event this shall be deemed to be the

required written consent conferring jurisdiction upon the Court pursuant to Section 45 of the Magistrate's Court Act of 1994, as amended.

- 15.5 Notwithstanding the foregoing, the Organiser shall have the right as its sole option and discretion to:
- 15.5.1 institute proceedings out of any other Court having competent jurisdiction; alternatively
- 15.5.2 refer such proceedings to arbitration pursuant to the provisions of paragraph 11.2 above.
- 15.6 The Organiser shall be entitled in its discretion, to cede its right, title and interest in and to this contract in whole or part and to cede its claims in whole or part against the Exhibitor in terms of this contract. Without limiting or derogating from the generality of the foregoing it is recorded specifically that the Organiser shall be entitled in its discretion to treat this contract as severable as regards the shell scheme on the one hand and the stand on the other. Save as aforesaid the provisions of this contract are not severable.
- 15.7 Should the Organiser in its discretion instruct or consult with attorneys and/or institute proceedings against the Exhibitor to procure the Exhibitor's compliance with its obligations in terms of this contract then the costs incurred by the Organiser in so doing shall be paid by the Exhibitor on demand on the scale applicable as between the Organiser and its own attorney notwithstanding that no proceedings may be instituted and such costs shall include collection commission.
- 15.8 The Exhibitor waives and abandons its rights under Section 62(1)(c) of the Rules of the Magistrate's Court which it undertakes not to evoke.