

PO Box 707, Mold, CH7 1FG

Telephone: 01244 375 627

Email: sales@creativeplayuk.com

Web: www.creativeplayuk.com



facebook.com/CreativePlayUk



[@CreativePlayUK](https://twitter.com/CreativePlayUK)

RE: Creative Play (UK) Ltd. Order Agreement

Dear Daniel

Thank you for confirming that you wish to go ahead with your Creative Play quotation, we are excited to be working with you and cannot wait to get going with your project!

Further to your conversation with Rob Williams, please find enclosed all the relevant paperwork to finalise your order.

Please take the time to read and fully understand the documentation, once you are happy please sign and submit the order form found on page two, to formally place your order.

Once we have received the signed order form, we will process your order and schedule your project for manufacture. At this point our Operations team will be in touch to confirm your installation dates and arrange any pre-start logistics.

If a deposit is required, a member of our finance department will be in touch shortly after the order is placed.

If something is not quite right or you would like to make an amendment to your order, please let us know as soon as possible as it is difficult to make changes once your order has been sent for manufacture. Please contact us using the following methods: sales@creativeplayuk.com | 01244 375627

Thanks again, we are very much looking forward to working with you on this project.

Yours sincerely,

Ryan Griffiths

Customer:	Nutfield Church Primary School
Address:	59 Mid Street
(Line 2)	South Nutfield, Redhill
Postcode:	RH1 4JJ
Contact:	Daniel Walker-Cheetham
Telephone:	01737 823 239
Email:	bursar@nutfield.surrey.sch.uk

Please complete this form as described. If you have any queries please contact us on 01244 375627

Invoice Address (If different from above)	
Address:	
(Line 2)	
Postcode:	

Quotation Details

Reference: CP0968
Revision: 2

Order Value (exc. VAT) £9,618.00

Payment Terms Payment in completion

Company/Charity Reg No.
(if applicable)

Is a Purchase Order Number required to process our payment?

YES

☐

NO

☒

If yes, please provide the Purchase Order Number

For the purposes of the Domestic Reverse Charge VAT Scheme (from 01/03/2021) please answer the following questions

Are you the end user of the products & services to be provided ?
If you are NOT the end user please answer the 2 questions below

YES ☒

NO ☐

Are you VAT Registered

YES

NO

Are you registered for the Construction Industry Scheme (CIS)

YES

NO

Order Confirmation/Authorisation

Please confirm that you wish to proceed with this order and your acceptance of our Terms of Business:

I wish to place an order with Creative Play as described within this quote and have the authority to do so ☒

I have read and accept Creative Play's Terms & Conditions, Cancellation Policy and Payment Terms ☒

Signature		Date	09/12/22
Print Name	Daniel Walker-Cheetham	Position/Role	School Business Manager
Comments			

For full details on how your data will be used, please refer to our privacy policy via <https://creativeplayuk.com/privacy-policy/> . If you need any further information please write to us at PO Box 707, Mold, Flintshire, CH7 1FG

Completion of this order form indicates acceptance of our terms and conditions, payment terms and cancellation policy, this information is included within this document and available on our website - www.creativeplayuk.com/terms-and-conditions



QUOTE

VAT Registration Number
GB560027180

Quote Date **Quote Number**
06-12-2022 CP0968 REV-2

Nutfield CE Primary School
59 Mid Street
South Nutfield
Redhill
Surrey
South East
RH1 4JJ
United Kingdom

Qty	Item	Description	Unit £	VAT	Total
1	BES102	LINEAR ADVENTURE TRAIL 12	£8,318.00	20.00%	£8,318.00
26	SUR105	GRASS MAT SURFACING	£50.00	20.00%	£1,300.00
			NET		£9,618.00
			VAT		£1,923.60
			GROSS		£11,541.60

Terms And Conditions Apply

Subject To Site Survey And Good Access

Adventure Trail 12 To Be Straight

Grass Mats To Be Laid Directly Under the Equipment

Payment On Completion

All Prices Are Valid For 30 Days From The Date Shown

Key points to consider and additional information

1.) Payment Terms

State Funded Organisations – full payment is due on completion of the project. We understand that payment can take a few days to process so accept that payment can take 14 days from completion to reach us.

Privately Funded Organisations – a 50% deposit will be required prior to manufacture of your order. This payment is due within 14 days of placing your order and a proforma invoice will be sent upon order. The balance of your invoice will be due on completion with funds being received within 14 days. Credit is subject to status and Credit Insurance application.

Invoicing – We will send you an invoice a few days prior to completion to facilitate payment. If you require invoicing before this, please let us know.

School Holidays – where a project is scheduled to be completed during a school holiday and where payment cannot be made during the holiday, and within agreed payment terms, an invoice will be issued in advance. If you are unable to meet the agreed payment terms because of school holidays, we will ask for part payment of the invoice prior to the project commencing. This is particularly applicable to the 6-week summer holiday.

2.) Cancellation

Following receipt of a signed order, we will process your order and issue an email sales order acknowledgement.

The customer may cancel the order, at no cost, within 5 days of issue of the sales order acknowledgement email. Cancellation requests must be received in writing.

If the customer wishes to cancel after 5 days of issue of the sales order acknowledgement email, then 50% of the order value will be payable.

In any event, if the customer wishes to cancel the order within 14 days of the notified installation date, then 90% of the order value will be payable.

3.) Postponement

You may request to postpone the project by contacting Creative Play in writing if notification is received at least 14 days prior to the notified installation date. Where a postponement is requested less than 14 days before the notified installation date then abortive fees of 10% of the order value would be incurred.

The project cannot be postponed for more than 6 months from the date of issue of the sales order acknowledgement email. Where projects are not started within 3 months, the full amount of the project value will become payable.

Where products have been manufactured ready for installation, we may ask you to make payment for the value of the products less the installation charges.

4.) Planning Permissions

Planning permission is not usually required for playground equipment developments; however, it is the customer's responsibility to check whether there are planning permission requirements for their project as restrictions differ dependent on location, planning authority and permitted development.

5.) Site Security & Welfare

Unless stated otherwise within our quotation, no allowance has been made for site security and welfare facilities.

Our installation teams will use a 1m high temporary orange mesh fence to identify the area of works. Should more substantial, metal Heras fencing be required this can be arranged at an additional cost - £495 ex VAT per project to cover delivery, hire costs, assembly and dismantlement costs.

If you are unable to provide welfare facilities for the installation team, a temporary toilet can be provided at an additional cost - £250 ex VAT per project.

Please notify us at the point of order if you would like to add these to your order.

6.) Waste Disposal

Our quotation includes for all waste disposal off site to an approved waste management facility and within waste management legislation.

Where you have requested that spoil and waste be left on site to achieve a cost saving, this spoil will be left neatly next to the area of works.

Please note we are required to use 3rd parties for delivery and collection of skips or waste grab wagons and as such cannot guarantee collection dates following completion.

7.) Groundwork Preparation

Where groundwork preparation is required, and the customer has chosen to complete works themselves or using a 3rd party contractor, these must be carried out to Creative Play's specification (link to specification). Please contact us for details if you are unsure.

8.) Access route and reinstatement

Whilst all care will be taken to minimize disruption and damage along the access route. To carry out your project we need to ensure we can get deliveries, materials, skips, plant and installation labour to the area of works. Unless stated otherwise within our quotation, no allowance for ground protection or reinstatement is included.

It is the customers responsibility to ensure that Creative Play have continuous access to the area of works and set up areas during the installation period and within usual operating hours (Monday – Friday 07:30 – 17:00).

9.) Drainage & Suitability of Location

Creative Play cannot assess the suitability of an area for playground equipment with regards to drainage as we cannot observe the area throughout the year. There is often a significant period between initial site consultation and installation, Creative Play cannot accept any responsibility for the drainage properties of an area and the customer should determine whether a location is suitable for playground equipment or safety surfacing to be installed, we will of course provide advice to the best of our abilities.

10.) Underground Services

Whilst all care is taken, including a CAT survey (cable avoidance tool), we are unable to identify all underground services prior to installation. Where possible the Customer should provide drawings and plans of underground services (water, drainage, electricity, gas). Creative Play cannot accept any responsibility for damage caused to underground services.

11.) Maintenance/BSEN1176

As a playground operator you are required to ensure that your playground is maintained and regularly inspected. Your playground will be installed to the requirements of BSEN1177/1177 and signed off by one of our Project Managers. Independent inspections can be arranged for a cost of £295 ex VAT.

Creative Play offer ongoing service and inspection services to help you ensure that your playground is safe and well maintained. For more details, please contact us or see here ([link to maintenance document](#))

12.) Safety Surfacing

Safety Surfacing is a requirement under BSEN1176/1177 in some circumstances and can be used as a great addition to your playground. There are some limitations of these products that you should be aware of:

a) Engineered Sub-base – safety surfaces should always be laid onto a compacted, free-draining, stone sub-base including a weed-suppressing geotextile membrane. The exception to this is grass matting which is designed to be laid directly over the existing grass surface.

b) UV Discolouration of EPDM Wetpour – on rare occasions and subject to certain environmental conditions (bright sunshine, warm weather) wetpour surface are subject to UV discolouration during the laying process which presents as a yellowing of the polyurethane binder. This yellowing can temporarily change the aesthetics of the surface and is more prevalent when using certain colours (blue, green, white, beige), although all colours can be affected.

Creative Play recommend using colours which are less susceptible such as terracotta red, earth yellow and black/colour mixes which can reduce the chance of discolouration becoming apparent. This is a limitation of the laying process and cannot be avoided, please discuss this with your Play Advisor or Project Manager if you have concerns.

c) Rubber Mulch surfacing uses a recycled rubber tyre shred which is then colour-coated. As such the colour-coating will wear over time and expose the black rubber changing the colour of the surface. Additionally, the black tyre material can result in carbon colour transfer which can result in staining of skin and clothes. We do not recommend the use of rubber mulch surfacing in Early Years environments or in areas where children will regularly be sitting or crawling on the surface.

d) Drainage – whilst Creative Play will always ensure that safety surfaces are laid onto a compacted, free draining stone sub-base, this sub-base will not change the drainage properties of the area. If the space chosen for the play equipment or surface regularly floods, has a high-water table or is particularly wet the sub-base will not change these drainage properties.

Creative Play cannot be held responsible for any issues arising with UV discolouration, Colour/Carbon Transfer or poor drainage. Please speak to your Play Advisor or Project Manager if you have concerns about the drainage in the area of proposed works.

Terms & Conditions

1. Interpretation

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Completion: has the meaning given in clause 7.17.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.9.

Contract: the contract between Creative Play and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Creative Play: Creative Play (UK) Limited whose registered office is Knutsford Way, Chester, Cheshire CH1 4NS.

Creative Play Materials: materials, equipment, documents and other property of Creative Play.

Customer: the person, company or firm who purchases the Goods and/or Services from Creative Play.

Deposit: has the meaning given in clause 9.4.

Force Majeure Event: has the meaning given to it in clause 14.

Goods: the goods (or any part of them) set out in the Order.

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

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form or the Customer's written acceptance of Creative Play's quotation, as the case may be.

Practical Completion: when the Services have been completed, in accordance with clause 7.15.

Services: the services supplied by Creative Play to the Customer including but not limited to any design and/or installation services.

2. Basis of Contract

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when Creative Play issues written acceptance/acknowledgment of the Order at which point and on which date the Contract shall come into existence. At this point, the Customer becomes obligated to accept delivery/installation of the Goods and/or provision of the Services.

2.3 Any samples, plans, briefs, surveys, drawings, 3D designs, descriptive matter or advertising issued by Creative Play including illustrations or descriptions contained in catalogues or brochures which are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, by their Order or otherwise, or which are implied by trade, custom, practice or course of dealing.

2.5 Any quotation given by Creative Play shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue. A quotation can be withdrawn by Creative Play at any time.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Goods

3.1 The Goods to be supplied are set out in the Order, as confirmed and accepted by Creative Play in accordance with clause 2.2.

3.2 If Goods are to be manufactured in accordance with a specification/design supplied by the Customer, the Customer shall indemnify Creative Play against all liabilities or losses suffered or incurred by Creative Play in connection with any claim made against Creative Play for infringement of a third party's rights.

3.3 Creative Play reserves the right to amend the Goods if required by any applicable statutory or regulatory requirement, and Creative Play shall notify the Customer in any such event.

3.4 Creative Play will be under no obligation to make amendments to the agreed specification or design once the Contract is formed. Creative Play may, at their own discretion, make such amendments and shall be entitled to make variations to the price that is necessary as a result.

3.5 Creative Play has the right to amend/vary/change the Goods without the Customer having the right to terminate the contract so long as the change does not materially and prejudicially affect the nature of the Goods or the price by more than 10%.

4. Delivery of Goods

4.1 Creative Play shall deliver the Goods to the location set out in the Order or such other location as the parties may agree at any time after Creative Play notifies the Customer that the Goods are ready.

4.2 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. In any event, Creative Play shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Creative Play with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.3 If Creative Play fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Creative Play shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Creative Play with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.4 If the Customer fails to accept or take delivery of the Goods within 10 Business Days of Creative Play notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Creative Play's failure to comply with its obligations under the Contract in respect of the Goods:

a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 10th Business Day following the day on which Creative Play notified the Customer that the Goods were ready; and

b) Creative Play shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.5 If 20 Business Days after Creative Play notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, Creative Play may resell or otherwise dispose of part or all of the Goods and the contract shall be deemed terminated as a result of the Customer's breach of contract.

4.6 In such instances, Creative Play shall be entitled to retain the Deposit and, to the extent such costs are not covered by the Deposit, the Customer shall pay for any expenses and/or costs incurred by Creative Play up to the date of termination.

5. Quality of Goods

5.1 Creative Play warrants that on delivery the Goods shall:

a) conform in all material respects with their description;

b) be free from material defects in design, material and workmanship; and

c) conform to BSEN1176/77 (as in force from time to time).

5.2 Conformity to no other standards or warranties is to be implied.

5.3 Subject to clause 5.4, if:

a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

b) Creative Play is given a reasonable opportunity of examining such Goods; and

c) the Customer (if asked to do so by Creative Play) returns such Goods to Creative Play; Creative Play shall, at its option, repair or replace the defective Goods.

5.4 Creative Play shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:

a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.3;

b) the defect arises because the Customer failed to follow Creative Play's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;

c) the defect arises as a result of Creative Play following any drawing, design or specification supplied by the Customer;

d) the Customer alters or repairs such Goods without the written consent of Creative Play;

e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory/regulatory standards or have been altered in accordance with the terms of this Contract.

5.5 Except as provided in this clause 5, Creative Play shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1. In particular, the Customer's attention is drawn to the limitations outlined in the Safety Surfacing Information Sheet provided with the Quotation.

5.6 This Customer should be aware that Rubber Mulch Safety Surfacing is a recycled material which coloured using a coating pigment. As such no guarantee is given as to the colourfastness of the product. Colours may vary between batches and no consistency of colour is guaranteed or warranted. Further information is provided in the Safety Surfacing Information Sheet.

5.7 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Creative Play.

6. Title and Risk

6.1 The risk in the Goods shall pass to the Customer on delivery.

6.2 Title to the Goods shall not pass to the Customer until Creative Play receives payment in full (in cash or cleared funds) for the Goods and Services that it has supplied to the Customer.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

a) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Creative Play's behalf from the date of delivery;

b) notify Creative Play immediately if it becomes subject of any insolvency event; and

c) give Creative Play such information relating to the Goods as Creative Play may require from time to time.

6.4 If before title to the Goods passes to the Customer (i) the Customer becomes subject to an insolvency event, and/or (ii) Creative Play terminates the contract, without limiting any other right or remedy, Creative Play may require the Customer to return the Goods to Creative Play (at the Customer's cost) and if the Customer fails to return the Goods within 5 Business Days of Creative Play demanding their return, Creative Play may enter any premises of the Customer where the Goods are stored in order to recover them.

7. Supply of Services

7.1 Creative Play shall use all reasonable endeavours to meet any performance and completion dates for the Services but any such dates shall be estimates only and time shall not be of the essence for the performance and/or completion of the Services.

7.2 Particularly, Floor markings are often dealt with by a separate team and as such the timing of when the markings are applied may be later than the completion date of the rest of the services.

7.3 In any event, Creative Play shall not be liable for any delay in delivery of the Services that is caused by a Force Majeure Event or the Customer's failure to provide Creative Play with adequate delivery instructions or any other instructions that are relevant to the supply of the Services.

7.4 Creative Play will endeavour to give the Customer two weeks' notice of when the Goods are ready and installation is to begin.

7.5 Creative Play will carry out a pre-installation inspection of the site. If that inspection identifies previously unknown issues then Creative Play shall have the right to vary the price and the Services and/or Goods to take account of any such changes.

7.6 Creative Play shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and/or which do not materially affect the nature or quality of the Services.

7.7 Creative Play has the right to amend/vary/change the Services without the Customer having the right to terminate the contract so long as the change does not materially and prejudicially affect the nature of the Services or the price by more than 10%.

7.8 If the Customer has any special requirements in relation to the condition of the site when it is handed back to the Customer following Practical Completion, these requirements shall be notified to Creative Play during the pre-installation inspection. In the absence of Creative Play being informed about any such requirements and agreeing to them, Creative Play shall only be required to return the site to the Customer in a tidy condition with no betterment (save for the betterment as a result of project itself).

7.9 Creative Play warrants to the Customer that the Services will be provided using reasonable care and skill.

7.10 Unless drawings and plans of any underground services or pipes are provided to Creative Play before the Services commence– including but not limited to electric, gas, drains, water and telephone – Creative Play shall not be liable for damage caused or subsequent damage, repair or disruption to any underground services or pipes.

7.11 The Goods shall not be used by the Customer or anyone under the Customer's control until Practical Completion has taken place. Additionally, rubber surfacing requires a curing period and the surface should not be used by the Customer until that curing process has taken place (which usually takes approximately 48 hours). Creative Play accepts no liability whatsoever for any injury or loss caused as a result of use of the Goods in contravention of this provision.

7.12 Although Creative Play shall take reasonable steps to avoid causing damage to floor, surfaces and access routes, it shall not be liable for such damage (unless caused by Creative Play's negligence or wilful default) when the Customer has given permission to access such floor, surface or access routes.

7.13 If Services are being supplied at a time when persons under the control of the Customer may gain access to the location/area where the Services are being provided, the Customer shall be solely and exclusively responsible for ensuring that those persons are kept a safe distance away from where the Services are being carried out and/or Goods stored or being used.

7.14 Creative Play will cordon off the installation area using temporary orange fencing. If the Customer requires different or more substantial fencing, the Customer must advise Creative Play before the commencement of Services. There will be an additional cost in respect of obtaining that fencing.

7.15 Creative Play shall, at its reasonable discretion, determine when the Services have been practically or substantially completed ('Practical Completion').

7.16 Following Practical Completion, Creative Play will issue the customer with a Handover Sign Off Sheet. If the Customer identifies any snagging, defects or post completion issues, these must be identified with 14 days of receipt of the Handover Sign Off Sheet.

7.17 Completion will take place on the earliest of the following:

- a) Date the customer signs the Handover Sign Off Sheet;
- b) 14 days after receipt of the Handover Sign Off Sheet; or
- c) 28 days after Practical Completion.

8. Customer's Obligations

8.1 The Customer shall:

- a) ensure that the terms of the Order and any details in a specification or other information given in relation to the Goods and/or Services are complete and accurate;
- b) ensure that the design/specification meets the Customer's requirements;
- c) co-operate with Creative Play in all matters relating to the Services;
- d) provide Creative Play its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required by Creative Play to provide the Services including details of any site requirements and/or limitations which may affect the provision of the Services;
- e) provide, in a timely fashion, Creative Play with such information and materials as Creative Play may reasonably require to supply the Goods and Services, and ensure that such information is accurate in all material respects;
- f) prepare the Customer's premises for the supply of the Services including following any reasonable instructions that Creative Play issue in respect of such preparation;
- g) provide Creative Play with access to the premises when required, including out of normal operating hours if requested;
- h) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- i) comply with all applicable laws, including (but not limited to) health and safety, planning and building control laws;

- j) keep and maintain all Creative Play Materials at the Customer's premises in safe custody;
 - k) ensure that an authorised representative is present at the time of installation or any preparatory work being carried out in order to ensure access to the premises and provide confirmation as to design and layout;
 - l) engage with Creative Play to complete the handover and/or sign-off process;
 - m) be entirely responsible for the safe use of the Goods after Creative Play have installed them;
 - n) provide Creative Play's staff with suitable facilities and utilities to enable the Services to be provided. In particular, if the Customer is not able to give access to toilet facilities then Creative Play shall hire portable facilities and the Customer will bear the cost of that;
 - o) follow all of Creative Play's reasonable instructions in relation to the Goods and/or Services; and
 - p) comply with any additional obligations as set out in the confirmed Order.
- 8.2 If Creative Play's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ('Customer Default'):
- a) Creative Play shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Creative Play's performance of any of its obligations;
 - b) Creative Play shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Customer Default; and
 - c) the Customer shall reimburse Creative Play on written demand for any costs or losses sustained or incurred by Creative Play arising directly or indirectly from the Customer Default;
 - d) Creative Play shall have option to increase the price to take account of the Customer's failure to comply with its obligations.

9. Charges & Payment

9.1 The price for Goods and Services shall be the price set out in the Order or, if no price is quoted, the price set out in Creative Play's published price list as at the date of the Order.

9.2 If Creative Play is required to perform any Services or supply any Goods over and above those which form part of the original Order, Creative Play reserves the right to charge for those additional Goods and/or Services in accordance with the standard rates in force at the time.

9.3 Creative Play may increase the price of the Goods and/or Services, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Creative Play that is due to:

- a) any factor beyond the control of Creative Play (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- b) any request by the Customer to change the delivery date(s) and dates for installation, quantities or types of Goods ordered; or
- c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Creative Play adequate or accurate information or instructions in respect of the Goods.

9.4 Creative Play may, at its sole discretion, ask for payment of part of the price in advance of provision of the Goods and Services (the "Deposit"). Where Creative Play requires a Deposit the amount will be specified in the quotation.

9.5 Where a Deposit is payable, a request for payment (by pro-forma invoice or otherwise) will be issued by Creative Play on receipt of the Order. Payment of the Deposit must be made within 28 days of this request, or 10 Business Days prior to the commencement of Services, whichever is earlier.

9.6 Where a Deposit is requested Creative Play shall be under no obligation to take any further steps with regards the project until such time as the Deposit has been paid in cleared funds.

9.7 The Customer shall pay the price (or the balance of the price) for the Goods and/or Services immediately upon Completion.

9.8 If the Customer identifies snagging, defects or post-completion issues, the Customer shall be entitled to retain a maximum of 10% of the price pending those matters be resolved. Once Completion has taken place, the Customer shall not have any entitlement to retain more than 10% of the price. That 10% shall be paid immediately upon the completion of the matters which gave rise to the withholding.

9.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of VAT.

9.10 If the Customer fails to make any payment due to Creative Play under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 2% per calendar month until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Creative Play may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Creative Play to the Customer.

9.12 Where a special discount, payment or other terms have been agreed, these shall be strictly subject to the Customer's compliance with these Conditions (including, but not limited to an obligation to pay), and such special terms shall cease and revert to these normal standard terms upon your non-compliance.

10. Intellectual Property Rights

All intellectual property rights in or arising out of or in connection with the Goods and/or Services shall be owned by Creative Play.

11. Confidentiality & Data Processing

11.1 A party ('Receiving Party') shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party ('Disclosing Party'), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

11.2 Creative Play will process any personal data in accordance with its Privacy Policy and Cookie Policy, copies of which are available on Creative Play's website or on request.

12. Limitation Of Liability

12.1 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- a) death or personal injury caused by negligence;
- b) fraud or fraudulent misrepresentation; and
- c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2

of the

Supply of Goods and Services Act 1982 (title and quiet possession).

12.2 Subject to clause 12.1:

a) Creative Play shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

b) Creative Play's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price paid by the Customer for the Goods and/or Services.

12.3 Given the express warranties provided by the Contract, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract. Creative Play gives no warranty as to the suitability of the Goods and/or design for the Customer's particular requirement or objective.

13. Termination

13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect if:

a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 10 Business Days after receipt of notice in writing to do so;

b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability

to adequately fulfil its obligations under the Contract has been placed in jeopardy.

13.2 Without affecting any other right or remedy available to it, Creative Play may terminate the Contract with immediate effect:

a) if the Customer fails to pay any amount due under the Contract on the due date for payment; or

b) in accordance with clause 4.5.

13.3 Without limiting its other rights or remedies, Creative Play may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Creative Play if the Customer fails to pay any amount due under this Contract on the due date for payment.

13.4 On termination of the Contract for any reason:

a) the Customer shall immediately pay to Creative Play all of the its outstanding unpaid invoices and interest and, in respect of Goods and/or Services supplied but for which no invoice has yet been submitted, Creative Play shall submit an invoice, which shall be payable by the Customer immediately;

b) Creative Play will be entitled to retain any Deposit;

c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. Force Majeure

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

15. General

15.1 This agreement is personal to the parties and neither party may, without the prior written consent of the other assign, subcontract, novate, transfer or deal in any other manner with all or any of its rights or obligations under this agreement.

15.2 Each right or remedy of the parties under this agreement is without prejudice to any other right or remedy of that party whether under this agreement or not.

15.3 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control.

15.4 This agreement constitutes the whole agreement between the parties in relation to the Borrowed Amount and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this agreement.

15.5 Both parties acknowledge that, in entering into this agreement it does not rely on any statement, representation, assurance or warranty of any person (whether a party to this agreement or not) other than as expressly set out in this agreement

15.6 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties

15.7 If any provision of this agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of this agreement and the remainder of such provision shall continue in full force and effect.

15.8 Failure or delay by a party in enforcing or partially enforcing any provision of this agreement shall not be construed as a waiver of any of its rights under this agreement.

15.9 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15.10 The parties to this agreement do not intend that any term of this agreement shall be enforceable by virtue of this agreement (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.11 The formation, existence, construction, performance, validity and all aspects of this agreement and any and all matters relating to it shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.