

Delicious London Ltd Supplier Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions.

Applicable Laws: all applicable laws, statutes and regulations from time to time in force.

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

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Change Order: has the meaning given in clause 5.1.

Charges: the charges payable by Delicious London for the supply of the Services in accordance with clause 6 (Charges and Payment).

Client: the ultimate client of Delicious London, and who Delicious London is hosting the Event for, as detailed in the Order.

Client Requirements: the specific requests made by the Client as detailed in the Specification which the Supplier should bear in mind at all times in the supply of the Services.

Conditions: these terms and conditions as amended from time to time in accordance with clause 13.3.

Contract: the contract between Delicious London and the Supplier for the supply of Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Delicious London: a company incorporated and registered in England and Wales with company number 08867124, and using the trading names "Delicious London", "Delicious Barcelona" and "Eat Your Heart Out".

Delicious London's Equipment: any equipment, including tools, systems, cabling or facilities, provided by Delicious London, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services.

Delicious London's Representative: the individual identified as such in the Order, being the person responsible for managing the Services on behalf of Delicious London.

Delicious London's Materials: all documents, information, items and materials in any form (whether owned by Delicious London or a third party), which are provided by Delicious London to the Supplier in connection with the Services.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Event: the event identified in the Order which Delicious London is hosting, and for which the Supplier's services are being obtained.

Force Majeure Event: any circumstance not within a party's reasonable control including, without limitation, acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots; collapse of buildings, fire, explosion or accident; non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and interruption or failure of utility service.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, 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.

Key Personnel: the Supplier's Representative and the individuals identified as key personnel in the Order, or any replacement individuals appointed by the Supplier pursuant to clause 3.3(c) and clause 3.3(b).

Order: Delicious London's order for the supply of Services, as set out in Delicious London's purchase order form, or in Delicious London's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract, as set out in the Specification.

Specification: the description or specification for the Services agreed in writing by Delicious London and the Supplier.

Supplier IPRs: all Intellectual Property Rights either subsisting in the Deliverables (excluding any of Delicious London's Materials incorporated in them) or otherwise necessary or desirable to enable Delicious London to receive and use the Services.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier, its agents, subcontractors or consultants to Delicious London and used directly or indirectly in the supply of the Services.

Supplier's Representative: the individual identified in the Order, or any replacement individual appointed by the Supplier pursuant to clause 3.3(c) and clause 3.3(b), being the person responsible for managing the Services on behalf of the Supplier.

Timetable: the timetable for the Services set out in the Order.

1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes fax and email.

2. Basis of contract

2.1 The Order constitutes an offer by Delicious London to purchase Services in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. Supplier's responsibilities

3.1 The Supplier shall:

- (a) provide the Services and the Deliverables in accordance with Specification;
- (b) ensure that the Services and Deliverables will conform in all respects with the Specification and the Client Requirements, and that the Deliverables shall be fit for any purpose expressly or implicitly made known to the Supplier by Delicious London;
- (c) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (d) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
- (e) willingly co-operate with Delicious London and comply with Delicious London's instructions at all times;
- (f) willingly co-operate with all other contractors of Delicious London and the Client, so as to enable Delicious London to deliver its services to the Client in accordance with the Client Requirements;
- (g) before the date of the Event obtain and at all times maintain, during the term of the Contract, all necessary licences and consents and comply with all Applicable Laws in relation to:
 - (i) the Services; and
 - (ii) the installation and use of the Supplier's Equipment;
- (h) observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Event venue from time to time and that have been communicated to it under clause 4(f). Delicious London reserves the right to refuse any of the Supplier's personnel involved in the provision of the Services access to the Event venue, which shall only be given to the extent necessary for the performance of the Services;
- (i) comply with the Applicable Laws and inform Delicious London as soon as it becomes aware of any changes in the Applicable Laws;
- (j) hold all Delicious London's Materials in safe custody at its own risk and maintain Delicious London's Materials in good condition until returned to Delicious London, and not dispose of or use Delicious London's Materials other than in accordance with Delicious London's written instructions or authorisations;
- (k) take good care of any of Delicious London's Equipment provided by Delicious London pursuant to clause 4(e);
- (l) not do or omit to do anything which may cause Delicious London to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
- (m) notify Delicious London in writing immediately upon the occurrence of a change of control of the Supplier.

3.2 Time is of the essence in relation to the Timetable. If the Supplier fails to meet the relevant deadlines, then (without prejudice to Delicious London's right to terminate the Contract and any other rights it may have), Delicious London may:

- (a) refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (b) purchase substitute services from elsewhere and reclaim from the Supplier any additional costs incurred as a result of procuring such services from a third party instead of the Supplier;
- (c) hold the Supplier accountable for any loss and additional costs incurred; and
- (d) have any sums previously paid by Delicious London to the Supplier in respect of the affected Services refunded by the Supplier.

3.3 In relation to the Supplier's personnel, the Supplier shall:

- (a) use the Key Personnel in the provision of the Services ;
- (b) use its best endeavours not to make any changes to the Key Personnel throughout the term of the Contract and obtain the prior written approval of Delicious London (such approval not to be unreasonably withheld or delayed) to any replacements for such individuals;
- (c) promptly inform Delicious London of the absence (or the anticipated absence) of any of the Key Personnel, and if so required by Delicious London, provide a suitably qualified replacement for such individual;
- (d) ensure that all personnel involved in the provision of the Services have suitable skills and experience to enable them to perform the tasks assigned to them, and that such personnel are in sufficient number to enable the Supplier to fulfil its obligations under the Contract; and
- (e) ensure that the Supplier's Representative has authority to bind the Supplier on all matters relating to the Services (including by signing Change Orders).

4. **Delicious London's obligations**

Delicious London shall:

- (a) provide the Supplier with all documents, information, items and materials required under the Specification including the Client Requirements in advance of the Event;
- (b) co-operate with the Supplier as necessary to facilitate the Supplier's provision of the Services;
- (c) ensure that Delicious London's Representative has authority to bind Delicious London on all matters relating to the Services (including by signing Change Orders);
- (d) provide access to the Event venue and other facilities as may reasonably be requested by the Supplier and agreed with Delicious London in writing in advance, for the purposes of the Services;
- (e) provide Delicious London's Equipment to the Supplier by the dates specified and in the manner prescribed in the Order; and
- (f) inform the Supplier of any health and safety and security requirements that apply at the Event venue which Delicious London has been made aware of.

5. **Change order**

5.1 Either party may propose changes to the scope or execution of the Services, but no proposed changes shall come into effect until a relevant Change Order has been documented in writing and both parties have recorded their agreement to this Change Order in writing (which may be via email). A **Change Order** shall be a document setting out the proposed changes and the effect those changes will have on:

- (a) the Services;
- (b) the Client Requirements;
- (c) the Charges;
- (d) the Timetable for performance of the Services; and
- (e) any terms of the Contract.

5.2 If Delicious London wishes to make a change to the Services:

- (a) it shall notify the Supplier, providing as much detail as is reasonably necessary to enable the Supplier to prepare the draft Change Order; and
- (b) the Supplier shall, within 7 Business Days of receiving Delicious London's request at clause 5.2(a), provide a draft Change Order to Delicious London.

5.3 If the Supplier wishes to make a change to the Services, it shall provide a draft Change Order to Delicious London.

- 5.4 If the Supplier submits a draft Change Order in order to comply with any applicable safety or regulatory requirements and such changes do not affect the nature, scope of, or charges for the Services, Delicious London shall not unreasonably withhold or delay consent to it.
- 5.5 If the parties:
- (a) agree to a Change Order, they shall sign it and that Change Order shall amend the Contract; or
 - (b) are unable to agree a Change Order, both parties shall use reasonable endeavours to resolve the disagreement between them.

6. Charges and payment

- 6.1 In consideration of the provision of the Services by the Supplier, Delicious London shall pay the Charges.
- 6.2 The Supplier shall invoice Delicious London for the Charges at the intervals specified in the Order. If no intervals are specified, the Supplier shall invoice Delicious London at the end of the month in which the Event occurred. Delicious London shall pay each invoice submitted to it by the Supplier within 30 days of receipt to a bank account nominated by the Supplier in writing.
- 6.3 Subject to clause 6.4, if Delicious London fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 11 (Termination), Delicious London shall pay interest on the overdue sum from the due date until payment of the overdue sum. Interest under this clause 6.3 will accrue at 2% a year above the Bank of England's base rate from time to time.
- 6.4 If Delicious London disputes a payment in good faith, then the interest payable under clause 6.3 is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 6.5 Delicious London may, at any time, set off any liability of the Supplier to Delicious London against any liability of Delicious London to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, Delicious London may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Delicious London of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

7. Intellectual Property Rights

- 7.1 The Supplier and its licensors shall retain ownership of all Supplier IPRs. Delicious London and its licensors shall retain ownership of all Intellectual Property Rights in Delicious London's Materials.
- 7.2 The Supplier grants Delicious London, or shall procure the direct grant to Delicious London of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence to copy and modify the Supplier IPRs for the purpose of receiving and using the Services during the term of the Contract and for the duration of any exit arrangements provided under clause 11.4(b).
- 7.3 Delicious London may sub-license the rights granted in clause 7.2 to Delicious London's Client.
- 7.4 Delicious London grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify Delicious London's Materials for the term of the Contract for the purpose of providing the Services to Delicious London in accordance with the Contract.
- 7.5 The Supplier shall indemnify Delicious London against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Delicious London arising out of or in connection with any claim brought against Delicious London for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Services by Delicious London and its licensees and sub-licensees. This clause 7.5 shall survive termination of the Contract.

8. Confidentiality

- 8.1 **Confidential Information** means all confidential information disclosed by Delicious London, its employees, officers, representatives, advisors, and its Client, to the Supplier and its employees, officers, representatives and advisors in connection with the Client, the Event and the Contract including but not limited to:
- (a) the existence and terms of the Contract;
 - (b) any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients and suppliers of Delicious London, including the specific details of the Client and the Event; and
 - (ii) the operations, processes and know-how of Delicious London and the Client; and
 - (c) any information developed by the parties in the course of carrying out the Contract.
- 8.2 The Supplier undertakes that it shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, Clients or suppliers of Delicious London, except as permitted by clause 8.3.
- 8.3 The Supplier may disclose Delicious London's Confidential Information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Supplier's rights or carrying out its obligations under or in connection with the Contract. The Supplier shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 8; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.4 The Supplier shall not use Delicious London's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

9. Liability and Insurance

9.1 The Supplier hereby indemnifies Delicious London in respect of any and all actions, proceedings, claims, demands, losses, costs, damages and expenses (including legal fees and expenses) whatsoever which may be brought against or suffered by Delicious London (including any losses caused to Delicious London as a result of Delicious London failing to meet the Client Requirements as a fault of the Supplier's acts or omissions), or which Delicious London may sustain, pay or incur by reason of or on account of any injury, illness or death of persons and/or damage to property arising out of any act or omission of the Supplier, its employees, agents or contractors arising from the performance of the Services, including the Supplier's use of or access to the Event venue, and/or any negligent act or omission by its employees, agents or contractors; and shall immediately inform Delicious London in writing of any act or omission likely to give rise to a claim under this clause 9.1.

9.2 During the term of the Contract and for a period of 1 month after the expiry or termination of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance at reasonable amounts to cover the liabilities that may arise under or in connection with the Contract and shall produce to Delicious London on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Limitation of liability

10.1 Nothing in these Conditions:

- (a) shall limit or exclude the Supplier's or Delicious London's liability for:
 - (i) death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors;
 - (ii) fraud or fraudulent misrepresentation;
 - (iii) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) any other liability which cannot be limited or excluded by applicable law; or
- (b) shall limit or exclude the Supplier's liability under clause 7.5.

10.2 Subject to clause 10.1:

- (a) neither party shall have any liability to the other party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect or consequential loss arising under or in connection with the Contract;
- (b) Delicious London's total liability to the Supplier, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total charges paid by Delicious London under the Contract.

10.3 Notwithstanding clause 10.2(a), the losses for which the Supplier assumes responsibility and which shall be recoverable by Delicious London include:

- (a) sums paid by Delicious London to the Supplier pursuant to the Contract, in respect of any services not provided in accordance with the terms of the Contract;
- (b) wasted expenditure;
- (c) additional costs of procuring and implementing replacements for, or alternatives to, the Services, including consultancy costs, additional costs of management time and other personnel costs and costs of equipment and materials; and
- (d) losses incurred by Delicious London arising out of or in connection with any claim, demand, fine, penalty, action, investigation or proceeding by any third party (including any subcontractor, Supplier personnel, regulator or Client of Delicious London) against Delicious London caused by the act or omission of the Supplier.

11. Termination

11.1 Without affecting any other right or remedy available to it, Delicious London may terminate the Contract with immediate effect by giving written notice to the Supplier if there is a change of control of the Supplier; or the Supplier's financial position deteriorates to such an extent that in Delicious London's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or the Supplier commits a breach of clause 3.1(i).

11.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [7] days after being notified 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; or
 - (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.
- 11.3 Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination [or expiry], 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.
- 11.4 On termination of the Contract for whatever reason:
- (a) the Supplier shall immediately deliver to Delicious London all Deliverables, whether or not then complete, and return all Delicious London's Materials. If the Supplier fails to do so, then Delicious London may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and
 - (b) the Supplier shall, if so requested by Delicious London, provide all assistance reasonably required by Delicious London to facilitate the smooth transition of the Services to Delicious London or any replacement supplier appointed by it.

12. Force majeure

- 12.1 If a party is prevented, hindered or delayed from performing any of its obligations under the Contract by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations, and the time for performance of such obligations shall be extended accordingly, Provided that the Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than [1 Business Day] from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 12.2 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 1 week, the party not affected by the Force Majeure Event may terminate the Contract by giving 1 weeks' written notice to the Affected Party.

13. Miscellaneous

- 13.1 The Contract is personal to the Supplier who shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 13.2 Delicious London may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights under the Contract, provided that it gives prior written notice of such dealing to the Supplier.
- 13.3 No variation of the Contract shall be effective unless and until both parties (or their authorised representatives) have recorded their agreement to the variation in writing (which may be via email).
- 13.4 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.5 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.6 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 13.7 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

14. Notices

- 14.1 Any notice or other communication given to a party under or in connection with the Contract, shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (in the case of the Supplier) or Spectrum House, 9-11 Bromells Road, London, SW4 0BN (in the case of Delicious London); or

- (b) sent by email to the addresses specified in the Order for the Supplier's Representative and Delicious London's Representative.

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

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

14.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15. Counterparts

15.1 The Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

16. Governing law and jurisdiction

16.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the laws of England, whose courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.