



## **Purchase Order Standard Terms and Conditions**

### **1. Formation of Contract**

1.1 These Terms and Conditions shall apply to the Purchase Order:

- unless the Purchase Order refers or relates to a specific contract in which case that specified contract shall apply in conjunction with these Terms and Conditions in the order of priority identified in the specified contract;
- subject only to any minor changes to these Terms and Conditions which are set out in the Purchase Order.

1.2 Nothing in these Conditions shall prejudice or override any condition or warranty expressly implied by statute.

### **2. Definitions**

'Buyer' means Liberty Leisure Limited.

'Goods' means all or any of the items set out in the Purchase Order which are to be supplied to the Buyer by the Supplier.

'Parties' means the Buyer and the Supplier.

'Purchase Order' means any Purchase Order placed by the Buyer under which the Supplier agrees to supply Goods and/or Services to the Buyer.

'Services' means the Services to be performed by the Supplier for the Buyer as described in the Purchase Order and anything created or produced as a result of the Services.

'Specification' means the requirements to which the Goods and/or Services supplied shall conform as detailed in the Purchase Order or otherwise.

'Supplier' means the person, firm or company named as such on page 1 of the Purchase Order (or its successors in title).

'Working Day' means the Buyer's usual working days, which exclude weekends, bank holidays, some other days published by the Buyer, or such other days as may be notified to the Supplier by the Buyer.

### **3. Assignment and Sub-contracting**

3.1 The Supplier shall not assign, transfer, sublet or subcontract in whole or in part any of the Purchaser Order without the prior written consent of the Buyer.

### **4. Documents**

4.1 All advice notes, invoices and packing notes issued by the Supplier shall be clearly marked by the Supplier with the Supplier's name and address, the Purchase Order number, the item code, date of despatch, a description of the Goods and/or Services, the address of their intended destination and the due delivery date.

### **5. Quality and Performance**

5.1 The Goods and/or Services shall conform to the Specification; be of sound design, materials and workmanship; be fit for the purpose for which they are procured by the Buyer and be capable of the required performance to the Buyer's reasonable satisfaction.

5.2 All Services performed under the Purchase Order must be executed by the Supplier in a timely, efficient and professional manner to the appropriate prevailing standards and to the reasonable satisfaction of the Buyer.

### **6. Inspection and Testing**

6.1 Before dispatching the Goods or commencing provision of the Service the Supplier shall, if appropriate and if previously agreed by the Parties, allow the Buyer to inspect and test the Goods and/or Services for compliance with the Specification and/or any other provisions of the Purchase Order. If in the Buyer's reasonable opinion, the Goods and/or Services do not comply with the Specification, the Buyer shall inform the Supplier (in writing, unless this is impractical) either, of the Buyer's intention to reject the Goods and/or Services, or the remedial steps which must be undertaken by the Supplier to ensure compliance with the Specification.

### **7. Delivery**

7.1 The Supplier warrants to the Buyer that the goods will, from the time of delivery, be free from defects or failures for such period as is reasonable for that type of goods. Unless otherwise stated, delivery must take place on a Working Day and during the normal working hours of 9am to 4.30pm.

7.2 Any delivery date specified shall be of the essence and the delivery will be made to such delivery location as may be specified by the Buyer in the Purchase Order.

7.3 The Supplier shall deliver the Goods and/or Services as instructed in the Purchase Order and obtain a receipt for them from an authorised officer of the Buyer. Any requirements as to the manner, quantities or special requirements for delivery, specified in the Purchase Order, shall also be complied with by the Buyer.

7.4 The Buyer will allow the Supplier access to its premises as necessary for the delivery of the Goods and/or Services. The Buyer may refuse admission to the Supplier's personnel or require such personnel to leave its premises at any time and shall not be obliged to give the Supplier the reason(s) for its decision. The Buyer will not apply the provisions of this clause unreasonably.

7.5 Whilst on the Buyer's premises, the Supplier shall comply with a sufficient duty of care so as to prevent damage to the Buyer's premises, goods, personnel and visitors, and if made aware of any specific policies relating to use, shall comply with them with the same duty of care.

## **8. Acceptance**

8.1 The Buyer shall not be deemed to have accepted any part of the goods until after its employees or agents have inspected the goods. The Buyer may reject goods that are not in accordance with the Purchase Order at any time before the expiry of 21 days after delivery. Unless within 28 days of receipt of notice of rejection the supplier collects such goods, the Buyer may dispose of them as the Buyer shall consider fit.

## **9. Extension of Time, Rescheduling or Cancellation**

9.1 If, for any cause beyond the reasonable control of the Supplier, delivery of the Goods, or performance of the Services, is delayed, then unless time is of the essence the time for delivery/performance may be rescheduled by the Buyer (acting reasonably). Delay for any other reason shall be at the sole discretion of the Buyer, in which case the Supplier shall be responsible for any additional costs.

9.2 Notification of any anticipated or actual delay must be immediately communicated to an authorised officer of the Buyer as defined by the Councils Constitution by the Supplier specifying the reasons for the delay.

9.3 If in the reasonable opinion of the Buyer it is inappropriate to reschedule delivery of the Goods and/or performance of the Services then the Buyer may cancel the Purchase Order without incurring any liability for such cancellation.

## **10. Risk and Title**

10.1 Risk in the Goods shall only pass to the Buyer upon acceptance of the Goods when delivered to the place and address specified in the Purchase Order, unless otherwise agreed in writing by the Parties.

10.2 Title in the Goods shall only pass to the Buyer upon full payment.

10.3 The Buyer also reserves the right to take possession of all Goods to which it has acquired title.

## **11. Damage or Loss in Transit**

11.1 Any Goods lost or damaged in transit shall be restored or replaced by the Supplier at the Supplier's expense and to the Buyer's satisfaction and within a reasonable timeframe so as not to cause a loss to the Buyer.

11.2 Delivery shall not be deemed to have taken place until restoration of the Services have taken place to the satisfaction of the Buyer or replacement Goods have been accepted by the Buyer.

11.3 Goods shall be deemed not to have been delivered by the Supplier if a receipt from an authorised officer of the Buyer cannot be produced by the Supplier.

## **12. Terms of Payment**

12.1 The Buyer agrees to pay the Supplier either, the total price for the Goods and/or Services which is stated in the Purchase Order (or otherwise agreed in writing between the Parties) within 30 Working Days of the date of receipt of a valid and undisputed invoice, which (if the Supplier determines that VAT is payable) must comply with the requirements of H.M. Revenue and Customs for VAT purposes.

12.2 All prices and rates which are stated in the Purchase Order are exclusive of VAT (unless otherwise stated in the Purchase Order).

12.3 If requested to do so by the Buyer, the Supplier shall accept payment of monies due by electronic funds transfer through BACS Ltd or other electronic payment means, as good discharge of the Buyer's indebtedness under the Purchase Order.

12.4 If any undisputed monies are not paid by the due date, then the Supplier or the Buyer (as applicable) may charge interest on such undisputed monies on a day to day basis from the date falling 30 Working Days from when payment fell due, (or such other date as may be agreed in writing between the Parties), to the date of payment (both dates inclusive) at the rate of two (2) per cent per annum over the base lending rate of the Bank of England from time to time. The Parties agree that this clause provides each of the Parties with a substantial remedy in respect of any late payment of sums due for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

## **13. Set Off**

13.1 The Buyer shall be entitled to set off against any sums due to the Supplier under the Purchase Order any sums which become payable by the Supplier to the Buyer in relation to the Purchase Order or any other contract between the Parties.

#### **14. Compliance**

14.1 The Supplier and its personnel shall at all times comply with all applicable laws, including statutes, regulations and bye-laws of local or other competent authorities.

#### **15. Entire Agreement**

15.1 These Terms and Conditions and the Purchase Order shall (unless expressly agreed otherwise in writing by the Parties) comprise the entire Terms and Conditions of the contract in relation to the subject matter of the Purchase Order (subject to clause 1.1). Additions or variations and the Supplier's Terms and Conditions of contracting are expressly excluded. The Purchase Order and these Terms and Conditions shall therefore take priority over any other arrangements, communications (whether verbal or written), or any other documents (including, but not limited to, other purchase orders, or other terms and conditions).

#### **16. Contracts (Rights of Third Parties) Act 1999**

16.1 The contract between the Parties which is referred to in clause 15.1 does not confer (and is not intended to confer) any rights on any third party, whether pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise.

#### **17. No Agency**

17.1 This contract does not either create a partnership between the Buyer and the Supplier, or make one of the Parties the agent of the other for any purpose.

#### **18. Publicity**

18.1 The Supplier shall not, without the prior written permission of the Buyer, advertise or disclose to any third party that it is providing Goods and/or Services to the Buyer.

#### **19. Corruption and Whistleblowing**

19.1 The Supplier shall not do anything, or omit to do anything, which may be considered to be an inducement to any employee of the Buyer. Any such inducement shall be deemed to be a breach, which shall be considered incapable of remedy. The Supplier shall report any request for an inducement to the Buyer forthwith .

#### **20. Intellectual Property**

20.1 Intellectual property and other rights in the Goods and/or Services shall vest in the party from whom the Goods and/or Services originate unless the

Goods and/or Services are produced for the Buyer as bespoke. If the latter applies such rights shall vest in the Buyer upon their creation and the Supplier shall do all such things and execute all such documents as the Buyer may require in order to protect such vesting. The Supplier shall ensure that it includes corresponding provisions in its contracts with its own sub-contractors and Suppliers.

20.2 In the event of any breach of any such intellectual property rights the Supplier shall indemnify the Buyer, unless the Buyer is responsible for the breach in question.

## **21. Liability**

21.1 Neither party excludes or limits liability to the other for death or personal injury as a result of its negligence.

21.2 The Supplier's liability for breach of confidentiality or infringement of intellectual property rights shall be unlimited unless otherwise agreed in writing by the Parties.

21.3 The liability of either party for direct loss of, or damage to, the tangible property of the other shall be limited to five million pounds per claim unless otherwise stated in the Purchase Order.

21.4 The Supplier will ensure that it has sufficient insurance in place and provide written evidence upon request.

## **22. Health & Safety**

22.1 The Supplier undertakes that he and his employees, agents and sub-contractors will at all times comply with all health and safety requirements relating to the carrying out of the work under the Contract. Such requirements include in addition to statutory laws and regulations any codes of practice and British Standards or their equivalent relating to Health or Safety which may be applicable to the type of work carried out.

## **23. Discrimination**

23.1 The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

23.2 The Supplier shall take all reasonable steps to secure the observance of Clause 23.1 by all servants, employees or agents of the Supplier and all suppliers and sub-contractors employed in the execution of the Contract.

## **24. Payment to Sub-Contractors**

24.1 Where the Supplier enters into a sub-contract with a supplier or contractor for the purposes of performing its obligations under this contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

## **25. Transparency – Publication of Payments and Contracts**

25.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act (“the Act”) the text of this Agreement, and any Schedules to this Agreement, is not “Confidential Information”. The Buyer shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the Act.

25.2 Details of invoice payment transactions with the Supplier greater than £250 (two hundred and fifty GBP) gross value shall be published by the Buyer.

25.3 Notwithstanding any other term of this agreement, the Supplier hereby gives its consent for the Authority to publish this agreement and its schedules in its entirety, including from time to time agreed changes to the agreement including payments, as per the above clauses, to the general public in whatever form the Buyer decides.

## **26. Corporate Requirements**

26.1 The Supplier shall comply with all applicable obligations under the Human Rights Act 1998.

26.2 The Supplier shall comply with all relevant legislation relating to its employees however employed including (but not limited to) the compliance in law of the ability of employees to work in the United Kingdom, and compliance to any national minimum wage legislation.

26.3 Any order placed by the Buyer will be subject to Data Protection Legislation. The Buyer as Controller under the Data Protection Legislation may be required to conduct a Data Protection Impact Assessment under Article 35 of the General Data Protection Regulations prior to any data processing taking place. The Buyer will require the Supplier to provide guarantees that they can comply with the Data Protection Legislation.

26.4 If the Supplier has a finding against it relating to its obligations under clause 26.1 it will provide the Buyer with:

26.4.1 details of the finding; and

26.4.2 the steps the Supplier has taken to remedy the situation.

## **27. EmployeeVetting**

27.1 When reasonably required by the Buyer, the Supplier agrees to comply with the Buyer's standard requirements in respect of Disclosure and Barring Service clearance.

## **28. TUPE**

28.1 The Supplier shall if so required comply with the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") (as amended), together with any relevant codes of practice and guidance issued under such regulations.

## **29. Governing Law**

29.1 This contract shall be governed by English law and the Parties shall submit to the exclusive jurisdiction of the English courts.

## **30. Privacy Notice**

30.1 Details of the [Liberty Leisure Limited Privacy Notice](#) can be found on the [www.lleisure.co.uk](http://www.lleisure.co.uk) website.