

Cheeky Chilli Limited terms and conditions

These are the terms and conditions on which Cheeky Chilli will supply the Services (as defined below) to the Client.

1.THE MEANING OF THE WORDS USED IN THESE TERMS AND CONDITIONS

- 1.1** In these Terms, the following words have the following meaning (except where the context otherwise requires):
- Additional Services:** means any additional services Cheeky Chilli may agree to provide to the Client.
- Agreement:** means these Terms and the Order.
- Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- Catering Services:** means the catering services, including the provision of food and beverages to be provided by Cheeky Chilli to the Client as set out in the Order.
- Cheeky Chilli:** means Cheeky Chill Limited a company incorporated in England and Wales, whose registered number is 08042082 and whose registered office is at 1st Floor, 2 Castle Buildings, 147-149 Telegraph Road, Heswall, Wirral, CH60 7SE.
- Client:** means any person, company, organisation or firm which purchases Services from Cheeky Chilli as set out in the Order.
- Deposit:** means the non-refundable deposit paid by the Client for the Services as set out in the Order.
- Event Management Services:** means the event management

services to be provided by Cheeky Chilli to the Client as set out in the Order.

Facilities: means the facilities and/or equipment to be provided by or on behalf of the Client at the Premises on the Function Date.

Fee: means the fee(s) payable by the Client to Cheeky Chilli for the Services as set out in the Order.

Force Majeure: means an event or sequence of events beyond Cheeky Chilli's reasonable control preventing or delaying it from performing its obligations under the Agreement including an act of God, fire, flood, lightning, earthquake or other natural disaster, pandemic, epidemic, war, riot or civil unrest, interruption or failure of supplies of fuel, water, power, transport, equipment or telecommunications service, or material required for the performance of the Agreement, strike, lockout or boycott or other industrial action including those involving Cheeky Chilli or its suppliers' workforce.

Function: the event for which the Client engages Cheeky Chilli's Services as set out in the Order.

Function Date: means the date and time of the Function as set out in the Order.

Order: means an ordering document completed by Cheeky Chilli and sent to the Client for approval which sets out the commercial terms of the order.

Parties: means Cheeky Chilli and the Client.

Payment Terms: means the payment terms as set out in the Order.

Premises: means the premises at which the Services are to be provided as set out in the Order.

Services: means the Additional Services, Catering Services and Event Management Services that the Client may purchase with an Order.

Terms: means these terms and conditions.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 This Agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 1.9 A reference to **writing** or **written** includes email.
- 1.10 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.

1 APPLICATION OF THESE TERMS

- 1.1 These Terms apply to and form part of the Agreement between Cheeky Chilli and the Client. They supersede any previously issued terms and conditions of purchase or supply.
- 1.2 No terms or conditions endorsed on, delivered with, or contained in the Client's purchase conditions, order, confirmation of order, specification or other document shall form part of the Agreement except to the extent that Cheeky Chilli otherwise agrees in writing.
- 1.3 No variation of these Terms or to an Order or to the Agreement shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of Cheeky Chilli.
- 1.4 Each Order by the Client to Cheeky Chilli shall be an offer to purchase Services subject to these Terms.
- 1.5 An Order may be withdrawn or amended by the Client at any time provided that notice in writing of such withdrawal or amendment by the Client is received by Cheeky Chilli before acceptance by Cheeky Chilli. If Cheeky Chilli is unable to accept an Order, it shall notify the Client as soon as reasonably practicable.
- 1.6 Cheeky Chilli may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Services shall arise, until the earlier of:
 - 1.6.1 Cheeky Chilli's written acceptance of the Order; or
 - 1.6.2 Cheeky Chilli performing the Services or notifying the Client that they are ready to be performed (as the case may be).
- 1.7 Rejection by Cheeky Chilli of an Order, including any communication that may accompany such rejection, shall not

- constitute a counter-offer capable of acceptance by the Client.
- 1.8 Cheeky Chilli may issue quotations to the Client from time to time. Quotations are invitations to treat only. They are not an offer to supply Services and are incapable of being accepted by the Client.
- 1.9 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Agreement.
- 1.10 Cheeky Chilli may, in its sole and absolute discretion, add to, modify or discontinue any of the Services from time to time. However, this will not affect any Order agreed prior to any change or withdrawal of the relevant Service.

2. CHEEKY CHILLI'S OBLIGATIONS

- 2.1 Cheeky Chilli shall be responsible for:
- 2.1.1 providing the Catering Services, and/or the Event Management Services and/or Additional Services at the Premises on the Function Date;
- 2.1.2 ordering and purchasing all supplies and equipment other than the Facilities to be used by Cheeky Chilli to provide the Catering Services such supplies to be ordered in the name and on behalf of Cheeky Chilli and not the Client and to remain the property of Cheeky Chilli;
- 2.1.3 choosing, preparing and pricing all food and beverages supplied (subject to prior consultation with the Client);
- 2.1.4 providing staff as is required for the provision of the Services and all administration relating thereto; and
- 2.1.5 paying all suppliers with whom Cheeky Chilli shall enter into contracts in accordance with clause 2.1.2.
- 2.2 Specific items on menus, decoration or other items to be supplied by Cheeky Chilli are subject to market availability and

Cheeky Chilli shall notify the Client as soon as practicable if any item will not be available on the Function Date.

3. THE CLIENT'S OBLIGATIONS

- 3.1 The Client shall:
- 3.1.1 ensure that the terms of the Order are complete and accurate;
- 3.1.2 co-operate with Cheeky Chilli in all matters relating to the Services;
- 3.1.3 provide Cheeky Chilli with such information and materials as Cheeky Chilli may reasonably require in order to provide the Services and ensure that such information is accurate in all material respects;
- 3.1.4 protect, look after and not damage any furniture, fittings, equipment and/or other property belonging to Cheeky Chilli and/or any third party invited to the Premises by Cheeky Chilli for the purposes of assisting with the Function;
- 3.1.5 provide the Facilities and pay all suppliers whom the Client enters into contracts to provide the Facilities;
- 3.1.6 pay the Fees in accordance with clause 5;
- 3.1.7 provide and maintain (renewing and repairing where necessary):
- 3.1.7.1 first aid
- 3.1.7.2 such other plant or equipment as may be agreed in writing between the Parties or as may be reasonably required by Cheeky Chilli for the provision of the Catering Services;
- 3.1.7.3 provide water, heating, lighting, electricity, gas and any other fuel required together with sewerage and refuse collection facilities;
- 3.1.7.4 all cleaning (other than that which is the responsibility of Cheeky Chilli);
- 3.1.7.5 effecting and maintaining all insurance (other than that which is

the responsibility of Cheeky Chilli) including insurance for the Premises and loss or damage to the plant and equipment;

3.1.8 ensure that no smoking is permitted in the Premises in accordance with the Smoke-Free Premises and Enforcement Regulations 2006;

3.1.9 not permit aggressive or abusive behaviour at the Premises. Such behaviour may result in termination of the Services; and

3.1.10 ensure that guests/invitees and any other third-party providers behave in a polite and reasonable manner.

3.2 The matters to be undertaken or provided in accordance with clause 3.1 are to be undertaken and provided at the Client's cost and subject to all statutory provisions or regulations relating thereto.

3.3 If Cheeky Chilli's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

3.3.1 Cheeky Chilli shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays Cheeky Chilli's performance of any of its obligations;

3.3.2 Cheeky Chilli shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Cheeky Chilli's failure or delay to perform any of its obligations as set out in this clause 3.3; and

3.3.3 the Client shall reimburse Cheeky Chilli on written demand for any costs or losses sustained or incurred by Cheeky Chilli arising

directly or indirectly from the Client Default.

4. **PRICE AND PAYMENT**

4.1 The Client shall pay the Fees to Cheeky Chilli for the Services in accordance with this clause 4 (unless set out differently in the Order):

4.1.1 the Deposit upon Cheeky Chilli's written acceptance of the Order;

4.1.2 the remaining balance to be paid 2 weeks before the Function Date;

4.1.3 the cost of any Additional Services; and

4.1.4 such other costs and expenses as are subsequently agreed in writing between the Parties before the Function Date.

4.2 The Client shall be liable to pay for any breakages and damage to furniture, fittings equipment and/or any other property (by the Client or their guests/invitees and any third party service providers) belonging to Cheeky Chilli or any third party invited to the Premises by Cheeky Chilli for the purposes of assisting with the Function. A refundable deposit of £ 1000.00 is payable with the Client's final payment.

4.3 Unless stated otherwise, the Client shall pay each invoice submitted by Cheeky Chilli within the Payment Terms.

4.4 The Client shall pay all invoices in full without deduction or set-off, in cleared funds within the Payment Terms and to the bank account nominated by Cheeky Chilli or by cash. Cheeky Chilli does not accept payment by cheque.

4.5 Where the Client disputes in good faith the amount or validity of such invoice it shall notify Cheeky Chilli in writing within 5 days of the date of invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed shall be deemed accepted and shall be paid, notwithstanding disputes on other items, within the Payment

- Terms.
- 4.6 Time of payment is of the essence.
- 4.7 Subject to clause 4.4, if Cheeky Chilli has not received payment within 7 days after the due date, and without prejudice to any other rights and remedies of Cheeky Chilli:
- (a) Cheeky Chilli shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 8% over the then current base lending rate of Cheeky Chilli's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 4.8 All amounts and Fees stated or referred to in this Agreement:
- (a) shall be payable in pounds sterling unless otherwise specified in the Order;
- (b) except as otherwise expressly provided, are non-cancellable and non-refundable;
- and
- (c) are exclusive of value added tax, which shall be added to Cheeky Chilli's invoice(s) at the appropriate rate.
- 4.9 If the rate of VAT changes between the date of the Order and the Function Date we will adjust the rate of VAT that the Client has to pay, unless the Client has already paid for the Services in full before the change in the rate of VAT takes effect.
- 4.10 Cheeky Chilli may increase the Fees with immediate effect by written notice to the Client where there is an increase in the direct cost to Cheeky Chilli of supplying the relevant Services and which is due to any factor beyond the control of Cheeky Chilli. Cheeky Chilli shall notify the Client in writing of any increase in the Fees as soon as possible, and in any event prior to the Function Date.
- 4.11 Cheeky Chilli reserves the right to

charge the Client additional Fees in the event the Function runs on longer than planned or detailed in the Order.

5. PERFORMANCE

- 5.1 An Order shall specify the Premises at which the Services are to be performed.
- 5.2 The Services shall be deemed performed on completion of the performance of the Services as specified in the Order.
- 5.3 Cheeky Chilli may perform the Services in instalments. Any delay in performance or defect in an instalment shall not entitle the Client to cancel any other instalment.
- 5.4 Time of performance of the Services is not of the essence. Cheeky Chilli shall use its reasonable endeavours to meet estimated times for performance, but any such times are approximate only.
- 5.5 Cheeky Chilli shall not be liable for any delay in or failure of performance caused by:
- (a) the Client's failure to: (i) make the Premises available, (ii) prepare the Premises as required for performance of the Services or (iii) provide Cheeky Chilli with adequate instructions for performance or otherwise relating to the Services;
- (b) Force Majeure.
- 5.6 Cheeky Chilli shall have the right to make any changes to the performance of the Services which it deems appropriate, of which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature of quality of the Services, and Cheeky Chilli shall notify the Client in any such event.

6. THE CATERING SERVICES

- 6.1 The Client shall notify Cheeky Chilli in writing no later than 10 Business Days prior to the Function Date, the minimum number of meals to be served at the Function. Failure to provide Cheeky Chilli with this information will constitute a material breach of the Agreement and no meals will be supplied.
- 6.2 The Client acknowledges and agrees that should it wish to make any changes to the minimum number of meals after the date set out in clause 6.1, it may be possible to increase the minimum number of meals by a further 10 people but no allowance will be made if the minimum number of meals decreases.
- 6.3 The Client shall pay for the number of meals specified or the number of meals served, whichever number is the greater.
- 6.4 Where drinks are charged on a consumption basis Cheeky Chilli does not accept returns of part cases of beer, minerals, fruit juices, wines and fortified wines, open bottles of spirits or part kegs if draught beer and larger.
- 6.5 Cheeky Chill cannot guarantee the availability of any particular item of food or drink, but where such an item is unavailable, Cheeky Chilli will use all reasonable endeavours to provide a suitable alternative.
- 6.6 Access to the Premises will be required by Cheeky Chilli, its staff and representatives prior to and after the Function for the purpose of setting up and clearing away.
- 6.7 Should Cheeky Chilli assist the Client in finding Premises for the Function, suitability of the Premises, in all cases, lies with the Client.
- 6.8 At part of the Catering Services, Cheeky Chilli will leave the area of the Premises in which it has been providing the Catering Services as neat and tidy as possible and will clean up any kitchen it uses at the Premises. Notwithstanding this, the Client acknowledges and agrees

that Cheeky Chilli will not clean the entire Premises and it recommends that cleaners are engaged by the Client to clean up after the event has finished.

- 6.9 Unless otherwise agreed in writing between the Parties, Cheeky Chilli will ensure all rubbish is neatly bagged up however it is the Client's sole responsibility to dispose of the rubbish.
- 6.10 If the Client has a marquee with Cheeky Chilli supplying a drink service a refuse skip will be required to be paid in full by the Client.
- 6.11 All food which is not consumed within two hours at room temperature should be disposed of. Any person subsequently consuming food or taking food home for consumption does so at their own risk. Cheeky Chilli disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages and costs the Client might incur as a result of food consumed otherwise than at the Premises or after the initial two hour period.
- 6.12 It is the Client's responsibility to notify Cheeky Chilli of any food allergies and/or intolerances at the time of booking. The Client acknowledges and agrees that food allergies and/or intolerances will only be catered for if they have been notified to Cheeky Chilli prior to the Function Date and confirmed in writing by Cheeky Chilli. In the event the Client requires further information about the ingredients Cheeky Chilli uses it is important that the Client speaks to their event coordinator.

7. REQUESTED CHANGES BY THE CLIENT

- 7.1 The Client must notify Cheeky Chilli immediately in the event of any

- requested changes to any aspect of the Services by Cheeky Chilli.
- 7.2 Cheeky Chilli shall be under no obligation to make any changes to the Services once the Order has been signed, and the Fees shall remain payable in accordance with these Terms.
- 7.3 Notwithstanding clause 7.2, purely at its sole discretion Cheeky Chilli will use reasonable endeavours to accommodate any requested changes to the Services subject to reasonable notice being given but it cannot guarantee to do so. Cheeky Chilli reserve the right to charge for any such changes/additions over and above the Fees stated in the Order.

8. CANCELLATION POLICY FOR THE CLIENT

- 8.1 Subject to the below cancellation policy, the Client may cancel the Agreement by notice in writing to Cheeky Chilli at any time. In all circumstances the Deposit paid by the Client shall be forfeited and is non-refundable. The following amounts shall remain payable depending on when Cheeky Chilli receives notice from the Client of their wish to cancel the Agreement:
- 8.1.1 if the Client cancels more than 90 days before the final balance is due – 30% of the projected costs of the Function shall be payable;
- 8.1.2 if the Client cancels less than 90 days prior to the final balance being paid – 75% of the Fees shall be payable;
- 8.1.3 if the Client cancels less than 30 days prior to the final balance being paid – 100% of the Fees shall be payable.
- 8.2 Cheeky Chilli strongly recommend that the Client takes out adequate event and cancellation insurance to protect against cancellation, costs, damage and public liability.

9. LIABILITY AND INDEMNITY

- 9.1 The Client shall indemnify, and keep indemnified, Cheeky Chilli from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Cheeky Chilli as a result of or in connection with the Client's breach of any of the Client's obligations under the Agreement.
- 9.2 Subject to clauses 9.5 and 9.6, Cheeky Chilli's total liability whether in contract, tort (including negligence), breach of statutory duty or otherwise is limited to the total Fees paid.
- 9.3 Subject to clauses 9.5 and 9.6, Cheeky Chilli shall not be liable for consequential, indirect or special losses.
- 9.4 Subject to clauses 9.5 and 9.6, Cheeky Chilli shall not be liable for any of the following (whether direct or indirect):
- (a) loss of profit;
 - (b) loss or corruption of data;
 - (c) loss of use;
 - (d) loss of production;
 - (e) loss of contract;
 - (f) loss of opportunity;
 - (g) loss of savings, discount or rebate (whether actual or anticipated);
 - (h) harm to reputation or loss of goodwill.
- 9.5 The limitations of liability set out in clauses 9.2 to 9.4 shall not apply in respect of any indemnities given by either Party under the Agreement.
- 9.6 Notwithstanding any other provision of the Agreement, the liability of the Parties shall not be limited in any way in respect of the death or personal injury caused by negligence; fraud or fraudulent misrepresentation and any other losses which cannot be excluded or limited by applicable law.

10. PUBLICITY

Cheeky Chilli shall be entitled to disclose the name of the Client as a user of the Services on Cheeky Chilli's website or otherwise, or make any public statement publicising that the Client uses the Services subject to the statement being agreed with the Client prior to release.

11. FORCE MAJEURE

Cheeky Chilli shall not have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from Force Majeure. Cheeky Chilli shall promptly notify the Client in writing when such event causes a delay or failure in performance and when it ceases to do so.

12. TERMINATION BY CHEEKY CHILLI

12.1 Without limiting Cheeky Chilli's other rights or remedies, Cheeky Chilli may terminate the Agreement at any time by giving notice in writing to the Client if:

- (a) the Client commits a material breach of Agreement and such breach is not remediable;
- (b) the Client commits a material breach of the Agreement which is capable of being remedied and such breach is not remedied within 14 days of receiving written notice of such breach;
- (c) the Client has failed to pay any amount due under the Agreement on the due date and such amount remains unpaid within 7 days after Cheeky Chilli has given notification that the payment is overdue;
- (d) any consent, licence or authorisation held by the Client is revoked or modified such that the Client is no longer able to

comply with its obligations under the Agreement or receive any benefit to which it is entitled;

- (e) the Client suspends, or threatens to suspend payment of their debts or is unable to pay their debts as they fall due or admits inability to pay their debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed unable to pay its debts or as having no reasonable prospects of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (f) the Client (being an individual) is the subject of a bankruptcy petition or order; or
- (g) the Guest (being an individual) dies or by reason of illness or incapacity (whether mental or physical) is incapable of managing his own affairs or becomes a patient under any mental health legislation.

12.2 On termination of this Agreement for any reason:

- 12.2.1 the Client shall immediately pay to Cheeky Chilli all outstanding Fees and any other monies howsoever arising to Cheeky Chilli;
- 12.2.2 termination or expiry of the Agreement shall not affect any accrued rights and liabilities of the Parties at any time up to the date of termination; and
- 12.5.3 clauses which expressly or by implication have effect after termination or expiry of the Agreement shall continue in full force and effect.

13. GENERAL

- 13.1 Notices under this Agreement must be in writing and sent, or delivered by hand, to the Parties at their usual address. Notices will be deemed delivered on the second day after sending, if sent by post, or immediately, if delivered by hand.
- 13.2 This Agreement constitutes the entire agreement and understanding between the Parties with respect to the matters contained herein and supersedes any and all previous agreements, written or oral, express or implied between the Parties with respect to it.
- 13.3 The Client may not assign, subcontract or encumber any right or obligation under the Agreement, in whole or in part, without Cheeky Chilli's prior written consent.
- 13.4 Cheeky Chilli shall be entitled to set-off under the Agreement any liability which it has or any sums which it owes to the Client under the Agreement.
- 13.5 The Parties are independent persons and are not partners, principal and agent or employer and employee and the Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the Parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 13.6 If any provision of the Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Agreement shall not be affected.
- 13.7 No failure, delay or omission by the Agreement in exercising any right, power or remedy provided by law or under the Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 13.8 If there is a conflict between the terms contained in the Terms and the terms of the Order, the terms of the Agreement shall prevail.
- 13.9 No third party has any right to enforce the terms of the Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 13.10 The Client undertakes not to solicit, or endeavour to solicit, for employment or engagement with itself or any associated company or organisation, any employee of Cheeky Chilli. Breach of this clause shall be a material breach and will entitle Cheeky Chilli, without prejudice to any other remedies it may have, to terminate the Agreement and the Services immediately.
- 13.11 The Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales. The Parties agree to submit to the exclusive jurisdiction of the English courts.