

# Durham University

## Terms and Conditions for Functions and Events

This Agreement is made between **Durham University** whose registered address is the Palatine Centre, Stockton Road, Durham, DH1 3LE (the "University") and **the Client**, as detailed in the Event Booking Form attached hereto. For the purposes of the Contract, the aforesaid organisations/individuals may be referred to individually as a 'Party' and collectively as the 'Parties'.

### WHEREAS:

The Client appoints the University to deliver goods and services to the Client for an event (the "Event") as detailed in the Event Booking Form. Provision of said goods and services for the Event, by the University to the Client, will be subject to the Client's acceptance of the following terms and conditions:

### 1. Event Bookings

- 1.1 The details of all goods and services to be provided by the University to the Client for the Event (the "Services") and which (if any) of the premises owned or controlled by the University will be hired by the Client for use in the Event (the "Venue"), will be as detailed in the Event Booking Form attached hereto. The Event Booking Form will be signed by both Parties to this agreement and in addition to these terms and conditions, will form the entire agreement between the Parties for the Event (hereinafter the "Contract").
- 1.2 The Event Booking form also details all start and finish dates and times for the Event (the "Event Period"), the number of guests or attendees the Client expects to be present at the Event, and all applicable charges for the Services and the Venue or the basis on which the charges for the Services and the Venue will be calculated (the "Charges").
- 1.3 The Event Booking Form includes any special terms and conditions the University may choose to impose on supply of the Services or use of the Venue. In the event of any conflict between these terms and conditions and the Event Booking Form, the latter shall take precedence.
- 1.4 The period during which the University shall make the Venue available to the Hirer shall be that detailed in the Event Booking Form (the "Hire Period").

### 2. The Charges

- 2.1 The costs to the Client for the Services shall be the Charges as detailed in the Event Booking Form. Payment of the Charges shall be made by the Client to the University in accordance with the provisions of Clause 6 herein.
- 2.2 Subject to the provisions of Clause 5 herein, the University reserves the right to alter the Charges for the Services which have been offered to the Client at any time not later than six (6) months prior to the Event. The University shall provide the Client with written notice of any such alteration to the Charges. Should the University give notice to the Client of its intention to alter the Charges from those stated in the Event Booking Form, the Client shall be entitled, within twenty eight (28) days of receipt of such notification, to cancel the booking.
- 2.3 Notwithstanding the provisions of Clause 2.2 above, the imposition of, or variation in any rate of, Value Added Tax or any other applicable taxes from time to time shall not in any case, entitle the Client to cancel the booking for the Event.

### 3. Confirmation of Booking

- 3.1 All bookings are considered provisional until the Event Booking Form is signed by both Parties and dated, the date upon which the Contract shall be considered to be in force.
- 3.2 The Client warrants that all information that is provided to the University in the Event Booking Form or elsewhere relating to the Event and the booking is accurate and complete at the time of signature of the Contract. The Client understands that the University is relying upon this information and should this information prove not to be accurate or complete the Client would bear any liability arising.
- 3.3 The University has in good faith assumed that where the individual signing the Event Booking Form is booking on behalf of another organisation/person, that individual has the necessary authority to act on its/their behalf. If such individual does not have the appropriate authority to sign the Contract, then the University may hold such individual personally liable for the commitments contained in the Contract. Any person signing the Contract on behalf of another organisation/person should check they have the necessary authority to do so, to avoid embarrassment.

### 4. Number of Attendees

- 4.1 Subject to the provisions of Clause 4.4 herein, the Client will be responsible for payment of the Charges in respect of the number of attendees at the Event as stated in the Event Booking Form. There shall be no reduction of the Charges if the actual number of attendees at the Event is less than the number stated in the Event Booking Form.
- 4.2 Should the number of attendees the Client expects to attend the Event increase following signature by the Parties of the Contract,

subject to the provisions of Clause 5 herein, the Charges payable by the Client for the Event shall be recalculated according to any additional services to be provided to the Client by the University.

- 4.3 As a fire precaution the maximum number of attendees at the Event or permitted to enter the Venue shall be as specified by the University on the Event Booking Form, and must not under any circumstance, be exceeded.
- 4.4 The Client must inform the University as soon as reasonably possible if the expected number of attendees due at the Event changes, and in any case no less than twelve (12) working days in advance of the Event. Where there is a significant change in expected numbers of attendees at the Event (i.e. there is going to be a thirty percent (30%) or above variation from the number specified on the Event Booking Form), the Client must notify the University in writing at least one (1) calendar month prior to the Event.
- 4.5 In any event, the University must be notified in writing of the final number of attendees expected by the Client to attend the Event, and final timings for the delivery of services, a minimum of eight (8) working days prior to the Event.

## **5. Additional Services**

Should the Client require the University to provide any additional goods and services for the Event, beyond the Services as detailed on the Event Booking Form, following signature of the Contract but prior to the Event, provision of said additional services shall be at the sole discretion of the University, and where the University agrees to provide any such services, this shall be confirmed in writing by the University, which shall include any applicable additional charges and/or additional conditions. When signed by both Parties, such confirmation shall constitute a variation to the Contract. In all other respects the terms of the Contract shall remain as those previously agreed between the Client and the University as detailed herein. Any additional charges will be included in the invoice issued by the University in accordance with the provisions of Clause 6.1.

## **6. Payment of the Charges**

- 6.1 In consideration of the University making available the Venue and supplying the Services to the Client for the Event, the Client agrees to pay the Charges within thirty (30) days of receipt of an invoice from the University unless otherwise agreed by the Parties in writing.
- 6.2 The University shall issue an invoice to the Client as soon as reasonably possible following the Event. Said invoice shall detail all outstanding sums payable by the Client for the Services.
- 6.3 Timing of payment is of the essence. For the purpose of the Contract, payment of the Charges is considered made by the Client when the University receives the Charges in full in cleared funds.
- 6.4 Payment by the Client shall be made to the University without any deduction or set off. The University reserves the right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2002.
- 6.5 The University reserves the right to set off sums owed by the University to the Client against sums owed by the Client to the University.
- 6.6 Interest on an overdue invoice shall accrue (on a daily basis) from the day when payment becomes due until the date of payment (whether before or after judgment) at a rate of 4% above Barclays Bank Plc's base lending rate at the time of the relevant invoice.

## **7. Cancellation/Partial Cancellation/Postponement of the Event by the Client**

- 7.1 In the unfortunate circumstances that the Client needs to cancel or postpone the Event, the Client shall give the University verbal notice of cancellation as soon as reasonably practicable.
- 7.2 Before any booking or Event is considered to be officially cancelled by the Client, cancellation of the booking must be notified in writing to the University and the Client will be liable to pay compensation to the University (which the Client acknowledges represents a genuine pre-estimate of the loss likely to be suffered by the University) in respect of such cancellation (less an amount equal to the extent to which the University considers in its absolute discretion it has been able to mitigate its loss) as follows:
  - 7.2.1 An automatic cancellation charge of sixty five percent (65%) of the contracted food and beverage revenue, and ninety percent (90%) of all other of the Charges, as detailed on the Event Booking Form will become payable (the sum of which shall be the "Cancellation Charge") by the Client to the University where the Client fails to provide the University with written notification of the cancellation or postponement of the Event at least twelve (12) months prior to the Event. Any third party charges incurred by the University on behalf of the Client that exceed the Cancellation Charge shall also be paid by the Client to the University. The Cancellation Charge is exempt of VAT.
  - 7.2.2 Where the Client notifies the University of cancellation at least twelve (12) months prior to the Event, the Client will only be liable to the University for any third party charges reasonably incurred by the University for the Event on behalf of the Client prior to cancellation.
- 7.3 The University shall make every reasonable effort to re-book the Venue following cancellation by the Client. The University can only confirm the actual sum of the Cancellation Charge after the intended date of the Event, as the University may reduce the Cancellation Charge by a sum proportional to any alternative use of part or all of the Services or Venue which the University may secure in place of the cancelled Event.
- 7.4 The University will issue an invoice to the Client for any Cancellation Charge after the intended date of the Event. The invoice will be payable by the Client in full within thirty (30) days of its receipt.
- 7.5 The University advises the Client to procure appropriate cancellation insurance where applicable.

## **8. Cancellation of the Event by the University**

- 8.1 The University reserves the right in its absolute discretion and without giving reasons, to refuse or cancel any booking at any time prior to the Event commencement date.
- 8.2 The University reserves the right to cancel any bookings for the use of the Venue, or any other of its premises at any time where such cancellation arises due directly or indirectly to any event or circumstance beyond the University's reasonable control, including without limitation: fire, flood, earthquake, elements of nature or Acts of God, acts of war, terrorism, riots, malicious damage, civil disorders, rebellions or revolutions, strikes or lockouts, court orders, police orders or third party failure or non-performance and accepts no liability for any inconvenience or loss caused to the Client in consequence of such cancellation.
- 8.3 The University may also cancel the Event and terminate the Contract with immediate effect, with no liability to the Client where:
- 8.3.1 the Event might in the University's reasonable opinion prejudice the reputation or business of the University;
  - 8.3.2 the Client (being a body corporate) convenes a meeting of creditors or enters into liquidation (whether voluntary or compulsory);
  - 8.3.3 the Client has a receiver, manager or administrative receiver appointed of the whole or any part of its undertaking, property or assets;
  - 8.3.4 a resolution is passed or petition presented to any court for the winding-up of the Client or any person takes any step to appoint an administrator of the Client;
  - 8.3.5 any proceedings are commenced relating to the insolvency of the Client in any jurisdiction to which the Client or any of its assets is subject;
  - 8.3.6 the Client has, suffers or allows any execution to be levied on its assets or obtained against it;
  - 8.3.7 the Client commits a material breach if any of its obligations under the Contract;
  - 8.3.8 the Client is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
  - 8.3.9 the Client ceases or threatens to cease trade.
- 8.4 Termination of the Contract by the University in accordance with this Clause 8 shall not affect the rights and duties the Parties accrued under the Contract prior to termination.
- 8.5 Where the Contract is terminated in accordance with the provisions of Clause 8.3, the University reserves the right to impose Cancellation Fees as outlined in Clause 7.

## **9. Changes to the Venue**

Where the University has reasonable commercial or operational reasons for doing so (including, but not limited to, the carrying out of works on the relevant Venue or the Venue being otherwise unavailable), the University reserves the right to change the Venue for an alternative premises which, in the reasonable opinion of the University is of equal suitability for the Event. In the event this should become necessary, the University shall use all reasonable endeavors to notify the Client as soon as reasonably practicable.

## **10. Services Provided by Third Parties for the Event**

- 10.1 The Client will seek prior written consent from the University should it wish to use any entertainment or services for the Event which will be supplied by a third party. Any such services must comply with all and any legislation, statutory codes and regulations. It shall be the sole responsibility of the Client to ensure that, where applicable, all electrical equipment used has a current Portable Application Test (PAT) Certificate(s). The University reserves the right to request proof from the Client in the form of relevant documentation, that this provision is complied with in full.
- 10.2 All third party contractors arranged for the Event or brought into the Venue by the Client, must be covered by their own valid Public Liability Insurance policy.
- 10.3 The University reserves the right to object to the Client's intended use of any third party which the University reasonably considers to be unsuitable or inappropriate and to require the Client to, or to undertake their removal from the Venue and the Event.
- 10.4 The Client agrees to indemnify the University in full against any claims, costs and expenses incurred by the University as a result of the Client's use of a third party supplier for the Event under the provisions of this Clause 10.

## **11. Use of the Venue**

- 11.1 The Client undertakes to the University:-
- 11.1.1 to use the Venue only for the purpose of hosting the Event over the Event Period as stated in the Event Booking Form;
  - 11.1.2 not to use the Venue or any part of the Venue for any activities which could reasonably be considered to be dangerous, offensive, noxious, illegal or immoral or which are or may become a nuisance to the University or the owner or occupier of any neighbouring property;
  - 11.1.3 not to do anything which might invalidate any insurance maintained by the University in respect of the Venue or which might reasonably be expected to raise any insurance premium payable for the Venue.
  - 11.1.4 not to bring to the Venue or any part of it any animals (except guide dogs for the blind); and/or wines, spirits, food or beverages without the prior consent of the University;
  - 11.1.5 to indemnify the University in respect of the cost of making good any damage to the Venue suffered during the Event (excluding only fair wear and tear);

- 11.1.6 to indemnify the University against any damages, losses, costs, claims or expenses incurred by the University towards a third party arising out of or in connection with the Client's use of the Venue and/or the provision of the Services by the University, whether arising by reason of negligence of the Client or otherwise;
- 11.1.7 not to park or allow another person to park on or obstruct any highway route allowing access to the Venue;
- 11.1.8 not to make any alterations or attachments or additions to the Venue without the prior written consent of the University;
- 11.1.9 to procure that the Event takes place during the period agreed on the Event Booking Form and to ensure that all guests have left the Venue no later than the end of said period or such time as the University shall have agreed in writing.
- 11.2 No vehicle belonging to the Client, the Client's employees, agents, sub-contractors or guests will be allowed to park at the Venue or the premises of the University without a valid car parking permit. The University accepts no responsibility for any damage, however occasioned to any vehicle parked on the University's premises.
- 11.3 No wines, spirits, food or beverage may be brought into the Venue by the Client or on the Client's behalf or that of any attendees at the Event for consumption at the Venue unless the University's prior written consent has been obtained, for which an additional charge will be levied.
- 11.4 The University may, at its sole discretion, assist the Client, where reasonably possible, with the storage of equipment that may be required for the Event. Should the University permit any such equipment to be stored on its premises, and the Client chooses to do so, such equipment shall be left by the Client entirely at the Client's own risk and the University shall accept no liability for any loss or damage of any sort, howsoever occasioned, to any item of equipment, furniture, stock or the like left in storage on premises owned or controlled by the University.
- 11.5 The Client must obtain the University's prior written approval if the Client wishes to attach any item to the walls, floors or ceilings of the Venue.
- 11.6 The Client acknowledges that he is aware that the University operates a No Smoking policy throughout all their properties. The Client is responsible for ensuring that neither the Client nor any of the attendees at the Event smoke in or around the Venue. The University reserves the right to charge for any associated cleaning costs in the case of failure to comply with this policy.

## **12. Appropriate Conduct of Attendees**

- 12.1 The University reserves the right to judge acceptable levels of noise or behaviour at the Event whether this is by the Client or the Client's guests, attendees at the Event, representatives or contractors. The Client must ensure, and is solely responsible for his guests', attendees at the Event's, representatives' or contractors' compliance with the University's directions as to noise or appropriate behavior.
- 12.2 The University reserves the right to exclude or eject any person from the Event or the Venue where the University reasonably considers such person to be objectionable; and to terminate the Contract and stop the Event without liability to refund any charges to the Client or offer any form of compensation, where necessary to prevent or terminate unacceptable noise or behaviour.
- 12.3 The Client shall indemnify the University against all and any losses, costs, damages and expenses suffered or incurred by the University arising out of any exclusion, ejection, termination or stopping the Event and circumstances giving rise thereto.
- 12.4 The University reserves the right to charge the Client in full for any damage or destruction of property belonging to the University and for any unusual cleaning bills caused by or resulting from the activities of the Client or those of attendees at the Event.
- 12.5 The University may wish to take photographs during a hosted event, unless stated otherwise in writing, the Client gives the University permission to use these photographs for internal and external marketing purposes.

## **13. Health, Safety Legal and Licensing**

- 13.1 The Client must comply fully, and ensure full compliance of all sub-contractors, employees and guests with the University of Durham Health and Safety Management Standards, a copy of which can be found on <https://www.dur.ac.uk/healthandsafety/managementstandards/> or as can be supplied on request by The University in compliance with all legal requirements.
- 13.2 The Client must maintain free access to fire exits and fire-related equipment at all times, and they must be kept clear and visible at all times.
- 13.3 The Client, any visitors or attendees at the Event are not permitted to bring any item into the Venue or any of the University's premises that has the potential to endanger others (e.g. hazardous equipment such as gas cylinders, halogen gas and or unmaintained equipment). The University reserves the right to check any equipment and to refuse its use if deemed unsuitable or unsafe.
- 13.4 The Client must obtain prior approval from the University before using any special effects equipment in the Venue or any of the University's premises. All electrical equipment must be PAT tested and a representative of the University may demand to see proof of the Client's compliance with this requirement before allowing its use at the Venue.
- 13.5 The Client must comply with all advice and/or instructions supplied by the University relating to the use of the Venue which are necessary to ensure that any goods or equipment supplied as set out in the Contract will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work.
- 13.6 The Client shall indemnify the University in respect of any and all claims arising as a result of the Client's or the Client's guests representatives or contractors activities during the Event.
- 13.7 The Client acknowledges that it is the Client's responsibility where the booking may comprise, at the relevant time, individuals under the age of eighteen (18) to ensure that all necessary child protection measures and arrangements in connection with the

- Event, including, but not limited to:
- 13.7.1 undertaking any appropriate risk assessments;
  - 13.7.2 ensuring that the Client's staff are properly trained and briefed on procedures for dealing with concerns about child protection;
  - 13.7.2 seeking and obtaining appropriate levels of Criminal Records Bureau checks on all such staff; and
  - 13.7.3 ensuring that the Client has the appropriate insurance arrangements in place.
- 13.8 The Client is responsible for any children who attend the Event and their behaviour.
- 13.9 The Client and all attendees at the Event are under a duty of care to report to the University any situation during the Event that they believe to be potentially hazardous. In the context of fire prevention this may be something which could lead to an outbreak of fire (e.g. unsafe storage of flammable materials) or something which could hinder the safe evacuation of the premises in the event of a fire (e.g. obstruction of fire escapes).
- 13.10 All staff attending the Event on behalf of the Client should have received appropriate health and safety training e.g. manual handling training and are responsible for their own health and safety.

#### **14. Attendees' Clothing and Personal Property**

- 14.1 The University does not accept responsibility for the Client's property or that of the attendees at the Event, the Client's guests, employees or subcontractors. In some instances cloakrooms may be available during the Event for the convenience of the Client but any goods or personal belongings deposited in such cloakrooms or left unattended at the Venue, are deposited at the owner's own risk and without any liability on the part of the University.
- 14.2 If any items are to be delivered to the Venue or any of the University's premises prior to the Event, arrangements must be made with the University in advance. The University will use reasonable endeavours for the safekeeping of such items which will nevertheless remain at the owner's risk and the University will not be held responsible in the event of loss, theft or damage to the same.
- 14.3 The University does not accept any liability for loss or damage to any item of equipment, furniture, stock or the like left in storage on University premises.

#### **15. Liability**

- 15.1 No liability or responsibility is accepted by the University for the safety of or damage to or loss of any personal property belonging to the Client, attendees at the Event, or other visitors of for damage to or loss from their vehicles except to the extent that such liability may result from the University's or its staff's negligence.
- 15.2 The University retains public liability insurance in respect of Events, however such insurance only applies in the event that the University or its staff are held to be negligent. The Client is therefore strongly advised to carry its own insurance in respect of accidents or other matters of injury, loss or damage which may arise in connection with the Event, especially in the event that an accident occurs for which the Client is held to be responsible.
- 15.3 The University shall use reasonable care and skill in the performance of the Contract.
- 15.4 Save insofar as such liability may not be lawfully excluded, the University shall have no liability or obligation under the Contract or otherwise in contract or in delict or in quasi-delict arising out of or connected with the performance of the Contract (including, but not limited to, loss, damage or delay of any nature whatsoever or howsoever caused whether direct or indirect or consequential and whether or not caused by the negligence of the University, its employees, agents or sub-contractors) save as expressly provided in the Contract and, save as aforesaid, all warranties, terms, obligations or duties, express or implied by statute, common law or otherwise in relation to the Contract or any term or terms thereof or its or their performance are hereby excluded.
- 15.5 The total liability of the University under the Contract or otherwise (whether or not caused by the negligence of the University, its employees, agents or sub-contractors) arising out of or in connection with the performance or purported performance of or failure in the performance of the Contract shall not exceed the total Charges (excluding VAT) payable by the Client to the University in terms of the Contract or TEN THOUSAND GBP (£10,000), whichever is the lower sum. The University expressly excludes liability for indirect or consequential loss or damage for loss of profit or goodwill which may arise out of or in connection with the performance or purported performance of or failure in the performance of the Contract.

#### **16. Intellectual Property**

- 16.1 The Client may not use any of the following without written permissions from the University:
- 16.1.1 the name "University of Durham" or "Durham University";
  - 16.1.2 University of Durham's Crest or any College Crests;
  - 16.1.3 the Name or logo of any of the University of Durham's Colleges, Departments or Institutes, or Event Durham;
  - 16.1.4 Any photographs of any part of the University of Durham or any intellectual property of the University of Durham or its Colleges.
- 16.2 No material publicising the Event and no product sold or distributed at the Event shall contain any reference, or shall give any impression, to the effect that the University of Durham has endorsed the Event or product. The Client will ensure at all times that the product or Event is not promoted or presented in such a manner that any inference would reasonably be drawn that the product or Event is sponsored by or linked to the University of Durham or has the University of Durham's approval, and will comply with any directions given by the University of Durham to this effect.

#### **17. Jurisdiction**

The Contract shall be governed by and construed in all respects in accordance with the laws of England. The University and the Client hereby submit to the exclusive jurisdiction of the English courts.

### **18. Freedom of Information**

The Client acknowledges that the University is subject to the requirements of the Freedom of Information Act 2000 and shall assist and cooperate with the University to enable the University to comply with all statutory obligations regarding information disclosure required by the provisions of this Act. The Client shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the University to inspect such records as requested from time to time.

### **19. Overseas Clients**

Where the Client does not have a United Kingdom (UK) address or where the UK is not the Client's main place of residence/business, the University reserves the right to ask the Client for a guarantee of payment from a UK bank and where the guarantee is not provided within thirty (30) days of said request, to terminate the Contract without liability to the Client.

### **20. Disputes**

Any complaint or dispute arising out of the Contract must be made in writing by the Client to the University within seven (7) Working Days of the Event.

### **21. General**

- 21.1 The rights and remedies of the University expressed in these Terms and Conditions shall be in addition and without prejudice to any other rights or remedies which may be available to the University at common law or under statute.
- 21.2 All bookings accepted by the University are subject to these Terms and Conditions and the Contract which supersede all prior representations by the University or any of its employees and override any other terms and conditions stipulated or incorporated or referred to by the Client in any negotiations, and the Contract and these Terms and Conditions are the only terms and conditions upon which the University agrees to perform the Contract, unless otherwise expressly agreed in writing by the University.
- 21.3 No modification or alteration of the Contract shall be enforceable, save as otherwise provided in these Terms and Conditions, unless agreed in writing by the University and the Client.
- 21.4 No waiver or delay on the part of the University to exercise any right or remedy available to it, in terms of the Contract or otherwise shall operate as a waiver of that or any other right or remedy nor shall any partial exercise preclude any other further exercise of that or any other right or remedy.
- 21.5 Any waiver by the University of any breach by the Client is not a waiver of any subsequent breach.
- 21.6 The Contract does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 21.7 Should any provision of the Contract be found by any competent authority to be invalid, unenforceable or unreasonable, it shall be severed from the remainder of the Contract which shall continue in full force and effect.
- 21.8 The Contract is personal to the Client who shall not be entitled to assign or transfer in whole or part the benefit and/or the burden thereof without the University's prior written consent.
- 21.9 All notices to be given by either Party to the other under the Contract shall be validly served only in writing and delivered personally or sent by first class prepaid post or facsimile to the respective addresses (or facsimile number) in the United Kingdom as the relevant party has notified for such purpose or, if the Client is a company, to its registered office from time to time, and in the case of posting shall be deemed to have been properly served on the second day after the date of posting and in the case of facsimile shall be deemed to have been properly served on receipt of a successful transmission report.
- 21.10 The University warrants to the Client that all Personal Data (as defined in Data Protection legislation) provided to the University in relation to the Contract, shall be handled by the University strictly in accordance with said legislation.
- 21.11 These terms and conditions and the Contract shall not constitute and shall not be deemed to constitute any relationship of partnership or agency between the University of Durham and the Client and shall not in any way create a lease of the Venue or any of the University's premises.