

These terms and conditions apply to:

- The hire of Council managed land, in particular the hire of Parks and Open Spaces land for the purpose of holding an Event.
- The permitted use of Council managed land, in particular the use of Highways Land for the purpose of holding an Event.

These terms and conditions do NOT apply to:

- The permitted use of Council managed land for the purpose of holding an activity, in particular fitness training or small-group activities.
- The use of Council managed Sports Pitches and Grounds, except where they form part of the Event footprint, defined as the Event 'Site', and are included as part of the wider Event application.

DEFINITIONS

In these terms and conditions, the following terms shall have the following meanings:

"Agreement" means these terms and conditions together with the completed Application Form (including the Supplementary Information), further information and written clarifications (including the Acceptance and the Approval).

"Applicant" means the organisation or individual as named on the Application Form, who enters into formal Agreement with the Council upon Acceptance of the application, who is responsible for the Event on Council managed land. The Applicant may also be referred to as the 'Hirer' or 'Responsible Party'.

"Application Form" means the 'Apply to hold an event' Application Form, to which these terms and conditions are attached.

"Application Pack" means the documents made available to the Applicant for the purposes of completing and managing the application, and entering into the Agreement with the Council upon Acceptance of the application, which includes but is not limited to:

- Events Policy
- Application Form
- Fees and Charges
- Terms and Conditions
- Application Guidance.

"Application Stages" means the stages of the application process which relate to the status of the application as follows:

- **"Accepted"** means that the initial checks on the application have been carried out, the Fee has been agreed, and the application can be moved to the next stage where more detailed checks are carried out. May also be referred to as 'permission in principle'.
- **"Declined"** means that checks on the application have been carried out and the application cannot progress or be 'Approved'. Reasons for this will be provided.
- **"Approved"** means that written consent has been issued by the Council to the Applicant for the Event to proceed. Where no 'Approval' is issued, this means the same as 'Declined'.

"Attendance" means maximum anticipated daily and/or peak attendance, including staff, visitors and Supplier(s), as set out in the Application Form.

"Council" means the Council of the London Borough of Ealing (LBE), more specifically the Leisure Service.

“Deposit” means the amount payable by the Applicant to the Council (upon request) as security for any damage caused to the Site (or neighbouring property) by the Applicant, its Supplier(s) or attendees, during or after the Event Period, or to cover liability arising for the Council resulting from breach of the Agreement by the Applicant.

“Event” the Council considers an activity to be an Event if the organiser has invited others (open invitation or private) to attend, either as spectators, customers, or participants, and at least one of the following statements is true:

- There will be 50 people or greater present.
- There will be infrastructure brought to the Site including tables, chairs, and gazebos.
- There will be activities (licensable or other) which may constitute an Event (at the discretion of the Events Service).
- The organiser intends to restrict access to the Site, or an area within the Site.
- The Event is intended to raise funds or generate profit.
- The Event is intended to promote a product, organisation, business etc.

“Event Period” means the period during which the Event will take place from first arrival to final departure from Site, and as per the dates defined in the Application Form or as otherwise agreed in writing.

“Events Service” means the Council’s nominated representative or service provider within the Council’s Leisure Service.

“Fee” means the fee payable by the Applicant, under the Agreement and in accordance with the ‘Fees and Charges’:

- **“Submission Fee”** Upon the Applicant’s submission of an application the Submission Fee will apply. May also be referred to as ‘Application Fee’ or ‘Advance Payment’.
- **“Park Event and/or Street Event Fee”** Fee for the hire of land or permitted use of land for the Site. May also be referred to as ‘Hire Fee’.
- **“Supplementary Fees”** Any additional charges which may be applied including additional services, late fees or reinstatements for damages.

“Force Majeure Event” means any unforeseeable cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions or non-events beyond its reasonable control, including, amongst others, acts of God, severe weather including rain and/or high winds, flood (including flooding of the Site or surrounding area), drought, earthquake or other natural disaster; epidemic or pandemic; requirement to facilitate national celebration, mourning or commemoration; acts of terrorism, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; impact by any vehicle, vessel or aircraft; nuclear, chemical or biological contamination or sonic boom; collapse of buildings, fire, explosion or accident; interruption or failure of any utility service both outside and inside the Site; any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; any labour or trade dispute, strikes, industrial action other than in respect of a party’s own employees, personnel, subcontractors or Suppliers.

“Infrastructure” means any physical structures or equipment.

“Premium Venue” means specific sites as defined in the LBE Events Policy.

“Scale of Event”:

- **“Small”:** up to 499 daily attendance
- **“Medium”:** 500 to 4999 daily attendance
- **“Large”:** 5000-9999 daily attendance
- **“Major”:** 10,000 plus daily attendance
- **“Complex”:** Any event may be defined as 'Complex' if it is deemed to have a more significant impact. May also be referred to as 'Special' events. For example (but not limited to):
 - Multiple-site events
 - Significant or atypical infrastructure
 - Significant or atypical activities taking place

- Multi-departmental Council involvement required (e.g. emergency planning, licensing, planning, network management)
- Multi-agency involvement required (e.g. blue lights services, transport networks)
- Past issues or non-approval
- Events that are determined to be particularly disruptive.

“Site” means the area of Council managed land to be utilised under the Agreement, typically an LBE Park, Open Space or Highway, or designated areas within a Park or Open Space or on the Highway, as specified on the Application Form, and defined on the site map, or otherwise agreed in writing between the Applicant and the Council. May also be referred to as the ‘Venue’.

“Supplementary Information” refers to the additional information to support the Application, as defined in the ‘Supplementary Information’ sections of the Application Form, to include Event Management Plans and site map. May also be referred to as ‘Supporting Information’.

“Supplier” means any company or individual(s) engaged by the Applicant to perform any duties or activities at the Event, to include any employee, volunteer, contractor (sub-contractor) or agent of the Applicant. To clarify, this will include any artists/performers, activity providers, traders/concessions/stalls, service providers, or infrastructure suppliers.

DATA PROTECTION DEFINITIONS:

“Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

“UK GDPR” has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1 APPLICATION AND APPROVAL

1.1 For the Council to consider an application, the Applicant must complete and submit an Application Form and supply Supplementary Information.

1.2 The Council shall require as much Supplementary Information as they consider necessary to enable them to properly consider the application, and further information may be sought from the Applicant at any stage. As a minimum, the Supplementary Information must include the required information as requested via the Application Form.

1.3 The completed Application Form together with Supplementary Information must be submitted in accordance with the timescales below:

Scale of Event	Application Deadline (prior to Event Period)
Small events (Up to 499 daily attendance)	10 weeks
Medium events (500 - 4999 daily attendance)	10 weeks
Large events (5000 - 9999 daily attendance)	26 weeks
Major or Complex events (More than 10,000 daily attendance/see definitions)	26 weeks

1.4 The Council shall be under no obligation to Accept an application from an Applicant.

1.5 The Agreement shall commence on the date the application is Accepted (upon the Applicant’s agreement with the Council’s letter of Acceptance) and shall terminate at the end of the Event Period, unless terminated in accordance with clause 9.

- 1.6 The Applicant will ensure that all information included in the Application Form at the time of making the application is correct and shall ensure that any subsequent changes to such information during the application process and where applicable during the Event Period are communicated immediately in writing to the Events Service in line with clause 9 of these terms and conditions for their consideration.
- 1.7 The Applicant is required to inform the Events Service at the time of application (via the 'Event Content' section of the Application Form), or otherwise in writing, about all Event content (activities, Infrastructure, and vehicles), proposed to take place on, or be brought to the Site as the case may be. Any event content which is not included in the 'Event Content' section of the Application Form will not be considered as part of the Application, unless agreed with the Council in writing.
- 1.8 The Applicant acknowledges that it has read and understood the Application Pack of which these terms and conditions form part, and it has had an opportunity to carry out a thorough due diligence exercise, including the opportunity to take any appropriate independent legal or financial advice prior to entering into the Agreement.
- 1.9 The Applicant may, at their own risk, sell tickets for the Event or advertise the Event before this Agreement has been Approved and shall be solely responsible for any losses if the Event does not go ahead.
- 1.10 The Applicant does not have automatic priority over the use of any designated sports pitches at the Site, unless the appropriate bookings have been made with, or consent has been given by, the Council.

2 APPLICANT'S OBLIGATIONS

- 2.1 The Applicant agrees that it has examined all information, conditions and specifications of the Site and is satisfied that the Site is suitable for the Event. Where further information relating to the Site is required e.g., utility plans, it is the Applicant's responsibility to request or source such information. This may include carrying out CAT scans if required.
- 2.2 The Applicant shall conduct a health and safety risk assessment and shall supply a copy to the Events Service within the required application deadlines. The Applicant shall maintain and update the health and safety risk assessment as necessary leading up to and during the Event Period.
- 2.3 The Applicant shall, and shall ensure that its Supplier(s) shall, at all times exercise the rights and duties under the Agreement in a proper and responsible way, and ensure that the Event proceeds smoothly and safely, and does not unreasonably interfere with other users of the Site, neighbours or local traffic.
- 2.4 The Applicant shall, and shall ensure that its Supplier(s) shall, observe and perform all reasonable requirements of the Council relating to the Agreement.
- 2.5 The Applicant shall, and shall ensure that its Supplier(s) shall, have adequate arrangements in place for the protection of children and vulnerable people in accordance with the current legislation including the Children Act 1989/2004, the Protection of Children Act 1999, Keeping Children Safe in Education and the London Child Protection Procedures. Where applicable, this shall be demonstrated through the provision of a safe-guarding minors and vulnerable persons policy/statement as part of the Supplementary Information submission. Children's entertainers and Suppliers will hold the necessary DBS (Disclosure and Barring Service) and Public Liability Insurance.
- 2.6 The Applicant shall utilise the Site in such a way as to allow for suitable access and evacuation in the event of an emergency.
- 2.7 The Applicant must confirm to the Council, and supply evidence upon request, that all Supplier(s) are properly qualified to carry out the proposed activities in relation to the Event.
- 2.8 The Applicant is required to keep a record of any accidents or incidents that may occur at or in connection with the Event or any activity forming part of the Event. The record of accidents and incidents should be made available to the Events Service upon request. Additionally, the Applicant must immediately notify the Events

Service of any significant accidents or incidents including any that are reportable under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013).

- 2.9 The Applicant shall not affix or install any equipment or Infrastructure at the Site unless permitted to do so by the Council. Any equipment, Infrastructure or waste must be removed at the end of the Event Period and the Site must be left in the same condition as at the commencement of the Event Period. Failure to comply will result in the Applicant being charged for the cost of any clearance or reinstatement required in accordance with 5.12.
- 2.10 The Applicant shall ensure that its activities, Infrastructure or equipment used shall not cause damage to the ground, buildings, fences, furniture, plants or wildlife on the Site. If damage occurs, the Applicant will be liable to the Council for the full cost of any repairs or reinstatement works required in accordance with 5.12.
- 2.11 The Applicant shall adhere to Wildlife and Countryside legislation including The Wildlife and Countryside Act 1981 (as amended), the Conservation (natural habitats etc.) Regulations 1994, and the Countryside and Rights of Way Act 2000.
- 2.12 The Applicant is not permitted to bring vehicles onto the Site without the prior written consent of the Council.
- 2.13 Any electrical installations made at the Site must comply with current British Standards (to include BS7909 and BS7671) and the law (Electricity at Work Regulations 1989 and Provision and Use of Work Equipment Regulations 1998 (PAT Testing)).
- 2.14 Generators must be hired from a reputable supplier and must be installed and managed by a competent person in line with clause 2.13. Silent diesel models are preferred. Petrol generators are not permitted.
- 2.15 The Applicant must implement and maintain adequate fire precautions in accordance with the Fire Precautions Act 1975.
- 2.16 The Applicant shall ensure that the whole construction process for their Event, from concept to completion, complies with the law to ensure projects are carried out in a way that secures health and safety, as governed by Construction (Design and Management) Regulations 2015.
- 2.17 The Applicant shall ensure that suitable visitor and traffic management arrangements are in place to protect members of the public and to minimise disruption to other users of the Site, neighbours, or local traffic.
- 2.18 The Applicant shall provide adequate (risk-assessed) medical provision, including first aid cover dependent on the nature of the Event, and in line with current guidance and legislation including The Health and Safety, First-Aid Regulations 1981.
- 2.19 The Applicant is responsible for adequately securing the Site and should not leave the Site unattended during the Event Period when any equipment or Infrastructure is present on Site. The Applicant or its representative must be always present to oversee any Supplier(s) who are present or operating at the Site and must always remain contactable during the Event Period.
- 2.20 Where keys are issued by the Council to the Applicant to allow access to a Site, the Applicant will be responsible for locking the gates and shall indemnify the Council against losses, liabilities or damage resulting in failure to lock such gates.
- 2.21 The Applicant shall not permit the public or any person to access or park any vehicles on the Site during the Event Period, without the prior written consent of the Council.
- 2.22 The Applicant shall not make any charge for entry to or exit from the Site without the prior written consent of the Council.
- 2.23 The Applicant must not bring a funfair or funfair rides onto the Site without the prior written consent of the Council.

- 2.24 The Applicant must not light any fires (to include but not limited to barbecues) on the Site without the prior written consent of the Council.
- 2.25 The Applicant must not let off fireworks or pyrotechnics at the Site without the prior written consent of the Council.
- 2.26 The Applicant is not permitted to display any signage or advertisements (e.g., by way of posters/banners/flyers or other means) on any part of the Site (to include notice boards, fencing, railings, trees or plants) without the prior written consent of the Council.
- 2.26.1 The Applicant must make an application for consent by submitting to the Council a 'Signage Plan' (to include but not limited to locations, dates, dimensions, attachment method and visuals) within the application deadlines.
- 2.26.2 If consent is granted the Applicant may display signage during the Event Period. The Applicant must ensure by checking daily that signage is securely fixed and undamaged.
- 2.26.3 The Council reserves the right to require the Applicant at its own cost to modify the content of, replace or remove signage, if the Council at its sole discretion considers them unsuitable for public display. Failure to do so will result in the Council removing them and then charging the cost of reinstatement to the Applicant.
- 2.26.4 The Applicant must obtain all consents necessary including planning consent before displaying any signage or advertisements and shall adhere to regulations under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 with reference to Schedule 2 and 3.
- 2.27 The Applicant will adhere to the borough's Byelaws, where applicable, at all times.
- 2.28 The use of paper lanterns (for release), or balloons (helium filled or otherwise) are prohibited.
- 2.29 Unmanned aerial vehicles, such as drones, shall not be permitted without the prior written consent of the Council. The Applicant shall additionally ensure that the Civil Aviation Authority and relevant authorities have been notified, and any necessary consents have been issued, proof of which must be supplied upon request.
- 2.30 The use of glass, e.g., drinking glasses or bottles, is not permitted without the prior written consent of the Council.
- 2.31 The Applicant may not carry out or permit to be carried out any photography, filming, video recording, taping, television or radio broadcasts or any other recording of the Event during the Event Period, without the prior written consent from the Council via the West London Film Office. The Council reserves the right to record footage and photograph any part of the Event. Material acquired will be used for Council publicity and safety purposes, i.e., training and event debrief. The Applicant agrees to supply the Council with at least one photograph of the Event to be used as marketing material which the Council can use, at its discretion, to promote the cultural events programme the Council hosts.
- 2.32 The Applicant commits to reducing the negative impact the Event will have on the environment and will follow current guidance and codes of practice (including relevant Sustainable Event Guidance) to improve and promote sustainability throughout the Event.
- 2.33 The Applicant will adhere to safety legislation in all aspects of the delivery of the Event, to include but not limited to the Health and Safety at Work etc. Act 1974, and Management of Health and Safety at Work Regulations 1999.
- 2.34 The Applicant should follow current guidance and codes of practice, to include The Purple Guide (www.thepurpleguide.co.uk) or other appropriate guidance dependent on the nature of the Event.

3 LICENSING AND ENVIRONMENTAL HEALTH

- 3.1 A licence is necessary for some forms of public entertainment. The Applicant must not sell alcoholic drinks or carry out any other licensable activities (including 'Regulated Entertainment') unless authorised by the Council or relevant authority to do so. Where licensable activities are proposed, the Applicant understands that it bears the responsibility for applying to the Council's Licensing Team, within the required deadlines, to obtain the necessary licences and consents e.g., for Premises Licences, Temporary Event Notices, Street Trading or Occasional Sales Licences.
- 3.2 If the Event involves public performances and/or broadcast of musical works, the Applicant will be responsible for applying for Performing Right Society (PRS) www.prs.co.uk and/or Phonographic Performance License (PPL) www.ppluk.com licences as required.
- 3.3 Where the proposed Event involves music or amplification, or otherwise has the potential to cause noise disturbance, a Noise Management Plan must be supplied to the Council in line with the application deadlines. Where applicable, the Noise Management Plan must adhere to any licence conditions and should follow the guidance of the Code of Practice for Environmental Noise Control from Concerts 1995. The Applicant shall not cause extreme noise disturbance to adjoining properties and shall comply with the noise management plan and any licences issued in relation to the Event. If requested by the Council, the Applicant must switch off or turn down the noise level immediately and/or take any other noise control measures as necessary.
- 3.4 Where a licence is granted to the Applicant to carry out any activity for which a licence is required in relation to the Event, the Applicant must supply a copy of said licence(s) to the Events Service upon request.
- 3.5 The Applicant is not permitted to bring traders, concessions or stalls to the Site, unless agreed in writing with the Council. The Applicant will be required to supply to the Council the full details of all traders/concessions/stalls upon request.
- 3.6 The Applicant and its Supplier(s) shall ensure that the provision of food at the Event shall meet the Council's minimum requirements (Food Standards Agency; Food Hygiene Rating Level 3), or as or otherwise agreed in writing between the Applicant and the Council, and shall comply strictly with all current legislation relevant to the Event including the Food and Safety (General Food Hygiene) Regulations 1995 and the Food Safety (Temperature Control) Regulations 1995, Health and Safety Legislation and any health and safety plans agreed with the Council.
- 3.7 The Applicant must provide adequate sanitary facilities including temporary toilet and hand washing facilities at the Site and will include details of this in their Supplementary Information provided to the Council.
- 3.8 The Applicant is not permitted to bring animals to the Site unless specific written permission has been granted by the Council. Animal performance is not generally permitted except Dog Shows, which must follow the RSPCA Guidelines for the Welfare of Performing Animals. Animals must not be given as prizes.

4 ASSESSMENT AND MONITORING

- 4.1 The Council may carry out assessments of the Applicant and/or its Supplier(s) at mutually agreed times throughout the Event Period. Unannounced spot-checks may also occur throughout the Event Period and the Applicant will be required to facilitate this.
- 4.2 The Applicant may be required to present to the Council details of attendance figures and an analysis of anonymised personal data relating to the demographic of attendees.
- 4.3 The Applicant is required to keep a record of any complaints made to it concerning or in connection with the Event or any activity forming part of the Event and must immediately notify the Events Service of any such complaint and keep the record of complaints available for inspection.

5 FEES AND PAYMENT

- 5.1 The Fee payable by the Applicant shall be in line with the 'Fees and Charges'. This will be updated as part of the Council's annual Fees and Charges review.
- 5.2 Upon the Applicant's submission of an application, the Submission Fee will apply.
- 5.3 The Council's letter of Acceptance will provide written clarification of the Fee to include a breakdown of the Park Event and/or Street Event Fee and an estimate of any anticipated Supplementary Fees and Charges, along with clarification of any discounts, deductions, negotiated rates or special payment terms; the Applicant will be required to confirm to the Council in writing that they wish to proceed with the application on that basis.
- 5.4 At the discretion of the Events Service, special payment terms may apply, for example for large, complex, or new events. This may include an up-front or advance payment, or a defined payment schedule (e.g., 33.33% of the Fee upon Acceptance of application, 33.33% of the Fee 28 calendar days prior to the Event Period, 33.33% of the Fee seven (7) calendar days before the commencement of the Event Period).
- 5.5 Where the Fee is not acceptable to the Applicant, the Applicant shall notify to the Council in accordance with clause 9 below of their intention not to proceed with their Application.
- 5.6 Upon the Acceptance of an application, all fees and charges will apply.
- 5.7 Where additional fees apply post Acceptance of the application, a written estimate will be provided to the Applicant prior to the commencement of the works. A timeframe for response may be imposed upon the Applicant. For example, Supplementary Fees such as 'Additional Officer Time' may be applied to the processing of late or incomplete applications.
- 5.8 Payment must be cleared within the terms of the invoice but;
- 5.8.1 before the commencement of the Event Period for Small/Medium Events; or
- 5.8.2 four weeks before the commencement of the Event Period for Large/Major/Complex Events.
- 5.9 If payment has not cleared in accordance with clause 5.8, Approval will be withheld or revoked, and the Site will not be made available to the Applicant.
- 5.10 There may be exceptional circumstances where the Council may at entirely its own discretion grant Approval without issuing any associated invoices. In the event of this occurring, the Council reserves the right to issue the associated invoices to the Applicant. The Applicant shall make payment in accordance with the terms of the invoice.
- 5.11 If any fees and charges are not paid in accordance with 5.8, or such other time agreed by the Council in exceptional circumstances, the Council reserves the right (without prejudice to the Council's other rights and remedies) to terminate the Agreement with immediate effect, or charge statutory interest on that sum in the manner prescribed by, and at the then prevailing rate specified in, the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.12 The Applicant will be liable to the Council for the full cost of any repairs, reinstatement or clearance works which will be carried out by the Council's nominated contractor, and for any other losses, costs or damages resulting from the Applicant's or the Applicant's Supplier(s)' actions or inaction.
- 5.13 The Applicant may be required to pay a Deposit in relation to possible damages. In the event of such a Deposit being insufficient to cover the reinstatement costs, an invoice will be raised to meet the additional costs (the Applicant must make the payment in accordance with the terms of the invoice). Where the Deposit amount exceeds the cost of the reinstatement, the additional funds will be refunded to the Applicant. Additional Officer Time may be charged to cover the costs of administering and managing the associated works.

6 INSURANCE AND LIABILITY

- 6.1 The Applicant is obliged to maintain public liability insurance in the minimum amount of TEN MILLION POUNDS (£10,000,000). At the discretion of the Council this amount may be increased dependent on the scale, nature and complexity of the Event. Any variations to this amount must be agreed by the Council in writing.
- 6.2 The Applicant is obliged to maintain employers' liability insurance in the minimum amount of FIVE MILLION POUNDS (£5,000,000).
- 6.3 The Applicant shall be liable for and indemnify and keep indemnified the Council against all liabilities, damage, costs, losses, claims, demands or proceedings whatsoever, whether in tort or contract or otherwise arising from or in connection with the Agreement, or caused by a breach by the Applicant or its Supplier(s), of the terms and conditions of this Agreement.
- 6.4 If at the sole determination of the Council, the Applicant, its Supplier(s) or attendees have caused damage to the Site or any neighbouring property, the Applicant will be liable to the Council for the full cost of any repairs or reinstatement works in accordance with 5.12.
- 6.5 The Council shall have no liability to the Applicant, its Supplier(s), or to any third party for any costs, claims, damages or losses other than for personal injury or death caused by the Council's negligence.

7 TERMINATION AND CANCELLATION

- 7.1 The Council may revoke the Approval or terminate this Agreement with immediate effect where the Applicant and/or its Supplier(s):
- 7.1.1 change the Event content, concept or style, so that it is materially different to that proposed and Accepted by the Council (if not agreed via 1.6);
 - 7.1.2 fails to gain the required consents or is in breach of consents gained through associated processes, including but not limited to event licences (such as premises licence, temporary event notice, street trading licence), planning permissions or building control;
 - 7.1.3 have failed, in the reasonable opinion of the Council, to mitigate material safety concerns such as those raised by the Council or its Safety Advisory Group;
 - 7.1.4 is in breach of its obligations under this Agreement and, where the breach is capable of remedy, fails to remedy such breach within a reasonable timeframe as defined in writing by the Council;
 - 7.1.5 becomes incapable for any reason of efficiently performing as a competent and qualified Applicant and/or Supplier at the discretion of the Council;
 - 7.1.6 acts in any way that is likely to bring the Council into disrepute or damage its reputation or interests.
- 7.2 Where the Council terminates this Agreement under clause 7.1 the Council accepts no responsibility or liability for the cancellation of the Event and the Applicant shall not be entitled to receive any refund of the Fees, and any Fees outstanding remain payable.
- 7.3 If the Applicant notifies the Council of its intention to cancel the Agreement and the event is subsequently cancelled, the **Cancellation Terms** in clauses 7.3.1 – 7.3.3 shall apply, irrespective of the invoice being raised at this stage:
- 7.3.1 **Submission Fee** will be non-refundable;
 - 7.3.2 **Park Event and/or Street Event Fee** will be non-refundable or partially refundable as follows:
 - 7.3.2.1 For Small/Medium events:
 - 7.3.2.1.1 where 14 calendar days or more notice is provided before the Event Period, 50% of the Fee will be chargeable;
 - 7.3.2.1.2 where less than 14 calendar days notice is provided before the Event Period (including any time during the Event Period), 100% of the Fee will be chargeable.
 - 7.3.2.2 For Large/Major/Complex events:
 - 7.3.2.2.1 where 70 calendar days (10 weeks) or more notice is provided before the Event Period, 50% of the Fee will be chargeable;
 - 7.3.2.2.2 where less than 70 calendar days (10 weeks) notice is provided before the Event Period (including any time during the Event Period), 100% of the Fee will be chargeable.

- 7.3.3 **Supplementary Fees** where applicable, will usually be non-refundable, but where it is possible to issue a refund at no additional expense to the Council (at the sole discretion of the Council), a whole or partial refund may be considered.
- 7.4 The Council, acting reasonably, may terminate this Agreement at any time by giving 4 weeks' notice. Where the Council terminates this Agreement under this clause, clauses 7.4.1-7.4.3 shall apply, irrespective of the invoice being raised at this stage:
- 7.4.1 **Submission Fee** will be non-refundable;
- 7.4.2 **Park Event and/or Street Event Fee** a refund of 80% will be given;
- 7.4.3 **Supplementary Fees** where applicable, will usually be non-refundable, but where it is possible to issue a refund at no additional expense to the Council (at the sole discretion of the Council), a whole or partial refund may be considered.
- 7.5 Either party shall, as soon as reasonably practicable after the start of a Force Majeure Event, but no later than five days from its commencement, notify the other party in writing of the Force Majeure Event, including the date it started, its anticipated duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement. The other party, acting reasonably, must consider whether a Force Majeure Event has occurred, if no agreement is reached, either party may initiate the dispute process under clause 10.6.
- 7.6 If the parties agree a Force Majeure Event has occurred, then they shall use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of their obligations.
- 7.7 Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from a Force Majeure Event.
- 7.8 Where clause 7.6 applies, the Council will use its reasonable endeavours to identify an alternative arrangement, including an alternative Site or Event Period, for holding the Event. The Applicant will accept the alternative arrangement for the Event unless the Applicant, acting reasonably, determines the alternative arrangement is inadequate for hosting the Event and would have a material adverse impact on the anticipated profitability of the Event.
- 7.9 If no suitable alternative arrangement can be found through 7.6 and 7.8, either party can terminate this Agreement by giving immediate written notice. The following **Force Majeure Cancellation Terms** in clauses 7.9.1 and 7.9.2 shall apply;
- 7.9.1 Where the Applicant's insurance meets the costs of cancellation, the Council shall retain the Fee. The Applicant shall use its best endeavours to recover such costs from its insurers.
- 7.9.2 If the Event is cancelled and the Applicant's insurance does not meet the costs of cancellation:
- 7.9.2.1 **Submission Fee** will be non-refundable;
- 7.9.2.2 **Park Event and/or Street Event Fee** will apply as follows:
- | Full Event Cancellation | |
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| Termination of Agreement date: | Proportion of fee due |
| 28 calendar days (4 weeks) or more before the Event Period | 50% |
| Less than 28 calendar days (4 weeks) before the Event Period, or during the Event Period | 70% |
| Partial Event Cancellation | |
| Event Days / Cancelled Event Days | Proportion of fee due |
| These will be considered on a pro rata basis, attributing equal value to all Event days. | |
| Cancelled Event Days (days which are cancelled) | 70% |
| Event Days (days which proceed) | 100% |
- 7.9.2.3 **Supplementary Fees** where applicable, will usually be non-refundable, but where it is possible to issue a refund at no additional expense to the Council, a whole or partial refund may be considered.

8 CONTRACT CHANGES

- 8.1 The Council reserves the right to update or modify the terms and conditions at any time without prior notice and the Applicant agrees to abide by the most recent version of the terms and conditions.

9 NOTICES

- 9.1 In this Agreement;

- 9.1.1 "The Council's Address" means the Council's registered address shown on the Council website or such other address or email addresses as the Council may from time to time notify to the Applicant as being its address for service for the purposes of this Agreement.
- 9.1.2 "The Applicant's Address" means the address of the Applicant shown on the Application Form or such other address or email addresses as the Applicant may from time to time notify to the Council as being the address for service on the Applicant for the purposes of this Agreement.
- 9.1.3 Any notice or other communication given or made in accordance with this document shall be in writing and may be posted or emailed to each party's address or may be submitted to the Events Service in respect of the Council.

- 9.2 Either party may change its address for service by serving a notice in accordance with this clause.

10 GENERAL PROVISIONS

- 10.1 The Application Pack including these terms and conditions contain the entire understanding and Agreement between the parties and supersedes all prior representations, documents, negotiations or understandings. The Applicant acknowledges that it has not entered into the Agreement in reliance upon any representation by the Council or anyone acting on its behalf other than the contents of the Application Pack and these terms and conditions.
- 10.2 Pursuant to the Freedom of Information Act 2000 the Council is subject to certain legal obligations in relation to public disclosure of information. The Applicant shall cooperate with and assist the Council with any requests for disclosure which the Council receives under the Freedom of Information Act 2000 which relate to this Agreement.
- 10.3 Nothing in the Agreement shall be taken to confer any benefit on any person who is not a party to it and the parties hereby agree that the Contracts (Rights of Third Parties) Act 1999 does not apply hereto.
- 10.4 Nothing in the Agreement shall fetter the Council in the exercise or discharge of its functions, powers and duties as a local authority (including, without limitation, the power to close all or part of any Park, Open Space or Highway either on a permanent or temporary basis).
- 10.5 Nothing in the Agreement shall create any tenancy, licence or lease in favour of the Applicant.
- 10.6 In the event that any dispute arises between the parties in connection with the Agreement, the parties shall, in the first instance, use their reasonable endeavours to resolve it amicably between themselves. Disputes remaining unresolved following such endeavours shall, if the parties agree, be referred to non-binding mediation. In the event that the parties do not agree to non-binding mediation or if the dispute remains unresolved, the dispute shall be referred to the exclusive jurisdiction of the Courts of England and Wales.
- 10.7 This Agreement shall be governed by and construed in accordance with the Law of England and Wales and the Council and the Applicant hereby submit to the exclusive jurisdiction of the English & Welsh Courts.

11 DATA PROTECTION

- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

- 11.2 Each party undertakes to comply with its legal obligations regarding the processing, use, sharing, transfer of personal data and any personal data breach under the Data Protection Legislation.
- 11.3 The Applicant confirms it has read and understood, and will comply with the Council's Privacy Policies, and consents to its data (Application and Supplementary Information) being shared in line with these policies.
- 11.4 The Applicant consents to its data being shared with other Council departments (outside of the Leisure Service), and external partners such as Blue Light Agencies, Safety Advisory Group representatives, event specialists or consultants, in the interest of public safety.