



CHEERFUL TWENTYFIRST, INC. STANDARD TERMS & CONDITIONS OF BUSINESS (SUPPLIERS)

1. CHARGES

- 1.1 All costs, charges and expenses shall be agreed in advance between the Parties as set out in Schedule 1, for the supply of any Goods and/or Services.
- 1.2 The costs, charges and expenses set out in the Quote or Schedule 3 shall be inclusive of the costs of packaging, insurance and carriage of the Goods and/or Services. No extra charges shall be effective unless agreed in writing and signed by Cheerful 21st.
- 1.3 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Goods and/or Services, and the Supplier shall allow Cheerful 21st to inspect such records at all reasonable times on request.

Cheerful 21st may at any time, without notice to the Supplier, set off any liability of the Supplier to Cheerful 21st against any liability of Cheerful 21st to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, Cheerful 21st may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Cheerful 21st of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

2. SUPPLIER'S RESPONSIBILITIES

- 2.1 The Supplier shall manage, complete and provide the Goods and/or Services to Cheerful 21st, in accordance with the Service Specification or any agreed project plan, and shall allocate sufficient resources to the Event and provision of the Goods and/or Services to enable it to fully comply with this obligation.
- 2.2 The Supplier shall meet (and time is of the essence as to any performance dates) Event milestones specified in the Service Specification. If the Supplier fails to do so, Cheerful 21st may (without prejudice to any other rights it may have):
 - 2.2.1 terminate this Agreement in whole or in part without liability to the Supplier;
 - 2.2.2 refuse to accept any subsequent performance/delivery of the Goods and/or Services which the Supplier attempts to make;
 - 2.2.3 obtain substitute Goods and/or Services from elsewhere;
 - 2.2.4 hold the Supplier accountable for any loss and additional costs incurred; and
 - 2.2.5 have all sums previously paid by Cheerful 21st to the Supplier under this Agreement refunded by the Supplier.

2.3 The Supplier shall:

- 2.3.1 co-operate with Cheerful 21st in all matters relating to the Goods and/or Services and the Event and shall ensure that the Supplier and the Supplier's Team use reasonable skill and care in the performance of its obligations under this Agreement.
- 2.3.2 procure the availability of the Key Personnel and the Supplier's Team to provide the Goods and/or Services on such days, and at such times, as Cheerful 21st may require;
- 2.3.3 promptly inform Cheerful 21st of the absence (or anticipated absence) of any Key Personnel or member of the Supplier's Team. If Cheerful 21st requires, the Supplier shall provide a suitably qualified replacement subject always to the prior written approval of Cheerful 21st;
- 2.3.4 not make any changes to the Key Personnel or the Supplier's Team without the prior written approval of Cheerful 21st.

2.4 The Supplier shall:

- 2.4.1 notify Cheerful 21st as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Goods and/or Services; and
- 2.4.2 before the date on which the Goods and/or Services are required, obtain, and at all times maintain, all necessary licenses and consents and comply with all relevant legislation in relation to:
 - (a) the Goods and/or Services;
 - (b) the use of all documents, information and materials provided by the Supplier or its agents, subcontractors, consultants or employees relating to the Goods and/or Services which existed prior to the commencement of this Agreement, including designs and specifications.

2.5 The Supplier acknowledges and agrees that Cheerful 21st is entering into this Agreement on the basis of the Service Specification and that the Service Specification is accurate and complete in all material respects, and is not misleading.

2.6 The Supplier shall comply with all applicable laws, statutes, regulations and codes and policies of Cheerful 21st relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

2.7 The Supplier shall ensure that any person associated with the Supplier who is providing Goods and/or Services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this Agreement. The Supplier shall be responsible for the observance and performance by such persons of this Agreement, and shall be directly liable to Cheerful 21st for any breach by such persons of any of the terms of this Agreement.

3. QUALITY OF GOODS AND/OR SERVICES

3.1 The Supplier represents and warrants to Cheerful 21st that:

- 3.1.1 the Supplier will supply the Goods and perform the Services with reasonable care and skill and in accordance with generally recognized commercial practices and standards in the industry for similar services;
- 3.1.2 the Goods and/or Services will conform with all descriptions and specifications provided to Cheerful 21st by the Supplier, including the relevant Service Specification;
- 3.1.3 the Goods and/or Services are fit for their intended purpose, and are of good construction, suitable and sound material and adequate strength, and have been tested prior to delivery to Cheerful 21st;
- 3.1.4 the Goods and/or Services will be free from defects in design, material and workmanship, and remain so for at least 2 years after delivery to Cheerful 21st;
- 3.1.5 the Goods and/or Services shall not breach or infringe any Intellectual Property Rights (as defined below), or any other right, title, or interest, of any third party;
- 3.1.6 it has all the rights, licenses, permits, approvals and clearance of third-party rights as required by law, and as are necessary to perform its obligations under this Agreement; and
- 3.1.7 the Goods and/or Services will be provided in accordance with all applicable legislation from time to time in force, and the Supplier will inform Cheerful 21st as soon as it becomes aware of any changes in that legislation.
- 3.2 The provisions of this clause 3 shall survive any performance, acceptance or payment pursuant to this Agreement and shall extend to any substituted or remedial services provided by the Supplier.

4. CONFIDENTIALITY

- 4.1 The Supplier undertakes to Cheerful 21st of total confidentiality and security all of Cheerful 21st’s confidential information, including but not limited to, all presentations, conferences, programs, speeches, productions, designs, client information, trade secrets, secret or confidential material, operations, processes or dealings concerning the organization, business, finance transactions or affairs of the Customer (“**Confidential Information**”), which may come to its knowledge during the delivery of the Goods and Services.
- 4.2 The Supplier shall not use the Confidential Information in any way whatsoever without the prior written consent of Cheerful 21st other than for the delivery of the Goods and/or Services and performance of its obligations under this Agreement.

5. DATA PROTECTION

“**Applicable Laws**” means all applicable laws, statutes, regulations and codes from time to time in force.

“**Data Protection Legislation**” means the New York Stop Hacks and Improve Electronic Data Security Act (“SHIELD Act”), the UK Data Protection Legislation, and any other applicable state and federal legislation relating to personal data still in force and all other legislation and regulatory requirements in force from

time to time which apply to a Party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

- 5.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under the Data Protection Legislation.
- 5.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, Cheerful 21st is the controller and the Supplier is the processor.
- 5.3 Without prejudice to the generality of clause 5.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under this Agreement:
 - 5.3.1 process such personal data only on the documented written instructions of Cheerful 21st unless the Supplier is required by Applicable Laws to otherwise process that personal data.
 - 5.3.2 ensure that it has in place appropriate technical and organizational measures, reviewed and approved by Cheerful 21st to protect against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymizing and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organizational measures adopted by it);
 - 5.3.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - 5.3.4 assist Cheerful 21st in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 5.3.5 notify Cheerful 21st without undue delay on becoming aware of a personal data breach;
 - 5.3.6 at the written direction of Cheerful 21st delete or return personal data and copies thereof to Cheerful 21st on termination of the Agreement unless required by Applicable Law to store the personal data;
 - 5.3.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 5 and immediately inform Cheerful 21st if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation; and
 - 5.3.8 indemnify Cheerful 21st against any loss or damage suffered by Cheerful 21st in relation to any breach by the Supplier of its obligations under this clause 5.

6. CUSTOMER MATERIAL & INTELLECTUAL PROPERTY

“**Cheerful 21st Materials**” means all documents, information, items and materials in any form (whether owned by Cheerful 21st or a third party), which are provided by Cheerful 21st to the Supplier in connection with the provisions of the Goods and/or Services.

“**Intellectual Property Rights**” means all intellectual property rights, howsoever arising and in whatever media, whether or not registered or capable of registration, including copyright, database rights, know-how, patents, trademarks, service marks, trade names, goodwill, design rights, moral rights, business names, domain names and other similar rights, and any applications for the protection or registration of these rights, all renewals and extensions of such rights throughout the world, and all similar or equivalent rights, or forms of protection, which subsist now, or in the future, in any part of the world.

6.1 In relation to Client Materials:

6.1.1 Cheerful 21st and its licensors shall retain ownership of all Intellectual Property Rights in Cheerful 21st Materials; and

6.1.2 Cheerful 21st grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify Cheerful 21st Materials for the term of this Agreement for the sole purpose of providing the Services to Cheerful 21st.

6.2 In relation to the Goods and/or Services:

6.2.1 the Supplier assigns to Cheerful 21st, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Goods and/or Services;

6.2.2 the Supplier shall, promptly at Cheerful 21st's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Cheerful 21st may from time to time require for the purpose of securing for Cheerful 21st all right, title and interest in and to the Intellectual Property Rights assigned to Cheerful 21st in accordance with clause 6.2.1.

6.3 The Supplier:

6.3.1 warrants that the receipt, use and onward supply of the Services and the Goods (excluding Cheerful 21st Materials) by Cheerful 21st and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

6.3.2 shall indemnify Cheerful 21st in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Cheerful 21st arising out of, or in connection with, the receipt, use or supply of the Services and the Goods (excluding Cheerful 21st Materials).

7. FORCE MAJEURE

In this paragraph, “**Force Majeure Event**” means any acts, events, omissions or accidents beyond a party's reasonable control, including without limitation, acts of God, flood, fire, earthquake, hurricane, tornado, storm, extreme temperatures or other similar catastrophes, and other major weather conditions, server crashes, virus attacks on equipment, tempest, accident, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, damage, bad weather, software power or equipment failure, explosion, threat of war, acts of war or terrorism, riots and strikes, lockouts or other industrial disputes not involving the personnel of the affected party.

- 7.1 Neither party will be deemed to be in breach of this Agreement, or otherwise liable to the other party, for any delay in performance, or any failure to perform any obligations under this Agreement (and the time for performance shall be extended accordingly), if, and to the extent that, the delay or failure is caused by a Force Majeure Event, provided that the party whose performance is affected (“**Affected Party**”) has complied with clause 7.2.
- 7.2 The Affected Party shall: (i) promptly notify the other party in writing of the nature and extent of the circumstances giving rise to the Force Majeure Event, the likely or potential duration of the Force Majeure Event, and the effect of the Force Majeure Event on its ability to perform its obligations; and (ii) use all reasonable endeavors to avoid and mitigate the effects of the Force Majeure Event. Notwithstanding the generality of the foregoing, each party shall use all reasonable endeavors to continue to perform its obligations under this Agreement for the duration of any Force Majeure Event.
- 7.3 If the relevant Force Majeure Event prevents, hinders or delays the Affected Party from performing its obligations for a continuous or aggregate period in excess of ten (10) days, the non-affected party may immediately terminate this Agreement upon written notice to the other party.

8. LIABILITY

- 8.1 The Supplier shall indemnify Cheerful 21st against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by Cheerful 21st arising out of or in connection with:
- 8.1.1 use or supply of the Goods and/or Services (excluding Cheerful 21st Materials);
- 8.1.2 any claim made against Cheerful 21st by a third party for personal injury or damage to property arising out of, or in connection with, defects in the Goods and/or Services; and
- 8.1.3 any claim made against Cheerful 21st by a third party arising out of or in connection with the supply of the Goods and/or Services, as delivered, or the Services.
- 8.2 This clause 8 shall survive termination of this Agreement.

9. CANCELLATION AND TERMINATION

- 9.1 This Agreement shall terminate automatically on completion of the project following provision of the Goods and/or Services in accordance with the Service Specification or any agreed project plan.
- 9.2 Cheerful 21st may terminate this Agreement with immediate effect by giving written notice to the Supplier if:
- 9.2.1 there is a change of control of the Supplier; or
 - 9.2.2 the Supplier's financial position deteriorates to such an extent that in the Client's opinion the Supplier's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy;
 - 9.2.3 the Supplier fails to perform its obligations under the terms of this Agreement or at a standard which, in the opinion of the Client, falls below satisfactory quality;
 - 9.2.4 the Supplier commits a breach of this Agreement or persistent breaches of this Agreement; or
 - 9.2.5 the Supplier acts in any way that is prejudicial to Cheerful 21st and its business;
 - 9.2.6 a conflict of interest arises between the Supplier and Cheerful 21st.
- 9.3 Cheerful 21st may terminate this Agreement for convenience at any time on giving no less than 14 days prior written notice to the Supplier.
- 9.4 Following termination of this Agreement, for whatever reason, Cheerful 21st shall have no liability to the Supplier.]
- 9.5 If the Event is cancelled or Cheerful 21st is no longer required or able to fulfil certain obligations relating to the Event, Cheerful 21st may cancel this Agreement and the Supplier shall only be entitled to invoice Cheerful 21st for fees and expenses incurred up until the date on which Cheerful 21st notifies the Supplier of its intention to cancel this Agreement. If any Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of this Agreement, Cheerful 21st shall be entitled (without prejudice to any other right or remedy) to exercise any one or more of the following rights or remedies:
- 9.5.1 to rescind this agreement; or
 - 9.5.2 to refuse to accept the provision of any further Services by the Supplier and to require the immediate repayment by the Supplier of all sums previously paid by Cheerful 21st to the Supplier under this Agreement; or
 - 9.5.3 to require the Supplier, without charge to Cheerful 21st, to carry out such additional work as is necessary to correct the Supplier's failure; and
 - 9.5.4 in any case, to claim such damages as it may have sustained in connection with the Supplier's breach (or breaches) of this Agreement not otherwise covered by the provisions of this clause 9.

- 9.6 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Agreement immediately on giving written notice to the other if:
- 9.6.1 the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 9.6.2 the other party commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors; or
- 9.6.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party; or an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party; or
- 9.6.4 a person becomes entitled to appoint a receiver or administrative receiver over the assets of the other party, or a receiver or administrative receiver is appointed over the assets of the other party; or
- 9.6.5 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 9.7 On termination of this Agreement for any reason, the Supplier shall immediately deliver to Cheerful 21st:
- 9.7.1 all Cheerful 21st Materials and all copies of information and data provided by Cheerful 21st to the Supplier for the purposes of this Agreement. The Supplier shall certify to Cheerful 21st that it has not retained any copies of Cheerful 21st Materials or other information or data, except for one copy which the Supplier may use for audit purposes only and subject to the confidentiality obligations set out in this Agreement; and
- 9.7.2 all specifications, programs (including source codes) and other documentation comprised in any deliverables and existing at the date of such termination, whether or not then complete. All Intellectual Property Rights in such materials shall automatically pass to Cheerful 21st (to the extent that they have not already done so by virtue of the provisions of this Agreement), who shall be entitled to enter the premises of the Supplier to take possession of them.
- 9.8 If the Supplier fails to fulfil its obligations under the foregoing sub-clause, then Cheerful 21st may enter the Supplier's premises and take possession of any items which should have been returned under it. Until they have been returned or repossessed, the Supplier shall be solely responsible for their safe keeping.
- 9.9 On termination of this Agreement (however arising) the accrued rights and liabilities of the parties as at termination, and clauses capable or intended to survive termination, shall survive and continue in full force and effect.

10. WAIVER

The waiver or non-enforcement by Cheerful 21st of any breach or non-observance of these conditions shall not prevent the subsequent enforcement of these conditions in full and shall not be deemed a waiver of any subsequent breach.

11. VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of the Parties.

12. ASSIGNMENT

12.1 The Supplier shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of Cheerful 21st.

12.2 Cheerful 21st may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under this Agreement.

13. INSURANCE

13.1 During the term of this Agreement and for a period of six (6) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, the following insurance:

13.1.1 professional indemnity insurance and errors and omissions insurance with an adequate indemnity limit, which shall not be less than three million dollars (\$3,000,000) per occurrence and one million dollars (\$1,000,000) in aggregate;

13.1.2 product liability insurance of three million dollars (\$3,000,000);

13.1.3 public liability insurance with an adequate limit, which shall not be less than three million dollars (\$3,000,000); and

13.1.4 employer's liability cover of five million dollars (\$5,000,000).

13.2 The minimum insurance levels specified in this clause 13 are not a limitation on the Supplier's liability.

14. SEVERANCE

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

15. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any party the agent of another party, or authorize any party to make or enter into any commitments for or on behalf of any other party.

16. THIRD PARTY RIGHTS

A person who is not a party to this Agreement shall not have any rights under or in connection with it. This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

17. LAW AND JURISDICTION

17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contentious disputes and or claims) shall be governed and construed in accordance with the laws in effect in the State of New York, excluding any choice of law principle that might otherwise refer interpretations of this Agreement to the laws of another jurisdiction.

17.2 The Parties hereto specifically and irrevocably consent to the jurisdiction and venue of the federal and state courts of the State of New York with respect to all matters concerning this Agreement or the enforcement of any of the foregoing.

17.3 Nothing in this Agreement shall limit the right of Cheerful 21st to take proceedings in any other court of competent jurisdiction or in more than one jurisdiction, whether concurrently or not.