

# ELCHYN CATERING LIMITED

## Terms and Conditions of Business

These are the Terms of Business of Elchyn Catering Limited (trading as Ruffled Truffle), VAT registration number 289 4365 50, company number 10717346, of registered office at The Gatehouse, 2 Devonthurst Place, Heathfield Terrace, Chiswick, United Kingdom, W4 4JD ("Company")

### 1 Definitions and interpretation

1.1 In these Terms and Conditions, the following definitions apply:

<b>Business Day</b>	means any day except a Saturday, Sunday or bank holiday in England and Wales;
<b>Client</b>	means the person whose details are set out in the Quote and/or the Contract;
<b>Contract</b>	means the agreement in writing via letter(s) and/or email(s) between the Company and the Client for the supply and purchase of Services at the Price which shall incorporate these Terms and Conditions;
<b>Data Protection Laws</b>	means, as binding on either party or the Services, the GDPR, the Data Protection Act 2018, any laws which implement any such laws and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;
<b>Deposit</b>	means 50% of the Price, to be paid in accordance with clause 3.1 and to be non-refundable save as set out therein;
<b>Force Majeure</b>	means flood, fire, accidents, obstruction, adverse weather or transport delays or any event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract;
<b>Price</b>	means the total price set out in the Quote including all VAT;
<b>Quote</b>	means the quotation by the Company to the Client for the supply of Services for the Client's event which is accompanied by these terms and Conditions and is valid for acceptance for 7 days from the date of quotation;
<b>Services</b>	means the supply of goods and services between the agreed hours on the agreed date(s) at the Venue in accordance with an agreed menu and drinks list and supply of staff and equipment as set out in the Contract;
<b>Venue</b>	means the location of the Client's event as set out in the Contract.

1.2 These Terms and Conditions apply to and form part of the Contract between the Company and the Client. They supersede any previously issued terms and Terms and Conditions of purchase or supply.

### 2 Price and Deposit

- 2.1 The Client shall pay any applicable VAT to the Company in respect of the Deposit and the balance of the Price and on receipt of a valid VAT invoice.
- 2.2 In respect of any Contract pursuant to which the Company is to provide catering for a minimum of 100 people, the Client may request a tasting of proposed food and drink, subject to payment of the Deposit and a further fee to be agreed between the Company and the Client.

### 3 Payment

- 3.1 The Client shall pay the Deposit plus VAT by bank transfer to the Company's bank account on the date that the Contract is agreed. The Deposit shall be non-refundable, save as set out in clause 10.1.
- 3.2 The Client shall pay the balance of the Price no later than 3 Business Days before the date of the Client's event via credit card, debit card or bank transfer.
- 3.3 Time of payment is of the essence. Where sums due under these Terms and Conditions are not paid in full by the due date:
- 3.3.1 the Company may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of HSBC from time to time in force;
  - 3.3.2 interest shall accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment; and
  - 3.3.3 the Company may terminate the Contract, such termination to be by way of deemed cancellation by the Client to which clause 9.2 shall apply.

#### **4 Performance**

- 4.1 The Services shall be deemed performed on completion of the performance of the Services as specified in the Contract.
- 4.2 The Company shall not be liable for any delay in or failure of performance caused by:
  - 4.2.1 the Client's failure to: (i) make the Venue available, (ii) prepare the Venue as required for performance of the Services or (iii) provide the Company with adequate instructions for performance of the Services;
  - 4.2.2 Force Majeure.

#### **5 Warranties**

- 5.1 The Client warrants that it has provided the Company with all relevant, full and accurate information as to the Client's needs, including any dietary requirements of those attending the Client's event.
- 5.2 The Client shall confirm the number of guests to the Company by no later than 5 working days prior to the date of the Client's event.

#### **6 Indemnity and insurance**

- 6.1 The Client shall indemnify, and keep indemnified, the Company from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Company as a result of or in connection with the Client's breach of any of the Client's obligations under the Contract or any damage or injury caused to the Company's equipment or workers by attendees at the Client's event and if applicable shall supply, so far as is reasonable, evidence of the maintenance of the insurance and all of its terms from time to time applicable.
- 6.2 The Company shall procure and maintain adequate insurance cover at its own cost with a reputable insurance company to cover the liability accepted by it under these Terms and Conditions and shall, at the Client's reasonable request, produce reasonable evidence of the insurance policy.

#### **7 Limitation of liability**

- 7.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 7.
- 7.2 Subject to clauses 7.4 and 7.5, the Company's total liability arising out of the Services shall not exceed the Price.
- 7.3 Subject to clauses 7.4 and 7.5, the Company shall not be liable for consequential, indirect or special losses.
- 7.4 The limitations of liability set out in clauses 7.2 and 7.3 shall not apply in respect of any indemnities given by either party under the Contract.
- 7.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
  - 7.5.1 death or personal injury caused by negligence;
  - 7.5.2 fraud or fraudulent misrepresentation;
  - 7.5.3 any other losses which cannot be excluded or limited by applicable law;
- 7.6 The Company shall not be liable for consequential, indirect or special losses where food is supplied by the Client and the Client shall indemnify and keep indemnified the Company in respect of all and any claims, losses, damages, costs and expenses arising therefrom.

#### **8 Data Protection**

- 8.1 To the extent that either party processes any personal data provided by the other party in connection with the provision of Services under this Contract, the relevant party shall:
  - 8.1.1 treat personal data as confidential;
  - 8.1.2 maintain reasonable technical and organisational security and confidentiality measures to mitigate the risk of any unlawful forms of processing of personal data, in accordance with the other party's privacy policies;
  - 8.1.3 act upon and fully comply with the instructions received from the other party in relation to the processing of personal data; and

8.1.4 otherwise comply with Data Protection Laws.

## **9 Force Majeure**

9.1 A party shall not be liable to the other if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

9.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

9.1.2 uses reasonable endeavours to minimise the effects of that event.

## **10 Termination**

10.1 The Company shall reimburse all costs incurred under the Contract to the Client if it fails to perform the Services for any reason other than those set out in clause 4.2.

10.2 The Company shall refund half the balance of the price paid under clause 3.2 in the event of cancellation of the Services as a result of the Client suffering an event of Force Majeure except where the Force Majeure occurs within 48 hours of the start of the Client's event.

10.3 All sums due under these Terms and Conditions shall become payable in full when termination takes effect.

10.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the parties at any time up to the date of termination.

## **11 Variation**

11.1 With the exception of clause 11.3, no variation of the Contract shall be valid or effective unless it is agreed in writing.

11.2 The Company requires a minimum of 10 working days prior to the date of the Client's event for changes in the menu.

11.3 The Company reserves the right to change menu items without notification due to fluctuation of market availability, but in any event will use reasonable endeavours to keep the menu as close to the original as set out in the Contract and to agree any changes with the Client.

## **12 Notices**

12.1 Any notice or other communication given by a party under these Terms and Conditions shall be in writing (including email) and in English.

## **13 Entire agreement**

13.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

13.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

13.3 Nothing in these Terms and Conditions purports to limit or exclude any liability for fraud.

## **14 Governing law**

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

## **15 Jurisdiction**

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).