

## TERMS AND CONDITIONS

Relating to the provision of a site/pitch for the Brighthouse Food and Craft Markets during 2019.

The generality of the terms and conditions set out below are intended to assist all parties involved in maintaining a safe and healthy operation while at the Brighthouse Food and Craft Markets.

### 1. General

#### 1.1 Definitions

- "Markets" means the Brighthouse Food and Craft Markets
  - Brighthouse "BID" means Brighthouse Business Improvement District (a not for profit organisation c/o 3a Commercial Street, Brighthouse) and, where the context permits includes, any member of the Brighthouse Food and Craft Markets 2019 team
  - "Exhibitor" means any individual and/or their relative businesses that wish to trade at the Markets
  - "Stall" means a site/pitch that is part of the Markets
  - "Customer" means any member of the public attending the Markets that are not an Exhibitor or a member of the Brighthouse BID
  - "Fees" means the price paid by the Exhibitor to the Brighthouse BID to attend as an Exhibitor at the Market/s
- 1.2 The BID shall not be bound by any terms and conditions other than those which are set out in this document. No provisions, amendments or variations of any contract by the Exhibitor apply unless they are in writing and agreed and signed by or on behalf of the BID.
- 1.3 The BID reserves the absolute right to determine all sponsors of the Market, attending Exhibitors, and the location of any pitch at all times. Exhibitors shall not raise any requisition or objection in relation to these matters.
- 1.4 The BID cannot and does not give any guarantee that an Exhibitor's pitch will be placed in any particular location or area.
- 1.5 The BID reserves the absolute right to give Customers variety and choice. Therefore unless agreed specifically between the BID and the Exhibitor, the BID cannot guarantee exclusivity in relation to any one type of food or craft, or variety of food or craft, but in the event that there should be, no Exhibitor shall raise any objection nor requisition in relation to the same.
- 1.6 The Markets are Local Food and Craft Markets and as such, the Exhibitor must be directly involved in the manufacture or production of the items being sold.

### 2. Contract & Bookings

2.1 All and any applications for a Pitch by an Exhibitor shall be completed in writing using the Market booking form, and accompanied by

i) Payment of the Fees as stated in the Application form, and

ii) If applicable a copy of the Exhibitor's valid Food Hygiene certification (valid as at the date of the Market) (in line with clause 6.3 below),  
and

iii) A copy of the Exhibitor's certificate of insurance (valid as at the date of the Market) (in line with clause 6.2 below).

2.2 A contract for the supply of a Pitch will only exist once

i) A valid, signed and fully completed booking form has been received by the BID, together with Fees in accordance with payment conditions as detailed in the booking form, and the copy documentation referred to in paragraph 2.1 above, and

ii) An email confirming acceptance to the event has been issued from the BID to the Exhibitor.

2.3 In signing the booking form, the Exhibitor agrees to be bound by these terms and conditions in their entirety. The BID shall be entitled to regard any person completing and signing an application form for the Market as having been authorised by the Exhibitor to do so, therefore binding the Exhibitor.

2.4 In the event that the Exhibitor comprises more than one individual, or is a partner, the Exhibitor's liability shall be joint and several.

2.5 The deadline for receipt of fully completed booking forms is 1 month prior to the event. Whilst applications may be submitted by any Exhibitor after this date, such applications will only be accepted by the BID at their absolute discretion. In this event, the BID gives no guarantee whatsoever that late bookings will receive any form of listing nor publicity within Market documentation or advertising literature.

2.6 The BID reserves the absolute right to refuse to accept any booking from any Exhibitor for whatever reason, at their absolute discretion.

### 3. Price & Payment

3.1 The Fees are as stated in the Market booking form.

3.2 The payment of the Fees will be made as per the conditions stated on the Market booking form by the Exhibitor to the BID prior to entering into the contract.

3.3 Payment shall be made by way of cheque drawn on a UK clearing bank or by way of bank transfer.

3.4 In the event of payment being subsequently dishonoured by the Exhibitor or in the event of any late payment whatsoever, the BID shall charge interest on any balance due at the rate of 4% over the Bank of England base rate, this being calculated from the date the payment falls due until the date of the payment in full.

3.5 The Exhibitor agrees to reimburse the BID all costs and expenses (including legal costs) incurred in the collection of any overdue amount.

### 4. Cancellations & Unforeseen Events

4.1 The BID may cancel any contract at any time, and without notice. It is however anticipated that the BID would only cancel a contract in the event of non-payment by the Exhibitor, any breach by the Exhibitor in relation to these terms and conditions, or any liability which is prohibited by the Unfair Contract Terms Act 1977 in relation to death or personal injury.

4.2 In the event of such cancellation under 4.1 above (except for where the Exhibitor has not paid the Fees in full) the BID will fully reimburse the Exhibitor the Fees.

4.3 An Exhibitor may cancel its booking at any time but must do so in writing. In the event of cancellation by an Exhibitor, the Exhibitor shall forfeit the Fees paid, and shall not be entitled to reimbursement. The BID shall have the right to re-let the Exhibitor's Pitch at their absolute discretion and Exhibitors agree to raise no objection in this regard.

4.4 The BID shall be entitled without any liability on its part and without prejudice to its other rights, to terminate a contract or any unfulfilled part of the contract if performance by the BID in relation to the Market is prevented, hindered, or delayed. This applies whether caused directly or indirectly by any reason beyond the BID's reasonable control, and whether or not the reason existed on the date when the contract was made.

## 5. Liability

5.1 The BID accepts no liability nor responsibility whatsoever to any Exhibitor for any aspect of the Market, including, but not limited to, the weather, the ground conditions, visitor numbers, the number or identity of sponsors, the number of other Exhibitors also exhibiting at the Market, the nature of the goods any such Exhibitor is offering for sale, the location of any Pitch, and/or the level of any sales achieved by an Exhibitor.

5.2 At all times, the BID reserves the right to vary or alter the date or dates of the Market. In this instance, an Exhibitor shall be entitled to cancel and receive a full refund of the Fees paid provided that the BID is informed in writing of cancellation within a 7 day period after being notified of the variation or alteration of the date/s. If written notification is not received, then Exhibitors shall remain bound by the contract and be required to honour all obligations.

5.3 At all times, Exhibitors are responsible for their Pitch, and for all belongings, goods, personal effects, property, and persons operating or manning the Stall upon the Exhibitor's behalf. The BID does not accept any responsibility whatsoever for any form of loss or damage to any item or person unless caused by the BID's negligence.

5.4 The BID shall not be liable nor held responsible in any way for any action by an Exhibitor of any of the Exhibitor's employees or agents or in respect of any action by a Customer towards or against the Exhibitor or any of its employees or agents.

5.5 For the avoidance of doubt these terms and conditions do not purport to exclude nor restrict any liability which is prohibited by the Unfair Contract Terms Act 1977 in relation to death or personal injury.

5.6 Without prejudice to the above, Exhibitors at all times should be aware prior to entering into a contract that it is impracticable for the BID to arrange any form of insurance at any level on the BID's operations in relation to the Market.

5.7 The BID's liability for any loss or damage sustained by the Exhibitor as a direct result of any breach of the contract or any liability of the BID including negligence shall be limited to the level of the fees only.

5.8 The BID's liability for any loss or damage expressly excludes any liability for consequential loss or losses, damage, collateral damage, including, but not limited to, loss of profit, loss of opportunity or chance, damage to property of the Exhibitor or any third party, any loss arising from any claim made against the Exhibitor by any person or third party, and any personal injury to the Exhibitor or any other person or individual where such injuries are not caused by the BID's negligence.

## 6. Insurance

6.1 At all times the risk in the Pitch and in any produce, goods, belongings or personal effects and any personnel employed or utilised by the Exhibitor, shall absolutely be the liability of the Exhibitor at all times.

6.2 Exhibitors warrant that they are adequately insured and are responsible for arranging their own public liability and employer's liability insurance.

6.3 Exhibitors agree to comply with all appropriate and relevant legislation relating to health and safety, and hygiene.

6.4 Exhibitors warrant that all food and produce shall be stored and served in compliance with all relevant Health & Food Safety Regulations. At all times, the Exhibitor shall be responsible for all goods, produce, food and drink sold or supplied whether during the Festival (or otherwise at other times).

6.5 Exhibitors should be aware that the enforcement of regulations 6.2 - 6.4 above shall be conducted by the Environmental Health Department of Calderdale Metropolitan Borough Council. Any failure to comply or any decision of Calderdale Metropolitan Borough Council officers is entirely outside the remit or jurisdiction of the BID.

6.6 The Exhibitor warrants that it will fully indemnify the Company in relation to any breach of the above clauses 6.1 – 6.4.

## 7. Electricity

7.1 The BID does not supply electricity to the market Pitches

7.2 Exhibitors may be permitted to bring their own generators or power to the Market, provided permission is requested and approved by the BID in advance.

## 8. Exhibitors Obligations

8.1 Exhibitors agree that they will:

i) Keep the area both in front and at the back of their Pitch in a tidy condition and free of rubbish at all times. All rubbish should be put into appropriate skips or waste containers provided.

ii) At the end of the Market itself, remove ALL rubbish, goods, items, electrical equipment, furniture, and all or any other belongings from the Market site. In the event that they should fail to do so, the Exhibitor agrees to pay and shall be responsible for reimbursement of any cost to the BID in removing left items. If items are left, the Exhibitor agrees that it has relinquished all control and ownership of the items and the BID shall be entitled to take whatever steps the BID requires to remove them.

iii) Ensure that all food, goods, drinks and materials are safely stored at all times so as not to pose any form of hazard or inconvenience to the BID or Customers of the Market.

iv) Ensure that all walkways and exits are clear of obstruction at all times.

v) Bring their own containers in the event that they require any water.

vi) Not bring any vehicle onto the Market site during the Market dates and times of operation (as referred to below).

vii) Abide by and ensure compliance with all and any laws, bylaws, speed limits, orders or requests of the BBI, Calderdale MBC, the Police, Fire Authority, or any person in authority.

viii) Ensure that their Pitch is open for trade and stocked in line with the opening hours of the Market.

ix) Clearly display their trading name and address in a size and style that can be easily viewed by Customers.

x) Display at all times the prices of goods, food, drink, and produce offered for sale.

xi) Ensure that their equipment or catering vehicle (including for the avoidance of doubt refrigeration and kitchen equipment, tow-bars, external fixtures, displays and fittings) do not exceed or overhang the Stall perimeter.

xii) Not sublet or lease the whole or any part of its Stall to any third party.

xiii) Not raise any objection or requisition in relation to their exclusion from future Markets should they fail to trade during the Market times and dates of operation.

8.2 In the event of any breach by the Exhibitor of any of the provisions of the above, or of this contract generally, then the Exhibitor shall be in breach of contract and shall be liable to the BID in respect of the same.

## 9. Miscellaneous

9.1 The Exhibitor confirms that they have not relied upon any warranty, representation or undertaking of or on behalf of the BID or of any other person in respect of the Market, any past Market or event held or promoted by the BID, except for any representation, warranty or undertaking expressly set out in the body of these terms and conditions.

9.2 At all times it is the responsibility of the Exhibitor to ensure that their attendance at the Market shall be suitable for their requirements.

9.3 No waiver by the BID of any breach of contract by an Exhibitor shall be construed as a waiver of any subsequent breach of the same or of any provision hereof.

9.4 Failure or delay by the BID in enforcing or partially enforcing any provision of these terms shall not be construed as a waiver of its rights generally under the contract.

9.5 For the avoidance of doubt nothing in these terms confers upon any third party any benefit nor the right to enforce any term or terms of the contract.

9.6 If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part then the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be effected thereby.

9.7 Obligations by more than one person are joint and several and where any party under the contract at any time is more than one person references to it are to each person individually as well as jointly with the others comprising it.

9.8 The BID may at the BID's sole discretion subcontract the performance of the contract in whole or in part.

9.9 These terms and conditions and the contract shall be governed by and construed in accordance with the law of England and Wales.

9.10 Calderdale MBC require that gazebos provided by Exhibitors, must be of sound construction and in good order, Calderdale MBC also require that all gazebos must be sufficiently weighted, they have stipulated that 20kg per leg for a 3m x 3m gazebo is required, any insufficiently weighted gazebos will be asked to leave and stall fees forfeited.