



ST. JAMES' PARK FESTIVE FAYRE STALL HOLDER TERMS & CONDITIONS

SATURDAY 16TH & SUNDAY 17TH
NOVEMBER 2019



Please read these terms & conditions in full BEFORE completing your application.

THE FOLLOWING TERMS AND CONDITIONS APPLY TO AND FORM PART OF THE CONTRACT ENTERED IN TO BY SODEXO LTD AND STALL HOLDER FOR THE FESTIVE FAYRE

1. Definitions

1.1 In these Conditions, unless the context otherwise requires:

- **Act** means any production company, performers, musicians or other live act or equipment.
- **Booking** means the Stall Holder's booking for the provision of the Services at the Premises.
- **Business Day** means a day other than Saturday, Sunday or a public holiday in England.
- **Business Hours** means between 9am and 5pm on a Business Day.
- **Charges** means the sums which the Stall Holder has agreed to pay Sodexo in respect of the services of the Function as detailed in the Stall Application Form.
- **Conditions** means the terms and conditions obtained in this document.
- **Contract** means the contract for the supply of Services by Sodexo to the Stall Holder comprising these Conditions and the Stall Application Form.
- **Deposit** has the meaning given to it in Condition 8.1 (a)
- **Event of Force Majeure** means, as regards a party, the occurrence of circumstances beyond the reasonable control of the party including (without limitation):
 - a) Industrial action, strikes, lockouts, riots, acts of war, acts of terrorism, piracy, destruction of essential equipment by fire, explosion, storm, flood & earthquake;
 - b) Failures of, shortages in or a loss of access to equipment, power supplies, fuel or transport facilities;
 - c) Failure of a third party to provide required consent, exemption or clearance unless caused by the act or omission of either party;
 - d) Cancellation of the Function by a third party unless caused by the act or omission of either party.
 - e) Failure of a third party to permit reasonable advance access to the Premises or to provide proper and reasonable food preparation amenities unless caused by the act or omission of either party;
or
 - f) Failure of a third party to permit access to the Premises unless caused by the act or omission of wither party.
- **Function** means the St James Park Christmas Faye to be held by Sodexo at the Premises proposed to be held on 16th-17th November 2019.
- **Guest** means any person attending the Function.
- **Premises** means the rooms or locations within the venue, stadium or other premises at which the Services are to be provided being St James' Park, Barrack Road, Newcastle upon Tyne, NE1 4ST.
- **Sodexo** means Sodexo Limited.



- **Services** means the supply of the stall at the Premises as more particularly detailed in the Stall Application Form.
 - **Stall Application Form** means the completed application form detailing the stall required by the Stall Holder for the Function, which shall not contradict the Conditions in any material respect, save for variations permitted in accordance with condition 12.
 - **Stall Holder** means the company or other organization by or on whose behalf the booking is made as detailed in the Stall Application Form.
 - **VAT** means Value Added Tax or any similar tax in force from time to time.
- 1.2 The headings in these Conditions are inserted only for convenience and shall not affect their construction.
- 1.3 Where appropriate, words importing the male, female or neuter genders shall include the other genders and words denoting a singular number only shall include the plural and vice versa.
- 1.4 Any reference to a Condition shall be constructed as a reference to one of these conditions.
- 1.5 If there is any inconsistency between the Conditions and the Stall Application Form, priority shall be given first to the Conditions and finally to the Stall Application Form.
- 1.6 In these Conditions the words “other”, “includes”, “including” and “in particular” do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

2. General

- 2.1 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions contained or referred to in any quotation, letter or other communication between Sodexo and the Stall Holder and the provisions of these Conditions shall prevail unless expressly varied in writing and signed by a director on Sodexo’s behalf.
- 2.2 No variation to the Conditions or the Stall Application Form shall be binding unless expressly agreed to in writing by Sodexo and signed on its behalf.
- 2.3 The rights provided in these Conditions are cumulative and shall not be deemed exclusive of any other rights to which either party may be entitled under the Contract or pursuant to the direction (howsoever embodied) of any court or competent jurisdiction or otherwise.

3. Formation of Contract

The Contract is formed when Sodexo receives the completed Stall Application Form together with the signed Terms and Conditions and Deposit and then confirms in writing that Sodexo accepts the Booking. No Booking shall be binding on Sodexo until Sodexo issues a confirmation of acceptance in writing.

4. Appointment of Sodexo



- 4.1 The Stall Holder appoints Sodexo as the Stall Holder's exclusive provider of the Services at the Function. Accordingly, the Stall Holder agrees that it shall not provide the Services itself, nor shall it appoint or allow anyone other than Sodexo to provide the Services at a Function.
- 4.2 The Stall Holder shall not hinder or delay or otherwise prevent Sodexo's performance of the Services and the Stall Holder shall provide Sodexo with all the reasonable assistance and cooperation for Sodexo to perform its obligations under the Contract.
- 4.3 The Stall Holder shall promptly; (a) provide to Sodexo all information which Sodexo may reasonably require to enable it to perform the Services. (b) if the Stall Holder becomes aware that it has supplied incorrect or insufficient information to Sodexo, the Stall Holder shall provide Sodexo forthwith the corrected and/ or additional information.

5. Function

- 5.1 Allocation and positioning of stalls at the Function is at the discretion of Sodexo.
- 5.2 Stall Holders that have not pre-paid in full will not be permitted to attend the Function.
- 5.3 Stalls will be erected by 9.30am and removed by 6pm.
- 5.4 The Stall Holder must ensure a sufficient supply of stock is available for sale.
- 5.5 The Stall Holder is not eligible to sell food for immediate consumption unless agreed with Sodexo prior to the event.
- 5.6 Any stall holder cooking produce for immediate consumption on site must only do so with equipment pre-approved for use within the building.
- 5.7 Sodexo reserves the right to amend the floor plan at any time at the Function, although every effort will be made to accommodate stall locations as booked.
- 5.8 Sodexo's decisions are final with regard to the Christmas Function format and layout at the Premises.
- 5.9 Stalls must not be dismantled, nor must exhibitors begin to pack up until the stipulated event closing time, with no assistance, trolleys, or cages available until this time.

6. Sodexo's Obligations

- 6.1 Sodexo shall perform the Services:
 - (a) With all reasonable care and skill;
 - (b) In accordance with good industry practice; and
 - (c) In accordance with all legislation, statutes, regulations and other enactments having the force of law from time to time which are applicable to the provision of Services.

7. Stall Holder's Obligations

- 7.1 The Stall Holder shall:
 - (a) Return the relevant information, signed, to Sodexo no less than 28 days prior to the date of the Function;
 - (b) Pay the Charges promptly as such sums become due to be paid;



- (c) Obey all reasonable instructions given by Sodexo staff at the Function and procure that Guests and/or the Act obey all reasonable instructions given by Sodexo staff at the Function;
- (d) Ensure any appliance has portable appliance testing undertaken on all of the equipment which it uses at the Premises and is able to provide evidence that such testing has taken place 28 days prior to the Event.
- (e) obtain all necessary permits and licenses for the purposes of selling goods at the Function and maintain all necessary insurance. The necessary documentation includes, but is not strictly limited to; Public Liability Insurance, relevant Risk Assessments and Method Statements.
- (f) obtain all the necessary permits and licenses for the purposes of selling food at the function, if applicable and agreed with Sodexo prior to the application. The necessary documentation includes, but is not strictly limited to; Public Liability Insurance, relevant Risk Assessments, Food Hygiene Certificates, FHSA Rating and Local Authority Registration.
- (g) Erect their stall, including any freestanding additional equipment, including cooking equipment where applicable, in accordance with the pre-issued floor plans and in a manner which in no way damages the fixtures or fittings of the building.
- (h) not, and shall not permit any Guests, employee of the Stall Holder or person(s) assisting the Stall Holder at the Function to damage or deface the Premises in any manner whatsoever nor allow or permit a breach of the law. The Stall Holder shall not in any way cause a nuisance or be an infringement of any license for music and dancing or the sale of alcohol. Failure to comply with this Condition shall constitute a breach of these Conditions and entitle Sodexo to require the offending Guest(s), employee(s) of the Stall Holder or persons employed in the Act to leave the Function;
- (i) not, and shall not permit any Guests, to behave in an improper manner, with racist, foul and abusive language or confrontation or intimidation towards employees, guests, or other stall holders not tolerated. Sodexo reserves the right to eject stall holders or guests from the ground following failure to comply with this regulation, with re-entry not permitted. This could also lead to further action from Sodexo.
- (j) compensate Sodexo in full for any loss, claim, expense or damage to the Premises or any fixtures, fittings or other property where such loss, claim, expense or damage was caused by intentional, reckless or negligent act by the Stall Holder, employee of the Stall Holder or person(s) assisting the Stall Holder at the Function;
- (k) shall not introduce or attempt to introduce nor permit the introduction of any signage or other publicity material into the Function or onto the Premises without Sodexo's prior written consent;
- (l) accept the cost of cleaning up unreasonable debris (including but not limited to party string or vomit) resulting from acts of the Stall Holder, employee of the Stall Holder or person(s) assisting the Stall Holder at the Function, Guests, and/ or the Act.

7.2 Any materials, goods, supplies or other items delivered, held or stored on the Premises on the Stall Holders behalf shall be at the Stall Holders sole risk and Sodexo shall not be liable for any loss or damage howsoever caused to such items.



8. Payments and Charges

- 8.1 The Charges for the Services will be due and payable in cleared funds (without right of set-off, counterclaim or other deduction) as set out below:
- (a) At the time of making the Booking 25% of the Charges (Deposit); and
 - (b) 28 days prior to the function: the remainder of the charges.
- 8.2 The time of payment shall be of the essence in the Contract. If the Stall Holder fails to make a payment of the Charges in accordance with these payment due dates then Sodexo may cancel the Booking and this shall be construed as a Cancellation by the Stall Holder and the provisions of condition 8.3 shall apply.
- 8.3 If the booking is made less than 28 days before the date of the Function then all Charges shall be due and payable at the time the Booking is made.
- 8.4 Without prejudice to any other rights and remedies that Sodexo may have, if Sodexo does not cancel in the circumstances set out in 8.2 Sodexo shall be entitled to charge daily interest at the rate of 3% above the HSBC plc base rate until such time as payment is made.
- 8.5 If the Stall Holder pays any amount by debit or credit card, the card shall be charged at the time such payment is made.
- 8.6 The Stall Holder authorizes Sodexo to charge to its debit or credit card (as appropriate) any charges which the Stall Holder incurs in respect of the Function and which remain unpaid at the conclusion of the Function.
- 8.7 If the Stall Holder pays any amount by credit card, a surcharge of 1.5% shall be incurred in addition to the Charges.
- 8.8 All Charges include VAT.
- 8.9 If, within 5 Business Days of the date of receipt of an invoice from Sodexo for any sum due under the Contract, the Stall Holder has not notified Sodexo that it disputes whether amounts contained in such invoice are properly due it shall be deemed to have accepted that the sums stated as payable are properly due and to have waived all its rights to subsequently dispute whether those sums are due.

9. Cancellation by the Stall Holder

- 9.1 Any Cancellation of a Stall Booking must be by notice in writing any refund (if any) of Charges and/ or Deposit (if any) by Sodexo shall be in accordance with this condition 9.
- 9.2 Without any prejudice to any other rights and remedies Sodexo may have, if the Stall Holder cancels the Booking then Sodexo will refund the Charges as set out below:
- (a) If the Stall Holder cancels more than 91 days (inclusive) before the Function then Sodexo will retain the Deposit and refund any other Charges paid: or
 - (b) If the Stall Holder cancels more than 29 days but less than 90 days (inclusive) before the Function the Sodexo will retain (or the Stall Holder will be liable to pay Sodexo) 50% of the Charges; or
 - (c) If the Stall Holder cancels less than 28 days (inclusive) before the Function then Sodexo will retain (or the Stall Holder will be liable to pay Sodexo) all of the Charges.

10. Cancellation by Sodexo

- 10.1 Sodexo is entitled to cancel the Booking at any time more than 91 days (inclusive) prior to the Function. Sodexo shall notify the Stall Holder in writing as soon as is reasonably predictable of such cancellation. In the event of such Cancellation by Sodexo, Sodexo shall (a) use its reasonable



endeavours to offer an alternative date and/ or venue; or (b) refund in full all sums paid by the Stall Holder, including any Deposit, (at the Stall Holder's discretion).

10.2 Sodexo may cancel a Booking forthwith by notice in writing, without prejudice to any other rights or remedies Sodexo may have, if the Stall Holder becomes bankrupt or insolvent, or enters into liquidation or receivership or is subject to an application for an administration order or suffers an administrative receiver to be appointed in relation to the whole or part of its assets or makes a composition with its creditors or suffers any judgement to be executed in relation to any of its property or assets.

10.3 If, for any reason Sodexo is unable to supply a part of the Services specified on the Stall Application Form, Sodexo shall notify the Stall Holder as soon as possible. Where reasonably practicable, Sodexo shall replace the particular part of the Services with one of at least equal standard and at no additional cost to the Stall Holder. Sodexo shall agree on the details of the replacement Service with the Stall Holder. If it is not reasonably practicable for Sodexo to replace part of the Service then Sodexo shall refund in full all sums paid by the Stall Holder that relate to that part of the Services.

11. Variations

11.1 If the Stall Holder wishes to change the Service detailed in the Stall Application Form after the date the Booking is made, then the Stall Holder must notify Sodexo in writing or over the telephone as soon as possible. Sodexo will notify the Stall Holder if Sodexo is able to accommodate these changes and/ or give rise to additional costs. Any changes to a Booking must be confirmed by Sodexo. The Stall Holder will have to pay for any additional costs incurred as a result of changes to the Booking.

11.2 Sodexo reserves the right not to vary the arrangements.

12. Liability

12.1 Nothing in this Agreement shall be interpreted or construed as excluding or limiting the liability of either party for any matter in respect of which it would be illegal or unlawful to do so, including death or personal injury caused by such party's negligence or fraudulent misrepresentation.

12.2 Subject to condition 13.1, the total aggregate liability of Sodexo under or in connection with the Contract (whether in Contract, for negligence, breach of statutory duty or otherwise) for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the Charges.

12.3 Subject to condition 13.1, Sodexo shall not be liable to the Stall Holder in contract, tort (including negligence and breach of statutory duty) or howsoever arising in connection with this Contract for:

- (a) A lesser footfall than expected
- (b) Takings of profit less than identified, or economic loss of any kind whatsoever;
- (c) loss of profit, business contacts, revenues or anticipated savings or damage to the Stall Holder's reputation goodwill or special loss;
- (d) indirect or consequential loss or damage; or
- (e) To the extent that any loss is caused wholly or partly by breach of any Condition by the Stall Holder including any breach caused by a third party.

12.4 Sodexo will not be liable under this Contract or otherwise for any loss or damage caused by Sodexo or its employees or its agents in circumstances where:

- (a) There is no breach of a legal duty of care owed to you by Sodexo or any of its employees or agents;
- (b) Such loss or damage is not a reasonably foreseeable result of any such breach; and



(c) Any increase in loss or damage resulting from breach by you or any term of this Contract.

12.5 In respect of any event that gives rise to a claim under this Contract or otherwise howsoever arising, the Stall Holder agrees to notify Sodexo within 14 Business Days of the event giving rise to the claim and Sodexo shall not otherwise be liable.

12.6 The Stall Holder agrees that before bringing a claim for the same against Sodexo, the Stall Holder shall use its best endeavours to recover losses, claims, demands or expenses incurred by it from its insurers instead of Sodexo and to the extent that it is successful in recovering such sums from its insurers Sodexo shall not be liable to the Stall Holder.

13. Indemnity

The Stall Holder shall indemnify and keep indemnified Sodexo for all loss of or damage to property at the Premises and Sodexo's expenses, costs and claims in respect to the same suffered or incurred by Sodexo (in whole or in part) during or as a result of the Function arising from or caused by (whether directly or indirectly) the acts or omissions of the Stall Holder, an employee of the Stall Holder, any person (s) assisting the Stall Holder at the Function, any Guest or Act.

14. Force Majeure

Neither party shall be in breach of this Contract, nor liable for any failure or delay to perform any of its obligations (save in respect any payment obligation) in relation to a Booking due to an Event of Force Majeure the party concerned shall not incur any liability to the other except as specified in Condition 16.2.

15. Assignment and Subcontracting

15.1 Neither party shall be entitled to assign or transfer the Contract, whether in whole or in part without prior written consent of the other. If you wish to transfer your booking, please notify us in writing as soon as possible. We will not refuse our consent without good reason.

15.2 Notwithstanding Condition 16.1, Sodexo shall be entitled to sub-contract the Services in whole or in part provided that:

(a) it remains wholly responsible for the acts or omissions of its sub-contractors as if they were Sodexo's own acts or omissions; and

(b) Prior to appointing any sub-contractor Sodexo shall use reasonable endeavours to verify that the sub-contractor will be able to provide the Services

16. Your Personal Data

We will only use your personal data as set out in our privacy policy. You can review our privacy policy at <http://uk.sodexo.com/uk/en/privacy-policy.asp>

17. Statutory Rights



We have tried to ensure that any rights that you as a consumer have that are implied by law into a Contract of this type (Statutory Rights) are not excluded or limited in any way. If any of these terms conflict with a Statutory Right or the law changes and your Statutory Rights, then the Statutory Rights will prevail over these terms. For more information on your Statutory Rights see www.consumerdirect.gov.uk

18. General Provisions

- 18.1 You must not rely on promises, written or verbally made, by anyone other than Sodexo or its authorized representatives.
- 18.2 All content in or on Sodexo's website and brochures (including pictures, designs, logos and text) (Content) is owned and licensed to Sodexo. The content is protected by copyright and other laws and because of this, the Content cannot be used or copied by anyone other than Sodexo.
- 18.3 We will send any notices to you to the address given in the Stall Application Form unless notified by you to do otherwise. You should send any notices to Sodexo to our address as set out in the Stall Application Form. If notice is given by fax then it shall only be valid when the sender has received a receipt confirming a satisfactory fax transmission.
- 18.4 A party which is not a party to our Contract shall have no right to enforce any term under the Contracts (Rights of Third Parties) Act 1999.
- 18.5 If any of these terms or conditions shall be found by a Court or other competent authority to be invalid, ineffective or unenforceable, the rest of the terms and conditions shall continue to be valid and enforceable.
- 18.6 The Contract and these terms and conditions are governed by English Law.