**SUPPLY OF SERVICES CONTRACT (UK)**

**[This template assumes that no data transfer will take place between parties. If there will be an exchange of data, please speak to Legal and the DPO, do not use this template. – Remove before signing.]**

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| --- |
| **CONTRACT PARTICULARS** |
| **ODEON:** | Odeon Cinemas Limited (Reg No 1854132) |
| **ODEON address:** | 8th Floor, 1 Stephen Street, London, W1T 1AT |
| **Supplier:** | [INSERT COMPANY NAME] LIMITED (Company No. [NUMBER]) |
| **Supplier's address:** | [INSERT REGISTERED ADDRESS] |
| **Supplier's VAT number:** | [INSERT VAT NUMBER] |
| **Commencement Date:** | [INSERT START DATE]  |
| **Services:** | The Supplier shall supply to ODEON the services as follows:1. [Insert short description of services];

and as further detailed in Schedule 1 (the “Services”). |
| **Deliverables and Deadlines:** | The Supplier shall deliver the deliverables by the deadlines as further detailed in Schedule 1. |
| **Service Levels** | The Supplier shall at all times, maintain the service levels as further detailed in Schedule 1. |
| **Charges:** | In consideration of the Services provided by the Supplier, ODEON shall pay to the Supplier the charges as follows:[INSERT THE CHARGES PAYABLE AND ANY SCHEDULE OF PAYMENTS] |
| **Account management:** | [Please insert details of:* any regular review meetings e.g. location, frequency and who attends
* escalation procedure.]
 |
| **Minimum Term:** | This Agreement shall be effective as of the Commencement Date and continue for a period of [Insert e.g. 1 year, 2 years], unless terminated earlier hereunder. |
| **Notice periods for termination following the Minimum Term:** | Notice to be given by ODEON: [Insert e.g. 1 month]  |
| Notice to be given by the Supplier: [Insert e.g. 3 months]  |
| **Reports** | The Supplier shall provide to ODEON reports containing such details of the Services and Deliverables, as reasonably required by ODEON from time to time.  |
| **Locations** | The Supplier shall supply the services to ODEON at the locations as detailed in Schedule 3, or as otherwise notified by ODEON in writing in accordance with clause 16 of the Conditions. |
| **Territory** | [UK or UK and Ireland][Please delete as appropriate. This Agreement can be used for UK only, or UK and ROI combined but should not be used for Ireland only or any Group contracts.] |

ODEON wishes to purchase and the Supplier has agreed to supply the Services on the terms and conditions set out in this Agreement. This Agreement is made up of the following: 1) the Contract Particulars; 2) the Conditions; and 3) the remaining Schedules.

If there is any conflict or ambiguity between the terms of the documents listed above, a term contained in a document higher in the above list shall have priority over one contained in a document lower in the list.

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| Signed on behalf of **ODEON:** | …………………………………………………… |
| Name: | …………………………………………………… |
| Position: | ………………………………………… |
| Date: | …………………………………………………… |

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| --- | --- |
| Signed on behalf of **Supplier:**  | …………………………………………………… |
| Name: | …………………………………………………… |
| Position: | ………………………………………… |
| Date: | …………………………………………………… |

**SCHEDULE 1**

**SERVICES, DELIVERABLES & DEADLINES**

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| --- | --- |
| Services: | [Insert a full explanation of the services to be provided by the Supplier so it is very clear what you are expecting them to deliver, including timings, how many people will be used, when you expect them to be delivered etc – please see examples below *The Supplier shall:*1. *provide servicing, support and maintenance for all hardware and software.*
2. *Handle and respond to all media enquiries.*
3. *Complete two plan visits to each site per year of the agreement to carry out agreed planned checks.*
4. *Respond to adhoc queries in line with the Service Level Agreement timelines.*

*Please delete this explanatory note including above examples when completing this section.]*The Supplier shall:1. [Insert details of the services];

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| **Deliverables** | **Deadline** |
| **[Insert deliverables, for example: Final stills of photoshoot for use in campaign. Please delete this explanatory note upon completing this section.]** | **[Insert applicable deadlines]** |
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**SERVICE LEVELS**

|  |  |
| --- | --- |
| Service Level details: | [Insert details This will vary with each contract. If there are none, write “none”*Examples:* *Response time for Priority 1 issues: x hours.**Response time for Priority 2 issues: x days.*Please delete this explanatory note upon completion of this section.] |
| Measurement period: | [Insert details e.g. weekly, monthly. If there are no service levels, write “none”]  |
| Escalation procedure: | [Insert details, for example escalation to named directors of the company if there are unresolved Service Level issues. If there is no escalation procedure, write “none”] |
| Specific termination rights for breach of Service Levels: | [Insert details, for example, if the Service Levels are breached more than 3 times in a year, we can serve notice of termination. If there are no specific termination rights, write “none”] |

**SCHEDULE 2**

**CONDITIONS**

1. DEFINITIONS AND INTERPRETATION

## The following definitions and rules of interpretation in this clause apply in this Agreement:

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| --- | --- |
| Agreement: | this agreement together with the Contract Particulars, Conditions and Schedules which are incorporated into and form an integral part of this Agreement; |
| Charges: | the agreed amounts (as set out at the Contract Particulars) to be paid by ODEON to the Supplier for the supply of the Services; |
| Commencement Date: | the commencement date set out in the Contract Particulars; |
| **Confidential Information:** | any information which is or has been disclosed by or on behalf of one party to the other pursuant to, or in connection with, this Agreement (whether orally or in writing and whether or not such information is expressly stated to be confidential), or which otherwise comes into the possession of the other party in relation to the operation of this Agreement, including the terms of this Agreement; |
| Deadline: | any agreed date and/or time (as set out in Schedule 2 (Services, Deliverables and Deadlines) or as otherwise agreed between the parties) by which any part of any Service is to be provided by the Supplier; |
| Deliverables: | any outputs of the Services and any other documents, products and/or materials provided by the Supplier specified in Schedule 1 (Services, Deliverables and Deadlines) and any other documents, products and materials provided by the Supplier to ODEON in relation to the Services (excluding any equipment provided by the Supplier); |
| Intellectual Property Rights: | patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; |
| Intermediary | means a third party which meets one of Conditions A to C set out in sections 61N(9) to (11) of the Income Tax (Earnings and Pensions) Act 2003; |
| IR35 | means the legislation relating to workers’ services provided through intermediaries set out in Chapters 8 and 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (as may be amended from time to time) and the Social Security Contributions (Intermediaries) Regulations 2000 (as may be amended from time to time) and any other legislation or secondary legislation which imposes a liability to pay or deals with the payment to HMRC of any income tax, national insurance contributions and/or Apprenticeship Levy (and any fines, penalties and interest in relation to the same) in connection with services provided by workers who provide their services via intermediaries; |
| Labour Supply Chain | means the Supplier’s supply chain as it relates to the provision of any element of the Services and includes without limitation subcontractors at any level or tier of that supply; |
| Locations: | the agreed cinema and/or office locations of ODEON at and in respect of which the Services are to be supplied by the Supplier as notified to you in writing (including by email) by Odeon (Locations)from time to time; |
|  |  |
| Minimum Term: | the minimum term of this Agreement as set out in the Contract Particulars; |
| ODEON Affiliate: | has the meaning given in clause 22.10; |
|  |  |
| **ODEON Materials:** | all documents, information, items and materials in any form (whether owned by ODEON or a third party), which are provided by ODEON to the Supplier in connection with the Services; |
| **ODEON’s Policies** | shall mean the policies referred to at clause 14 and as notified to you from time to time]. |
| **Service Failure:** | a failure by the Supplier to deliver any part of the Services in accordance with the Service Levels or the Deadlines; |
| **Service Levels:** | the agreed levels and standards to which the Supplier is to provide the Services under this Agreement as more particularly set out in Schedule 1 (Service Levels);  |
| Services: | the services to be supplied by the Supplier to ODEON pursuant to the terms of this Agreement as detailed in the Contract Particulars and in Schedule 1 (Services, Deliverables and Deadlines); and |
| Supplier Hub | a website with the address [www.odeoncinemas.com/supplierhub](http://www.odeoncinemas.com/supplierhub) that contains important documents for suppliers; |
| **Term:** | has the meaning given in clause 2.2.  |

## This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective successors and permitted assigns, and references to any party shall include that party's successors and permitted assigns.

# commencement and duration

## This Agreement shall take effect on the Commencement Date and shall, subject to any earlier termination in accordance with its provisions, remain in force for the Minimum Term. Upon the expiry of the Minimum Term, this Agreement shall continue in force until or unless terminated by either party on written notice in accordance with the notice period set out in the Contract Particulars, such notice to expire on or after the end of the Minimum Term.

## The Minimum Term and any subsequent period during which this Agreement remains in force thereafter shall together be known as the “**Term**”.

# Supply of Services

## The Supplier shall:

### supply the Services to ODEON throughout the Term of this Agreement at the Locations and fully and at all times in accordance with all terms of this Agreement, including so as to at all times to meet any Deadline;

### co-operate with, and comply with all reasonable instructions of, ODEON in all matters relating to the Services;

### perform the Services with the reasonable care, skill and diligence and in accordance with best practice in the Supplier's industry, profession or trade;

### use personnel who are suitably skilled and experienced to perform the relevant tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;

### ensure that any and all employees, contractors and/or agents engaged in the performance of the Services have been appropriately vetted and screened in advance by the Supplier (including identification checks to verify their identity) to ensure such individuals: (i) are lawfully able to work in the Locations; and (ii) have the requisite training and experience to perform the Services in question in accordance with this Agreement;

### ensure that the Services and Deliverables will conform in respects with Schedule 1 (Services, Deliverables and Deadlines), and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by ODEON;

### provide and use (at no cost to ODEON) all equipment, tools, materials and vehicles and such other items as are required to provide the Services;

### ensure that the Deliverables, and all goods, materials, standard and techniques used in providing the Services are of the best quality and are free from any and all defects in workmanship, installation and/or design;

### before the date on which the Services are to start, obtain, and at all times maintain during the Term, any and all licences, permissions, authorisations and/or consents necessary for the performance of this Agreement by the Supplier and the intended or actual use of any Deliverable by ODEON;

### comply with (and will ensure that any Services provided are compliant with) applicable laws, statutes, and regulations from time to time in force;

### observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Locations from time to time including without limitation those requirements that have been communicated to it under clauses 6.1(b) and 14;

### hold all ODEON Materials in safe custody at its own risk, maintain the same in good condition until returned to ODEON, and not dispose of or use the ODEON Materials other than in accordance with ODEON's prior written instructions or authorisation;

### ensure that the Services are performed so as not to cause any interruption to the normal business operations of ODEON (other than agreed and unavoidable interruption from planned/routine Service activity); and

### not do nor omit to do anything which may cause ODEON to lose any licence, authority, consent and/or permission upon which ODEON relies for the purposes of conducting its business.

# Service Levels

## The Supplier shall ensure that the Services meet or exceed the Service Levels at all times during the Term.

## The Supplier shall provide ODEON with a monthly report detailing its performance in respect of each of the Service Levels.

## If there is a Service Failure, the Supplier shall:

### notify ODEON immediately of the Service Failure; and

### deploy all additional resources and take all remedial action that is necessary to rectify the Service Failure and/or to prevent the Service Failure from recurring.

## ODEON may terminate this Agreement in whole or in part by written notice with immediate effect if a Service Failure is irremediable or (if such Service Failure is remediable) the Supplier fails to remedy the Service Failure within a period of 30 days after notifying ODEON of the Service Failure under clause 4.3(a).

# odeon’s remedies

## Time is of the essence in relation to any Deadline for the Supplier. If the Supplier fails to perform the Services in accordance with the requirements of this Agreement (including by failing to meet any Deadline), ODEON may, at its sole discretion and without limiting its other rights or remedies:

### refuse to accept any subsequent performance of any Services which the Supplier attempts to make;

### obtain substitute services from any third party and recover from the Supplier any and all expenditure incurred by ODEON in obtaining such substitute services;

### require the Supplier immediately (and at the Supplier’s sole costs and expense) to remedy or repair any damage caused in relation to any such failure by the Supplier to any property, materials or possessions of ODEON;

### withhold any payment in relation to that Deadline;

### if ODEON has paid in advance for Services that have not been provided by the Supplier, require the Supplier immediately to refund such sums to ODEON; and/or

### claim damages for any additional costs, loss and/or expenses incurred by ODEON arising from any such non-compliance by the Supplier.

## The provisions of clause 5.1 shall extend to any substituted or remedial Services supplied by the Supplier.

# odeon’s obligations

## ODEON shall:

### provide the Supplier with such reasonable access at reasonable times to the Locations as may be necessary for the Supplier to supply the Services in accordance with the requirements of this Agreement; and

### inform the Supplier of applicable health and safety and security requirements that apply at the Locations which the Supplier will require access to.

# records

## The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in the supply of the Services. The Supplier shall, upon reasonable advance request by ODEON (including if ODEON has any reason to believe such records are inaccurate), allow ODEON to inspect such records at all reasonable times.

# Charges and payment

## In consideration of, but subject always to, the due and proper supply of the Services in accordance with the terms of this Agreement, ODEON shall pay the Charges to the Supplier as set out in this clause.

## The Charges shall not be increased without the prior written agreement of the parties.

## The Supplier shall be entitled to invoice ODEON for the Charges monthly in arrears or in accordance with the payment schedule set out in the Contract Particulars, whichever is later. Each invoice shall include such supporting information required by ODEON to verify the accuracy of the invoice, including any applicable purchase order number.

## The Supplier shall raise separate invoices depending on the Location of the provision of the Services in question as can be found at the Supplier Hub.

## The Supplier’s invoices will be payable by ODEON within 45 days of receipt of the same, provided that the amounts invoiced are not the subject of a bona fide dispute between the parties.

## All amounts payable by ODEON under this Agreement are expressed to be exclusive of VAT.

## Subject to clause 8.6, the Charges shall include every cost, duty, tax, withholding and/or expense of the Supplier directly or indirectly incurred in connection with the supply of the Services.

## If a party fails to make any payment due to the other party under this Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of two per cent (2%) per annum above the Barclays base rate in force from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount.

## ODEON may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to ODEON against any liability of ODEON to the Supplier under this Agreement. The Supplier shall not be entitled to make any such set-off against ODEON.

# Intellectual property rights

## In relation to the ODEON Materials:

### ODEON and its licensors shall retain ownerships of all Intellectual Property Rights in the ODEON Materials; and

### ODEON grants to the Supplier a fully paid-up, non-exclusive, royalty-free, revocable, non-transferable licence to copy and modify the ODEON Materials for the Term for the purpose of providing the Services to ODEON.

## By entering into this Agreement, the Supplier either:

### assigns to ODEON, with full title guarantee and free from all third-party rights (including moral rights), any and all Intellectual Property Rights and other rights subsisting in any Deliverable(s); or

### if and to the extent any such assignment is not possible (e.g. due to the ownership by any third party of any Intellectual Property Rights in question), grants to ODEON a fully paid-up, worldwide, non-exclusive, unencumbered (whether by moral rights or otherwise), royalty free, perpetual and irrevocable licence in any to any and all such Intellectual Property Rights for the purpose of receiving and using the Services and the Deliverables (excluding the ODEON Materials) in its business.

## The Supplier shall, promptly at ODEON's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as ODEON may from time to time require for the purpose of securing for ODEON the full benefit of this Agreement, including all right, title and interest in and to the Intellectual Property Rights and other rights assigned to ODEON in accordance with this clause 9.

## Neither party shall use the name, logo or any other Intellectual Property Rights of the other party (whether in the performance of this Agreement or otherwise) without the express written agreement of that other party.

## Nothing in this Agreement shall operate so as to transfer to the Supplier any Intellectual Property Rights or other rights of ODEON save as expressly provided for to the contrary in this Agreement.

## The Supplier hereby warrants to ODEON that the receipt and use of the Services and receipt, use and onward supply of the Deliverables (excluding the ODEON Materials) by ODEON shall not infringe the Intellectual Property Rights or other rights of any third party.

# Indemnity and liability

## The Supplier shall indemnify and keep fully and effectively indemnified ODEON and the ODEON Affiliates on demand against any and all liabilities, costs, expenses, damages and/or losses awarded against, or suffered, incurred or paid by ODEON or any ODEON Affiliate(s) arising out of or in connection with:

### any death of or personal injury to any employee(s), agent(s) and/or sub-contractor(s) of ODEON or any ODEON Affiliate(s), or to any third party, arising out of or in connection with defects in the Services, in each case to the extent that such defects are attributable to any act(s) or omission(s) of the Supplier and/or any of its employees, agents or subcontractors;

### any property (or other physical) damage suffered by any employee(s), agent(s) or sub-contractor(s) of ODEON or any ODEON Affiliate(s), or to any third party, arising out of or in connection with any act(s) or omission(s) of the Supplier and/or any of its employees, agents or subcontractors; and

### any claim made against ODEON or any ODEON Affiliate that the receipt, use or supply of the Services and the Deliverables (excluding the ODEON Materials) infringes the Intellectual Property Right of any third party.

## Subject to clause 10.4, neither party shall be liable for any indirect or consequential loss suffered or incurred by the other party which arises under or in connection with this Agreement.

## Subject to clauses 10.2 and 10.4, each party’s aggregate liability in contract, tort (including negligence) or otherwise howsoever arising under or in connection with this Agreement shall be limited as follows:

### for any liability arising under clause 12Data Protection, each party’s liability shall be limited to the higher of (i) £500,000 or (ii) 150% of the total Charges paid or payable under this Agreement; and

### for any other loss or damage, each party’s liability shall be limited to the higher of (i) £250,000 or (ii) 200% of the total Charges paid or payable under this Agreement.

## Nothing in this Agreement shall limit or exclude either party’s liability:

### arising under clause 13 (Confidentiality);

### arising under clause 10.1(c) (Intellectual Property Rights Indemnity);

### arising under clause 19 TUPE/IR35;

### for death or personal injury arising from its negligence;

### for fraudulent misrepresentation; or

### for any other matter in respect of which liability cannot be limited or excluded by operation of law.

# Insurance

## The Supplier shall maintain throughout the duration of this Agreement (and a period of six years thereafter for professional indemnity insurance) the minimum insurance cover levels and types of insurance set out at the Supplier Hub. The Supplier shall provide to ODEON (and to ODEON’s reasonable satisfaction) written evidence that such insurance is in place prior to the Commencement Date and on each anniversary of the Commencement Date. The Supplier acknowledges that compliance with this obligation shall be, at ODEON’s discretion, a pre-condition to payment of the Charges.

# Data protection

## Both parties will comply with all applicable requirements of the UK data protection legislation and any other European Union legislation relating to personal data 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 (the “Data Protection Legislation”).

## Where applicable, the parties shall enter into a data protection agreement as provided by Odeon to the Supplier, to govern the exchange of any personal data under this Agreement.

## Subject to clause 10.3, each party shall indemnify the other party against any and all liabilities, costs, expenses, damages and/or losses awarded against, or suffered, incurred or paid by the other party arising from the breach of the Data Protection Legislation or this clause 12 by the breaching party.

# Confidentiality

## Each party undertakes that it will not at any time whether during or after the Term of this Agreement, copy, use and/or disclose to any person any Confidential Information of the other party, except as permitted by this Agreement.

## The above obligations of confidence shall not apply to any Confidential Information which:

### is or becomes generally publicly available other than as a result of its disclosure by the recipient in breach of this Agreement or of any other undertaking of confidentiality;

### was lawfully in the possession of the recipient before the information was disclosed to it by or on behalf of the discloser;

### was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or

### the parties agree in writing is not confidential or may be disclosed.

## Each party may disclose the other party’s Confidential Information:

### to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out its obligations under this Agreement, provided that they shall ensure that such employees, officers, representatives or advisers to whom the Confidential Information is disclosed comply with this clause 13; and/or

### as may be required by law, court order or any governmental or regulatory authority.

## Neither party shall make any press release or other announcement in relation to the existence of this Agreement or its operation, in each case without the express written consent of the other party.

# Compliance with policies

## If, at any time during the Term, the Supplier’s employees, contractors or agents are required to work on ODEON’s premises (including any Location), the Supplier shall ensure that all such employees, contractors or agents shall, whilst on such premises, comply fully with ODEON’s rules, policies and/or procedures (including those relating to health and safety and site security) and all reasonable instructions or directions issued by ODEON from time to time.

## The Supplier: (a) shall, to the extent applicable to the Services being provided, comply with ODEON Code of Practice for Contractors, as notified to the Supplier by Odeon from time to time,at all times in the performance of the Services; and (b) undertakes that it will, at all times during the Term, maintain approval under the “Safe contractor” scheme (or such other equivalent scheme as ODEON may advise the Supplier from time to time).

## If, at any time during the Term, the Supplier or any of its employees, contractors and/or agents fail (or ODEON has reasonable grounds to believe they will fail) to comply at any time with clauses 14.1 and/or 14.2 (or any other term of this Agreement), ODEON shall be entitled at its sole discretion to eject the individual(s) in question from, and/or refuse them access to, any ODEON premises.

## Within the scope of ODEON’s corporate responsibility, it is expected that all of its suppliers will act in a responsible manner. It is, therefore, expected that the Supplier will comply with any and all applicable laws, statutes, regulations, and codes relating to:

### anti-slavery and human trafficking, including the Modern Slavery Act 2015;

### anti-bribery and anti-corruption in the United Kingdom and/or Republic of Ireland (as applicable) including the United Kingdom’s Bribery Act 2010; and

### environmental standards and regulations in the United Kingdom.

## The Supplier warrants and undertakes that:

### the Supplier has and shall read ODEON’s Modern Slavery Act policy, ODEON’s ethics, anti-bribery and anti-corruption policies and such other policies as notified by ODEON to the Supplier from time to time (“ODEON’s Policies”); and

### the Supplier has and shall maintain in place throughout the Term its own policies and procedures which are equivalent to ODEON’s Policies, and shall comply with such policies at all times in providing the Services.

## Current copies of ODEON’ Polices can be downloaded from the Supplier Hub.

## The Supplier acknowledges that breach of this clause 14 shall be deemed to be a material breach of this Agreement.

# Termination

## Without affecting any other right or remedy available to it, either party may terminate this Agreement in whole or in part at any time during the Term by written notice with immediate effect if:

### the other party becomes insolvent or makes any arrangement with creditors or is liquidated whether voluntarily or compulsorily or has a receiver or administrator or examiner appointed, ceases to trade or carry on its business or experiences an event similar or analogous to any of those listed above under the laws of any jurisdiction; or

### the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so.

## ODEON shall be entitled to terminate this Agreement in whole or in part (including removing individual Locations) on giving at least 3 months’ written notice for convenience at any time.

# Adding and removing locations

## If ODEON ceases to own, operate and/or manage any Location(s), or any Location(s) closes for refurbishment (or for any similar reason), it shall be entitled to remove the Location in question from the scope of this Agreement on giving the Supplier one month’s written notice.

## ODEON may add additional Locations to the scope of this Agreement on giving the Supplier one month’s written notice.

# Consequences of termination

## On termination or expiry of this Agreement:

### the Supplier shall immediately deliver to ODEON all Deliverables whether or not then complete, and return all of the ODEON Materials. If the Supplier fails to do so, then ODEON may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for the safe keeping of all Deliverables and ODEON Materials in its possession and will not use them for any purpose not connected with this Agreement;

### clauses which expressly or by implication survive termination of this Agreement shall continue in full force and effect; and

### the Supplier shall, if so requested by ODEON, provide reasonable assistance to ODEON to facilitate a smooth transition to a new supplier.

## Termination or expiry of this Agreement shall not affect any of the parties' rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

# account management and reporting

## A senior representative of ODEON and the Supplier shall, from time to time throughout the duration of the Term, meet at such time and place as may be agreed between them to review the performance by ODEON and the Supplier of their respective obligations under this Agreement.

## The Supplier shall comply with the account management and reporting obligations set out in the Contract Particulars.

##

# TUPE/IR35

## The Supplier represents and warrants that there are no persons employed or otherwise engaged or assigned by the Supplier in relation to, or in connection with, the provision of the Services under this Agreement, or who were wholly or mainly assigned to the Services, in each case in respect of whom any contract of employment or obligation would transfer to ODEON (or any ODEON Affiliate) under Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) by virtue of this Agreement or its termination.

## In reliance of the Supplier’s representation and warranty in the above clause, the parties consider that TUPE shall not apply to the Services provided under this Agreement and agree that no employee of the Supplier shall transfer from the employment of the Supplier into the employment of ODEON (or any ODEON Affiliate) by virtue of the provision of the Services or the termination of this Agreement. The Supplier agrees that it shall not at any time after the Term contend for any purpose whatsoever that TUPE applies to this Agreement.

## Without prejudice to clause 19.1, the Supplier undertakes to indemnify ODEON on demand and in full against any and all liabilities, costs, expenses, damages and/or losses awarded against, or suffered, incurred or paid by ODEON or any ODEON Affiliate(s) arising out of or in connection with any TUPE or employment claim brought by any employee or persons otherwise engaged by the Supplier to provide the Services hereunder; or the breach of the representation and warranty provided by the Supplier under clause 19.2. If any claim is brought against ODEON arising out of or in connection with TUPE and the Services effected by this Agreement or its termination, the Supplier shall at its own expense provide ODEON on request with all such co-operation, assistance and information which may be reasonably relevant to such a claim.

## The Supplier represents and warrants to ODEON that it is UK tax resident or has a tax presence in the UK and it will not be regarded as an Intermediary and no individuals who are or will be involved in the provision of the Services will be engaged via an Intermediary.

## The Supplier will comply with its obligations under IR35 and will procure that all members of the Labour Supply Chain comply with their obligations under IR35; and promptly provide all information and assistance ODEON to assist ODEON in complying with any obligations it may have under IR35 or dealing with any claim, assessment or enquiry raised by HMRC in relation to the provision of the Services.

## In addition to and without limiting its other rights or remedies, if ODEON becomes liable to pay any amount of income tax, National Insurance contributions or apprenticeship levy under IR35 in relation to any individual involved in the provision of the Services, ODEON will have the right to recover from the Supplier, to the extent permitted by law, any amounts (including penalties and interest) which ODEON is required to pay under IR35 by way of deduction from the amount of any Charges payable by ODEON to the Supplier (and whether by set-off or otherwise) or, if no such Charges are due, as a debt due within 14 days. The Supplier will not include in any Charges payable under this Agreement any cost or expenses whatsoever relating to IR35 compliance. ODEON may deduct from any Charges payable under this Agreement any amount it reasonably determines to be its costs in complying with IR35.

# General

## Subject to clauses 22.2 and 22.10, neither party shall assign, sub-contract nor otherwise transfer any or all of its rights or obligations under this Agreement without prior written consent of the other party, which shall not be unreasonably withheld.

## ODEON may assign or subcontract any or all of its rights and obligations under this Agreement to any ODEON Affiliate (as defined below).

## If the Supplier does sub-contract any aspect of the supply of the Services to a third party, the Supplier shall at all times: (a) be solely responsible and liable for procuring the relevant sub-contractor’s compliance with the terms of this Agreement; and (b) remain primarily liable to ODEON for the performance of any obligations of the Supplier pursuant to this Agreement. Any such sub-contracting shall not relieve the Supplier of any liability for the performance of this Agreement, and the actions and omissions of any such sub-contractor shall be deemed to be the actions and omissions of the Supplier for the purposes of this Agreement.

## Any and all notices given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid, registered or recorded delivery post to the Company Secretary at the relevant party’s registered address.

## Any notice shall be deemed to have been received:

### if delivery by hand, on signature of a delivery receipt; and

### if sent by pre-paid, registered or recorded delivery post, at 9.00 am on the second business day after posting.

## This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

## If any provision or any part of a provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect and the parties shall negotiate in good faith to replace any illegal or unenforceable provisions with substitute provisions having the nearest equivalent effect that is permitted by law.

## No failure or delay by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

## Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

## The parties acknowledge that ODEON enters this Agreement for the benefit of itself and each other company within ODEON’s group of companies which from time to time may own, operate and/or manage any of the Locations (“**ODEON Affiliates**”). A list of the ODEON Affiliates as at the Commencement Date is set out at the Supplier Hub. Any additional ODEON Affiliates shall be notified by ODEON to the Supplier from time to time. Each of the terms, conditions and warranties for the benefit of ODEON contained in this Agreement shall benefit each such ODEON Affiliate and shall be enforceable by them in accordance with the Contracts (Rights of Third Parties) Act 1999.

## Save as set out in clause 20.10, a person who is not a party to this Agreement shall not have any rights to enforce any term of this Agreement (other than to the extent existing under the Contracts (Rights of Third Parties) Act 1999. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement is not subject to the consent of any person that is not a party to this Agreement.

## Except as expressly set out in this Agreement, no variation of this Agreement shall be effective unless it is agreed in writing and signed by duly authorised representatives of each party.

## Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if any such delay or failure results directly from events, circumstances or causes beyond its reasonable control (“Force Majeure Event”).

## The party claiming the Force Majeure Event shall promptly notify the other party in writing of its reasons for the delay or stoppage and its likely duration and shall take all reasonable steps to overcome the delay or stoppage.

## The party claiming the Force Majeure Event shall take all reasonable steps necessary to bring that event to a close or to find a solution by which its obligations under this Agreement may be performed despite the Force Majeure Event.

## If the Force Majeure Event relates to the supply of the Services and the period of delay or non-performance continues for more than thirty (30) consecutive days the party not affected may terminate this Agreement in whole or in part by giving fourteen (14) days written notice to the affected party.

## This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

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

## Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).