

TERMS AND CONDITIONS

Please read these Terms and Conditions (“**Terms**”) thoroughly, as they are a legally binding agreement between our “**Food Vendors**” (you, your business, employees and subcontractors) and Oya (“**Us**”, “**We**” and “**Our**”) that govern your use of the website, applications and other offerings from Oya (collectively, the “**Oya Platform**”) and commercial spaces (the “**Premises**”) that are made available on the Oya Platform.

The Oya Platform is an online website which allows users (“**Hosts**” and “**Food Vendors**”) to list, search, view, book and manage Premises. Hosts are users who have Premises which Food Vendors can use/ occupy for the purposes of the “**Food Vendor Services**”. Food Vendors are users who will use/ occupy the Premises under a Booking. Oya does not own any “**Premises Listings**”, nor are we party to any Bookings entered into directly between Hosts and Food Vendors.

By signing up for, or otherwise using the Oya Platform, you agree to be bound by these Terms. We may, in future, make changes to these Terms and your continued use of the Platform following these changes will constitute your agreement of the changes. If you do not agree to these Terms, then you must discontinue your use of the Oya Platform and delete your account.

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1. Definitions

1.1 For the purpose of these Terms and Conditions, the following definitions shall apply;

- 1 **Premises:** a commercial space owned or managed by the Host where the Host is willing to grant a Booking to a Food Vendor to facilitate the Food Vendor Services.
- 2 **Premises Listing:** the listing on www.oyakitchens.com created by the Host that specifies the information of the Premises.
- 3 **Hosts:** those who offer Premises to Food Vendors.
- 4 **Food Vendors:** those who will occupy Premises under a Booking.
- 5 **Booking:** a Licence to Occupy, Lease or other agreement entered into between the Host and a Food Vendor in respect of the Premises and for the purpose of the Food Vendor Services.
- 6 **Oya Managed Booking:** a type of Booking which includes the Services specified in Schedule 1 and allows the Host to pay the Oya Fees in multiple instalments.
- 7 **Self Managed Booking:** a type of Booking which includes the Services specified in Schedule 1 and allows the Host to pay the Oya Fees in one instalment.
- 8 **Booking Fee:** the charges payable by the Food Vendor to the Host for the use of the Premises.
- 9 **Oya Fee:** the charges payable by the Host for the supply of the Services by Oya, as set out in Schedule 1.
- 10 **Residency Option:** Premises with dine-in customers and where food can be sold from the Food Vendor to such customers within that Premises.
- 11 **Residency Sales:** income generated from sales of food through a Residency Option.
- 12 **Residency Commission:** commission paid from the Food Vendor to the Host in relation to any Residency Sales as agreed from time to time between the Food Vendor and the Host.
- 13 **Services:** the services to be provided by Oya, as described in **Schedule 1**.
- 14 **Food Vendor Services:** the cooking and food supply of delivery services, kitchen residencies and production kitchens.
- 15 **Business Day:** a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.

2. Oya's obligations

- 2.1 We shall supply the Services to the Food Vendor from the date on which these Terms and Conditions were agreed to.
- 2.2 In supplying the Services, we shall:
 - (a) perform the Services with reasonable care and skill;
 - (b) use reasonable endeavours to perform the Services set out in **Schedule 1**;

- (c) appoint various personnel for the Services who shall have authority to contractually bind Oya on all matters relating to the Services; and
- (d) observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Premises, and which have been communicated to us, provided that Oya shall not be liable, as a result of such observation, it is in breach of any of its obligations.

3. Food Vendor's obligations

3.1 The Food Vendor shall:

- (a) co-operate with Oya in all matters relating to the Services;
- (b) appoint a main contact. That person shall have the authority to liaise with us on all matters relating to the Services;
- (c) provide to Oya in a timely manner all documents and such information required or otherwise reasonably required by Oya in connection with the Services;
- (d) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Oya to provide the Services;
- (e) allow us in a timely manner and at no charge, access to the Premises and other facilities as and when required;
- (f) treat Oya and its employees with dignity and respect at all times;
- (g) provide feedback to Oya on all Premises visits within 24 hours of such visit;
- (h) respond to all questions from both Oya and the Host within 24 hours;
- (i) if the Premises is occupied under a Residency Option, agree to a regular monthly check in with Oya either in person or on the telephone, at an agreed date and time;
- (j) have no engagement with any potential Hosts (whether directly or indirectly) until our Terms and Conditions have been accepted.

3.2 If our performance of our obligations (including the Services) are prevented or delayed by any act or omission of the you then we shall be allowed an extension of time to perform its obligations equal to the delay caused by the Food Vendor, and Oya shall:

- (a) not be liable for any costs, charges or losses sustained or incurred by the Food Vendor that arise directly or indirectly from such prevention or delay;
- (b) be entitled to payment of the Oya Fees despite any such prevention or delay; and
- (c) be entitled to recover any reasonable additional costs, charges, or losses Oya sustains or incurs that arise directly or indirectly from such prevention or delay.

4. Non-solicitation and non-circumvention

- 4.1 You shall not, without the prior written consent of Oya, at any time whilst your account is live, have a Booking, and for a period of 36 months after termination (by either party) of these Terms:
- (a) solicit, employ or attempt to employ any person who is, or has been, engaged as an employee, consultant, or subcontractor of Oya; or
 - (b) deal with or seek the custom of any person that is, or was within the previous 24 months, a client, customer or supplier of Oya.
- 4.2 Where a Host is introduced to you, you shall not, in any way attempt to directly or indirectly do anything to divert, restrict, eliminate, re-direct, or otherwise reduce, limit or circumvent Oya, the Services or Oya Fees set out in these Terms. For the avoidance of doubt, this includes viewing a listing on the Oya platform and our marketing channels.
- 4.3 Where we have introduced a Host to you, and you wish to enter into an additional or further Booking at another or additional Premises, then the Host and Food Vendor will be subject to these Terms and Oya Fees.
- 4.4 If You are found to be in breach of this clause, Oya will, at our discretion, allow the Booking to be engaged as an Oya Managed Booking via Oya and the Oya Fees will be charged monthly in accordance with clause 6 of these terms. If the Booking cannot be engaged as an Oya Managed Booking, You agree for the Booking to be engaged as a Self Managed Booking via Oya and the Oya Fees will be charged immediately in accordance with clause 6 of these terms. Oya reserves the right to charge the highest amount of Oya Fees due in accordance with Schedule 1, plus a penalty charge of £1,000 + VAT and all invoices must be cleared in Oya's bank account within 7 days of receipt.

5. Intellectual property

- 5.1 We shall retain ownership of all Oya's IPRs found in our Services, including but not limited to patents, copyright, trademarks, software, trade dress and all other intellectual property rights, 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.
- 5.2 You acknowledge that when submitting a Premises Listing, you have the necessary rights to all images and information disclosed in the listing.
- 5.3 You acknowledge that by submitting a Premises Listing, question, comment, feedback or other information about the Services, you agree to assign to Oya, all intellectual

property rights to such submission. You agree that we shall own this submission without acknowledgement or compensation to you.

6. Oya Fees, Booking Fees, Deposits and payment

6.1 **Oya Fees.** You agree to pay Oya the Oya Fees in accordance with this **clause 6** and Schedule 1.

- (a) Once a Booking is confirmed, a Licence to Occupy, Lease, Letter of Intent or other agreement is signed and/ or accepted, you agree to pay Oya the Oya Fees.
- (b) All amounts payable by the Food Vendor are net of value added tax (**VAT**), which the Food Vendor shall additionally be liable for, at the prevailing rate, subject to receipt of a valid VAT invoice.
- (c) The Oya Fees shall not be altered or re-negotiated unless agreed and managed in writing by us.
 - (i) If, at any time, the Host and a Food Vendor decide that they wish to make a reduction in any monthly Booking Fees, they must first inform Oya and involve Oya in all such negotiations. Should any Booking Fee reduction be agreed amongst the parties, the Oya Fees payable shall not be altered or reduced.
 - (ii) If, at any time, the Host and a Food Vendor decide that they wish to increase any monthly Booking Fee under a Kitchen Licence, they must first inform Oya and involve Oya in all such negotiations and any Oya Fees payable to Oya shall increase accordingly with any such increase.
- (d) For Oya Managed Bookings, we will submit invoices for the Oya Fees plus VAT to the Food Vendor monthly in advance. The Food Vendor shall pay each invoice due, within 7 days of receipt, to our bank account. For Self Managed Bookings, we will submit one invoice for the Oya Fee plus VAT to the Food Vendor once the Booking has been accepted. The Food Vendor shall pay that invoice due, within 7 days of receipt, to our bank account.
- (e) If you fail to make any payment due to Oya by the due date for payment, then, without limiting Oya's remedies under **9** (Termination):
 - (i) You shall pay interest on the overdue sum from the due date until payment is made. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
 - (ii) Oya may suspend all Services until payment has been made in full.

- (f) Should an Oya Managed Booking between the Host and a Food Vendor be terminated due to the fault of the Food Vendor, any fees due to Oya for the duration of the original Booking are still deemed payable in full, and will be invoiced for accordingly at the termination date.
- (g) Should an Oya Managed Booking between the Host and a Food Vendor be terminated by mutual agreement outside of a specific break clause, any fees due to Oya for the duration of the original Booking are still deemed payable in full, and will be invoiced for accordingly at the termination date.

6.2 **Booking Fees.**

- (a) Where an Oya Managed Booking is chosen, the Host will be responsible for raising an invoice for the Booking Fee on a monthly basis. Oya will collect the Booking Fee from the Food Vendor in advance of the start of the month, and it will be paid to the Host one month in arrears.
- (b) Where a Self Managed Booking is chosen, the Host will be responsible for invoicing and collecting the Booking Fees from the Food Vendor.

6.3 **Deposits.** Oya may hold a Deposit and Cleaning Deposit for the duration of the Booking, in accordance with Schedule 1. Oya will return the Food Vendor Deposit and the Cleaning Deposit in full to the Food Vendor within 14 days of termination of the Booking, subject to the following circumstances in which case, an amount equal to any costs incurred by Oya, will be deducted from either the Food Vendor Deposit and/or the Cleaning Deposit:

- (a) any damage or negligence to any kitchen equipment;
- (b) if a deep clean of the Premises is required;
- (c) in the event that the Food Vendor loses or damages any keys or fobs;
- (d) if any equipment is taken from check in and check out;
- (e) if the Food Vendor has not disposed of all equipment or waste from the Premises
- (f) outstanding Oya fees due from Food Vendor and Host
- (g) outstanding Booking Fees.

7. **Residency Option**

7.1 The Host and Food Vendor may choose a Residency Option, in which case the provisions of this clause 7 shall apply.

7.2 In the event that a Residency option is used;

- (a) any Residency Commission payable by the Food Vendor to the Host shall be agreed separately between the Food Vendor and the Host and Oya shall not be liable towards either party in any way;
- (b) all Oya Fees payable to Oya by the Host shall remain unaffected and remain due in accordance with clause 7; and
- (c) for Oya managed bookings, the Food Vendor must provide Oya with all sales figures for any Residency Options on a monthly basis within two weeks of the end of the month, which must also include a breakdown of any Residency Commission paid by the Food Vendor to the Host.

8. Limitation of liability

8.1 Nothing in this clause 8 shall limit your payment obligations.

8.2 Nothing in these Terms limit any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.3 Subject to 8.1 and 8.2:

- (a) Our liability to you shall not exceed the amount of Oya Fees already paid by you to Oya;
- (b) Your total liability to us shall be the aggregate sum of all Oya Fees payable to Oya.

8.4 Subject to 8.1 and 8.2, this 8.4 sets out the types of loss that are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

8.5 We have given commitments as to compliance of the Services with relevant specifications in Schedule 1. In view of these commitments, the terms implied by

sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms.

- 8.6 Unless you notify Oya of your intentions to make a claim in respect of an event within the notice period, Oya shall have no liability for that event. The notice period for an event shall start on the day on which the Food Vendor became, or ought reasonably to have become, aware of the event having occurred and shall expire 2 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 8.7 We may assist the Food Vendor and Host with but not limited to finance, utility bills, VAT and dine in sales enquiries. However, neither Oya nor its employees are acting in the capacity of accountants, bookkeepers or tax specialists.
- 8.8 Oya shall not be liable for any costs, charges or losses sustained or incurred that arise from incorrect or missing information on the Premises listing.

9. Termination

- 9.1 You may terminate this agreement by discontinuing your use of the Platform and sending us an email to info@oyakitchens.com to delete your account.
- 9.2 We may terminate this agreement if you breach any of these Terms, which we will do via email and deletion of your account.
- 9.3 On termination of this agreement for whatever reason:
- (a) You shall immediately pay to Oya all of Oya's outstanding unpaid invoices and interest and, in respect of Services supplied, or due to be supplied within the original term of the Booking, but for which no invoice has been submitted, Oya may submit an invoice, which shall be payable immediately on receipt;
 - (a) any provision in the Terms that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect; and
 - (b) termination of this agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Terms which existed at or before the date of termination.

10. General

- 10.1 **Force majeure.** Oya shall not be liable for a delay in performing, or failure to perform, any of its obligations if such delay or failure is caused from events or circumstances beyond its reasonable control, including but not limited to acts of God, epidemics,

terrorist attacks, civil war, imposition of sanctions or embargoes, nuclear threat or collapse of buildings and fire.

10.2 **Assignment and other dealings.** We may assign or delegate these Terms at any time without notice to you. You may not assign or delegate any or all of your obligations without prior written consent from us.

10.3 **Confidentiality.**

- (a) Each party agrees that it shall not at any time disclose to any person any confidential information concerning the business, affairs, clients, or suppliers of the other party except as permitted by this 10.3.
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this 10.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use any other party's confidential information for any purpose other than to perform its obligations.

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

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

Schedule 1 Services

This will form the basis of your Booking. Please speak to the team if you are unsure which Booking Type the Host has selected.

Booking Type	Services
Oya Managed	<p data-bbox="532 464 1419 533">Spread the Oya Fees into monthly instalments and benefit from the following Services;</p> <ul data-bbox="581 579 1419 1583" style="list-style-type: none"> <li data-bbox="581 579 1419 690">- The supply of vetted professional Kitchen Premises with Food Safety Certificates, HACCP and which are deep cleaned prior to the commencement of any Kitchen Licence; <li data-bbox="581 695 1419 848">- The creation of a set of requirements that both the Host and the Food Vendor must adhere to including the negotiation of Booking Fee terms, commercial structure and best practice before Food Vendors enter the Premises; <li data-bbox="581 852 1419 921">- The preparation of a Licence to Occupy for every Booking to be entered into between a Host and a Food Vendor; <li data-bbox="581 926 1419 1037">- Ensuring that all Food Vendors and Hosts have the appropriate documentation and agreements in place in respect of the Food Vendor Services to be provided; <li data-bbox="581 1041 1419 1077">- The secure holding of any Food Vendor deposits; <li data-bbox="581 1081 1419 1117">- The handling of all Booking Fee payments; <li data-bbox="581 1121 1419 1232">- Assistance with menu adjustments, where required, based on sales figures and customer feedback in respect of the Food Vendor Services; <li data-bbox="581 1236 1419 1306">- Provision of marketing support for the Food Vendor's brand and/or Premises; <li data-bbox="581 1310 1419 1379">- The supply of an account manager for ongoing support during the term of a Booking; <li data-bbox="581 1383 1419 1453">- Assisting with dispute resolution during the term of a Booking; <li data-bbox="581 1457 1419 1493">- Provision of support during any Premises handover; and <li data-bbox="581 1497 1419 1583">- Upon termination of a Booking, the sourcing of another Premises. <p data-bbox="532 1629 1419 1814">Oya will hold a sum from the Food Vendor equal to the sum of 1.5 months Booking Fee plus an additional 20% of that monthly Booking Fee that the Food Vendor pays to a Host under a Booking, plus a £500 Cleaning Deposit. This will be returned in accordance with clause 6.</p>

	<p>The Food Vendor shall pay Oya a monthly fee equal to the sum representing 10% plus VAT of the monthly Booking Fee that the Host receives from a Food Vendor per calendar month or £200 plus VAT per calendar month (whichever is higher) for the duration of this Booking (the “Oya Fee”).</p>
Self Managed	<p>Pay a one off Oya Fee at the start of your booking and deal with the Host direct. Oya shall provide the following Services;</p> <ul style="list-style-type: none"> - The supply of vetted professional food brands with Food Safety Certificates and insurance; - Provision of marketing support for the Host’s brand and/or Premises; - Upon termination of a Booking, the sourcing of another Premises. <p>The Food Vendor shall pay Oya a one up front introduction fee of £500 plus VAT, once the Booking is confirmed (the “Oya Fee”).</p>