

Document Title: Churchill Contract Services Standard Terms and Conditions	
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Applicable to: Group	

Churchill Contract Services Standard Terms and Conditions (the “Agreement”)

BETWEEN:

- (1) [Insert Client name] (the “Client”); and
- (2) Churchill Contract Services Ltd (“Churchill”).

WHEREAS the Client and Churchill (individually the “Party” and collectively the “Parties” to this Agreement) agree as follows:

1. Provision of Services

- 1.1 The following terms and conditions shall apply to the provision of services as set out in this proposal.
- 1.2 Churchill shall carry out services to the reasonable satisfaction of the Client and shall provide necessary staff and materials for this purpose.
- 1.3 The Client shall provide free of charge the following which may be required by Churchill to carry out the services:
 - (a) Power;
 - (b) Light;
 - (c) Hot water;
 - (d) Other facilities required; and
 - (e) Safe storage of materials and equipment.
- 1.4 Churchill will supply all equipment and cleaning materials as necessary.
- 1.5 Churchill will always endeavour to use the correct cleaning materials on all surfaces. However, it is the Client’s responsibility to bring to the attention of Churchill any specific floor and surface maintenance procedures and / or products required in accordance with manufacturer’s instructions or recommended by a manufacturer, particularly where a warranty may be affected.

2. Term of Agreement

- 2.1 The Client agrees to enter into this Agreement for a minimum of [twelve months] from the Commencement Date of this Agreement.
- 2.2 “Commencement Date”: [insert date]

3. Modification of Agreement

- 3.1 The Client undertakes to notify and consult with Churchill on any significant changes in the nature, extent and pattern Services likely to have an effect on the ability of or cost to Churchill in the performance of its obligations under the terms of this Agreement. Any changes to the Charges in respect of such changes shall be agreed by Churchill and the Client in writing and will be dealt with in accordance to **Clause 5**.
- 3.2 If during the term of this Agreement, the Client closes any premises or for whatever reason, relocates to a different geographic location or closes a site where Churchill employees are based, the cost of change will be passed to the Client in full. Churchill will, in any such circumstances endeavour to redeploy and place employees in alternative positions, which is suitable and achievable.

4. Employees

- 4.1 Churchill acknowledges TUPE. If this Agreement is signed prior to Churchill receiving complete TUPE information then the following will apply:
 - (a) It is agreed by the Client that, in the event the existing contractor is paying a higher hourly rate to the Supervisor or Operative than Churchill, or any other benefits or Terms of Employment, in addition to the statutory requirements, or if anything contained in the TUPE information results in additional costs, the differential will be added to the cost of the contract.
 - (b) If the Client withholds information regarding the outgoing contractor or their existing staff working on site, or there is a dispute over an Operative’s status of being employed or a subcontractor, the Client will be responsible for all costs to Churchill arising from any dispute.

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(c) Where Churchill incurs additional costs resulting from transferring employee's pension arrangements such as actuary fees or undisclosed contributions in the TUPE information provided, these costs will be charged back to the client.

4.2 Each Party shall not during the Term and for [two (2) years] thereafter solicit or accept the service of any employee or subcontractor of the other Party. If a Party should solicit or hire any employee of the other Party (or its Affiliates) as prohibited above, the contravening Party shall pay the other Party an amount equal to one hundred per cent (100%) of the employee's starting base salary with the contravening Party.

4.3 Churchill has a policy to carry out DBS checks on all employees working at sites that have been risk assessed as requiring checks to be in place. The costs for these initial checks are included within Churchill's proposal, however Churchill's policy is to recheck employees every 3 years and these costs may be charged back to the Client on the third year contract anniversary.

5. Price and Payment

5.1 In consideration of Churchill providing the Services, the Client will pay the Charges in full to Churchill in accordance with this **Clause**, without any set-off or deduction except to the extent permitted by law.

5.2 All payments due to be made by the Client shall be made by B.A.C.S transfer or such other equivalent instantaneous transfer of funds to such bank as Churchill may from time to time direct or as Churchill may otherwise from time to time agree. Payment shall be made within thirty (30) days of the invoice date.

5.3 All consumable products will be charged for when delivered to the Client's sites.

5.4 Should Churchill's proposal price be shown fully inclusive of all consumable items, please note that Churchill have used industry standards to arrive at this figure. This industry standard allows a set amount per head per week and has, therefore, been multiplied by the number of people employed at the Client's site. Whilst Churchill have endeavoured to provide as accurate a quotation as possible, Churchill would point out that, should the Client's actual consumable spend prove to be above the quoted amount, Churchill reserve the right to revise charges accordingly and backdate any overspend.

5.5 Where Services include the provision of waste management, Churchill reserves the right to pass on any government increases or landfill tax increase.

5.6 Any additional working days incurred during Leap years will be charged at the pro rata contract flat rate.

5.7 Proposals based on less than 52 weeks per year (such as 39 week term time education sites) will be invoiced over 12 months. If this Agreement is terminated by either party before the annual anniversary for whatever reason, Churchill will invoice for any shortfall due to them. This shortfall will be calculated by the actual number of weeks services has been provided (i.e. term time) against the total invoiced to termination date.

5.8 All sums payable hereunder are exclusive of:

5.8.1 VAT or any other applicable tax or duty payable upon such sums which will be added if appropriate at the rate prevailing at the relevant tax point; and

5.8.2 any applicable Fuel Taxes, together with all costs, losses, liabilities and/or expenses relating thereto, which shall be borne by Client and added to the sums payable hereunder if incurred by Churchill.

5.9 The Charges shall be revised annually, with effect on each anniversary of the Commencement Date, to reflect increases or decreases in the costs of labour, materials and other relevant costs from the preceding revision. The index to be applied will be the RPI Index value (for the month prior to the month of the contract anniversary, using the year on year % figure). In the event that the RPI Index value is less than zero, the charges will remain the same.

5.10 If the cost to Churchill in providing the Services, including, but not limited to, any costs associated with the employment of the individuals providing the Services, increases:

5.10.1 in order to comply with any Legislation or part of any Legislation enacted or coming into force after the Effective Date or with any change to existing Legislation including, but not limited to, any changes in laws, regulations and administrative decisions applicable to the Services or changes of taxes imposed which relate to the provision of the Services; or

5.10.2 as a result of any change in site procedures, policies and regulations in respect of the Relevant Premises, Churchill shall have the right to adjust the Charges to reflect such increased cost. The Parties shall use reasonable endeavours to minimise, to the extent practicable and permissible, any such increase.

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6. Penalties for late payment

- 6.1 If the Client fails to pay any sum due in respect of the Charges, Churchill will be entitled forthwith to suspend provision of the Services until such time as all outstanding payments have been made and without prejudice to any other rights or remedies Churchill may have under this Agreement.
- 6.2 During the period of any suspension pursuant to **Clause 6.1**, the Charges will continue to accrue and be due to Churchill as if the Services had not been suspended.

7. Liability

- 7.1 The following provisions set out the Parties entire liability (including any liability for the acts or omissions of their respective employees, agents or sub-contractor) to each other in respect of:
- 7.1.1 any breach of their respective obligations under this Agreement; and
- 7.1.2 any representation, statement or tortious act or omission, including negligence, or otherwise arising under or in connection with this Agreement.
- 7.2 Notwithstanding any other provision of this Agreement Churchill's liability for any and all acts or omissions of its employees, agents or sub-contractors arising under or in connection with this Agreement (whether arising from contract, breach of warranty, tort (including negligence), breach of statutory duty, non-fraudulent misrepresentation, under any indemnity or otherwise) shall be limited to and in no circumstances shall exceed in aggregate:
- 7.2.1 two million pounds (£2,000,000) in respect of loss or damage to any property real or personal; and
- 7.2.2 an amount equivalent to fifty percent (50%) of the Charges payable for the first Year for any other loss or liability.
- 7.3 Neither Party shall be liable to the other in contract, tort (including negligence), under any indemnity or otherwise:
- 7.3.1 for any loss of profits, loss of income, loss of business, loss of revenue, loss of use, loss of production, loss of anticipated savings, loss of data or loss of goodwill arising under or in connection with this Agreement;
- 7.3.2 nor for any indirect or consequential loss or damage arising under or in connection with this Agreement.
- 7.4 Nothing in this Agreement limits either Party's liability for:
- 7.4.1 death or personal injury caused by negligence; and
- 7.4.2 fraud committed by that Party.
- 7.5 Notwithstanding any other provision of this Agreement, each Party shall only be liable to the other in contract, tort (including negligence), under any indemnity or otherwise which may result or arise from any act or omission or default of that Party, its employees, agents or sub-contractors to the extent that any loss, damage or expense is due to the act or omission or default of that Party. Neither Party shall be liable to the other in contract tort (including negligence), under any indemnity or otherwise which may result or arise from any act or omission or default of the other Party, its employees, agents or sub-contractors or from any failure by the other Party, its employees, agents or sub-contractors to comply with its obligations under this Agreement.
- 7.6 Unless expressly stated in this Agreement, all warranties, conditions and other terms (whether implied by statute, common law or otherwise) are excluded from this Agreement.
- 7.7 Each Party acknowledges that it considers the provisions of **Clause 7** to be reasonable, taking account of the other terms of this Agreement and its ability to insure against the losses, which might arise from a breach of this Agreement.
- 7.8 The provision of **Clause 7** shall survive the expiry or termination of this Agreement.

8. Insurance

- 8.1 Churchill will maintain in force, at its own cost, insurances in accordance with Legislation and such insurances as it deems appropriate and adequate, having regard to its obligations and liabilities under this Agreement.
- 8.2 The Client will maintain in force, at its own cost, insurances in accordance with Legislation and such insurances as it deems appropriate and adequate, having regard to its obligations and liabilities under this Agreement.
- 8.3 The Client will notify its insurers of the Churchill's obligation to carry out the Services.
- 8.4 Each Party shall provide evidence that the insurances required by **Clause 8** are in place, whenever reasonably requested to do so by the other.

9. **Warranties**

9.1 Materials supplied by Churchill but not of Churchill's manufacture shall be guaranteed only to the extent of any Guarantee given to Churchill by the manufacturer.

10. **Force Majeure**

- 10.1 "Force Majeure" means any event outside the reasonable control of either Party affecting its ability to perform any of its obligations (other than payment) under this Agreement including, but not limited to, Act of God, fire, flood, storm, blizzard, heavy ground snow, lightning, war, revolution, act of terrorism, riot or civil commotion, general strikes, lock-outs or other industrial action (other than strikes, lock-outs or industrial action solely affecting such Party's staff);
- 10.2 If either Party is affected by Force Majeure, it will immediately notify the other Party in writing of the matters constituting the Force Majeure and will keep that Party fully informed of the continuance and of any relevant change of circumstances whilst such Force Majeure continues.
- 10.3 Neither Party shall be considered to be in default or in breach of its obligations under this Agreement to the extent that the performance of such obligations is prevented by any circumstances of Force Majeure which arise after the date when this Agreement becomes effective.
- 10.4 The Party affected by Force Majeure will take all reasonable steps available to it to minimise the effects of Force Majeure on the performance of its obligations under this Agreement provided that Churchill will not thereby incur any additional costs unless previously authorised in writing by Client.
- 10.5 Without prejudice to any other power of determination, either Party may terminate this Agreement in whole or in part by giving the other Party written notice in the event that the Agreement has been affected by Force Majeure for a continuous period of three (3) months. In the event of termination of this Agreement under **Clause 10.5**, all sums payable by the Client pursuant to this Agreement at the date of such termination shall immediately become due and owing.

11. **Termination**

- 11.1 Without prejudice to any or rights or remedies that the Parties may have under this Agreement or at law, either Party may terminate this Agreement forthwith:
- 11.1.1 the other Party is Insolvent; or
- 11.1.2 the other Party is in material breach of any of its obligations under this Agreement and either the breach is not capable of remedy or it is capable of remedy but has not been remedied within fourteen (14) days of a notice from the non-defaulting Party requiring the breached to be remedied.
- 11.2 Notwithstanding the provisions of **Clause 11.1** Churchill may terminate this Agreement forthwith if the Client fails to pay any amount due under this Agreement by its final date for payment and the amount remains outstanding not less than seven (7) days after being notified by Churchill in writing to make such payment.
- 11.3 Either Party may terminate this Agreement for any reason upon giving not less than six (6) months' notice of termination.
- 11.4 If notice is not served by the Client, then the contract will continue for a further period of one year subject to the terms and conditions contained herein.

12. **Consequences of Termination**

- 12.1 In the event that this Agreement is terminated by the Client pursuant to **Clause 11.1**, the Client shall pay to Churchill within 30 days of the date of termination any Charges due up to and including the date of termination less any reasonable costs suffered by the Client as a result of the termination, subject to **Clause 7**.
- 12.2 In the event that this Agreement is terminated for whatever reason by either Party, the Client shall pay to Churchill within 30 days of the date of termination any Charges due up to and including the date of termination plus any reasonable costs incurred by Churchill including, but not limited to, any breakage costs with sub-contractors and any costs committed to materials or equipment for use on the Services.
- 12.3 Subject to **Clause 7 and Clause 12.5**, on the expiry or termination of this Agreement (for whatever reason), the relationship between the Parties will cease and any rights or licences granted under or pursuant to this Agreement will cease to have effect.
- 12.4 In the event that this Agreement is terminated by the Client or Churchill whilst a lease agreement is in place for equipment solely used in the provision of services to this Agreement, Churchill shall use all

reasonable endeavours to ensure that such equipment shall be re-deployed within its own business; in the event, however, that such equipment cannot be redeployed, the Client agrees that any contracts for the lease of such equipment shall be novated to the Client or a replacement contractor (as the case may be).

- 12.5 The provisions of this Agreement shall continue to bind each Party after termination or expiry of this Agreement insofar as and for so long as may be necessary to give effect to their respective rights and obligations hereunder.

13. **Ownership of Property and Intellectual Property**

- 13.1 Materials, equipment, consumables, fuel or other property supplied by Churchill as part of the Services shall remain the sole and absolute property of Churchill until payment for them has been received in full by Churchill.
- 13.2 Intellectual Property Rights in all documents, drawings, materials and other information produced by or on behalf of Churchill and the rights to know-how developed in connection with the Agreement shall vest in and remain with Churchill.

14. **Dispute Resolution**

- 14.1 The relationship between the parties will be maintained at a peer-to-peer level between the Client and Churchill via scheduled meetings and informal communication.
- 14.2 Any changes to any of the Client's or Churchill's representatives shall be notified to the other party within 14 days of such change taking effect.
- 14.3 If there is an issue in relation to this Agreement (whether as to payment or otherwise) the Client and Churchill shall each use their reasonable endeavours to negotiate and resolve the issue.
- 14.4 If the issue has not been resolved within 14 days of it first coming to the attention of the parties, Churchill's Operational Director and the Client's appropriate representative shall meet and try to resolve the issue.
- 14.5 If the issue is not resolved at a senior representative level within 30 days of the issue having been first considered by the parties or such longer period as may be agreed by the parties, then the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Procedure.
- 14.6 If the parties have not settled the dispute by mediation within 60 days from the initiation of the mediation then the matter may be referred to the courts.

15. **No Partnership**

- 15.1 Save as expressly stated herein, nothing in this Agreement will create or be deemed to create, a partnership or joint venture or relationship of employer and employee or principal and agent between the parties and no employee of Churchill will be deemed to be or have become an employee of Client.

16. **Entire Agreement**

- 16.1 This Agreement, its Schedules and Annexes, contains the entire agreement between the Parties in relation to provision of the Services. Both Parties waive any right they may have to claim damages for, and/or to rescind this Agreement because of, breach of any warranty not contained in this Agreement, or any misrepresentation whether or not contained in this Agreement, unless such misrepresentation was made fraudulently.
- 16.2 No purported alteration or variation of this Agreement will be effective unless it is in writing, refers specifically to this Agreement and is duly executed by each of the Parties.

17. **Severability**

- 17.1 If any Clause or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable, that Clause or part of this Agreement will, to the extent required, be severed from this Agreement and will be ineffective without, so far as is possible, modifying any other Clause or part of this Agreement and this will not affect any other provisions of this Agreement which will remain in full force and effect.

18. **Notices**

- 18.1 Any notice required to be given under this Agreement will be in writing and may be delivered by hand or sent by first class recorded delivery pre-paid post to the Party to whom it is addressed at the

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address of such Party set out at the head of this Agreement or to such other address in the United Kingdom as such Party will have notified to the other for this purpose.

- 18.2 Any notice sent or dispatched in accordance with **Clause 18** will be deemed to have been received by the addressee if delivered personally, at the time of delivery, or if sent by post, 48 hours after the envelope enclosing the notice was delivered to the postal authorities.
- 18.3 In proving service by post (without prejudice to any other means of proof) it will be necessary to prove only that the notice was sent or dispatched and that the notice was contained in an envelope properly addressed, stamped first class and delivered to the postal authorities in the country where dispatched for the purpose of recorded delivery.

19. Health and Safety

- 19.1 Churchill’s Client Safety Guidelines which are attached as Annex A, clarify the general health and safety responsibilities for both parties (duty holders of the work environment) to protect each other, both parties workforces and anyone else (e.g. visitors, people living nearby and other members of the public).
- 19.2 Both parties must co-operate to ensure that the attached guidelines are adhered to in order to ensure health & safety is managed so far is as reasonably practicable. This will assist in the prevention of accidents / incidents and ill health therefore supporting applicable legislation and our proactive management culture.
- 19.3 If the Client fails to provide a safe environment, Churchill will be entitled forthwith to suspend provision of the Services until such time as all concerns have been addressed and without prejudice to any other rights or remedies Churchill may have under this Agreement.
- 19.4 During the period of any suspension pursuant to **Clause 19.3**, the Charges will continue to accrue and be due to Churchill as if the Services had not been suspended.

20. Governing Law

- 20.1 This Agreement and any dispute or claim arising out of or in connection with it will be governed by and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

SIGNED for and on behalf of the “Client”:

SIGNED for and on behalf of “Churchill”:

SIGNED: _____

SIGNED: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

Version history				
Version No.	Date	Section	Page	Summary of changes
1	Aug 17	All	All	New Branded Document