

Call Clean Limited
Terms & Conditions

1 Definitions and interpretation

- 1.1 In these Conditions and in any Contract the following terms shall have the following meanings:
- 1.1.1 **Commencement Date** means the date on which the Services are to commence as specified in the Schedule
 - 1.1.2 **Company** means Call Clean Limited (a company registered in England and Wales under number 54449224) whose registered office is at Mercury House, Shipstones Business Centre, Nottingham NG7 7FN
 - 1.1.3 **Conditions** means the provisions set out below
 - 1.1.4 **Contract** means any contract between the Company and the Customer for the provision of Services, incorporating the Documents and these provisions
 - 1.1.5 **Customer** means the company or business whose name and address are set out in the Documents
 - 1.1.6 **Documents** means the Cleaning Contract Cost Analysis, the Cleaning Specification and the Time Allocation, all of which are attached to these Conditions
 - 1.1.7 **Equipment** means equipment, utensils, tools, materials and chemicals belonging to the Company and supplied to perform the Services;
 - 1.1.8 **Notice** means notice complying with the terms of clause 12.6;
 - 1.1.9 **Operative** means any person assisting in the provision of Services on behalf of the Company whether as an employee or as a contractor;
 - 1.1.10 **Payments** means the sums to be paid for Services and set out in the Documents or otherwise becoming due under any Contract; and
 - 1.1.11 **Services** means the services specified in the Schedule.
 - 1.1.12 **Working Day** means any day other than a Saturday, Sunday or public holiday in England and Wales
- 1.2 Headings contained in these Conditions are for reference purposes only and do not form part of these Conditions or affect the meaning of the clauses to which they relate.
- 1.3 If the Customer comprises more than one person or entity each shall be jointly and severally liable for the Customer's obligations.
- 1.4 References to "the Customer" shall include any successor in title to the Customer or any person or entity comprised in the Customer.
- 1.5 Words in the singular include the plural and in the plural include the singular.
- 1.6 A reference to one gender includes a reference to the other genders.

- 1.7 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

2 Application of Terms

- 2.1 Subject to any variation under clause 2.3 all Contracts shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any quotation, offer document or other document).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's quotation, offer document or other document shall form part of a Contract simply as a result of such document being referred to in a Contract.
- 2.3 These Conditions apply to all Contracts and any variation to these Conditions and any representations about the Services shall have no effect unless expressly agreed in writing and signed by a Director of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Conditions. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

3 Appointment

The Customer appoints the Company to carry out such Services as may be specified in the Documents in return for the Payments specified in the Documents

4 The Obligations of the Company

In return for the Payments and the Customer's other obligations under these Conditions the Company agrees that whilst the Contract remains in force the Company shall:

- 4.1 provide the Services in accordance with the Documents;
- 4.2 maintain at its own cost a comprehensive policy of insurance to cover the liability of the Company in respect of any act or default for which it may become liable to indemnify the Customer under the terms of these Conditions with a maximum cover of £5,000,000 per claim or series of claims arising from one event;
- 4.3 take all reasonably practicable steps to comply with all relevant legislation including that relating to Health and Safety whilst performing its obligations under these Conditions.

- 4.4 supply all necessary Equipment to carry out the Services unless otherwise specifically agreed in writing between the Company and the Customer;
- 4.5 rectify a breach by the Company of these Conditions provided that the Customer serves Notice on the Company specifying the breach within two working days of the occurrence of the breach.

5 The Obligations of the Customer

In consideration of the Services to be rendered by the Company under these Conditions the Customer agrees:

- 5.1 to make Payments promptly without demand deduction or set-off;
- 5.2 to provide at its own expense a suitable and safe power supply for the use of the Equipment;
- 5.3 to provide at its own expense adequate and safe supplies of hot and cold water with appropriately sited sluices for use with the Equipment;
- 5.4 to provide Operatives with access to a suitable telephone connection;
- 5.5 to allow the Company access to the Equipment at reasonable times;
- 5.6 to be responsible for safeguarding and securing the Equipment and protecting it from risk whilst it is on the Customer's premises or in the Customer's possession;
- 5.7 to insure the Equipment used, maintained or stored on the Customer's premises against any risk whatsoever and to immediately indemnify the Company for the cost of Equipment lost, damaged or destroyed whilst on the Customer's premises or in the Customer's possession;
- 5.8 to comply with the Company's Health & Safety Policy as may be notified to the Customer from time to time;
- 5.9 to comply with all applicable Health & Safety legislation;
- 5.10 to ensure that the premises in which the Services are to be provided are in a safe condition and pose no risk whatsoever to the health and safety of the Operatives and the Company; and
- 5.11 whilst a Contract remains in force or during the following six months not to obtain services similar to those provided under the Contract from any person who has during the previous six months provided Services to the Customer as an Operative of the Company or from any person employing or using the services of such an Operative or former Operative to provide such services to the Customer.

6 Payments

- 6.1 Payments are fixed for a period of three calendar months from the date the Company provided a quotation or offer document to the Customer, after which period the Company reserves the right to amend the Payments.
- 6.2 The Company will provide the Customer with one month's Notice of any amendment to the Payments
- 6.3 Payments are calculated on a 52 week year basis, irrespective of whether the Customer's premises are closed during any holiday period.
- 6.4 Should the Customer require the Services on a public holiday the Customer will be charged a higher rate which will be notified to the Customer in advance and the Customer agrees to pay this.
- 6.5 Invoices will be issued on a monthly basis and are payable within 30 days of the date of the invoice.
- 6.6 If payment of the full invoice amount is not received within 30 days of the date of the invoice, interest will be charged on the full invoice amount at a rate equal to 4% above the base lending rate from time to time of HSBC Bank plc until Judgment or sooner payment.
- 6.7 Payments are to be made by cheque or BACS to City Invoice Finance Limited PO Box 4221 Manchester M60 3ZH or such other payee as the Company may direct from time to time.

7 VAT

- 7.1 Unless otherwise stated, all Payments are exclusive of VAT and other duties or taxes.
- 7.2 Any VAT or other duties or taxes payable in respect of such Payments shall be payable in addition.

8 Termination, Suspension and Variation

- 8.1 Either party may end a Contract at any time by giving Notice to the other in accordance with the following notice periods:
 - 8.1.1 where the Contract is for a period one year or more or for an unspecified period, three months' Notice is to be given; and

- 8.1.2 where the Contract is for a specified period of less than one year, one month's Notice is to be given.
- 8.2 If the Customer is unable to take the Services for reasons beyond its reasonable control then provided that
- 8.2.1 the Customer provides not less than 30 days advance Notice of suspension; and
- 8.2.2 the Company agrees in writing
- the Customer may suspend the Services and will not have to make Payments to the Company for the period during which the Services are suspended. The Company will use reasonable endeavours to start the Services again when requested to do so but will need 30 days advance Notice to do this.
- 8.3 The Services may be varied in accordance with the clause 2.3.
- 8.4 If the Company cannot provide the Services due to circumstances outside its control the Company will resume the Services as soon as reasonably possible.
- 8.5 If the Company cannot provide the Services due to holiday or sickness of its Operatives on any particular day it will use reasonable endeavours to perform the services:
- 8.5.1 within 24 hours if the Company is not due to attend the Customer's premises to perform the Services the next Working day; or
- 8.5.2 within 12 hours if the Company is due to attend the Customer's premises to perform the Services the next Working day
- but if the Company cannot perform the services in accordance with clauses 8.5.1 and 8.5.2 above, it will make an appropriate credit to the Payments.
- 8.6 In the event that the Company cannot provide the Services due to circumstances outside its control it will make an appropriate credit to the Payments.
- 8.7 If the Services are not performed or not completed on any particular day due to a failure by the Customer to provide sufficient access to premises, the Customer will make the Payments as if the Services were fully performed on that day.
- 8.8 If the Services are not completed on any particular day due to the absence of an Operative, the Company will make an appropriate credit to the Payments.
- 9 Limitation the Company's liability**

- 9.1 Nothing in these Conditions limits or excludes the liability the Company or its Operatives for death or personal injury resulting from the Company's negligence or that of its Operatives.
- 9.2 Where the Customer does not provide keys to the Company or its Operatives, the Customer is solely responsible for the keys to its premises and the Company and Operatives will not be liable for lost or stolen keys or for economic or consequential loss, loss of profits, costs, damages, charges or expenses arising from the loss or theft of keys.
- 9.3 Where the Customer does provide keys to the Company or its Operatives, the Company's liability for lost or stolen keys is limited to the cost of cutting replacement keys and the liability set out in clause 9.1 and otherwise excluded by clause 9.4.
- 9.4 Other than as stated in this clause 9 all liability of the Company or its Operatives is expressly excluded by these Conditions in so far as the law allows. Without prejudice to the generality of the previous sentence the Company will not be liable to the Customer for economic or consequential loss, loss of profits, costs, damages, charges or expenses.
- 9.5 The Company will not be liable for acts carried out by an Operative following termination of the Operative's contract of employment with the Company or following termination of the Operative's subcontractor's agreement with the Company.

10 Termination for breach

- 10.1 The following are fundamental breaches of these Conditions by the Customer and if they occur the Company may immediately bring to an end the Contract and clause 11 will then apply:
- 10.1.1 failure by the Customer to make Payments punctually when due;
- 10.1.2 the levying of any distress or execution against the Customer or the making by the Customer of any composition or arrangement with creditors;
- 10.1.3 (if the Customer is a company) the Customer's liquidation (other than a members' voluntary liquidation of a solvent company with the written consent of the Company) or the appointment of a receiver of all or any of the assets of the Customer; or
- 10.1.4 failure by the Customer to rectify within a reasonable period any breach of these Conditions following a Notice from the Company.

11 Termination consequences

11.1 If a Contract is brought to an end whether by Notice, breach or otherwise the Customer will:

11.1.1 immediately pay to the Company all arrears of Payments and any other sums due under these Conditions; and

11.1.2 make provision for the Company to collect within 5 Working Days the Equipment on the Customer's premises or under the Customer's control.

11.1.3 if the Customer has failed to comply with its obligations under clause 11.1.2 above, the Company may enter upon any premises where any of the Equipment may be and recover it and the Customer gives consent to the Company so doing;

11.2 Either party may exercise any one or more of the rights and remedies given to it under the terms of these Conditions and the ending of any Contract shall not affect or prejudice such rights and remedies and each party shall be and remain liable to perform all outstanding liabilities under these Conditions notwithstanding that the other may have exercised one or more of the rights and remedies against it; and

11.3 Any right or remedy to which either party is or may become entitled under the these Conditions or in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by these Conditions now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative.

12 Miscellaneous

12.1 Force majeure

Both parties shall be released from their respective obligations in the event of national emergency war prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties or either of them renders the performance of a Contract impossible whereupon all money due under that Contract shall be paid immediately and in particular:

12.1.1 the Customer shall immediately pay the Company any money due for Services actually provided up to the date that the Services cannot be provided.

12.1.2 in the event that there are any outstanding liabilities under these Conditions to either party, damages are to be claimed for those outstanding liabilities

12.2 Severance

If any provision of these Conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Conditions and the remainder of such provision shall continue in full force and effect.

12.3 Whole agreement

Each party acknowledges that these Conditions and the documents attached to them contain the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees or agents.

12.4 Supersedes prior agreements

These Conditions supersede any prior agreement between the parties whether written or oral and any such prior agreements are cancelled as at the date of the Contract but without prejudice to any rights which have already accrued to either of the parties.

12.5 Change of address

Each of the parties shall give Notice to the other of the change or acquisition of any address or telephone or similar number at the earliest possible opportunity but in any event within 48 hours of such change or acquisition.

12.6 Notices

12.6.1 Notices to be given under these Conditions shall be in writing and shall either be delivered personally, sent by e-mail, sent by fax, sent by recorded delivery, sent by registered post or sent by first class post.

12.6.2 Each notice shall be addressed to the address of the party concerned set out in the Documents or to other such addresses as that party shall have previously notified to the sender in writing.

12.6.3 Any notice shall be deemed to be received:

12.6.3.1 if delivered personally, at the time of delivery;

12.6.3.2 in the case of e-mail, at the time of sending;

12.6.3.3 in the case of fax, at the time of transmission;

12.6.3.4 in the case of first class, recorded delivery or registered post, two Working Days from the date of posting;

12.6.4 If deemed receipt under this clause 12 is not within business hours (meaning 7.30 am to 6.00 pm on a Working Day), receipt will be deemed to be the next Working Day.

12.6.5 To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the relevant party or, in the case of personal delivery or post, that the envelope containing the notice was properly addressed and delivered to that address.

12.6.6 The provisions of this clause shall not apply in relation to the service of any process in any legal proceedings.

12.7 Waiver

The failure by either party to enforce at any time or for any period any one or more of these Conditions shall not be a waiver of them or of the right at any time subsequently to enforce all these Conditions.

11.8 No assignment

Any Contract is personal to the parties and neither party shall assign any of its rights or duties under it.

11.9 Proper Law and Jurisdiction

The formation, existence, construction, performance and validity and all aspects of these any Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

11.9 Third party rights

Operatives have the benefit of the limitations on liability contained in clause 9 but otherwise a person who is not a party to any Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of a Contract.