

PLAYSERVICES IRELAND – TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. These terms set out the basis upon which Play Services Ireland Ltd with registered office at 724 Lisburn Enterprise Centre, 6 Enterprise Crescent, Ballinderry Road, Lisburn, BT28 2BP, company number: NI601797, (“we”, “us”, “our”) provides the customer (“you”, “your”) with our inspection services (“Services”).

1.2. The following words shall have the following definitions in these terms:

Inspection means the inspection of a Site carried out by us (or our employees or sub-contractors) on your behalf;

Inspector means any employee, sub-contractor or agent carrying out an Inspection requested by you;

Site means the site at which you have requested an Inspection to take place;

Terms means the terms set out in this document, and shall include any other terms agreed between you and us in writing;

1.3. References to clauses (unless otherwise provided) are references of the clauses of these Terms. Words in the singular include the plural and in the plural include the singular. 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. References to **including** and **include(s)** shall be deemed to mean respectively, **including without limitation** and **include(s) without limitation**.

2. ACCEPTING THE TERMS

2.1. By ordering our Services, you are agreeing to these Terms. You must not use our Services if you do not agree to these Terms.

2.2. We may modify these Terms from time to time, so you should read these Terms on each occasion that you order and/or receive Services from us.

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INSPECTIONS

3. OUR OBLIGATIONS

3.1. By agreeing to provide you with the Services, we undertake, subject to the fulfilment by you of your obligations set out in clause 4 below, to provide the Services in an expert and diligent manner with all reasonable care, skill and ability.

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3.2. We do not accept any liability for any failure by us to fulfil our obligations under these Terms as a result of a breach of your obligations set out in clause 4.

4. YOUR OBLIGATIONS

4.1. You agree to:

4.1.1. promptly provide us with any information required by us and/or any Inspector relating to the Site, and represent and warrant that any such information provided by you is true, complete and accurate;

4.1.2. provide our Inspector with access to the Site on the date and at the time agreed between you and us;

4.1.3. keep us up to date with any changes in your contact details, including the provision of a working email address that you regularly check.

4.2. In some instances our customers have placed automatic orders with us for Sites to be inspected on a periodic basis (“**Automatic Orders**”). You acknowledge and agree that it is your responsibility to notify us of any changes in the contact details or specifics of the Automatic Order. We will send you out a reminder postcard to the latest notified contact address regarding the Inspection. Unless notified in writing before the start of the scheduled month, the Inspection will take place. If you are not available to meet the Inspector and provide the Inspector with the required information and with access to the Site, you will be liable to pay the full cost of the Inspection.

5. PAYMENT

5.1. Upon completion of the Services, we will send you an invoice. Invoices shall be payable within 30 days of the date of the invoice (such date, “**Due Date**”).

5.2. If you fail to make any payments due to us under these Terms by the Due Date, without limiting any other remedies that might be available to us, you will pay interest on the overdue amount at the statutory rate from time to time in force. The interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

5.3. Any expenses, disbursements and/or legal costs incurred by us in the enforcement of any rights contained in these Terms shall be payable by you to us, upon demand of the same.

5.4. We may at our complete discretion allocate any payment received from you towards the payment of any other debt owed by you to us.

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6. CANCELLATION OF INSPECTIONS

6.1. Cancellation of orders for Inspections may be made by telephone but must also be immediately confirmed by fax or email.

6.2. Any cancellation of an order for Inspection which is received by us less than 24 hours prior to the date and time agreed for the Inspection will be subject to the payment by you of the full fee for the Inspection immediately.

6.3. If an Inspector is unable to Inspect a Site at the agreed time and on the agreed date because:

6.3.1. the Site is not complete and ready for Inspection;

6.3.2. the Site is not safe for the Inspector to enter;

6.3.3. you are not available to give the Inspector access; and/or

6.3.4. you have not provided the Inspector with any information required,

the Inspection shall be deemed to be cancelled, and the full fee for the cost of the Inspection shall be payable by you to us immediately.

7. PERSONAL DATA

7.1. You warrant and represent that:

7.1.1. you have all consents necessary for us to use any data which may include personal data and/or sensitive personal data (as such terms are defined in the Data Protection Act 1998) that you provide us with from time to time for the purpose of providing you with the services you have requested;

7.1.2. any information that you have provided us with is true, accurate and up to date.

TRAINING

8. FEES

8.1. All fees for training on our premises are payable in advance (normally 4 weeks). We reserve the right to refuse admission to the course until payment is received. We reserve the right to alter fees at any time prior to payment being received. All fees quoted are exclusive of VAT.

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8.2. Fees quoted do not include travel costs and/or any other expenses for courses irrespective of the premises at which the course is held. These will be recharged to you on completion of the work.

8.3. Printed course notes are included in the course fees. Any literature which you receive from us is subject to copyright and may not (whether in part or whole) be reproduced, rented, leased, loaned or sold without our prior written permission.

8.4. Where examinations (whether by an internal or external examining authority) form part of or are taken following a course, no refund of fees can be given in the event of a candidate failing to reach the standard required. Examiners' decisions are final. Where examinations take place on behalf of any external body, exam papers will be held by us and not forwarded until payment in full is received by us.

8.5. We reserve the right to cancel or alter the dates or provision of our services, the venue, and the individual or organisation providing the service. In the event of cancellation, bookings will normally be transferred to the next available course unless you specifically request otherwise. If a booking is cancelled or transferred by you, the following fees will be payable:

Notice Given Percentage of free credited on cancellation/transfer

- More than 278 days 100%

- 15-28 days 50%

- 0-14 days 0%

In addition, we reserve the right to charge a £30 administration fee for each cancellation/transfer.

8.6. Telephone cancellations can be accepted, but must be confirmed immediately in writing.

8.7. Where contracts for training on your premises are cancelled or postponed, all costs incurred by us will be payable by you to us upon demand.

8.8. All reasonable adjustments to provision will be made to ensure that learners with any learning difficulty, disability or other medical condition which affects their learning ability are not substantially disadvantaged, provided that notice is given by you to us in advance of the course commencing.

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9. LIMITATION OF LIABILITY

9.1. Nothing in these Terms shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence in relation to our services;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability which cannot be limited or excluded by applicable law, to the extent that they may not be limited or excluded at law.

9.2. Subject to clause 9.1 above, we shall not be liable to You, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Terms for:

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

9.3. Subject to clause 9.1 above, our total liability to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to the amount you have paid us for the most recent Inspection carried out by us at the Site relating to the claim; or if the claim is in relation to training services provided by us, then the amount you paid us for receiving training over the last 12 months immediately preceding the claim.

9.4. Where we provide you with inspection services, we will provide you with a report (“**Report**”) which may include recommended actions (“**Recommendations**”) if the Inspector considers that there are issues that might have a measurable impact on the safety of the inspected site (“**Site**”). **YOU ACKNOWLEDGE AND AGREE THAT:**

- (a) **ANY RECOMMENDATIONS GIVEN ARE BASED ON THE INFORMATION PROVIDED BY YOU TO THE INSPECTOR AND/OR THE OBSERVABLE FACTORS ON THE DAY OF THE INSPECTION. THE UPKEEP OF THE SITE AND THE EXTENT TO WHICH YOU ACT UPON**

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ANY RECOMMENDATIONS IS YOUR RESPONSIBILITY AND NOT OUR RESPONSIBILITY. WE CANNOT AND DO NOT GIVE ANY CERTIFICATION AS TO THE SAFETY OF THE SITE FROM DAY TO DAY;

(b) WE DO NOT ACCEPT ANY LIABILITY WHATSOEVER FOR ANY THIRD PARTY CLAIMS, LOSSES AND/OR DAMAGES SUFFERED AS A RESULT OF:

(1) YOUR FAILURE TO IMPLEMENT ANY RECOMMENDATIONS (CORRECTLY OR AT ALL);

(2) YOUR FAILURE FOR ANY REASON WHATSOEVER PROPERLY TO MAINTAIN THE SITE IN A SAFE CONDITION (SAVE WHERE THE FAILURE WAS CAUSED AS A DIRECT RESULT OF A BREACH BY US OF OUR OBLIGATIONS UNDER THESE TERMS);

(3) YOUR FAILURE TO FULLY DISCLOSE TO THE INSPECTOR ANY INFORMATION REQUESTED, AND/OR TO PROVIDE ANY NON-OBSERVABLE (WITHIN THE REMIT OF THE INSPECTION) INFORMATION MATERIAL TO ANY ASSESSMENT OF POTENTIAL HAZARDS WITHIN, CONNECTED TO, OR SURROUNDING THE SITE; AND/OR

(4) ANY EVENTS OR OCCURANCES WHICH HAPPEN SUBSEQUENT TO AN INSPECTION AND WHICH ADVERSELY AFFECT THE SAFETY OF THE SITE AND/OR THE APPROPRIATENESS OF ANY RECOMMENDATIONS GIVEN;

(ANY SUCH CASE, "MAINTENANCE FAILURE").

9.5. AS SUCH, YOU AGREE TO INDEMNIFY US AGAINST ALL LIABILITIES, COSTS, EXPENSES, DAMAGES AND LOSSES, INCLUDING BUT NOT LIMITED TO ANY DIRECT, INDIRECT OR CONSEQUENTIAL LOSSES, LOSS OF PROFIT, LOSS OF REPUTATION AND ALL INTEREST, PENALTIES AND LEGAL COSTS (CALCULATED ON A FULL INDEMNITY BASIS) AND ALL OTHER PROFESSIONAL COSTS AND EXPENSES (INCLUDING ANY INCREASE IN INSURANCE PREMIUMS) SUFFERED OR INCURRED BY US AS A RESULT OF ANY THIRD PARTY CLAIM MADE AGAINST US IN CONNECTION WITH ANY INSPECTION WE HAVE CARRIED OUT ON YOUR BEHALF WHERE WE HAVE NOT BEEN FOUND TO HAVE ACTED IN BREACH OF THESE TERMS.

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10. FORCE MAJEURE

10.1. We shall not be liable for any delay or failure to perform our obligations if the cause of the delay or failure is beyond our control, including extremes in weather, storm damage, diseases, acts of God, actions by any governmental authority (whether valid or invalid), governmental laws and regulations not presently in effect, fires, floods, windstorms, explosions, riots, strikes, acts of terrorism, outbreak of war and/or natural disasters.

11. GENERAL

11.1. If any provision of these Terms (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

11.2. You acknowledges and agrees that in agreeing to these Terms you are not relying on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these Terms or not) relating to the subject matter of these Terms other than as expressly set out in these Terms.

11.3. Save as expressly provided in these Terms, no amendment or variation of these Terms shall be effective unless in writing and signed by a duly authorised representative of each of the Parties.

11.4. These Terms are made for the benefit of us and you and is not intended to benefit, or be enforceable by, anyone else. Accordingly, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms.

12. GOVERNING LAW AND JURISDICTION

12.1. These Terms and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the laws of Northern Ireland.

12.2. You and we irrevocably agree that the courts of Northern Ireland have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms

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