

Client Master Services Agreement (Terms & Conditions)

THIS AGREEMENT is made on **insert date**

Parties

- (1) **Change Specialists Limited** incorporated and registered in England and Wales with company number 08320269 whose registered office is at Brooks House, 1 Albion Place, Maidstone, Kent, ME14 5DY ("CS")
- (2) **Company Name** incorporated and registered in **[England and Wales]** with company number **company number** whose registered office is at **address** ("the client")

WHEREAS:

- (1) CS provides CS consultancy, CS delivery, CS flex and CS fixed services to business clients.
- (2) The Client wishes to engage CS, for the duration of the Agreement, to provide the services set out in this Agreement, subject to the terms and conditions of this Agreement.
- (3) CS agrees to provide the services set out in this Agreement to the Client and subject to CS's standard terms and conditions provided herein.

THE PARTIES AGREE:

1. INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this Agreement (unless the context requires otherwise).

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

"Business Day" means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

"Candidate" means any person (whether or not previously known to the Client) introduced to the Client by CS for a Permanent Engagement including (without limitation) any officer, member, employee or other representative of the Candidate if the Candidate is a corporate body or partnership (including limited or limited liability partnership), and members of CS's own staff.

"Commencement Date" means the date this Agreement is entered into by CS and the Client.

"Confidential Information" means information in whatever form and wherever located, relating to the business, customers, products, affairs, trade secrets, and finances of CS or Client, for the time being confidential to CS or Client, including, without limitation, technical data and know-how relating to the business of CS or Client or any of their suppliers, customers, agents, distributors, shareholders, management or business contacts, and including (but not limited to) information that Client or the Representative creates, develops, receives or obtains in connection with an Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

"Client Equipment" means any equipment, hardware, tools, systems, provided by Client, its agents, subcontractors or consultants to CS in connection with the Services including the items provided pursuant to clause 5.1(a).

"Client Property" means all documents, books, manuals, materials, records, correspondence, papers and Confidential Information (on whatever media and wherever located) relating to the business or affairs of Client or its customers and business contacts, and any Client Equipment, keys, hardware or software provided by the Client for CS or its Representative's use during an Engagement, and any data or documents (including copies) produced, maintained or stored by CS or the Representative on the computer systems or other electronic equipment of the Client, CS or the Representative during an Engagement.

"Control" shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

"Data Protection Legislation" means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation (a) the Data Protection Act 2018, (b) the EU law retained version of the General Data Protection Regulation ((EU) 2016/679) and (c) any other directly applicable European Union regulation relating to privacy.

"Deliverables" means any outputs of the Services to be provided by CS to Client as specified in a Service Contract and any other documents, products and materials provided by CS to Client in relation to the Services.

"Engagement" means an engagement of CS by Client on the terms of a Service Contract.

"Fees" means the fees to be paid by Client to CS for the provisions of the Services, as specified in the relevant Service Contract.

"Intellectual Property Rights" means patents, utility models, copyright, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) 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.

"Introduction" means (i) the passing to the Client of a curriculum vitae or information which identifies the Candidate or (ii) the Client's interview of a Candidate (in person, by telephone or by any other means) and "Introduces" and "Introduced" shall be construed accordingly.

"Introduction Fee" means the fee payable by the Client to CS on a Permanent Engagement calculated in accordance with clause [6].

"Service Standards" or "Milestones" means any service standards or milestones specified in a relevant Service Contract.

"Permanent Engagement" means engagement, employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client (whether with or without CS's knowledge or consent), on a permanent or fixed term basis, howsoever engaged (whether directly or indirectly and including (without limitation) under a contract of service or for services, under an agency, licence, franchise or partnership agreement, through a limited company of which the Candidate is an officer, employee or other representative or any other engagement).

"Proposed Service Provider" means any person (whether or not previously known to the Client) introduced to the Client by CS for the provision of any of the Services other than a Permanent Engagement including (without limitation) any officer, member, employee or other representative of the Proposed Service Provider if the Proposed Service Provider is a corporate body or partnership (including limited or limited liability partnership).

"Remuneration" includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party. Where the Client provides a company car, a notional amount of £5,000 will be added to the salary in order to calculate the Introduction Fee.

"Representative" means any employee, worker, agent, consultant, contractor, or other person employed or acting on behalf of the Service Provider and engaged to deliver some or all of the Services.

"Replacement Candidate" means any Candidate Introduced by CS to the Client to fill a Permanent Engagement following the Introduction of another Candidate whose Permanent Engagement either did not commence or was terminated during the first 12 weeks of the Permanent Engagement.

"Services" means the services to be provided by CS as described or referred to in the relevant Service Contract.

"Service Contract" a contract for the provision of Services in accordance with this Agreement as set out in a statement of services (in the form of the draft set out in Schedule 1 setting out a description of the Services, Service Standards, Fees and other terms of the provision of such Services) or statement of work (in the form of the draft set out in Schedule 2 setting out a description of the Milestones, Deliverables, Fees and other terms of the provision of such Services) (as the case may be).

"Service Provider" means the individual or individuals engaged under the Service Contract to provide the Services.

"Termination Date" means the date of termination of this Agreement, howsoever arising.

"Works" means all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by CS or the Representative in connection with the provision of the Services.

- 1.2 The headings in this Agreement are inserted for convenience only and shall not affect its construction.
- 1.3 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, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.7 A Schedule is a schedule to this Agreement.
- 1.8 A "Party" or the "Parties" refers to the parties to this Agreement.

- 1.9 To the extent that there is any conflict between the terms of this Agreement and the terms of any Service Contract, the terms of the relevant Service Contract shall take precedence.

2. TERM OF ENGAGEMENT

- 2.1 Client shall engage CS to provide the Services on the terms of a Service Contract incorporating this Agreement.
- 2.2 This Agreement shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 13 (Termination), until either Party gives to the other Party not less than 2 months' written notice to terminate. Such notice shall not affect any outstanding Service Contract entered into prior to such termination which shall continue in full force and effect in accordance with this Agreement and the terms of such Service Contract.
- 2.3 Each Service Contract shall have a minimum duration of no less than 3 months unless otherwise explicitly stated in the applicable Service Contract.
- 2.4 Changes to the terms of this Agreement will be valid only if agreed in writing by both Client and CS.
- 2.5 For the avoidance of doubt, where Client fails to sign and return this Agreement to CS, Client shall be deemed to have accepted this Agreement in full by ordering Services from CS or entering into any Service Contract.
- 2.6 In the case of a Permanent Engagement only:
- (a) Where the Client fails to sign and return this Agreement to CS, Client shall be deemed to have accepted this Agreement in full by virtue of (i) an Introduction, an offer of Permanent Engagement or a Permanent Engagement, (ii) a request by the Client to receive information regarding a Candidate or to interview a Candidate, or (iii) the passing by the Client of any information about a candidate to any third party;
 - (b) CS acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when Introducing Candidates to the Client for direct Engagement by that Client. The Client authorises CS to act on its behalf in seeking Candidates and, if the Client so requests, shall advertise for such Candidates through such methods as are agreed with the Client; and
 - (c) It is the Client's responsibility to ensure that only one agency is engaged in respect of the Permanent Engagement of a Candidate. The Client must inform CS immediately (and in any event prior to 2pm on the next Business Day) where it receives details of a Candidate from CS which it has already received from another agency. If either (i) no such notification is received by CS or (ii) the details of a Candidate sent by CS were received by the Client prior to the Client receiving the details of the same Candidate from another agency then, in the event of a Permanent Engagement, the Client agrees CS is entitled to charge an Introduction Fee, in each case notwithstanding that any additional fees may be payable by the Client to any other agency.

3. CALLING OFF SERVICES

- 3.1 During the term of this Agreement the Client and CS may agree the provision of Services in accordance with a Service Contract.
- 3.2 Each Service Contract shall, once signed by and on behalf of each of the Client and CS, create a new agreement, which shall be an independent legally binding contract between CS and Client, incorporating the terms of this Agreement and capable of separate enforcement.

- 3.3 Each Service Contract shall be governed by the terms and subject to the conditions of this Agreement. If there is any conflict between the terms of this Agreement and the terms of any Service Contract, the terms and conditions of this Agreement will govern, unless such Service Contract specifically states otherwise.
- 3.4 Once agreed, a Service Contract can only be amended by the written agreement of both the Client and CS.

4. CS'S DUTIES AND OBLIGATIONS

Services

- 4.1 During an Engagement CS shall:
- (a) provide the Services and Deliverables in accordance with the Service Contract;
 - (b) provide the Services with all due care, skill and ability commensurate with prevailing standards in the industry sector in the United Kingdom;
 - (c) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services meet the requirements specified in the Service Contract;
 - (d) comply with all laws and regulations applicable to the Services;
 - (e) before the date on which the Service Contract is due to start, obtain and maintain, all necessary licences and consents and comply with all relevant legislation in relation to the Services;
 - (f) take good care of any Client Equipment provided by Client pursuant to clause 5;
 - (g) ensure that the Representatives involved in the Services have suitable skills and experience to enable them to perform the tasks assigned to them, and that such personnel are in sufficient number to enable CS to fulfil its obligations under this Agreement. Subject to this clause 4.1(g) CS may at its sole discretion decide which Representatives shall be involved in the Services and shall be entitled to change the Representatives delivering the Services at any time at its sole discretion;
 - (h) promptly give to Client all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services; and
 - (i) use reasonable endeavours to meet the Service Standards or Milestones specified in a Service Contract but any such dates shall be estimates only and time for performance by CS shall not be of the essence of this Agreement.
- 4.2 Unless CS has been specifically authorised to do so by Client in writing:
- (a) neither CS nor the Representatives shall have any authority to incur any expenditure in the name of or for the account of Client; and
 - (b) CS shall not, and shall procure that the Representatives shall not, hold itself out as having authority to bind Client.

Compliance

- 4.3 CS shall, and shall procure that the Representatives shall, comply with all of the Client's reasonable policies and standards that are communicated to them by the Client and which may apply where the Services are delivered at the Client's premises.
- 4.4 CS and the Representatives shall report any unsafe working conditions or practices to the Client.

4.5 CS shall, and shall procure that the Representatives shall:

- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) have in place, maintain, and enforce throughout the term of this Agreement its own policies and adequate procedures, (determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of that Act and section 8 of that Act respectively) to ensure compliance with the Relevant Requirements;
- (d) immediately notify Client if a foreign public official becomes an officer or employee of CS or acquires a direct or indirect interest in CS (and CS warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement);
- (e) ensure that all persons associated with CS or other persons who are performing services or providing goods in connection with this Agreement comply with clause 4.5.

4.6 Client may terminate this Agreement with immediate effect if CS or its Representatives are in default of clause 4.5.

5. CLIENT DUTIES AND OBLIGATIONS

5.1 Client shall:

- (a) provide the Client Equipment to CS in the manner specified in a Service Contract;
- (b) provide CS or its Representatives with all necessary information and co-operation in all matters relating to the Services;
- (c) keep CS promptly informed of any material developments or proposals in relation to the business or operations of the Client where they may have an effect on the Services to be provided; and
- (d) provide access to Clients premises and data and other facilities as may reasonably be requested by CS and agreed with Client in advance, for the purposes of the Services.

5.2 In the event that CS requires the decision, approval or any other communication from the Client in order to provide or continue providing the Services at any time, the Client shall provide the same in a reasonable and timely manner.

5.3 Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any provisions of this clause 5 shall not be the responsibility or fault of CS or the Representative.

6. FEES

6.1 In consideration of the provision of the Services by CS, the Client shall pay CS the Fees.

6.2 The Fees exclude the following, which shall be payable by the Client as specified in the Service Contract, monthly in arrears, following submission of an appropriate invoice:

- (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom CS engages in connection with the Services; and

- (b) the cost to CS of any materials or services procured by CS from third parties for the provision of the Services as such items and their cost are to be approved by the Client in advance from time to time.
- 6.3 CS may vary the Fees applicable to any existing Service Contract on not less than 3 months' notice to the Client (**Fee Variation Notice**), provided that if the Client does not accept the revised Fees the Client may terminate the Service Contract on written notice to CS within one month of receipt of the Fee Variation Notice with termination taking effect on the date that the Fee Variation Notice would otherwise have taken effect.
- 6.4 CS shall invoice the Client for the Fees on the achievement of the Service Standards or Milestones, or, where there are no Service Standards or Milestones specified, at the end of each month for Services performed during that month, unless otherwise specified in the Service Contract.
- 6.5 This clause 6.5 shall apply to fees in respect of Permanent Engagements only:

- (a) The Client shall:
- i. notify CS of the terms of any offer of Permanent Engagement at the same time that it is made to the Candidate;
 - ii. notify CS immediately of any acceptance by a Candidate of an offer of Permanent Engagement and to provide details to CS of the Remuneration agreed with the Candidate together with any documentary evidence as requested by CS; and
 - iii. pay the Introduction Fee, to be calculated in accordance with the provisions of this clause 6.5, by the due date for payment in clause 6.6.
- (b) The Introduction Fee is payable if a Permanent Engagement commences within a period of 9 (nine) calendar months from the latest of the date of (i) the Introduction (ii) the Client's withdrawal of an offer of Permanent Engagement (iii) the Candidate's rejection of an offer of Permanent Engagement and (iv) the last interview or other meeting or communication between the Client and the Candidate in the 9 (nine) months following the Introduction.
- (c) The Introduction Fee is payable on the date a Permanent Engagement commences and is calculated as follows:

Remuneration*	Percentage of Remuneration
Up to £49,999	17.5%
£50,000 and above	22.5%

*For a permanent (full-time or part-time) Permanent Engagement, Remuneration shall refer to annual Remuneration (i.e. 12 months from commencement of Permanent Engagement). For a fixed term (full-time or part-time) Permanent Engagement, Remuneration shall refer to the Remuneration for the fixed term.

- (d) Where the actual Remuneration is not known to CS, CS will charge an Introduction Fee calculated in accordance with clause 6.5(c) based on its determination of the Remuneration at its sole discretion but taking into account the market rate level of remuneration applicable for the position in which the Candidate has been Permanently Engaged and with regard to any information supplied to CS by the Client and/or comparable positions in the market generally.
- (e) Where prior to commencement of Permanent Engagement, CS and the Client agree that the Permanent Engagement will be on the basis of a fixed term of less than 12 months, the Introduction Fee will apply

pro-rata. If the Client (a) extends the Permanent Engagement beyond the initial fixed term or (b) re-Engages the Candidate within 12 calendar months from the date of termination of the agreed period of the fixed term Permanent Engagement, then the Client shall be liable to pay a further Introduction Fee based on the additional Remuneration applicable for (a) the extended period of Permanent Engagement or (b) the period of the second and any subsequent Permanent Engagement, subject to the Client not being liable to pay a greater sum in Introduction Fees than the Client would have been liable for under clause 6.5(c) had the Candidate first been Permanently Engaged for 12 months or more.

- (f) In the event that any Candidate or Replacement Candidate with whom the Client has had personal dealings accepts a Permanent Engagement with the Client while employed by CS or within three months of leaving CS, the Client shall be liable to pay an Introduction Fee to CS calculated in accordance with clause 6.5(c)

6.6 The Client shall pay each invoice submitted to it by CS within 14 days of receipt to a bank account nominated in writing by CS from time to time.

6.7 Without prejudice to any other right or remedy that it may have, if the Client fails to pay CS any sum due under this Agreement on the due date:

- (a) the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. 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%; and
- (b) CS may suspend part, or all, of any, or all, Service Contracts until payment has been made in full.

6.8 All sums payable to CS under this Agreement:

- (a) are exclusive of VAT, and the Client shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
- (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. PROVISIONS RELATING ONLY TO PERMANENT ENGAGEMENTS

7.1 Refunds

- (a) If after the commencement of a Permanent Engagement, the Permanent Engagement is terminated by either the Candidate or the Client before the expiry of 12 weeks from the date of commencement of the Permanent Engagement then at the Client's request CS will endeavour to find one suitable Replacement Candidate. If a suitable Replacement Candidate is subsequently Permanently Engaged, the Fee will be calculated, invoiced and paid based on the Remuneration of the Replacement Candidate.
- (b) If after the commencement of a Permanent Engagement, the Permanent Engagement is terminated by either the Candidate or the Client before the expiry of 12 weeks from the date of commencement of the Permanent Engagement then subject to the terms of clause 7.1(c), CS will refund an amount calculated as follows:

Number of weeks between commencement of Permanent Engagement and termination	Percentage of Introduction Fee to be refunded
1	92%
2	83%
3	75%
4	67%
5	58%
6	50%
7	42%
8	33%
9	25%
10	17%
11	8%

- (c) In order to qualify for the refund set out in this clause 7.1:
- the Permanent Engagement cannot have terminated (or offer of Permanent Engagement have been withdrawn) due to the role being made redundant or in connection with any re- organisation or change in strategy of the person Permanently Engaging the Candidate;
 - the Candidate must not have left the Permanent Engagement because he/she reasonably believed that the nature of the actual work was substantially different from the information the Client provided prior to the Candidate accepting the offer of Permanent Engagement;
 - the Candidate must not have left the Permanent Engagement as a result of discrimination or other acts against the Candidate;
 - the Candidate must not have been at any time in the 12 months prior to the Introduction employed or hired (whether on a permanent or contract basis) by the Client;
 - the Client must: (1) have complied and continue to comply with the provisions of clause 6.5, (2) notify CS in writing of the termination of the Permanent Engagement within 7 days of termination and (3) give CS exclusivity to search for a suitable Replacement Candidate as contemplated by clause 7.1(a) for a period of four weeks from the date of receipt by CS of the notification in (2). If after such four week period no suitable Replacement Candidate can be found, or if the Replacement Candidate's Permanent Engagement is terminated before the expiry of eight weeks from the commencement date of the Permanent Engagement of the original Candidate, the Client will then be eligible for a refund, subject to the remainder of this clause 7.1.
- (d) For the purposes of this clause 7.1 the date of termination of the Permanent Engagement shall be the date on which the Candidate ceases working or would have ceased working for the Client, but for any period of garden leave or payment in lieu of notice, whichever is the later.

- (e) If subsequent to the Client receiving a refund the Candidate is re-Permanently Engaged within a period of 12 calendar months from the date of termination then the refund shall be repaid to CS. The Client shall not be entitled to any further refunds in relation to the re- Permanent Engagement of this Candidate.

7.2 Introduction to third parties

Introductions of Candidates are confidential. If a Client discloses a Candidate's details to a third party, that will be deemed to be a "Third Party Introduction". If that Third Party Introduction results in a Permanent Engagement of the Candidate by the third party within 12 months of CS's Introduction of the Candidate to the Client, then the Client will be liable to CS for payment of an Introduction Fee in accordance with clause 6.5. Neither the Client nor the third party shall be entitled to a refund of the Introduction Fee under clause 7.1 in any circumstances.

7.3 Suitability checks

- (a) CS shall use reasonable endeavours to ensure the suitability of Candidates Introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to:
 - i. ensure that the Permanent Engagement would not be detrimental to the interests of either the Client or the Candidate;
 - ii. ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body; and
 - iii. confirm that the Candidate is willing to work in the position.
- (b) Notwithstanding clause 7.3(a) the Client must satisfy itself as to the suitability of the Candidate for the position they are seeking to fill. The Client is responsible for:
 - i. taking up any references provided by the Candidate before Permanently Engaging the Candidate;
 - ii. checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Permanently Engaged to work;
 - iii. the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and
 - iv. satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Permanent Engagement.
- (c) To enable CS to comply with its obligations under clause 7.3(a), the Client undertakes to provide to CS details of the position which the Client seeks to fill, including (without limitation) the following:
 - i. any information it has that suggests it would be detrimental to the interests of either the Client or the Candidate for the Candidate to work in the position which the Client seeks to fill;
 - ii. the type of work that the Candidate would be required to do;
 - iii. the location and hours of work;
 - iv. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;
 - v. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;

- vi. the date the Client requires the Candidate to commence the Permanent Engagement;
- vii. the duration or likely duration of the Permanent Engagement;
- viii. the minimum rate of Remuneration, expenses and any other benefits that would be offered;
- ix. the intervals of payment of Remuneration; and
- x. the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client.

8. OTHER ACTIVITIES

- 8.1 Nothing in this Agreement shall prevent CS or a Service Provider or a Representative from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during an Engagement provided that such activity does not cause a breach of any of CS' obligations under this Agreement.

9. CONFIDENTIAL INFORMATION AND CLIENT PROPERTY

- 9.1 Each Party shall not, and CS shall procure that the Representatives shall not (except in the proper course of its or his duties), either during an Engagement or at any time after, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information of the other Party (the "**Disclosing Party**"). This restriction does not apply to:
- (a) any use or disclosure authorised by the Disclosing Party or required by law; or
 - (b) any information which is already in, or comes into, the public domain otherwise than through a breach of this clause.
- 9.2 At any stage during an Engagement, CS will promptly on request return to Client all and any Client Confidential Information in its or the Representative's possession.

10. DATA PROTECTION

- 10.1 In this Clause 10, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meanings stated in the Data Protection Legislation.
- 10.2 Client and CS acknowledge that for the purposes of the Data Protection Legislation, Client is the data controller and CS is the data processor in respect of any personal data processed by CS on behalf of the Client.
- 10.3 Client and CS will comply with the Data Protection Legislation. This Clause 10 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
- 10.4 Where any Personal Data will be processed as part of any Service Contract the scope, nature and purpose of the processing by CS, the duration of the processing and the types of personal data and categories of data subject shall be specified in the Service Contract.
- 10.5 The data controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the data processor for the purposes described in this Agreement.
- 10.6 CS shall in relation to any Personal Data processed in connection with an Engagement:

- (a) Process that Personal Data only on written instructions of Client unless the data processor is otherwise required to process such personal data by law. The data processor shall promptly notify the data controller of such processing unless prohibited from doing so by law.
 - (b) Keep the Personal Data confidential.
 - (c) Not transfer any Personal Data outside of the European Economic Area without Client's prior written consent.
 - (d) Assist the data controller, at the data controller's expense, in responding to any data subject access request and to ensure compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, privacy impact assessments and consultations with supervisory authorities or regulators.
 - (e) Notify the data controller without undue delay on becoming aware of a Personal Data breach or communication which relates to Client's or Client's compliance with the Data Protection Legislation.
 - (f) At the written request of the data controller, delete or return Personal Data and any copies thereof to the data controller on termination of an Engagement unless required by the Data Protection Legislation to store the Personal Data.
 - (g) Maintain complete and accurate records and information to demonstrate compliance with this clause 9 and allow for audits by the data controller or the data controller's designated auditor.
 - (h) ensure that it has in place appropriate technical or organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures.
- 10.7 The data processor shall not sub-contract any of its obligations to a sub-processor with respect to the processing of personal data under this clause 10 without the prior written consent of the data controller (such consent not to be unreasonably withheld). In the event that the data processor appoints a sub-processor, the data processor shall:
- (a) Enter into a written agreement with the sub-processor, which shall impose upon the sub-processor the same obligations as are imposed upon the data processor by this clause 9 and which shall permit both the data processor and the data controller to enforce those obligations; and
 - (b) Ensure that the sub-processor complies fully with its obligations under that agreement and the Data Protection Legislation.
- 10.8 Either Party may, at any time, and on not less than 28 days' notice, alter this clause 10, replacing it with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply when replaced by attachment to this Agreement.

11. SERVICE PROVIDER, REPRESENTATIVE AND CANDIDATE CONFIDENTIALITY, DATA PROTECTION AND INDEMNITY

- 11.1 All information relating to a Service Provider, Representative and/or Candidate is confidential and subject to the Data Protection Legislation and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes (i) to abide by the provisions of the Data Protection Legislation in receiving and processing the data at all times; (ii) not to provide any information relating to any Service Provider, Representative and/or Candidate

to any third party without the prior written consent of CS; (iii) not to cause CS to breach the Data Protection Legislation; and (iv) provide CS with any and all information requested by CS in a timely manner to assist CS to comply with its obligations under the Data Protection Legislation including (without limitation) any response to a Data Subject access request.

- 11.2 The Client shall indemnify CS against any and all liabilities, claims, suits, losses, damages, costs and expenses (including reasonable attorney's fees) incurred by CS arising out of or in connection with the Client's non-compliance with this Clause 11.

12. INTELLECTUAL PROPERTY

- 12.1 CS hereby assigns and shall procure that the Representative takes all steps necessary to assign to the Client all existing and future Intellectual Property Rights in the Works and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Agreement, CS holds legal title in these Intellectual Property Rights on trust for Client.

- 12.2 CS undertakes to Client:

- (a) whenever requested to do so by Client and in any event on the termination of an Engagement, promptly to deliver to Client all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its or the Representative's possession, custody or power;
- (b) not to register nor attempt to register any of the Intellectual Property Rights in the Works unless requested to do so by Client; and
- (c) to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works has passed, or will pass, to Client,

and confirms that the Service Provider has given written undertakings in the same terms to CS.

- 12.3 CS warrants that:

- (a) it has not given and will not give permission to any third party to use any of the Works or any of the Intellectual Property Rights in the Works;
- (b) it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and
- (c) the use of the Works or the Intellectual Property Rights in the Works by Client will not infringe the rights of any third party,

and confirms that the Service Provider has given written undertakings in the same terms to CS.

- 12.4 CS acknowledges that no further remuneration or compensation other than that provided for in this Agreement is or may become due to CS in respect of the performance of its obligations under this clause 12.

- 12.5 CS undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of Client and at any time either during or after an Engagement, as may, in the opinion of Client, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of Client and to defend Client against claims that works embodying Intellectual Property Rights infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works. CS confirms that the Service Provider has given written undertakings in the same terms to CS.

13. INSURANCE AND LIABILITY

13.1 Subject to clause 13.3, CS's total liability to the Client in any contract year shall not exceed the cap.

13.2 In clause 13.1 the following words have the following meanings:

- (a) **cap.** The cap is 100% of the total charges in the contract year in which the breaches occurred;
- (b) **contract year.** A contract year means a 12-month period commencing with the date of this Agreement or any anniversary of it; and
- (c) **total charges.** The total charges means all sums paid by the Client and all sums payable under this Agreement in respect of goods and services actually supplied by CS, whether or not invoiced to the Client.

13.3 Nothing in this Agreement limits any liability which cannot legally be limited, including 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).

13.4 The following types of loss are wholly excluded from CS' liability to the Client:

- (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.

13.5 Unless the Client notifies CS that it intends to make a claim under this clause 13 in respect of an event within the notice period, CS shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become aware, of the event having occurred and shall expire 4 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

13.6 CS shall not be liable for any loss or damage suffered by the Client that results from the Client's failure to follow any instructions given by CS.

14. NON-SOLICITATION OF SERVICE PROVIDERS

14.1 The Client shall not, without the prior written consent of CS, at any time from the Commencement Date to the expiry of twelve months after (a) in the case of a Service Provider and/or Representative, the termination or expiry of the last Engagement of the relevant Service Provider and/or Representative or (b) in the case of a Proposed Service Provider that is not a Service Provider and/or Representative, the date on which the Proposed Service Provider was introduced to the Client ("**Protected Period**"), solicit or entice away from CS or employ or attempt to employ any person who is, or has been, either engaged as a Service Provider and/or Representative

in the provision of the Services by CS or introduced to the Client as a Proposed Service Provider at any time during the term of this Agreement and during the Protected Period. Where the Client engages the Service Provider and/or Representative and/or Proposed Service Provider independently without prior consent from CS during the term of this Agreement and/or within the Protected Period, then a fee will be payable as below:

- (a) Permanent hire – daily service charge x average annual working days x 20%.
- (b) Contract hire / Fixed Term hire – daily service charge x average annual working days x 20%.

The same charges are applicable if the Client introduces the Service Provider and/or Representative and/or Proposed Service Provider to a third party and such third party subsequently engages the services of the Service Provider and/or Representative and/or Proposed Service Provider other than through CS within 12 months from the date of the introduction by the Client to the third party.

15. TERMINATION

- 15.1 Save as previously set out and unless otherwise specified in a Service Contract, a Service Contract may be terminated by the Client at any time on not less than 2 months' written notice to CS, subject to payment of an early termination fee equal to 10% of the Fees that would have otherwise become due and payable for the remainder of the term of the relevant Service Contract(s).
- 15.2 Notwithstanding the provisions of clause 2.2, Client may terminate this Agreement and any Service Contract with immediate effect by giving written notice and without any liability to make any further payment to CS (other than in respect of amounts accrued before the Termination Date) if at any time:
 - (a) CS commits any serious or repeated breach or non-observance of any of the provisions of this Agreement, or applicable Service Contract, and, if such breach is capable of remedy, fails to remedy it within [20] Business Days after being given written notice with full particulars of the breach and requiring it to be remedied;
 - (b) CS makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to CS; or
 - (c) CS commits any offence under the Bribery Act 2010.
- 15.3 Without affecting any other right or remedy available to it, CS may terminate this Agreement and any Service Contract with immediate effect by giving notice to the Client if:
 - (a) the Client fails to pay any amount due under this Agreement on the due date for payment and such sum is not paid within 30 Business Days after being notified to make such payment;
 - (b) the Client commits any serious or repeated breach or non-observance of any of the provisions of this Agreement, or applicable Service Contract, and, if such breach is capable of remedy, fails to remedy it within [5] Business Days after being given written notice with full particulars of the breach and requiring it to be remedied;
 - (c) the Client makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made, or an administrator or receiver is appointed in relation to the Client; or
 - (d) there is a change of Control of the Client.

15.4 The rights to terminate this Agreement and/or any Service Contract in this clause 15 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

16. OBLIGATIONS ON TERMINATION

16.1 On the Termination Date:

- (a) CS shall immediately deliver to Client all Client Property which is in its possession or under its control;
- (b) any sum owing by either Party to the other under any of the provisions of this Agreement shall become immediately due and payable;
- (c) subject to CS' data retention guidelines, CS shall irretrievably delete any information relating to the business of Client stored on any magnetic or optical disk or memory and all matter derived from such sources which is in its possession or under its control outside the premises of CS. This obligation includes requiring the Representative to delete such data where applicable;
- (d) each Party shall (except to the extent referred to in clause 8) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information; and
- (e) all clauses which, either expressly or by their nature, relate to the period after the expiry or termination of this Agreement, shall remain in full force and effect.

16.2 In the event that CS terminates this Agreement as a result of the Client's breach referred to in Clause 15.3(b), the Client will indemnify CS against any claim, liability, costs, expenses, damages or losses that may be incurred by CS as a result of such breach and consequent termination of this Agreement.

17. STATUS

17.1 The relationship of CS (and the Representative) to Client will be that of supplier of services and nothing in this Agreement shall render it (nor the Representative) an employee, worker, agent or partner of Client and CS shall not hold itself out as such and shall procure that the Representative shall not hold himself out as such.

18. FORCE MAJEURE

18.1 No Party shall be liable for any failure or delay in performing their obligations (except a payment obligation) where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action, national or global pandemic or any other event that is beyond the control of the Party in question.

18.2 In the event that a Party cannot perform their obligations hereunder as a result of force majeure for a continuous period of 28 days, the other Party may at its discretion terminate this Agreement (or any Service Contract) by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of this Agreement.

19. DISPUTE RESOLUTION

19.1 If any dispute arises between the Parties out of, or in connection with, a Service Contract, the matter shall be referred to the managers identified in the Service Contract of each Party who shall use their reasonable endeavours to resolve it.

- 19.2 If the dispute is not resolved within 14 days of the referral being made under 19.1, the parties may resolve the matter through mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 19.3 Until the Parties have completed the steps referred to in clauses 19.1, and have failed to resolve the dispute, neither Party shall commence formal legal proceedings or arbitration except that either Party may at any time seek urgent interim relief.

20. NOTICES

- 20.1 Any notice given to a Party under or in connection with this Agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at the address specified in the Service Contract; or
 - (b) sent by email to the address specified in the Service Contract.
- 20.2 Unless proved otherwise, any notice shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the address given in this Agreement or given to the addressee;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (c) if sent by email, on receipt of a send delivery receipt.
- 20.3 If deemed receipt under clause 20.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 20.3, business hours means 9.00am to 5.00pm Monday to Friday on Business Days.
- 20.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

21. ENTIRE AGREEMENT

- 21.1 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.
- 21.2 Each Party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 21.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 21.4 Nothing in this clause shall limit or exclude any liability for fraud.

22. ASSIGNMENT AND OTHER DEALINGS

- 22.1 Neither Party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement, without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

23. WAIVER

- 23.1 A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

24. SEVERANCE

- 24.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 24.2 If any provision or part-provision of this Agreement is deemed deleted under clause 22.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

25. VARIATION

No variation of this Agreement or any Service Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

26. COUNTERPARTS

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

27. THIRD PARTY RIGHTS

- 27.1 No part of this Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.
- 27.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

28. GOVERNING LAW

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 and Wales.

29. JURISDICTION

Subject to the provisions of clause 19, each Party irrevocably agrees that the courts of England and Wales 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).

This document has been executed and takes effect on the date stated at the beginning of it.

Signed for and on behalf of Change Specialists Ltd. by John Dean, CEO



Sign: _____

Date: _____

*Signed for and on behalf of **Company Name** by **Name, Job Title***

Sign: _____

Date: _____

DRAFT

SCHEDULE 1

CLIENT SERVICE CONTRACT (STATEMENT OF SERVICES)

This Service Contract is entered into on **insert date** in accordance with the terms of a Master Services Agreement dated **insert date** between:

1. PARTIES

- (1) **Change Specialists Limited** incorporated and registered in England and Wales with company number 08320269 whose registered office is at Brooks House, 1 Albion Place, Maidstone, Kent, ME14 5DY (**CS**)
- (2) **Client name** incorporated and registered in England and Wales with company number **company number** whose registered office is at **address** (**Client**)

2. SERVICE DETAILS

2.1 Service code:

Xxxx

2.2 Service:

e.g., Project Management

2.3 Service standards:

Service Standard No.	Service Standard Description
e.g. NV11-01	

2.4 Date and Term:

Start Date: **dd/mm/yy**

End Date: **dd/mm/yy**

Duration: **X months**

3. CONTACT DETAILS AND LOCATION

3.1 Change Specialists' contacts:

Julian Brown, Practice Director: julian.brown@changespecialists.co.uk 07702 421861
Administrative support: Backoffice@changespecialists.co.uk 01379 871144

3.2 Change Specialists' client - principal contact:

name email number

3.3 Change Specialists' client default location address:

Default location address:

Xxxx

Adequate desk space and access to services are to be provided to the CS representative when they are requested to attend client offices.

4. SERVICE ARRANGEMENTS

This assumes a weekly pattern to the service.

Definitions

As specified = as specified at the outset of the agreement. Subject to one month's change notice from the client or less, if mutually agreed.

If required = if required by the client and then as agreed from time to time by Change Specialists and the service provider.

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Default service period	As specified 0800-1800	As specified 0800-1800	As specified 0800-1800	As specified 0800-1800	As specified 0800-1800	As agreed if required	As agreed if required
At service base	As specified	As specified	As specified	As specified	As specified	As agreed if required	As agreed if required
At client's default location	As specified	As specified	As specified	As specified	As specified	As agreed if required	As agreed if required
At other location	As agreed if required	As agreed if required	As agreed if required	As agreed if required	As agreed if required	As agreed if required	As agreed if required

Client special conditions: if required

5. NOTICE PERIOD

The agreed mutual notice period to terminate for both parties is **Xxxx**

6. FEES

Fees per default service period, excluding VAT, to service company: **£xxx**

Signed for and on behalf of Change Specialists Ltd. by John Dean, CEO

Sign: _____

Date: _____

*Signed for and on behalf of **Company Name** by **client name**, **job title***

Sign: _____

Date: _____

2.5 Work deliverables:

2.6 Work milestones:

Description	Date

2.7 Date and Term:

Start Date: dd/mm/yy End Date: dd/mm/yy Duration: X months

3. CONTACT DETAILS

3.1 Change Specialists' principal contact(s):

Julian Brown, Practice Director:	julian.brown@changespecialists.co.uk	07702 421861
Administrative support:	Backoffice@changespecialists.co.uk	01379 871144

3.2 Change Specialists' client - principal contact(s):

name	email	number
------	-------	--------

3.3 Change Specialists' client default location address:

Default location address:

Xxxx

4. CHANGE SPECIALISTS' CLIENT SPECIAL CONDITIONS

5. TERMINATION

Xxxx

6. FEES

Xxxx

The terms of this Statement of Service are made in accordance with a Master Services Agreement between Change Specialists Ltd and **Client Name** dated **date MSA signed** are agreed on the date specified below

Signed for and on behalf of Change Specialists Ltd. by John Dean, CEO

Sign:

Date:

*Signed for and on behalf of **Client Name** by **name**, **job title***

Sign:

Date:
