

# **Terms and Conditions**

## **1. Definitions and interpretations**

1.1 The following terms shall have the following meanings for the purposes of this agreement.

**'Services'** means those specified in the contractor's Quotation or other documentation details by the Contractor, subject to amendment.

**'Contractor'** means SPH Plant Ltd.

**'Employer'** means the person, supplier or company whom works are carried out,

1.2 Headings contained in this document are for reference purposes only.

1.3 Acceptance of the Contractor's Quotation, either by the 'Employer' order, Letter or intent and in lieu of any of these, commencements on site is deemed as acceptance of these Terms and Conditions. We reserve the right to carry out credit ratings without approval from the Employer.

## **2.0 Appointment**

2.1 The Employer appoints the Contractor to undertake the Services in return for the payments. Any order number given is deemed to be part of the employer's administrative procedure and is not a reason to delay payment.

## **3.0 The Employer's Obligations**

3.1 In consideration of the Services to be rendered by the Contractor under this agreement the Employer agrees to make the Payments promptly without demand deduction or set off.

3.2 The Employer shall make available to the Contractor the whole of the site of the proposed works at the commencement on site unless otherwise agreed in writing.

3.3 Any dispute to an invoice must be made in writing by email or post within 7 days of the invoice date clearly stating the nature of the query and resolution. Request for credit notes will not be accepted as a dispute unless specifically itemised with reasons and within the timescales detailed in this clause.

3.4 Payments of the Prices and VAT shall be within 30 days of the date of the invoice.

3.5 Interest on overdue invoices shall accrue from the date the payment becomes due until the date of payment at a rate of 8% above the Bank of England Base Rate. In the event that the Employer is acting in the course of a business, the Contractor reserves the right to claim compensation for late payment pursuant to the Late Payment of Commercial Debts (interest) Act 1998. At this point SPH Plant Ltd reserve the right to charge an administration fee of £400 for each late invoice and an additional £50 for each letter/email/ phone call chasing the debt.

## **4.0 Cancellation**

4.1 Prior to commencement of the works for the Services on site the Employer may cancel this agreement at any time by giving the Contractor written notice (email accepted) 24 hours prior to the Services commencing.

4.2 If the Employer does not provide notice, then they will be liable to pay to the Contractor for Services for that particular day, if works are cancelled outside of the parameters in Clause 4.1.

## **5.0 VAT**

5.1 All sums payable under this agreement unless otherwise stated are exclusive of VAT and other duties and taxes.

5.2 Any VAT or other duties or taxes payable in respect of such sums shall be payable in addition to such sums

## **6.0 Liability and liquidated damages**

6.1 The Contractor shall not be liable to the Employer for loss or damage to the Employer unless due to the negligence of the Contractor.

6.2 In the event that the Employer disputes the Services undertaken by the Contractor, all disputes must be notified to the Contractor within 7 days of the Services being carried, or within 7 days of the invoice, whichever is later. The Employer shall be prohibited from disputing the work undertaken or the amount of the invoice after the 7-day period.

6.3 For the avoidance of doubt SPH Plant Ltd will not accept any associated risk with the Services unless specifically highlighted at the tender stage and the associated risk communicated in writing by the Employer.

6.4 The Employer will indemnify the Contractor against any consequential losses suffered by the Employer as a result

of any breach of the Contractors obligations, whether reasonably foreseeable or otherwise.

6.5 The Employer shall indemnify, defend and hold harmless the Contractor in full against all loss, costs, damages, charges, expenses and other liabilities awarded against or incurred as a result of or in connection with any claim made against the Contractor by a third party in respect of any matter caused by the Employer or for which liability has been assumed by the Employer.

6.6 Save as expressly referred to above, and except where the Employer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12 as amended and/or the Unfair Terms in Consumer Contract Regulations 1999 Regulation 3(1)). All other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods and/or Services, whether express or implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.

6.7 The Contractor will not be liable for liquidated and ascertained damages to the Employer.

## **7.0 Termination for breach**

7.1 The following obligations are conditions of this agreement and any breach of them shall be deemed a fundamental breach which shall determine this agreement immediately and the rights and liabilities of the parties shall then be determined in accordance with clause 8.

7.2 Failure on the part of the Contractor to observe any obligations under this agreement not requiring Notice to be served and in the case of obligations requiring notice to be served failure to comply with terms of any Notice.

7.3 Failure on the part of the Employer to make punctual payment of all sums due to the Contractor under the terms of this agreement.

7.4 The levying of any distress or execution against the Employer or the making by them of any composition or arrangement with creditors or being a company the Client's liquidation (other than a member's voluntary liquidation with the written consent by the Client).

## **8.0 Termination consequences**

In the event of this agreement being determined whether by time notice breach or otherwise

8.1 The Employer shall immediately pay the Contractor.

8.2 All arrears of Payments and any other sums due under the terms of this agreement, and

8.3 All further sums which would be accepted for the determination of this agreement have fallen due at the end of the work.

8.4 Any right or remedy to which either party is or may become entitled under this agreement or in consequence of the others' conduct may be enforced from time to time separately or concurrently with any right or remedy given by this agreement or 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.

## **9.0 The Services**

9.1 The Services unless otherwise notified have been priced to be carried out between the hours of 07.00 and 17.00 unless agreed prior to commencement and specifically detailed in the Contractors Quotation. In the event that the Employer changes the hours within which the works are to be undertaken, the Employer shall be liable for the Contractors' additional costs.

9.2 If access is required onto private land, it will be the Employer's responsibility to ensure all relevant permissions have been obtained and payments made to the landowner.

9.3 Unless otherwise stated in writing it is assumed that vehicular access is possible to the working area. In the event that this is not possible the Employer shall be liable for additional costs incurred due to lack of access.

9.4 In the event that working time is lost on site due to delays caused either by the actions of the Employer, their representative or by other contractors employed by the Employer, or by sewer surcharges caused by storm, flood, tide, pump failure, the Employer shall be liable for the additional costs incurred by the Contractor. In addition, in the event that the Contractor experiences delays for which they are not responsible, the Employer shall be liable for the Contractor's additional cost in relation to the additional setting up or out of sequence working.

9.5 In the event that the Contractor is required to work in any confined spaces as defined by the Health and Safety at Work Act 1974 and Confined Space Regulations 2021, the Contractor reserves the right to charge the Employer for the required additional resources and safety equipment.

9.6 All work carried out utilising our specialist cutters is carried out on an attempt-only basis, and we will not

guarantee complete removal of any obstructions. Due to the performance of the cutters. SPH Plant Ltd accept no responsibility for any damage caused to the existing drain line or pipe work.

9.7 In the event of any SPH Plant Ltd equipment becoming lodged with the pipe work, any costs incurred to retrieve, replace or repair the equipment will be the responsibility of the client.

9.8 Standing time or abortive works due to conditions beyond our control will be charged at our day rate.

9.9 Unless otherwise stated, Services only allow for standard Chapter 8 traffic management where required.

9.10 Unless otherwise stated, rates for Services area are based on silt levels not exceeding 10%. Should silt levels exceed 10% then upon discussion with the Employer, the contractor reserves the right to charge additional costs.

9.11 Our Risk Assessment and Method Statement will be provided upon request following receipt of orders unless otherwise stated.

## **10.0 Cleaning**

10.1 The removal of waste from the working area is deemed to be within the capacity of the equipment specified by the Employer or Contractors Services in the quotation or estimate. Should this be insufficient due to volume, tanker maximum gross weight or other reasons unforeseen prior to commencement of the Services. SPH Plant Ltd reserve the right to utilise additional resources without additional order or confirmation and pass on reasonable cost to the customer.

### **10.2 Wash out**

10.2.1 Until the waste stream is determined, the requirement of a wash out cannot be ascertained but will be charged accordingly on completion of the Services.

## **11. CCTV & Sonar inspection works**

11.1 Due to the nature of CCTV inspection, the Contractor cannot guarantee the accuracy of any CCTV inspection or measurement. A CCTV survey will only show the interior of the sewer or pipe and will not show the exterior. Alternatively, sonar may be used to track the route of the pipe; however, sonar by its nature may be up to 1 metre of accuracy. Any interpretation and advice because of CCTV inspection shall not be binding on the Contractor and is sole responsibility of the Employer. In the event that the measurements or advice given is inaccurate, the Contractor shall not be responsible for any loss or damage howsoever caused.

11.2 All close circuit television survey data shall remain the property of the Contractor until the Employer has paid all invoices to the Contractor.

## **12.0 Sewer Condition**

12.1 Where information is provided or implied either verbally or in writing or through CCTV recordings concerning the condition of the sewers or pipework and this is found to be inaccurate or out of date, the Employer shall be responsible for any additional cost incurred for work that may be required to complete the works. The Contractor shall not be liable for any deterioration, structural or otherwise, that develops or becomes apparent on any pipe during the Services howsoever caused.

## **13.0 Waste Disposal**

13.1 Unless otherwise stated. The Contractor's Services excludes for the removal of waste or debris. If disposal is deemed necessary, the Employer will be responsible for the additional costs incurred by the Contractor for the removal, transportation and disposal of waste to a licensed disposal facility, together with additional administrative costs.

13.2 Waste disposal cost are determined depending on the strength viscosity and constituent make up and as such rates stated are subject to change. As such SPH Plant Ltd reserve the right to pass on these fluctuations without prior written consent.

13.3 All waste is subject to acceptance at the disposal site, rejection of any material will result in additional storage, travelling cost or unit down days and will be charged accordingly. If required, this will be disposed of at an alternative disposal facility and any administration fees added to the invoice.

## **14. Severance**

14.1 If any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority the remaining provisions of this agreement shall remain in full force and effect unless the Contractor in the Contractors' discretion decides that the effect of such declaration is to defeat the original intention of the parties in which event the Contractor shall be entitled to terminate this agreement by 30 days' notice to the Client and the provisions of clause 10 shall apply accordingly.

## **15.0 Whole agreement**

15.1 Each party acknowledges that this agreement contains the whole agreement between the parties and that it has not relied upon an oral or written representation made to it by the other or its agents and has made its own independent investigations into all matters relevant to it.

## **16. Proper law and jurisdiction**

16.1 This agreement shall be governed by and construed in accordance with the law of England and Wales, and each party agrees to submit to the exclusive of the courts of England and Wales.

## **17.0 Waiver**

17.1 The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this agreement.

## **18.0 Third party rights**

18.1 A person who is not a party to this agreement has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.

## **19.0 Hire and/or Supply**

19.1 All hired or cross-hired equipment will be covered by CPA Hire Rules and any damage, or loss must be paid for by the hirer/end user.

19.2 All equipment supplied to site for Services must be paid for in full. If the item(s) are not required the item can be returned and the cost of delivery, collection and any appropriate fee will be deducted,

## **20. Miscellaneous**

### **20.1 Warranty**

20.1.1 Each of the parties warrants its power to enter into this agreement and has obtained all necessary approvals to do so.

## **21. Force Majeure**

21.1 In the event of national emergency, war, prohibitive governmental regulation or any other cause beyond the control of the parties (force majeure event') the obligations of the parties shall be suspended for so long as the force majeure event renders performance of the agreement impossible and upon the occurrence of a force majeure event all money then due to the Contractor shall be paid immediately.

## **22. Retention**

22.1 Retention is deemed not applicable to all our Services and will not be deducted from payments from the Employer.

## **23. Fuel Surcharge**

23.1 An additional fuel surcharge and excess additional mileage may be applied.



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