

TERMS AND CONDITIONS OF CLEANING AND WORKSHOP SERVICES

1. DEFINITIONS

- 1.1 The Contractor means Isotank Depot Services Limited or other member of the Isotank Group of Companies as appropriate.
- 1.2 Customer means the body, company (whether limited or otherwise), partnership or individual which is either shown on the cleaning ticket or which accepts a quotation from the Contractor for the provision of the Services or whose order for the Services is accepted by the Customer or who enters into a contract with the Contractor for the purchase of a component or components.
- 1.3 The Services shall mean the Cleaning and Workshop services undertaken by the Contractor in accordance with the Customer's requirements as detailed on the cleaning ticket, equipment interchange report or as the case may be quotation order or any other related Cleaning or Workshop service expressly agreed between the Contractor and the Customer unless otherwise referred to in separate terms and conditions issued by the Contractor from time to time.
- 1.4 Component means any parts, materials or goods supplied by the Contractor in connection with the Services or any such parts, materials or goods sold separately by the Contractor to the Customer.
- 1.5 Vehicle means any motor vehicle, tractor unit, trailer, semi trailer including tank containers, flexible bag or means of any sort designed for and used in the transportation of liquids, gases, solids, powders, goods or other materials by road.
- 1.6 The installation shall mean the cleaning bays or repair or servicing areas machinery of all descriptions and located within any area defined by the Contractor for the performance of Services.
- 1.7 The price shall be the sum payable in respect of each and every element of the service in accordance with the Contractor's standard tariff for the Service from time to time except where such standard tariff is altered or the price is otherwise settled by agreement in writing by the signatory and an authorised representative of the Contractor or as the case may be the amount charged by the Contractor for any component together with Value Added Tax or other fiscal imposition at the rate from time to time.

2. PERFORMANCE

- 2.1 Subject to these Conditions, which shall govern the contract to the exclusion of any other terms, and conditions the Contractor shall provide the Services to the Customer at the Customer's request.
- 2.2 No variation to these Conditions, shall be binding unless agreed in writing between the authorised representatives of the Contractor and the Customer.
- 2.3 Subject to the Customer's requirements detailed as in 1.3, the Contractor shall perform the Services in a good and workmanlike manner but subject thereto and in the absence of formal instructions from the Customer the methods adopted in the performance of the Services shall be in the absolute discretion of the Contractor.
- 2.4 The Contractor shall be entitled to perform any of its obligations or exercise any of its rights hereunder either itself or through such agents, employees or sub-contractors as the Contractor shall in its absolute discretion think fit.

3. CUSTOMER WARRANTIES

- 3.1 That the Vehicle is fit for the purpose of carrying the product or products carried in the Vehicle.
- 3.2 That no latent defect exists within, on or associated with the Vehicle, its parts including hoses, connecting materials or other ancillary equipment.
- 3.3 That the Customer shall upon discovery of any defect in the Vehicle notify the Contractor forthwith and indemnify the Contractor in respect of any claim for loss compensation damage or otherwise arising from the defect or unfitness for the purpose of the Vehicle or its ancillary equipment.
- 3.4 That the Customer's employee, agent, sub-contractor, driver or other persons accompanying the Vehicle shall at all times adhere to the

regulations and directions of the Contractor placed on or about the installation or given by the Contractor's employees and authorised sub-agent to provide so far as may be possible in all the circumstances a safe area of work for all persons, materials, equipment and facilities.

- 3.5 That the Customer's its employees, agents or other under its control shall make no claim in respect of losses, theft or damage to the Customer's Vehicle or ancillary equipment whilst parked, stored or awaiting the Services upon the Contractor's premises which shall at all times other than whilst undergoing a process be at the risk of the Customer.

- 3.6 That the Customer's employees, agents, sub-contractors or others having control or being passengers in any vehicle shall have no authority to enter upon the Installation nor shall any such person purport to give assistance to the Contractor's employees in any part of the performance of the Services. The Customer shall be liable to the Contractor and shall indemnify the Contractor from and against any damages, claims, acts or omissions undertaken by the Customer's employees in or about the installation at any time.

- 3.7 That the Customer has disclosed to the Contractor full details of all materials contained within the Vehicle the contents which the Customer intends to load into the Vehicle next following completion of the Services and all other material facts which might reasonably be expected to have an effect upon the safe and efficient conduct of the Services or upon the willingness of the Contractor to agree to perform the Services or the price at which the Contractor would be willing to perform the Services.

- 3.8 That he is either the owner of the Vehicle or is authorised by such owner to enter in to contracts for the provision of the Services on his behalf and to accept these conditions on such owner's behalf.

4. TIME

- 4.1 The Contractor shall use reasonable endeavours to complete the Services within the time estimated orally or in writing. However any dates or times quoted for the performance of the Services are approximate only and the Contractor shall not be liable in any delay in the performance of the Services.

5. PRICE

- 5.1 The price together with any further authorised payment shall be paid within thirty days from the date on the Invoice together with Value Added Tax or any other fiscal imposition but if the same shall not have been paid the Contractor shall be entitled to charge interest at 3% above Barclays Bank PLC Base Rate from time to time compounding on the first day of each month following non payment both prior to judgement and thereafter (unless judgement rate interest shall be greater) until payment.

- 5.2 Payment shall be in Pound Sterling such that the Contractor's bank account is credited to the full value of the Invoice. All bank transaction charges associated with the Customer's chosen method of settlement shall be met by the Customer and not the Contractor.

- 5.3 The Contractor shall be entitled to appropriate any payment made by the Customer to such of the Services (or the Services supplied under any other contract between the Contractor and the Customer) as the Contractor may think fit notwithstanding any purported appropriation by the Customer.

6. LIMITATION OF LIABILITY

- 6.1 The application of electrical processes, heating, pressurised steam or otherwise shall in all appropriate circumstances be deemed to be authorised and approved by the Customer.

- 6.2 The Contractor shall have no liability whatsoever (unless death or personal injury is caused by its negligence) if whilst the Contractor is heating products contained in a Vehicle by injecting the pressurised steam any damage is caused to such Vehicle or the products therein contained provided that the Contractor was injecting steam at a pressure

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indicated as acceptable either by instructions noted upon the Vehicle or in accompanying relevant documentation or by the Customer or driver of the Vehicle.

- 6.3 In the event that the Contractor shall knowingly injecting steam under a pressure exceeding stated maxima then (in its discretion) it shall repair, rectify, replace or pay the price of the parts of the vehicle which, in its reasonable opinion, were damaged as a result of the Contractor's error but (save for death or personal injury caused by negligence) it shall have no further liability for damages caused to the product contained in the Vehicle or for consequential losses sustained by the Customer.
- 6.4 The Contractor will visually inspect equipment following the cleaning process to a standard of cleanliness in accordance with the EFTCO definition of clean. The Customer shall be responsible for ensuring that the Services have been effectively carried out and the Contractor shall accept no claim in respect of any failure to clean, inspect, repair or maintain any Vehicle unless such claim is made in writing within seven days of the Services being completed and the Contractor or its authorised representative, agents or sub-contractors are given all reasonable opportunities to inspect the vehicle forthwith or by appointment.
- 6.5 In the event of any claim by the Customer against the Contractor the liability of the Contractor shall be limited to the gross sum but excluding Value Added Tax of the repairs required to the Vehicle and the repairs where necessary of the products carried in the Vehicle immediately after the process given rise to the claim and to the repair replacement of definitive components and subject to clause 6.6 but no liability shall apply to the Contractor in respect of any consequential losses provided that nothing herein shall limit the liability of the Contractor in respect of death or personal injury caused to any person arising from proven negligence of the Contractor.
- 6.6 In the case of Components the Customer shall be entitled to the benefit of any warranty or guarantee which may have been given to the Contractor by the Supplier of the Components provided that:
- Full details of such defect are notified to the Contractor in writing within five days of it first appearing.
 - The Customer affords to the Contractor access at any time during normal business hours for repairing or replacing such defective Component, or at the Contractor's sole discretion returns the Component to any depot of the Contractor.

PROVIDED that the Customer shall not be entitled to make any claim against the Contractor in respect of the following:

- Defects resulting from fair wear and tear misuse neglect or failure to carry out any maintenance procedure or fitting instructions recommended to the Customer by the Contractor.
- Defects resulting from modifications to components by someone other than the Contractor.
- Defects in Components where the identification numbers or marks on such Components have been altered or removed.

Subject is expressly provided in this clause 6.6 all warranties conditions or other terms implied by statute or common law with regard to the supply of Components are excluded to the fullest extent permitted by law.

- 6.7 For all material purposes the computation of time during which claims may be notified to the Contractor shall exclude Sundays and Public Holidays and that services of notices upon the Customer or the Contractor shall be exclusively regarded as served upon either party if the same has been sent by post to the Customer or the Contractor's last known address, and service of such notice shall be treated for all purposes as having been effected at the time when such notice would have been delivered in the ordinary course of post to the Customer or the Contractor's last known address.

7. LIEN

- 7.1 The Contractor shall have a general Lien against the Customer, where the Customer is the owner of any Vehicle which is from time to time in the possession or under the control of the Contractor for any monies whatever due from the Customer to the Contractor.

If such a lien is not satisfied within a reasonable time, the Contractor may, at his absolute discretion sell such Vehicle as agent for the

Customer and apply the proceeds towards the monies due and the expenses of retention, insurance for the sale of the Vehicle and shall, upon accounting to the Customer for any balance remaining, be discharged from liability whatever in respect of the Services. In the event of the monies due to the Contractor and the expenses of retention, insurance and sale of the Vehicle exceeding the proceeds of the sale the Contractor shall be entitled to recover the difference from the Customer. Where the Customer is not the owner of the Vehicle, the Contractor shall have a particular lien against the said owner, allowing him to retain possession, but not dispose of, the Vehicle against monies due from the Customer in respect of the Services.

The risk of all Components shall pass on delivery of the same but the equitable and beneficial ownership and property in such Components shall remain in the Contractor until payment has been received in full for all Components which the Contractor has agreed to sell to the Customer and for which payment is then due. Until such full payment the Customer shall not sell or attempt to sell such components to another. If the Customer does purport to sell such components in breach of this condition then without prejudice to any other right or remedy available to the Contractor, the Contractor's equitable and beneficial ownership and property in such components shall attach to the proceeds of such purported sale by the Customer or the Customer's claim such proceeds.

8. IMPOSSIBILITY OF PERFORMANCE

- 8.1 The Contractor shall be relieved of its obligations to perform the Contract to the extent that the performance is prevented by failure of the Customer, fire, weather conditions, industrial dispute, labour disturbance or cause beyond the reasonable control of the Contractor.

9. ARBITRATION

- 9.1 Any dispute differences or questions which shall at anytime hereafter arise between the Customer and the Company touching any claim against the Company pursuant to these conditions shall be referred to arbitration of a single Arbitrator to be agreed by the parties or appointed at the request of either party by the President for the time being of the Road Haulage Association. The cost of any such arbitration shall be in the discretion of the Arbitrator and the order of the Arbitrator shall be a condition precedent to any Legal proceedings in respect of any of the matters hereby agreed to the subject of arbitration. The arbitration shall, unless otherwise agreed, be held in the town wherein the Contractor has its main administration office.

10. GOVERNING LAW

- 10.1 The contract and these terms and conditions shall be construed and governed by the law of England.
- 10.2 A claim or counterclaim shall not be made the reason for deferring or withholding payment of moneys payable or liabilities due from the Customer of the Contractor.

11. INDEMNITY

The Customer hereby authorises the Contractor to carry out such works and provide and maintain all such arrangements as:

- Shall be required or recommended by any national, local or other competent authority or
- Shall in the reasonable opinion of the Contractor be necessary in order to comply with the requirements of any statute government department, local authority and other public or competent authority in connection with the provision of the Services or the state of repair or condition of the Vehicle or any of the contents thereof and which arise as a result of the failure by the Customer to deliver the Vehicle to the Contractor in accordance with the warranties contained in clause 3 and without prejudice to the Contractor's rights arising as a result of any such breach of warranty the to the Contractor in accordance with the warranties contained in clause 3 and without prejudice to the Contractor's rights arising as a result of any such breach of warranty the Customer shall indemnify the Contractor against all costs and expenses incurred by the Contractor in carrying out such works and making and maintaining such arrangements.