Inspection Contract



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Inspection Contract

Please read this Contract carefully to ensure that it meets Your needs.

Please notify us immediately if You require any alterations to be made or if there have been any changes in Your business or other circumstances which may affect this Contract.

This is a legal document and should be kept in a safe place.

**How We use personal information**

We hold personal information in accordance with the Data Protection Act 1998. The information supplied to Us by You may be held on computer. You should show this to anyone whose personal information may be processed in connection with this Contract

We use a variety of security technologies and procedures to help protect personal information from inappropriate use, and We will continue to revise procedures and implement additional security features as new technology becomes available.

We may use personal information for statistical analysis, management information, market research, systems integrity testing, and risk management. We will only share personal information as described in this notice or where We are required or allowed to do so by law. We may record or monitor telephone calls for security and regulatory purposes.

**Contract administration**

To administer Your inspection contract, We may share personal information provided to Us with other with business partners. If We do transfer personal information, We make sure that it is appropriately protected.

**Fraud prevention and detection**

To prevent and detect fraud We may at any time:

1. share information about You with other organisations including the police
2. conduct searches using publicly available databases
3. undertake credit searches
4. check and share Your details with fraud prevention and detection agencies.

If false or inaccurate information is provided and fraud is identified details will be passed to fraud prevention agencies. Law enforcement agencies may access and use this information. We and other organisations may also access and use this information to prevent fraud and money laundering for example when:

a) checking details on applications for credit and credit related to other facilities

b) managing credit and credit related accounts or facilities

c) recovering debt and tracing beneficiaries

d) checking details on proposals and claims for all types of insurance

e) checking details of job applicants and employees.

f) checking details on the inspection contract and reports.

Please contact Us if You want to receive details of the relevant fraud prevention agencies. We and other organisations may access and use from other countries the information recorded by fraud prevention agencies

**Data protection rights**

Individuals have certain rights under the Data Protection Act 1998, including the right to ask for a copy of the information We hold about them. We may make a small charge for this. Individuals also have the right to ask Us to correct their information if it is inaccurate.

Definitions

In this Contract, unless the context requires otherwise, the following words and expressions will have the meanings set out below and, where expressed in the singular, the plural of such expressions will be construed accordingly:

**Competent Person**

The competent person is Engineering Inspections (Ireland) Ltd who employ engineer surveyors, senior engineers or other technical persons.

**Confidential Information**

All technical, business and similar information relating to the business affairs of either party.

**Contract Price**

The amount payable for the Inspection Service as stated in the Schedule or as varied from time to time in accordance with clause 4.0 during the Term.

**Commencement Date**

The date upon which the Contract commenced.

**Discount Rate**

A percentage reduction in the Contract Price, applicable only where stated in the Schedule.

**Inspection**

An examination of Plant which:

a) will, if required by You, be carried out in accordance with the requirements of any applicable statutory regulations and, where applicable will be carried out in accordance with any written scheme of examination; or

b) for Plant not requiring Inspection in accordance with statutory regulations, will be carried out as agreed between the parties.

**Inspection Interval**

The interval between Inspections:

a) as set out in statutory regulations and/or written schemes of examination (where applicable) and such additional Inspections as stated in the Schedule; or

b) for Plant not subject to Inspection in accordance with statutory regulations will be as agreed between the parties

**Inspection Service**

An Inspection of Plant at Inspection Intervals and provision of a Report.

**Inspection Schedule**

The document issued at the quote stage and contract commencement, containing a full list of plant to be inspected, the inspection frequency and the Location of the Inspections.

**Location**

The location set out in the Inspection Schedule.

**Normal Working Hours**

Between 08.00 hours and 17.00 hours Monday to Friday except for public holidays.

**Plant**

The machinery and equipment set out in the Schedule.

**Report**

A document in Our standard format issued electronically and/or on paper, that provides details of the Plant inspected and the Inspection that was undertaken.

**Schedule**

A Schedule forming part of this Contract.

**Site/Plant Location**

The locations are set out in the Schedule and are where We have quoted to inspect the plant. In the event ‘mobile’ plant is to be inspected elsewhere in Northern Ireland, there will be no increase in cost. If the plant is elsewhere, We reserve the right to apply an additional charge for the inspection (See Terms and Conditions, Clause 1.1.2)

**Specified Period**

The period set out in the Schedule.

**Term**

12 months from the date as specified in the Schedule (unless otherwise stated therein) subject to termination in accordance with clause 9.

**We, Us, Our**

Engineering Inspections (Ireland) Limited whose registered office is: 29 Park Lane, Rostrevor, Co Down, N. Ireland BT34 3DH.

**You, Your**

The company, person or persons or other legal entity named in the Schedule.

Terms and Conditions

1 Scope of the Inspection Service

1.1 We will provide You with the Inspection Service for Plant at the Site, in accordance with the terms and conditions contained in this Contract, and, in consideration of which, You will pay us the Contract Price. In the case of ‘mobile’ plant to be inspected in a place other than the Locations set out in the Inspection Schedule;

1.1.1 if the location is as per the Schedule or elsewhere in Northern Ireland, there will be no additional cost.

1.1.2 if the Location is outside Northern Ireland, additional costs will be applied and are to be agreed and paid before the inspection(s) take place. It is Your responsibility to advise Us of such Inspections/Locations in well advance of the due date of the Inspection(s) to allow arrangements to be made.

1.2 Where You require that the Inspection Service is to be carried out in accordance with specific statutory regulations, the scope of the Inspection Service will (in so far as is possible under the terms of this Contract) be in accordance with the terms of those statutory regulations and any respective relevant guidance or any relevant approved code or practice. The Report will identify the regulations and any relevant guidance or any code of practice that apply.

1.3 For the avoidance of doubt, where the Inspection Service is carried out in accordance with any specific statutory regulation, the Competent Person will possess all necessary skills, experience and qualifications to the extent required under the applicable statutory regulation.

1.4 Where You do not require that the Inspection Service is carried out in accordance with specific statutory regulations or no such regulations apply, the scope of the Inspection Service will (in so far as is possible under the terms of this Contract) be as instructed by You and agreed by us or, in the absence of such an instruction, as specified by us.

1.5 The scope of the Inspection Service will be limited by the extent to which You have prepared the Plant for Inspection. In this event the Report will fully describe the scope of the Inspection. If the Plant or part of a Plant cannot be located or is not made available by You for Inspection, the Report will indicate that the Plant or the relevant part of the Plant could not be inspected and will give the reason for this.

1.6 The Report may bring to Your attention other noticeable and obvious defects that fall outside the scope of the Inspection, although no obligation to do so exists. The impact of such other defects is to be assessed by and are the sole responsibility of You.

1.7 The Inspection Service will not cover the preparation, operation, repair or maintenance of Plant.

1.8 We may (at our absolute discretion) negotiate with You and agree to provide Additional Services. You acknowledge that, unless otherwise agreed in this manner, Additional Services will not be included in the scope of the Inspection Service. For the avoidance of doubt, Additional Services will include, without limitation:

1.8.1 the compilation and/or certification of written schemes of examination, which may be a statutory requirement;

1.8.2 the witnessing or provision of ultrasonic, radiographic or other non-destructive tests (NDT) or other tests of a non-routine character or any proof of load stability, anchorage or similar test;

1.8.3 the assessment of Plant design and construction to verify compliance with applicable design or construction codes or European Directives;

1.8.4 the assessment of the suitability of Plant for its intended use in the environment within which it is operated;

1.8.5 the assessment of the suitability of proposed repair or modification to Plant;

1.8.6 the carrying out of any additional Inspections of the Plant required during and/or on completion of such repair or modification;

1.8.7 the assessment of any Plant which is in a non-standard operating condition; and

1.8.8 the postponement of Inspection of Plant according to specific regulations that allow this.

2 Duration

2.1 This Contract will stay in force until the end of the Term unless terminated in accordance with Clause 9.

2.2 At the end of the Term, the parties may mutually agree to renew the Contract on the same terms. Upon any renewal We may adjust the Contract Price whilst the remaining provisions will continue in full force and effect.

3 Our Obligations

3.1 Unless otherwise agreed, We will provide the Inspection Service within Normal Working Hours.

3.2 We will use reasonable endeavours including contacting You by telephone or in writing prior to the due date of the Inspections to carry out the Inspections of the Plant at the Inspection Interval(s).

3.3 We will produce the Report within 14 days following completion of an Inspection of the Plant, other than in circumstances where an item is judged to give rise to immediate danger. In this event an onsite report will be issued prior to leaving site.

3.4 We will notify You in writing within 14 days of any abortive attempts to arrange an Inspection.

3.5 We will comply with Your safe systems of work as notified by You. We reserve the right not to carry out an Inspection if, in its absolute discretion, to do so would pose an unacceptable risk to the health, safety or Welfare of either us, You or another person.

4 Contract Price

4.1 In addition to specified Adjustments You agree that We will adjust the Contract Price at the end of the Term to consider:

4.1.1 any Plant added to or deleted from the Schedule;

4.1.2 any changes to the Inspection Interval(s) stated in the Schedule;

4.1.3 any charges identified in section 5 of the Contract;

4.1.4 in the case of any activities charged on a time spent basis, the actual time spent data available from either time spent reports or on-site time sheets, as agreed; and/or

4.1.5 any right of set-off available to Us in relation to this Contract.

4.1.6 the revised Plant as adjusted by 4.1.1, 4.1.2, 4.1.3 and 4.1.4 will be the basis of the Contract Price for the new Term.

4.2 Unless otherwise agreed in writing any invoices will be paid within 30 days of the date of invoice, with the invoice being provided to You within 30 days of the commencement of the specified Period or Term.

4.3 We reserve the right to withhold further supply of the Inspection Services to any Customer who fails to pay within the afore mentioned period, without prejudice to any existing rights We may have in respect of such unpaid invoice.

4.4 Unless otherwise agreed in writing, prices quoted to You are shown in Sterling exclusive of Value Added Tax (or any other similar tax or duty levied by any Government or other Authority) on the value of the Services supplied. Any such taxes or duties will be payable by You in addition to the prices quoted.

4.5 Where We have reached agreement to commence Inspections for a new customer, the quotation offered will have been calculated on a Schedule of Plant provided. If that Schedule is not accurate then the amount, size or capacity of Plant inspected will not tally with the Schedule provided. As such the initial fee would be a deposit, adjustable dependant on Inspections having taken place. If the amount of variation between quotation Schedule and reality is substantial, We would wish to negotiate or renegotiate the fee required. This could either be at Commencement or part way through an existing relationship

5 Your Obligations

5.1 You will pay Us the Contract Price at the start of the Term or as otherwise agreed in writing between the parties.

5.2 Where the Contract Price is adjusted in accordance with Clause 4, You will pay to Us the difference between the Contract Price and the adjusted Contract Price.

5.3 You may be required to pay an additional charge to Us where:

5.3.1 Inspections are carried outside Normal Working Hours, at Your request;

5.3.2 You require that Our representatives are required to undertake training specific to Your own health, safety and Welfare procedures;

5.3.3 We are unable to carry out an Inspection of the Plant at an agreed time through no fault of Our own and a further appointment is necessitated;

5.3.4 We are required to re-examine any Plant;

5.3.5 You request an agreement with Us to postpone an Inspection; and/or

5.3.6 You request duplicate copies of Inspection reports.

5.4 You undertake to renew the Contract at the end of the Term for the Specified Period where:

5. 4 .1 You are entitled to a Discount Rate; and/or

5.4.2 We agree to the Contract Price; and You agree that We (without prejudice to Our rights under clause 9) will be under no obligation to accept Your renewal request. If You terminate this Contract in breach of Your obligations under this clause 5.3, We (without prejudice to Our rights under clause 10) will be entitled to recover any amounts that We would have been paid had You not had the benefit of the provisions of this sub-clause.

5.5 You will ensure that all Plant that requires Inspection is included in the Schedule. In the event of any errors or omissions in the Schedule, You will notify Us in writing, in a reasonable time.

5.6 To ensure that We provide the appropriate service, You will notify Us if any Plant is being operated outside the scope of usual operating conditions (‘Non-Standard Operating Condition’).

5.7 You will use reasonable endeavours to comply with any arrangements proposed by Us to carry out Inspections at the Inspection Interval(s).

5.8 You will, at Your own expense, have the Plant properly cleaned and prepared for Inspection and will make available any ancillary testing equipment.

5.9 You will be responsible for the reassembly of the Plant after Inspection.

5.10 You will make available any of Your staff, premises, facilities and access equipment as We may reasonably request to enable Us to perform the Inspection Service. Where the operation of Plant is required for the purposes of an Inspection, You will make available a skilled and qualified operator.

5 .11 You will promptly provide Us with such information and documents as We may reasonably request for the proper performance of the Inspection Service. You will retain sole responsibility for the operation of the Plant.

5.12 You will provide Us with safe access to the Site and a safe working environment on the Site.

5.13 Before the beginning of each Inspection, You will provide Us with full information concerning any modification to the Plant that has been made since the last Inspection.

5.14 Notwithstanding Our obligations under clause 3.2, it is Your legal duty under any relevant statutory regulations to ensure that Plant is inspected at the prescribed Inspection Interval(s). It is therefore recommended that You establish a system to monitor Inspection Intervals to ensure compliance with the regulations and ensure that We are notified in advance of the Inspection dates required, should this be necessary.

6 Liability of Us and You

6 .1 We accept no responsibility for damage sustained by the Plant because of the failure of the Plant to withstand a test applied as part of the Inspection Service.

6.2 Subject to sub-clause 6.1, We will indemnify You and keep You fully and effectively indemnified against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or breach of this Contract by us, Our employees, agents or subcontractors. This will be whether the indemnity is sought in respect of claims made by You or a third party against us, or against You.

6.3 You will indemnify Us and keep Us fully and effectively indemnified against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or breach of this Contract by You, Your employees, agents or subcontractors. This will be whether the indemnity is sought in respect of claims made against Us or a third party against You, or against us.

6.4 Except in respect of injury to or death of any person or any other liability which cannot be limited or excluded by law (for which no limit applies), the respective liability of Us and You, under sub-clauses 6.2 and 6.3 in respect of each event or series of connected events or in the aggregate, will not exceed £5,000,000

6.5 Notwithstanding anything else contained in this Contract neither We nor You will be liable to the other party for loss of profits or contracts, loss of goodwill or other special, indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

7 Confidentiality

7.1 Neither party will disclose or communicate to any third party any Confidential Information obtained from the other party because of this Contract.

7.2 Nothing in this clause will impose an obligation of confidentiality on information

a) already in the public domain

b) that was rightfully in the possession of such party prior to the commencement of this Contract

c) that is required to be disclosed pursuant to any applicable law or regulatory body.

7.3 The obligations under this clause will come into effect on the Commencement Date and will survive termination.

8 Subcontracting

8 .1 We may subcontract in whole or in part any of Our obligations under this Contract. We will, in such circumstances, retain responsibility for the execution of any subcontracted work. Such subcontracting will only be to a Company-approved person or legal entity that has been audited by Us in accordance with procedures that meet the requirements of any accreditation that may apply. You may consult with Us if it requires this provision to be deemed deleted or altered whilst the remaining provisions will continue in full force and effect. For the avoidance of doubt this provision will only be deemed deleted or altered if We have agreed to such, prior to entering the Contract, in writing.

9 Termination

9.1 We may terminate this Contract by giving 30 days written notice to You at any time throughout the duration of the Contract without further obligation, subject to any accrued rights and the payment of the Contract Price for Inspection Services which have already been performed to the effective date of termination.

9.2 Either party will have the right at any time by giving notice to the other to immediately terminate this Contract on or after the happening of any of the following events:

a) where the other has committed a material breach of the terms of this Contract which is incapable of remedy

b) where the other has committed a material breach of the terms of this Contract which is capable of remedy and fails to remedy such breach within 30 days after receipt of a written notice by the other party giving full of the breach and requiring it to be remedied

c) where the other is unable to pay its debts as and when they fall due within the meaning of Section 123 of the Insolvency Act 1986

d) where an order is made, or a petition is presented, or an effective resolution is passed for the winding-up of the other party otherwise than for a solvent amalgamation or reconstruction

e) where the other will convene a meeting or propose or enter into any arrangement or composition with its creditors

f) where an event of Force Majeure delays a scheduled Inspection for more than 30 days.

10 Right of Set Off

10.1 We will be entitled to apply any monies due to You under the Contract in or towards any sum owing to Us in relation to any matter whatsoever.

11 Force Majeure

11.1 We will not be liable for any delay or for the consequences of any delay in performing Our obligations under this Contract if such delay is due to any cause beyond Our reasonable control and will be entitled to a reasonable extension of time for performance of such obligations.

12 Notices

12.1 All notices to be given under this Contract will be in writing and may be delivered by first class post or facsimile transmission, and will be deemed to have been delivered, 48 hours after posting (in the case of first class pre-paid letter) and 12 hours after dispatch (in the case of facsimile transmission).

13 General

13.1 Failure by either party to enforce any of the rights under this Contract will not be taken as or deemed to be a waiver of such rights.

13.2 If any term or provision of this Contract is held illegal or unenforceable the remainder will remain in full force and effect.

13.3 This Contract represents the entire agreement between the parties and supersedes all prior agreements and representations made by either party, whether oral or written.

14 Governing Law

14.1 This Contract will be governed by and construed in accordance with the laws of Northern Ireland and any dispute will be subject to the exclusive jurisdiction of the Northern Ireland courts.

15 Sanctions

15.1 Notwithstanding any other terms of this Contract We will not provide any service or benefit to You or any other party to the extent that such service, benefit and/or any business or activity of Yours would violate any applicable trade or economic sanctions law or regulation.