

These TERMS AND CONDITIONS apply to any and all Services and Goods supplied, and work done, by South Coast Cooling Ltd, 88 Upper Yarborough Road, East Cowes, Isle of Wight P032 6EE ("Contractor").

1.0 DEFINITIONS

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|---------------------------------|---|
| a) Client | The party to this Agreement for whom Contractor will provide Services and Goods |
| b) Expenses | The out-of-pocket costs that Contractor can claim from Client in connection with performance of Services and supply of Goods |
| c) Fee | The amount that Contractor shall be paid for performance of Services. Unless otherwise stated the cost of Goods shall be in addition to the Fee |
| d) Goods | Any and all goods supplied by Contractor in the course of, or incidental to, the performance of Services, whether or not such goods are listed in the Schedule |
| e) including | without any limitation |
| f) Parties/ Party | Contractor and Client together/either Contractor or Client as the context requires |
| g) Schedule | The schedule to this Agreement as amended from time-to-time |
| h) Services | The services described in the Schedule |

2.0 APPOINTMENT

2.1 Subject to, and in accordance with, the terms of this Agreement, Client appoints Contractor to provide Services and Goods and, subject as aforesaid, Contractor accepts such appointment.

3.0 SCOPE OF SERVICES

3.1 Services shall be as set out in the **Schedule**. Services may be varied from time-to-time and at any time by agreement between the Parties. Each variation shall be recorded in writing and shall become an addendum to the **Schedule**.

3.2 In performing Services, Contractor shall be an independent contractor and not an employee or officer of Client; and, Contractor shall not be managed or supervised by Client in connection with this Agreement.

3.3 Contractor shall supply Goods as specified in the **Schedule** together with such other Goods as are reasonably necessary for the performance of Services.

3.4 Unless otherwise stated in the **Schedule**, consumables, including utilities, required in the course of performing Services shall be provided by Client at no cost to Contractor.

4.0 TIMING

4.1 Contractor shall perform Services in accordance with the timetable set out in the **Schedule**. If no timetable is set out, or if only certain Services are subject to an express timetable, then Contractor shall perform Services within a reasonable time with "reasonable" being determined according to the nature and scope of the Services in question and in the light of all other relevant factors including ' acts or omissions and any Force Majeure events.

4.2 Unless expressly agreed by Contractor in writing, time shall never be of the essence in connection with this Agreement.

5.0 QUALITY AND OTHER WARRANTIES

5.1 Contractor warrants that:

(a) Services shall be performed in a professional manner to the standard to be expected of a reasonably experienced provider of similar services in similar circumstances.

(b) All Goods shall be in accordance with the **Schedule** or, if there is no specification in the **Schedule**, then Goods shall be of reasonable and appropriate quality.

(c) Contractor is established in accordance with the laws of England to undertake business.

6.0 PLACE OF PERFORMANCE

6.1 Services shall be performed in the place or places specified in the **Schedule** ("**Locations**").

6.2 Client shall ensure that all Locations are safe, free from unusual or hidden hazards and properly lit and ventilated.

6.3 Client shall ensure that Contractor has free access to all Locations, and all parts thereof, at all times necessary for Contractor to perform Services.

6.4 Client shall be responsible for Location security and shall take all reasonable steps to prevent theft and vandalism at the Location in relation to Contractor's tool, equipment and materials which are left there in the normal course of Contractor's work.

6.5 Contractor shall be entitled to an addition to the Fee if Contractor's performance of Services is delayed or is rendered more expensive by any breach of this clause 6.0 by Client.

7.0 USE OF SUBCONTRACTORS

7.1 Contractor may subcontract performance of some parts of Services. Any such subcontracting shall be at Contractor's risk and expense.

7.2 If Services specifically refer to the subcontracting of one or more parts of Services, then such subcontracting shall be managed by Contractor as an agent for and on behalf of Client but shall otherwise be procured at Client's sole risk and expense.

8.0 FEES, EXPENSES, PAYMENT & TAX

8.1 The Fee, the cost of Goods and all Expenses shall be calculated, invoiced and paid in accordance with the **Schedule**.

8.2 Contractor may add VAT or its equivalent to any and all invoices and Client shall pay the same in addition to all other amounts due under this Agreement.

8.3 Late payment shall entitle Contractor to stop performance of Services and to charge interest on all amounts due and unpaid at 4% above LIBOR on a daily basis.

8.4 Amounts due and unpaid under this Agreement shall be recoverable by Contractor as a debt.

8.5 Until paid for in full, title to Goods shall remain vested in Contractor and Contractor shall have the right to enter any Location or other premises controlled by Client in order to recover such Goods.

8.6 If and as required by law, Client shall deduct from payments due to Contractor amounts in relation to taxes. Client shall account to HMRT and Contractor for all such deductions and shall indemnify Contractor against all effects of any failure by Client to discharge its obligations in respect of such tax deductions.

9.0 LIABILITY

9.1 Contractor shall be liable for its own breach of contract and its own negligence in connection with this Agreement. Contractor's liability under any other theory or concept of civil liability and damages is excluded absolutely.

9.2 Contractor's liability for its breach of contract and its negligence in connection with this Agreement shall be limited by, and subject to, the following:

a) Contractor's liability shall be for direct loss and damage only. Client shall not be able to recover any loss of profit, loss of use, loss of contracts, loss of production or any pure economic loss which it suffers or incurs in connection with any such breach or negligence.

b) Contractor's liability under (a) above shall be limited to the total Fee earned by Contractor for Services under this Agreement within the twelve (12) months immediately preceding the breach or negligence (as the case may be) giving rise to the claim.

9.3 Client shall indemnify and hold harmless Contractor from and against any and all loss, damage, claims, costs, expenses suffered or incurred by Contractor in connection, directly or indirectly, with any claim made

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against Contractor by any third party to the extent that such claim relates to any act or omission of Client.

9.4 Except in the case of fraud by Contractor, Client shall not make any claim against Contractor in connection, directly or indirectly, with this Agreement unless: (i) such claim is notified to Contractor within the three (3) months after the occurrence of the event giving rise to the claim; and, (ii) if not settled before, formal proceedings are instituted within six (6) months after the occurrence of such event.

10.0 INSURANCE

10.1 Contractor shall have and maintain such insurances as it is required to have and maintain according to applicable law.

10.2 Client shall hold such insurances as are required by law. Client shall ensure that Contractor can and does benefit from insurances held by Client and covering claims made by third parties in connection with this Agreement.

11.0 DURATION & EARLY TERMINATION

11.1 This Agreement shall be and remain in full force and effect from the date upon which Contractor accepts the obligation to perform Services until the completion of such Services.

11.2 This Agreement may be terminated early only if:

- a) A Party commits a breach of this Agreement and is either incapable of remedying, or unwilling to remedy, such breach within a reasonable time, not to exceed 21 days from its occurrence. In such cases, the Party not in breach may elect to terminate this Agreement; or
- b) A Party becomes insolvent or bankrupt; has a receiving order made against it; has a liquidator or administrator appointed to oversee its affairs; makes a compromise with its creditors; or, is otherwise unable to pay its bills as they fall due. (Or any other analogous or similar event occurs). In such cases, the Party that is not subject to the foregoing may elect to terminate this Agreement; or
- c) The Parties mutually agree.

11.3 Termination of this Agreement under Article 11.2 shall be without prejudice to the Parties' respective rights and obligations under this Agreement.

12.0 FORCE MAJEURE

12.1 Performance of this Agreement may be suspended, without liability arising against either Party, on the grounds of "Force Majeure" which shall mean any event which:

- a) Was not foreseen or reasonably foreseeable (in each case at the date hereof) by the Party seeking to rely on Force Majeure; and
- b) Reasonably, is outside the control of the Party seeking to rely on Force Majeure.

12.2 If Force Majeure prevents performance of this Agreement for 30 consecutive days or for a cumulative period of 40 days in any consecutive six (6) months, then the Party not relying on Force Majeure shall be entitled to give notice that this Agreement will terminate at the end of 10 days from the date of the notice if, within that 10 days, the Force Majeure has not been removed and the Party relying on Force Majeure has not started to perform this Agreement.

13.0 CONFIDENTIALITY

13.1 The commercial terms of this Agreement shall be strictly confidential between the Parties and shall not be divulged to any third party without the prior written consent of the other Party. Such consent shall be deemed given in respect of disclosure to management and advisors of a Party. Such consent shall not be withheld or delayed in any other case.

14.0 COMPLETE AGREEMENT

14.1 This Agreement and the Schedule contain the complete agreement between the Parties in connection with the Services. No other terms and conditions shall be binding on the Parties or form part of this Agreement

unless expressly incorporated by an amendment to this Agreement.

15.0 GOVERNING LAW

15.1 This Agreement shall be governed, controlled, interpreted and enforced in all respects in accordance with English law.

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SCHEDULE

| | |
|---|---|
| Client Details: Name – Address – Co. Number – Fax – Phone – e-mail – | Contractor Details: Name – South Coast Cooling Ltd, Address – 88 Upper Yarborough Road, East Cowes, Isle of Wight P032 6EE Fax – Phone – e-mail – |
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|-----------------------------------|
| Contract Number/Reference: |
| Description of Services: |
| Location for Performance: |
| Goods to be supplied: |
| Timing: |

| Expenses: | Compensation Basis |
|------------------|---------------------------|
| Hotels: | |
| Travel | |
| Meals: | |
| Other: | |

| | |
|-----------------------|--|
| Payment Terms: | |
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