

Vehicle Weighing Solutions Limited
Terms & Conditions of Service Contract for UK Clients (Body Builder)

1 Terms of Business

- 1.1 These terms of business together with any completed VWS schedule provided to the Client ("**Terms**") are the sole defining documents governing the provision of the hardware maintenance services ("**Services**") by Vehicle Weighing Solutions Ltd ("**VWS**") to the client named in the Schedule ("**Client**").
- 1.2 The Terms supersede any purchase order issued by the Client and all proposals, terms & conditions, statements, representations or warranties made by or between VWS and the Client ("**Parties**") relating to the Services. No variation is valid unless agreed in writing by the Parties.

2 Term

- 2.1 The Terms shall commence on the Commencement Date and (subject to Clause 5) shall continue for a minimum period of 12 months ("**Minimum Period**"), unless specified to the contrary in the Schedule.
- 2.2 The Client acknowledges that VWS's charges are determined on the basis that the Terms shall run for the Minimum Period & that VWS would not offer these charges for an agreement running for a shorter period.

3 Services

- 3.1 The Services shall comprise preventative maintenance, remedial maintenance & calibration, details of which shall be set out in the schedule ("**Schedule**") together with details of the equipment to be serviced ("**Equipment**"), the third party who operates the Equipment ("**End User**"), the level of cover to be provided ("**Cover**") and any service levels which will apply.
- 3.2 If the Client requires services beyond the scope of the Cover, VWS shall provide a quotation.
- 3.3 The Client will at his or her own expense provide (and procure that the End Users provides) all such information & co-operation as is reasonably required to enable VWS to provide the Services in accordance with these Terms.

4 Fees & Payment Terms

- 4.1 The Charges payable for the Services will be detailed in the Schedule.
- 4.2 VWS reserves the right to increase the Charges with immediately effect and levy a supplementary invoice by serving written notice on the Client at any time if VWS's costs increase as a result of:
- a) the failure of the Client, or End User, to comply with the obligations in Clause 7 or provide all necessary information and instructions at the appropriate time, or
 - b) government action including any new or additional taxes (other than those levied or assessed on VWS's profits or gains), duties or other similar costs, or from the costs of conforming with any new or additional legal requirements.
- 4.3 The Charges are exclusive of any VAT payable in respect of the Services, and this shall be added to the invoice at the applicable rate.
- 4.4 Invoices will be submitted to the Client as detailed in the Schedule. All Charges are to be paid in full (without any deduction or set-off) within 30 days of submission of invoice. Time shall be of the essence with regard to these payment terms & interest may be charged on any outstanding Charges from the due date for payment until the date cleared payment is received at the statutory rate from time to time. Services may also be suspended if any sum remains unpaid 14 days after payment was due.
- 4.5 In the event that:
- a) the Client has breached any of the provisions of these Terms or the agreement under which the Equipment was supplied; or
 - b) the Equipment requires maintenance or an increase in normal maintenance service time by reason of the fault or negligence of the Client, the End User, its employees or agents or the general public, the fault or failure of any other equipment or other item not comprised in the Equipment or for any reason other than normal use;

then if VWS in its sole discretion repairs or replaces any item of the Equipment, VWS shall have the right to levy such additional charge as VWS shall deem reasonable. The aforesaid right is without prejudice to any other rights which VWS may.

5 Termination

- 5.1 VWS may by serving written notice on the Client terminate these Terms, and/or require immediate payment of all Charges due for Services if:
- a) the Client is in material or persistent breach of contract and fails to remedy the breach within the period specified in the notice to remedy the breach;
 - b) the Client stops or threatens to stop trading;
 - c) a receiver, administrator or similar officer is appointed over any of the Client's assets or business;
 - d) the Client makes an arrangement for the benefit of its creditors;
 - e) the Client goes into liquidation except for the purposes of a solvent amalgamation or reconstruction;
 - f) anything similar to the events specified in clauses (b) to (e) happens under the national, state or local laws of any other country.
- 5.2 In the event that the Client wishes to terminate these Terms prior to the end of the Minimum Period, then the Client shall be entitled to do so by at least 6 months notice of termination subject to payment by the Client to VWS of compensation for early cancellation ("**Cancellation Payment**") as specified in the Schedule.
- 5.3 The Cancellation Payment is agreed between the Parties to represent a genuine pre-estimate at the Commencement Date of the damages likely to be suffered by VWS in the event of such early termination. The Cancellation Payment shall be paid as liquidated damages and not as a penalty.
- 5.4 For the avoidance of doubt, Clause 5.2 shall not apply in the event of termination by the Client due to a material breach of contract by VWS where VWS fails to remedy the breach within 14 days of service of a notice to remedy the breach.

6 Warranties

- 6.1 VWS warrants that:
- a) The Services shall be provided in accordance with these Terms, by suitably qualified Personnel ("**Engineer**") , with reasonable care & skill and in line with applicable legislation & Regulations;
 - b) upon the date of the fitting of any replacement part or equipment ("**Goods**") or upon the date of dispatch of such Goods (as applicable) pursuant to the provision of the Services, such Goods shall be in operable condition and shall conform to the description contained in VWS's or the applicable manufacturer's official published specification applicable thereto in force at such date. Once fitted the Goods will be considered to be Equipment.
- 6.2 Except as expressly set out in Clause 6.1, all warranties, terms & conditions, whether oral or written, express or implied by statute or otherwise which might have imposed obligations on VWS in relation to the Goods & Services will be excluded to the fullest extent permitted by law.
- 7 Duties of the Client –
- 7.1 The Client shall ensure that the Equipment has been installed in accordance with electrical, environmental, the manufacturer's and any other requirements applicable to the Equipment and that such requirements are constantly complied with;
- 7.2 The Client shall procure that the End User shall:
- a) take care of the Equipment, keep it in suitable premises and under suitable conditions (all as advised by VWS), permit only trained and competent personnel to use it, and follow such operating instructions as VWS may give from time to time;

- b) make available to the Engineer appropriate staff who are familiar with the End Users's operations and procedures,
- c) notify VWS promptly in the event that the Equipment needs remedial maintenance or does not operate correctly;
- d) at all reasonable times permit full and free access to the Equipment to VWS or its Engineer and provide adequate safe working space and facilities as are reasonably required to enable the Engineer to perform the Services & investigate any breakdown;
- e) ensure that the Engineer is not delayed in gaining access to the Equipment due to any act, neglect or default on the part of or attributable to the End User;
- f) not maintain, alter, modify or adjust the Equipment, or attach thereto nor use therewith other equipment save pursuant to normal operational use or in accordance with routine maintenance activities as advised by VWS or following other instructions from or authorisation by VWS;
- g) regularly clean all external surfaces of the Equipment as advised by VWS and carry out such other routine maintenance activities as advised by VWS;
- h) not move the Equipment except with VWS's prior written consent which shall not be unreasonably withheld or delayed;
- i) provide suitable storage for reserve equipment in conditions approved by VWS and make this equipment available for periodic maintenance as for all other Equipment.

8 Delivery of Services

- 8.1 A report sheet will be provided detailing the servicing which has been carried out on the Equipment.
- 8.2 If any remedial servicing is required, the Engineer will also carry out any preventative maintenance which is outstanding or due in the near future.
- 8.3 VWS may refuse to provide, or withdraw, Services in respect of any obsolete or unsafe Equipment which should be withdrawn from use.

9 Liabilities

- 9.1 Notwithstanding anything to the contrary in these Terms, the liability of VWS under or in connection with these Terms, whether arising from contract, negligence or howsoever will be limited as set out in this Clause 9.
- 9.2 The liability of VWS is unlimited in respect of any liability arising from:
 - a) Death or personal injury caused by the negligence of VWS;
 - b) any proven fraud on the part of VWS.
- 9.3 The aggregate total liability of VWS is limited to £5,000,000 in respect of any claim for loss of, or physical damage to, the Client's tangible property caused by the act or omission of VWS.
- 9.4 In respect of any other liability not otherwise covered by this Clause 9, VWS's aggregate total liability is limited to the greater of the Charges paid in the 12 month period prior to the event which gave rise to the claim and £5,000,000.
- 9.5 VWS will not be liable for any special, consequential or indirect damages, loss of profits (including direct loss of profits), loss of business, loss of revenue, loss of goodwill or loss of anticipated savings arising out of or in connection with the Terms.
- 9.6 The Client accepts that the Charges have been set in relation to the risks being assumed by VWS under the Terms, and that accordingly the limitations on the liability of VWS detailed in this Clause are reasonable.

10 General

- 10.1 Except for any payment obligation imposed on the Client, neither party will be liable for a delay in performing, or for a failure to perform, obligations if that delay or failure is caused by circumstances beyond the reasonable

control of that party including (without limitation) difficulties in obtaining raw materials, labour, fuel, parts or machinery, or any power failure or breakdown in machinery. Failure to procure the compliance of the End User with the requirements of the applicable Terms shall not be deemed circumstances beyond the reasonable control of the Client.

- 10.2 A person who is not a party to the Terms has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these Terms. This does not affect any right or remedy of a third party that exists, or is available, apart from that Act.
- 10.3 The laws of England will govern the Terms, and the Parties submit to the exclusive jurisdiction of the English courts.
- 10.4 If any licence or consent of any government or other authority shall be required for the acquisition or use of the Equipment or Services, the Client shall obtain the same at its own expense and if necessary produce evidence of the same to VWS on demand. Failure to do so shall not entitle the Client to withhold or delay payment of the Charges. Any additional expenses or charges incurred by VWS resulting from such failure shall be for the Client's account.
- 10.5 VWS reserves the right to subcontract the provision of the Services to a suitably qualified engineer, and these Terms shall continue to apply as if the subcontractor were the Engineer.
- 10.6 VWS may assign these Terms to a third party.