

## LIFT SERVICE AGREEMENT 'A'

- 1 An AGREEMENT made this **2010** between:- **Client** hereinafter referred to as the 'Customer' and **Abbey Liftcare Limited** hereinafter referred to as the 'Contractor', for the purpose of undertaking the services connected with plant as described herein. 'Plant' as defined in Clause 5 shall mean any installation or equipment which is the subject of this contract. The Agreement shall in all respects be governed by the Condition of Contract attached hereto.

The service to be provided by virtue of this Agreement shall commence on **TBC 2010**.

The service to be provided under this Agreement will be for an initial period of **TBC years** and continue thereafter subject to the Conditions of Contract.

## 2 PAYMENT

The customer shall pay to the Contractor an annual sum of: **£ POA + VAT** payable in advance. The price is strictly nett and exclusive of value added tax.

## SERVICE TO BE UNDERTAKEN

## 3 THE SERVICES TO BE PROVIDED

The services to be provided under this Agreement consists of:

- (i) Cleaning and oiling and,
- (ii) Inspection and adjustment of the Plant
- (iii) When deemed necessary the submission of a report giving observations and recommendations concerning the condition of the Plant.

## 4 EXCLUSIONS

The following activities are excluded from the scope of the services to be provided under this Agreement:

- (i) Draining and replenishing oil, shortening of ropes, replacement of bulbs, cleaning and polishing cars, doors and enclosures.
- (ii) Any work arising from misuse of the Plant and/or arising as a consequence of interruption to or variation of the incoming power supply.
- (iii) The 'Thorough Examination' and reports required under the Lifting Operations and Lifting Equipment Regulations 1998.

## 5 SCHEDULE OF PLANT **TBC**

**6 SITE**

**TBC**

**7 FREQUENCY OF VISITS**

- (a) The contractor shall send an engineer **12 times (monthly) per annum** during the Contractor's normal working hours.
- (b) Any extra costs incurred in carrying out work outside the Contractor's service visits will be charged as an addition to the Contract Sum. Hourly rates will apply and these will increase for out of normal working hours working.
- (c) If the Contractor is prevented by the Customer from inspecting the Plant on the occasion of a visit, any further visit necessitated thereby will be charged as an addition to the Contract Sum.
- (d) Attendance between the Contractor's regular visits is not included, where required the attached conditions will apply and all calls to attend site will be subject to an additional charge at the Contractor's normal rates.

This AGREEMENT when signed by the Customer and by the Contractor shall constitute the contract and all prior representations, correspondence and agreements shall thereby be superseded.

For the Contractor.....

Date.....

For the Customer.....

Date.....

## CONDITIONS OF CONTRACT

### 1 CONTRACT PRICE ADJUSTMENT

The payment(s) quoted are based on costs current at the date of this Contract and shall be varied in accordance with any rise or fall of such costs from time to time in accordance with the index figures issued by the Lift and Escalator Industry Association.

The price will be subject to further variation in respect of any additional costs, taxes, or other expenditure arising by virtue of any statute, regulations or orders issued by any Government departments or other duly considered authority.

Interest shall be paid on all overdue amounts from the date when payment was due until actually made in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

### 2 GENERAL LIABILITY

The contractor will indemnify the customer against direct damage to it's property or that of others and against death or injury to persons on the customer's premises to the extent that such direct damage to property or death or injury has been caused by the Contractor's failure to carry out it's obligations under the Contract or by the negligence and/or breach of statutory duty of the Contractor or of it's servants or agents in and about the work which is the subject of this Contract, but not otherwise, by making good such damage to property or compensating personal injury.

PROVIDED that:

- (a) The contractor's total liability for damage to the Customer's property (including damage caused by the Contractor's breach of contract, tort or breach of statutory duty) shall not exceed the cost of making good such damage but, in any event shall not exceed £5,000,000 and
- (b) The contractor shall not be liable to the Customer for any loss of profit or any other financial loss whether or not caused by the Contractor's breach of contract, tort, breach of statutory duty or otherwise.

The contractor shall be under no liability for non-fulfilment of any obligation to the extent that this is prevented, frustrated or impeded as a consequence of any statutes, regulations or orders issued by any Government departments or other duly constituted authority or as a consequence of strikes, lock-outs, fire, explosion, theft, floods, riot, civil commotion, war, malicious damage or act of God or for any reasons beyond its control.

### 3 VISITS

Whether included in the contract or not visits will be made as expeditiously as possible. No liability will be accepted for consequences of delay, nor shall this invalidate the Contract.

### 4 SUSPENSION

The Contractor shall have the right, on giving the Customer notice in writing, to suspend its performance under the Contract, without effecting the Customer's obligation to pay the Contract Sum in any on the circumstances contained in Clause 5 and the Contractor shall be relieved of all liability under the Contract during suspension.

On receipt of the payment of all outstanding amounts the Contractor shall resume performance of the Contract.

### 5 CANCELLATION OR TERMINATION

This contract shall subsist for the initial period stated herein and thereafter for subsequent periods of 12 months duration (or as otherwise agreed in writing ) subject to termination by either party giving three months notice prior to completion of such initial or subsequent periods.

Provided that in addition to the provisions mentioned in Clause 2 hereof that the Contractor shall be relieved of all liability under this contract in any of the following circumstances:-

- (a) If the customer fails to pay the Contractor any monies by the due date;
- (b) Where the Contractor is prevented from performing any obligation by any cause beyond his control;
- (c) Where, without the Contractor's prior written consent, such consent not to be unreasonably withheld or delayed, any work upon the Plant within the scope of the Contract is carried out by anyone other than the Contractor's servants or agents;
- (d) Where, after written notice from the Contractor of the need for work or replacements to be carried out which are not included in this Contract, the Customer refuses or fails to carry out the said work and/or make the said replacement;
- (e) Where, in the opinion of the Contractor, the plant is being unreasonably used by the customer;
- (f) The Customer makes a voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation or the Customer generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.
- (g) Failure to comply with the health and safety provisions referred to in Clause 7 and in any of these circumstances, the Contractor may, by notice in writing, forthwith terminate this Contract and thereupon shall cease to have any further liability whatsoever or be responsible for any further work.

Any notice given under this Contract shall be communicated sufficiently if sent by prepaid letter post addressed to either party or that party's agent at his registered office or last known address and shall be deemed to have been received at such time as it should have arrived in the ordinary course of the post.

Where either party is in breach of any material term of this Contract then, if the breach is not remedied within 30 days, the party not in breach may give notice in writing to terminate the Contract.

## **6 IMMOBILIZATION**

If the contractor is of the opinion that the plant is likely to cause injury or damage to property then it shall have the right, but not the obligation, to immobilise the Plant temporarily and/or to take such other temporary measures as are in the circumstances necessary and reasonable providing that at the time or as soon thereafter as is practicable, the Contractor shall give a written notification to the Customer, that the plant is in or is likely to be in such a condition.

No liability shall attach to the Contractor as a result of implementing the foregoing.

## **7 OPERATION**

The Customer shall permit servants or agents of the Contractor to enter upon the premises aforesaid and shall make the said Plant available to them at such time and for such periods as may be necessary for the performance of this Contract. The Customer shall ensure access/egress and working conditions that satisfy the requirements of the Health and Safety at Work Act, etc. and all other relevant legislation.

## **8 LEGAL CONSTRUCTION**

The contract shall in all respects be construed and operate as an English contract and in conformity with English Law.

## **9 THIRD PARTY RIGHTS**

This Contract does not confer or purport to confer any benefit on any third party. In particular, rights that would otherwise arise in favour of third parties under the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.