

# Portable Sanitation Europe Limited Terms and Conditions of Hire, Sale & Supply of Equipment and Services



**\*\* Your attention is drawn in particular to Conditions 14 and 15 which set out Our liability under these Conditions. \*\***

## 1 Interpretation

1.1 In these Conditions :

**You, Your:** means the individual, firm, body corporate or other body who hires the Equipment or whose order for the Equipment is accepted by us.

**We, Us, Our or Ours:** [Fortis Hire Ltd]

**Business:** means either a body corporate, firm or a natural person acting for the purposes that are within their business trade or profession.

**Business Days:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** means the fee(s) payable by You under the Contract for Our provision of the Equipment and Services.

**Conditions:** means the conditions of hire, sale & supply of Equipment and Services together with the Schedules set out in this document and includes any special conditions agreed in Writing between You and Us in the Contract Term Sheet, or as amended by Us in accordance with the provisions of Condition 2.6 from time to time (and "Condition" shall be interpreted accordingly).

**Consumer:** means a natural person who, in entering into the Contract, is acting for purposes that are outside their business, trade or profession.

**Contract:** means the contract for the hire or sale of the Equipment, and/or supply of Services in accordance with these Conditions and the Contract Term Sheet.

**Contract Term Sheet:** the contract term sheet which sets out the key variable details of the Contract including, as applicable, any Deposit, the Hire Period, Charges, quantity and description of the Equipment and/or Services and payment dates, or, if there is none, the record of such details made by Us at the time of taking your order.

**Deposit:** means the deposit, as applicable, as set out in the Contract Term Sheet, against default by You of payment of any Charges or any loss of or damage caused to the Equipment.

**Equipment:** means the equipment which We supply on hire in accordance with these Conditions.

**Hire Period:** the length of time that We shall hire the Equipment to You as set out in the Contract.

**Services:** means the installation, emptying and/or servicing of the Equipment at such intervals as may be agreed in the Contract, including those services specified in Schedules 1 and 2 attached to these Conditions and the Contract Term Sheet.

**Site:** the location where the Equipment is delivered or serviced or otherwise initially located by You.

**Writing:** includes facsimile, electronic transmission and comparable means of communication.

1.2 The headings in these Conditions and Schedules are for convenience only and shall not affect their interpretation.

1.3 Acceptance of Equipment and/or Services on Site implies acceptance of these Conditions.

1.4 References to Conditions and Schedules are to the Conditions and Schedules of these Conditions; and references to paragraphs are to paragraphs of the relevant Schedule.

1.5 Nothing in the Contract shall exclude or limit any of Your statutory rights which may not be excluded or limited due to You acting as a Consumer. Where You act as a Consumer, any provision which is marked with an asterisk (\*) may, subject to determination by the Courts or any applicable legislation, have no force or effect and if any provision is, under the applicable law of the Contract, unenforceable in whole or in part or shall have no force or effect the Contract shall be deemed not to include such provisions, but this shall not affect the enforceability of the remainder of the Contract. For further information about your statutory rights, please contact Your local authority Trading Standards Department or Citizens Advice Bureau.

## 2 Basis of the sale/hire

2.1 Any quotation given by Us shall not constitute an offer, and is only valid for a period of 30 Days from its date of issue.

2.2 Your order constitutes an offer by You to purchase and/or hire the Equipment and/or accept the Services in accordance with these Conditions.

2.3 The order shall only be deemed to be accepted when We confirm in Writing our acceptance of the order at which point and on which date the Contract shall come into existence.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 Where You are a member of Portable Sanitation Europe Limited You agree that any Contract will be made on Our Conditions.

2.6 No variation to these Conditions shall be binding unless agreed in Writing.

2.7 Our employees or agents are not authorised to make any representations concerning the Equipment and/or Services unless confirmed in Writing and any advice or recommendation given by Us to You as to the storage, application or use of the Equipment and/or Services which is not confirmed in Writing is followed or acted upon entirely at Your own risk.

2.8 The Equipment is offered subject to it being available for purchase and/or hire.

2.9 We reserve the right to provide Equipment similar or comparable to that ordered by You.

2.10 We can only take responsibility for the fitness of the Equipment for Your requirements

if You supply Us with full and correct information and if You comply with our written recommendations.

2.11 In the absence of an express request for hot water facilities as part of the Equipment, we will provide cold water facilities only.

## 3 Description

3.1 The quantity and description of the Equipment and/or Services shall be as set out in the Contract.

3.2 All samples, drawings, descriptions, specifications and advertising issued by Us and any descriptions or illustrations contained in Our catalogues or brochures issued or published for the sole purpose of giving an approximate idea of the Equipment and Services described in them and they shall not form part of the Contract or have any contractual force.

3.3 [You acknowledge that We are not an events management company and that] If We advise You of the quantity of Equipment required for an event run by You this will not form part of the Contract.

## 4 Ownership and period of use

4.1 In any hire situation the Equipment shall at all times remain Ours. Unless otherwise agreed in Writing You must not deal with the ownership of, nor sell, sub-hire, abandon or otherwise dispose of the Equipment.

4.2 If You are not a limited liability company, local authority or other public authority then the Contract shall not exceed 3 months and the Equipment must be returned to Us before the Contract expires.

4.3 Subject to Condition 6.1 of these Conditions, the minimum Hire Period (unless We agree in Writing a shorter Hire Period) shall be [4 weeks].

## 5 Charges

5.1 The Charges and dates when such Charges are due for payment are as stated in the Contract, quotation or invoice or as otherwise agreed in Writing with us. Time for payment of the Charges shall be of the essence.

5.2 All Charges are exclusive of VAT and any applicable delivery charges.

5.3 \*We may increase the Charges during the Contract upon giving You 14 days written notice. You are entitled to terminate the Contract within that 14 day period.

5.4 The Charges shall commence on the date stated on the acknowledgement of order, delivery ticket, Contract or if no such date is stated the date upon which the Equipment is made available for collection by or delivery to You.

5.5 You will pay all sums due to Us under the Contract in full by either debit or credit card, direct payment to Our bank, cash or cheque.

5.6 \* You shall pay all sums due to Us without any set-off, deduction, counterclaim and/or any other withholding of money.

5.7 Where the Contract Terms Sheet details a Deposit:

5.7.1 You shall, on the date of the formation of the Contract, pay the Deposit to Us.

5.7.2 if You fail to make any payments due as specified under this Contract, or cause any loss or damage to the Equipment (in whole or in part), We shall be entitled to apply the Deposit against such default, loss or damage; and

5.7.3 the Deposit (or balance thereof) shall be refundable within five (5) Business Days of the end of the Hire Period if and to the extent that it has not been applied against any default, loss or damage as set out in this Condition 5.7.

5.8 No payment shall be deemed to have been received until We have received full and cleared funds.

5.9 The Charges shall continue and be payable for all days (including bank and statutory holidays, Saturday and Sunday) until:

5.9.1 if agreed in Writing by Us to be for a fixed Hire Period duration, the expiry of that Hire Period; or;

5.9.2 in respect of an *off-hire* either:-

5.8.2.1 the collection of the Equipment from the Site; or

5.8.2.2 seven (7) days after We acknowledge an off-hire in Writing by allocating and notifying You of an off-hire number, whichever is the earlier; or

5.9.3 where the provisions of Condition 5.9.1 and Condition 5.9.2 do not apply, either party giving to the other notice in Writing of not less than seven days, such expiry not to be earlier than the end of the minimum period of the Contract as stated in Our acknowledgment of order or Contract or Condition 4.3 above.

5.10 If You do not have an account with us, You must pay Us when You place Your order, or, if We have agreed this with You in Writing, when the Equipment is delivered. Where You hold an account with Us sums must be paid to Us in accordance with the terms of the account held (unless agreed otherwise this will be 30 days from the date You place Your order). In the event that the Charges are specified in the Contract Term Sheet, they shall be payable by You on the terms of the Contract Term Sheet.

5.11 Where You dispute any amount that We have invoiced You, You must notify Us of this within 21 days from date of the invoice. If You fail to do this, the invoice will be deemed to be correct unless You obtain information after this period which shows that this is not the case.

5.12 \* If payment is not made when due We may charge You interest on the amount unpaid, at the rate of 4 per cent per annum above Bank of England's base rate from time to time until payment in full, to include any further costs incurred, is made. Such interest



shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.

- 5.13 \* Notwithstanding Condition 5.12 above, and without limiting any other right or remedy of Ours, We reserve our right to claim interest under the Late Payment of Commercial Debts (interest) Act 1998.
- 5.14 If you fail to make any payment due to Us without just cause then We may withhold the performance of any Services under this Contract. We shall not accept any liability for any costs, charges or losses sustained or incurred by You arising directly or indirectly from Us exercising Our right to withhold Services under any provision of these Conditions.
- 5.15 If any payment is still outstanding after 14 days of becoming due then We reserve the right to enter the Site and collect the Equipment and recover from You any additional costs in recovering the Equipment and/or all professional and administrative costs incurred by Us in the recovery of any unpaid amounts due under a Contract.
- 5.16 Nothing in this Condition 5 shall operate to affect Our rights to recover from You any monies due under the Contract and/or any damages in respect of any breach by You prior to the repossession of the Equipment.

## 6 Cancellation

6.1 If You are a Consumer:

- 6.1.1 You may cancel the Contract at any time without incurring any liability other than the costs of the return of the Equipment, provided that You notify Us of Your intention to cancel within 14 days of the Contract being formed (**Cancellation Period**);
- 6.1.2 where You expressly request that We provide the Services to You during the Cancellation Period, You hereby acknowledge that Your cancellation rights will be lost once We have fully performed the Services; and
- 6.1.3 if, in accordance with Condition 6.1.2, We provide the Services to You during the Cancellation Period and You cancel the Services before they have been fully performed by Us, you shall pay for the supply of the Services for the period for which they have been supplied at the normal Contract rate.

6.2 If you are a Consumer or a Business, You may cancel the Contract prior to the collection or delivery of the Equipment provided that:

- 6.2.1 if You notify Us of Your intention to cancel not less than 6 weeks (42 days) before collection or delivery, You will be obliged to pay 20% of the full amount due under the Contract;
- 6.2.2 if You notify Us of Your intention to cancel between 4 and 6 weeks (28 and 42 days) before collection or delivery, You will be obliged to pay 50% of the full amount due under the Contract;
- 6.2.3 if You notify Us of Your intention to cancel less than 4 weeks (28 days) before collection or delivery, You will be obliged to pay the full amount due under the Contract.
- 6.2.4 The operation of this Condition 6.2 does not affect a Consumer's statutory rights under Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

## 7 Termination of Hire

7.1 If You:

- 7.1.1 expressly or impliedly repudiate the Contract by refusing or threatening to refuse to comply with any of its provisions; or
- 7.1.2 fail to comply with or persistently breach any of the provisions of the Contract and (in the case of a failure capable of being remedied) do not rectify such non-compliance within 14 working days of being served with written notice of such failure; or
- 7.1.3 provide incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract; or
- 7.1.4 convene any meeting of creditors or pass a resolution for winding up or suffer a petition for winding up; or
- 7.1.5 have an administrative receiver or receiver appointed over the whole or part of Your assets or suffer the appointment of an administrator; or
- 7.1.6 being an individual have a bankruptcy order made against You or compound with Your creditors or come to any arrangements with any creditors,

then (and in any such case) We may, without prejudice to any other of Our rights or remedies and without being liable to You for any loss or damage which may be occasioned, give written notice to You terminating this Contract with immediate effect and repossess any or all of the Equipment which is the subject of this Contract or any other contract between You and Us.

7.2 Upon termination of the Contract, You shall immediately return to Us or make available for collection by Us all Equipment in your possession.

7.3 \* Upon termination of the Contract, all payments payable to Us from You shall become immediately due.

7.4 If We exercise our rights to terminate under this Condition 7 We reserve the right to suspend or cancel any account You may hold with Us.

## 8 Delivery and location

- 8.1 Unless otherwise agreed in Writing by Us, You shall collect the Equipment from Our place of business and, in the case of a hire situation, return it to Us at the end of the Contract.
- 8.2 If the Equipment is delivered or collected by Us You will pay Us the costs of collection or delivery. Where We quote collection or delivery charges, these are only in respect

of the time required to load or unload alongside our vehicle at the address You have specified.

- 8.3 Where We have agreed to deliver or collect the Equipment, You shall be responsible for providing Us with the correct address to deliver the Equipment to or collect the Equipment from. Any dates specified by Us for delivery or collection are intended to be an estimate and time for delivery shall not be made of the essence. If no dates are specified, delivery or collection will be within a reasonable time.
- 8.4 We may deliver the Equipment by separate instalments. Each instalment shall be invoiced and paid for in accordance with the Contract. Cancellation or termination of an instalment shall not give You a right to cancel or terminate the overall Contract.
- 8.5 You shall procure that one of Your duly authorised representatives shall be present at the delivery of the Equipment and/or Services. Acceptance of delivery by such representative shall constitute conclusive evidence that You have examined the Equipment and have found it to be in good condition, complete and fit in every way for the purpose for which it is intended. Your duly authorised representative shall sign a delivery note confirming such acceptance. If no such duly authorised representative is present at the time of delivery then You will be deemed to have accepted delivery for the Equipment and/or Services delivered at that time.
- 8.6 You will be responsible for ensuring that the Site is firm and level and there will be free unrestricted, appropriate, and safe access for our delivery and/or service vehicle and Equipment to be delivered, installed, collected, serviced, loaded or unloaded alongside the delivery and/or service vehicle. You are solely liable for any damage or loss caused to the Equipment and any third party's property as a result of this Condition 8.6 not being adhered to.
- 8.7 You will ensure that the Site complies with all health and safety requirements.
- 8.8 You will be liable for any costs or expenses to Us arising from failure to provide such access. You will pay extra for any further time or attendance including any attempt by Us to carry out delivery, collection or servicing in accordance with the Contract which is unsuccessful or delayed due to Your acts or omissions.
- 8.9 Our drivers shall be deemed to be acting under the instruction of You or Your agents when on Site, unless agreed otherwise in Writing. You shall be solely responsible for any instruction, guidance and/or advice given by You or Your agents to our drivers and for any damage which occurs as a result of such persons following Your or Your agent's instructions, guidance and/or advice, except to the extent that the persons performing the Services are negligent.

- 8.10 Where We have agreed to position the Equipment in a specific location, You must have an authorised representative available at the time of delivery to instruct Us regarding that position.
- 8.11 You will be liable to Us for parking fines and penalties and any associated costs and expenses that We incur under the Contract by reason of the Site or location of the Equipment, including but without limitation, where We are required to stop in a 'no parking zone'.
- 8.12 Connection and disconnection of mains Services for use with the Equipment on Site and the suitability of these Services are Your responsibility. You will ensure that any such connection and disconnection is carried out by appropriately qualified persons.
- 8.13 Equipment must not be removed from the Site without our written authority or from any Site We subsequently authorise.
- 8.14 You authorise Us to enter any land or premises where We reasonably believe any Equipment to be, on reasonable notice, in order to make any necessary inspection, test, repair, service, replacement or repossession of it. You shall make the Equipment available to Us during reasonable working hours, for the purpose of inspection, repair, maintenance, replacement or repossession.

## 9 Servicing the Equipment

- 9.1 We shall service the Equipment once per week (**Service Period**), or as otherwise stated in the Contract Term Sheet or agreed in Writing, to allow its continued use in accordance with Our instructions.
- 9.2 We will not be obliged to carry out the Services specified in Condition 9.1 if the Equipment has been moved off the Site and You do not give Us seven (7) days' notice of this, accurately specifying where the Equipment has been relocated to.
- 9.3 Where We do not provide Services because You have failed to notify Us of Your moving the Equipment off the Site We reserve the right to raise an invoice for these Services which will be charged at the normal Contract rate.
- 9.4 If, subsequent to the scenario set out in Condition 9.3, You notify Us of your moving the Equipment off the Site and require Us to perform Services within the same Service Period as the period during which the Services should have taken place had the Equipment not been moved by You without You giving Us notice in accordance with Condition 9.2, We reserve the right to charge You in addition for such Services.
- 9.5 It is Your responsibility to contact Us if weather conditions have affected Your Site. If You do not contact Us to postpone any Services then we reserve the right to raise an invoice for these Services, which will be charged at the normal contract rate. We will not contact You unless We are unable to attend the Site for any reason, including, but not limited to, adverse weather conditions such as freezing temperatures. During adverse weather conditions We make extra effort to get delivery and/or service vehicles road worthy and able to service.
- 9.6 All portable toilets are offered and serviced in accordance with BS6464. We recommend a ratio of 1 toilet to 7 persons where weekly servicing is provided and we accept no liability or claims where this recommendation is not followed.

## 10 Use, Maintenance and Repair

- 10.1 You shall ensure that the Equipment is:
- 10.1.1 properly maintained and kept in good order and condition at all times by You;
- 10.1.2 used in accordance with any relevant instructions, procedures, permissions, licenses, consents or statutory regulations;
- 10.1.3 fixed to the ground so that it cannot be removed or fall over, subject to a Force Majeure



- Event as defined in Condition 16;
- 10.1.4 properly supervised where the young, elderly or mentally or physically impaired (whether temporarily through use of substances or permanently) are or are likely to use the Equipment and if You fail to abide by this Condition You will be responsible for making good any damage or loss to the Equipment and any third party's property which occurs as a result of this failure.
- 10.2 If the Equipment fails to work satisfactorily You must notify Us immediately, ensure that it is not used until We have confirmed that it is fit for use, and must not attempt to repair it unless We agree to this in Writing.
- 10.3 The Equipment must be returned to Us in the same condition as it was when it was delivered to You (except for fair wear and tear and damage resulting from inherent defects). You will be given 48 hours to view the Equipment prior to cleaning and/or repair after We have notified You of any breach of this Condition 10.3. You are responsible for any costs incurred in cleaning or repairing the Equipment (including any lost hire fee revenue or costs of obtaining alternative equipment while the Equipment is out of use).
- 10.4 [Ownership of the waste passes to Us upon collection.]
- 10.5 You shall ensure that any employees, agents or contractors that operate the Equipment are, if applicable, adequately and sufficiently qualified and trained to operate the Equipment in accordance with all current and applicable legislation.
- 10.6 You must not use or allow the Equipment to be used after the termination of the Hire Period. We will be entitled to charge additional Charges and any reasonable expenditure We incur resulting from any such unauthorised use.
- 10.7 You will not remove, deface, alter or cover up our name plate or mark on the Equipment which indicate that it is our property.
- 10.8 You will not remove, deface, alter or cover any notices giving warnings, information or instructions about the use of the Equipment.
- 10.9 You will comply with any obligations imposed on You in the Schedules attached to these Conditions.
- 11 Your responsibility for the Equipment and its insurance**
- 11.1 Risk in the Equipment passes at the time of delivery by Us and, in the case of a hire, does not pass back until it is collected by or returned to Us and We have issued an unqualified receipt for it. If You collect the Equipment, risk will pass at that point and, in the case of a hire, will pass back to Us once You return it or We collect it and We have issued an unqualified receipt.
- 11.2 The Equipment shall be insured, with an insurance company approved in Writing by Us, against all risks at a full new for old replacement value by You and our interest shall be noted on the policy. If there is a payment as a result of a claim under such policy then the payment is to be made to us, and will be held by You in a separate bank account on trust for Us until this occurs.
- 11.3 In addition to being responsible for the replacement value You are also responsible for any lost Charges and reasonable costs (including but not limited to having to obtain Equipment to comply with other hire contracts) that We suffer as a result of the Equipment not being available for Us to hire.
- 11.4 You shall not do or omit to do anything which You have been notified will or may be deemed to invalidate any policy of insurance related to the Equipment.
- 11.5 It is Your responsibility to ensure that the Equipment is installed in a position on the Site where hot water is available in the vicinity if it is not included as part of the Equipment.
- 11.6 You must take all reasonable, adequate and proper measures to protect the Equipment from theft, vandalism and any other loss or damage including, but not limited to, damage caused by adverse weather conditions such as frost.
- 11.7 You must not suffer or permit the Equipment to be confiscated, seized or taken out of Your possession or control under any distress, execution or other legal process. If the Equipment is so confiscated, seized or taken, You shall notify Us and use Your best endeavours to procure the immediate release of the Equipment.
- 11.8 It is Your responsibility to ensure that all contamination (including but without limitation, needles, sharps and other waste products) is removed from the Equipment before it is returned, collected or serviced by us. In the event that You fail to comply with this provision, You will continue to pay Us the Charges until such time as the contamination is removed and the Equipment returned to Us in a clean state.
- 12 Our and Your responsibility for testing and compliance with laws**
- 12.1 We will ensure that all Equipment is safe for use on the date that it is delivered to (or collected by) You. We will also ensure that any necessary testing has taken place prior to delivery (or collection by You).
- 12.2 You are responsible for ensuring that any checks, testing (including, but not limited to, PAT testing) and examinations of the Equipment required by Employment and Health & Safety legislation and/or any operating instructions We provide are carried out after delivery. You will also be responsible for any liability incurred by Us as a result of Your failure to perform such checks and testing after this date.
- 12.3 It is Your obligation to have registered Gas Safe Register gas engineers and registered electricians providing any relevant service.
- 12.4 It is Your obligation to ensure that all persons using the Equipment are fully aware that the water provided as part of the Equipment and/or Services is non-drinking water.
- 12.5 From time to time You may, to comply with Health & Safety legislation, or indeed for any other reason, require additional Equipment and/or Services, the latter including but not limited to additional waste removal, an increase in the frequency of the Services and an increase in the number of site attendants. You may request such additional Equipment and/or Services from Us by submitting an order in accordance with Condition 2. Where a request for additional Equipment and/or Services is accepted by Us, the provision of such Equipment and/or Services will be provided subject to these
- Conditions.
- 13 Indemnity**
- 13.1 \* You shall indemnify Us against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Us arising out of or in connection with:
- 13.1.1 \* any breach of Your obligations under these Conditions, including, but not limited to, Your obligation to keep the Equipment properly maintained and in good order and condition at all times and Your obligation not to suffer or permit the Equipment to be confiscated, seized or taken out of Your possession;
- 13.1.2 \* Your breach or negligent performance or non-performance of these Conditions;
- 13.1.3 \* the enforcement of these Conditions;
- 13.1.4 \* any claim made against Us by a third party, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Conditions by You, Your employees, agents or subcontractors;
- 13.1.5 \* any claim made against Us by a third party for death, personal injury or damage to property arising out of or in connection with defective or unmaintained Equipment, to the extent that the defect in or lack of maintenance in respect of the Equipment is attributable to the acts or omissions of You, Your employees, agents or subcontractors.
- 13.2 This indemnity shall not cover Us to the extent that a claim under it results from Our negligence or Our wilful misconduct.
- 13.3 If any third party makes a claim, or notifies an intention to make a claim, against Us which may reasonably be considered likely to give rise to a liability under this indemnity (a **Claim**), We shall:
- 13.3.1 as soon as reasonably practicable, give written notice of the Claim to You, specifying the nature of the Claim in reasonable detail;
- 13.3.2 not make any admission of liability, agreement or compromise in relation to the Claim without Your prior written consent (such consent not to be unreasonably conditioned, withheld or delayed), provided that We may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to You, but without obtaining Your consent) if We believe that failure to settle the Claim would be prejudicial to the Claim in any material respect;
- 13.3.3 give You and Your professional advisers access at reasonable times (on reasonable prior notice) to Our premises and Our officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within Our power or control, so as to enable You and Your professional advisers to examine them and to take copies (at Your expense) for the purpose of assessing the Claim; and
- 13.3.4 subject to You providing security to Us to Our reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as You may reasonably request to avoid, dispute, compromise or defend the Claim.
- 13.4 \* If a payment due from You under this Condition 13 is subject to tax (whether by way of direct assessment or withholding at its source), We shall be entitled to receive from You such amounts as shall ensure that the net receipt, after tax, to Us in respect of the payment is the same as it would have been were the payment not subject to tax.
- 14 Warranties and Our liability**
- 14.1 We warrant that the Equipment is in good working order.
- 14.2 Should any defect occur in the Equipment, other than one for which You are responsible, We will at our option either replace or repair the Equipment (at no charge to You) as soon as is reasonably practicable.
- 14.3 \* We shall not replace, repair or service any Equipment until any outstanding Charges have been paid.
- 14.4 We shall not be liable to You for defective Equipment if You have continued to use such Equipment after the defect had become apparent or been suspected or should reasonably have become apparent to or been suspected by You.
- 14.5 We shall not be liable to You for:
- 14.5.1 any delays in availability or delivery (whether or not in circumstances where We have accepted responsibility for delivery) of Equipment caused by matters beyond our control; or
- 14.5.2 any damage caused to any paving, ground surfaces, vehicles, building or other feature on Site, during delivery, servicing or collection, whilst acting under the instruction of You or Your agents or where delivery is made without instruction in accordance with Condition 8.9; or
- 14.5.3 any loss or damage arising from where only cold water facilities are provided as part of the Equipment and You have not, for any reason whatsoever, complied with Your responsibility under Condition 11.5.
- 15 Other terms and limits on liability**
- 15.1 \* Subject to Condition 14.5, all warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.
- 15.2 We do not limit or exclude our liability for:
- 15.2.1 death or personal injury resulting from our negligence;
- 15.2.2 fraud or fraudulent misrepresentation; or
- 15.2.3 any matter in respect of which it would be unlawful for Us to exclude or restrict liability.



- 15.3 \* Subject to Condition 15.4, if We are found liable in respect of any loss or damages to Your property the extent of our liability will not exceed the retail cost of replacement of the damaged property or £1,000,000, whichever is the lesser. However, We are not responsible for the cost of repairing any pre-existing faults or damage to your property that We discover in the course of installation and/or performance by Us.
- 15.4 We will not have any liability to You for any:
- 15.4.1 \* loss of profit;
- 15.4.2 \* consequential losses (including any loss of profits and/or damage to goodwill);
- 15.4.3 economic and/or other similar losses;
- 15.4.4 special damages and indirect losses;
- 15.4.5 business interruption, loss of business and/or opportunity;
- 15.4.6 delay in availability or delivery (where We are responsible for delivery) of the Equipment.
- 15.5 If you are a Consumer, We only supply the Equipment and/or Services for domestic and private use. You agree not to use the Equipment and/or Services for any commercial, business or re-sale purpose, and We have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 15.6 \* Subject to Conditions 15.3 and 15.4, Our total liability to You (including any liability for the acts or omissions of Our employees, agents and subcontractors) under and/or arising in relation to any Contract shall not exceed 5 times the amount of the Charges for the Equipment under the Contract or the sum of £1,000 whichever is the higher. If any liability of Us to You would be met by any insurance that We hold then our liability shall be extended to the extent that such liability is met by such insurance.
- 15.7 \* Each of the limitations and/or the exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:
- 15.7.1 liability for breach of contract;
- 15.7.2 liability in tort (including our negligence);
- 15.7.3 liability for breach of statutory duty;

except Condition 15.6 above, which shall apply only once in respect of all of these types of liability.

## 16 Force Majeure

- 16.1 Neither party will be liable to the other for breach of these Conditions caused by circumstances beyond the reasonable control of the other party, including, but without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials (a **Force Majeure Event**).
- 16.2 If a Force Majeure Event continues for a continuous period in excess of 30 days, We shall be entitled to give notice to You to terminate the Contract with immediate effect.

## 17 General

- 17.1 \* No waiver by Us of any breach of the Contract by You shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.2 In the event that any provisions in the Schedule of Equipment conflict with the provisions of these Conditions, the provisions of the Conditions shall prevail.
- 17.3 You shall not transfer any of Your rights or obligations under these Conditions to another person without Our prior written consent. We can transfer all or any of Our rights and obligations under these Conditions to another organisation, but this will not affect Your rights under these Conditions.
- 17.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 17.5 A person who is not party to this Contract shall not have any rights under or in connection with it under the Contracts (Rights of Third Parties) Act 1999.
- 17.6 Any dispute arising under or in connection with these Conditions or the hire of the Equipment shall be subject to the jurisdiction of the English Courts.
- 17.7 This Contract is governed by and interpreted in accordance with the law of the country where the Supplier is located and that country will have exclusive jurisdiction in relation to this Contract.

## Schedule 1 - Toilets

### 1. Removal of Waste

- 1.1. You are responsible for all the waste that enters the holding tanks.
- 1.2. We will only remove pumpable non-inert waste that is classified under the European Waste Catalogue Code 16 10 02.
- 1.3. All other waste will be charged as a full load of chargeable and disposable waste.
- 1.4. If any waste other than non-inert waste is deposited in the tank, then We shall only remove such waste after We determined the nature of the waste and confirmed Our willingness to remove the waste.

### 2. Access

- 2.1. Where We arrive at the Site to load or unload the Equipment and/or perform the Services and believe the ground to be unsuitable for doing so, You shall supply and lay timbers or appropriate temporary foundations in a suitable position for loading and unloading and for the Equipment to rest on.

- 2.2. If You are unsure whether the Site is suitable for delivery, You are obliged to notify Us and We will arrange a Site visit prior to delivery.

### 3. Connections of Mains Service

- 3.1. You are responsible for the connection and disconnection of mains services on the Site.

### 4. Loading and Unloading

- 4.1. The costs of any lifting or special operators required for the siting of the Equipment shall be borne by You.

## Schedule 2 – Vacuum Tankers

### 1 Removal of Waste

- 1.1 We will only remove waste that is non-hazardous wet waste from a domestic source that is classified under the European Waste Catalogue Code 16 10 02 or 20 03 04.
- 1.2 Any cess or sewerage waste that We agree to collect must be pumpable and non-hazardous, and it is the waste producer's responsibility to ensure that this is the case.
- 1.3 Hazardous waste (other than sewage) is to be sampled prior to collection by Us.
- 1.4 If You have not complied with this paragraph 1 We may notify the Environment Agency or Water Authorities accordingly.

### 2 Access

- 2.1 Where tanker drivers consider that the Site is unsuitable and may cause damage to the tanker or other equipment owned by Us, they may refuse to enter the Site.
- 2.2 If the unsuitability or inaccessibility of a Site means we cannot collect the waste, We will charge You for the Services at the normal Contract rate as if they had been carried out.

### 3 Waiting Charges

- 3.1 We allow 1 hour on Site for waste removal from cess pits, septic tanks, and toilet block tanks. We will charge You for any time in addition to the 1 hour stated above at the normal Contract rate.
- 3.2 You must notify Us of the period a vacuum tanker is required for if this period will be longer than 1 hour.

### 4 Prices

- 4.1 Tankers required outside the operating hours of 8.00am - 5.00pm Monday to Friday, will be charged at 150% of the normal Contract rate.
- 4.2 Tankers required on a Sunday will be charged for at 200% of the normal Contract rate.
- 4.3 We will also charge You an additional 2 hours for delivery and collection of the tanker.
- 4.4 We shall charge for waste as either weak waste or standard waste, depending on the waste disposal Site readout. We will provide You with a copy of any waste disposal readouts if You request one.
- 4.5 Regardless of what the actual waste removal is, Our rates are based on 700 gallons of waste removal.

### 5 Environmental Issues

- 5.1 We accept no liability for any environmental issues caused by overflowing tanks.

### 6 Final Empties

- 6.1 Upon performing a final empty We will produce final empty documentation for You to check and sign to indicate that You agree that We have emptied the waste tanks so far as is possible.
- 6.2 Call outs to tanks that have already had final empty documentation signed and completed will be charged at the full rate.
- 6.3 You must ensure that somebody is available to check and sign the final empty documentation at the place where the final empty is carried out.
- 6.4 If You do not comply with paragraph 6.3, We may sign the final empty paperwork on Your behalf.

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