

STANDARD TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES BY CRAGGS ENVIRONMENTAL LIMITED (“CEL”)

1. INTERPRETATION

1.1 In these Conditions, the following definitions and rules of interpretation apply:

Affiliates: any parent undertakings or subsidiary undertakings of CEL from time to time, (“parent undertaking” and “subsidiary undertaking” having the meanings given to them in section 1162 of the Companies Act 2006), and any agent, consultant, or sub-contractor engaged by CEL in providing the Services.

CEL: Craggs Environmental Limited registered in England and Wales (company number 08612945) whose registered office is at The Craggs Country Business Park, New Road, Cragg Vale, Hebden Bridge West Yorkshire HX7 5TT, United Kingdom.

Charges: the charges payable by the Customer for the supply of the Services in accordance with paragraph 5.

Commencement Date: has the meaning set out in paragraph 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with paragraph 12.2.

Contract: the contract between CEL and the Customer for the supply of Services in accordance with these Conditions formed in accordance with paragraph 2.

Customer: the person, firm or corporation for whom the Services are provided by CEL and any references to Customer in the Contract shall include those acting on its behalf.

Force Majeure Event: has the meaning set out in paragraph 12.1.

Laws: the laws, regulations, guidance, codes of practice, decisions of any courts and common laws (including but not limited to those (if any) listed in the Specification) that are applicable to (i) the Services in the jurisdiction in which they are provided, (ii) the operations and activities of the Customer in the jurisdiction in which they are undertaken, and (iii) the activities of the person or business to whom the Materials are being delivered.

Material: any fuel, including diesels, gas oil or kerosene that CEL is providing the Services in respect of, details of which are set out in the Specification.

Order: the Customer's order for Services as set out in the Customer's written acceptance of the Specification-and/or the Purchase Order.

Purchase Order: the order raised by CEL following the Customer's written acceptance of the initial Specification.

Restricted Businesses: businesses that CEL is utilising in order to provide the Services to the Customer.

Services: the services to be supplied by CEL to the Customer as set out in the Specification (including, but not limited to, fuel sampling, fuel uplift and transfer, fuel cleaning, tank telemetry, tank installation and decommissioning), and other services relating to the hire of temporary mobile and static bulk storage tanks as set out in the Specification (which may include but is not limited to the delivery and/or collection of the tanks).

Specification: the written proposal or specification of the Services provided by CEL to the Customer.

1.2 a reference to any Law is a reference to such Law as amended or re-enacted. A reference to a Law includes any subordinate law made under that Law as amended or re-enacted;

1.3 words in the singular shall include the plural and vice versa; and

1.4 a reference to **writing** or **written** includes e-mails.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Customer issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 The Contract (including the Specification, the Order, the Customer's acceptance and these Conditions) constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of CEL which is not set out in the Contract.

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

2.5 Any quotation given by CEL shall not constitute an offer, and is only valid for a period of 28 days from its date of issue.

3. SUPPLY OF SERVICES

3.1 CEL shall:

- (a) supply the Services to the Customer in accordance with the Specification in all material respects;
- (b) use all reasonable endeavours to meet any performance dates specified in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services;
- (c) have the right to make any changes to the Services which are necessary to comply with any applicable Law or safety requirement, or which do not materially affect the nature or quality of the Services, and CEL shall notify the Customer in writing of any such changes;
- (d) obtain and maintain all necessary licences, permissions, consents and exemptions which CEL is required to hold further to any applicable Laws to enable the lawful provision of the Services;
- (e) provide the Services in accordance with any applicable Laws.

3.2 CEL warrants to the Customer that the Services will be provided using reasonable care and skill.

3.3 Ownership of, title to and risk in the Materials shall:

- (a) remain with CEL until the Materials have been accepted in accordance with applicable Laws by the Customer. Following such acceptance ownership of, title to and risk in the Materials shall pass to Customer. If the Customer refuses to accept the Materials then for the avoidance of doubt ownership of, title to and risk in the Materials shall remain with CEL until the Materials are accepted (if at all); or
- (b) remain with the Customer until the Materials have been removed in accordance with applicable Laws by CEL or its Affiliates. Following such removal ownership of, title to and risk in the Materials shall pass to CEL or its Affiliates. If CEL or its Affiliates refuse to remove the Materials then for the avoidance of doubt ownership of, title to and risk in the Materials shall remain with the Customer until the Materials are removed (if at all).

3.4 CEL gives no warranty whether express or implied in relation to title in the Materials and/or their condition, content, quality or their fitness for purpose.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) comply with all applicable Laws;
- (b) ensure that the terms of the Order and any information it provides in the Specification or otherwise are complete and accurate;
- (c) provide CEL with such information and materials as CEL requires in order to provide the Services in accordance with any applicable Laws, and ensure that such information is complete and accurate;
- (d) immediately notify CEL of any change in circumstance whether before, during or after the provision of the Services which means that the terms of the Order and any information, or materials provided to CEL are incomplete and/or inaccurate;
- (e) co-operate with CEL in all matters relating to the Services;
- (f) provide CEL, its Affiliates and their vehicles and equipment, with access to the Customer's premises, office accommodation and other facilities as reasonably required by CEL;
- (g) ensure that the Materials are stored appropriately in accordance with applicable Laws, and that the Materials are available for collection in accordance with the terms of the Order and as required by the Specification;
- (h) ensure that all Materials are of a type, character, and quantity provided for in the Specification;
- (i) in accordance with applicable Laws and as required by CEL allow CEL at its discretion to take a sample/s of the Material and/or at CEL's request provide CEL with such a sample/s for it to analyse;
- (j) notify CEL in advance of the provision of the Services of any particular requirement of the Customer or any other party benefiting from the Services relating to any safety requirement concerning the provision of the Services;

- (k) to the extent provided in the Specification and as required by applicable Laws obtain, maintain and provide to CEL before the date on which the Services are to start and on request from CEL copies of all necessary licences, permissions, consents, exemptions, certificates and other information which may be required further to any applicable Laws to enable the lawful provision of the Services;
- (l) ensure that those to whom the Materials are being delivered observe the Contract and its requirements, including but not limited to co-operating with CEL in all matters relating to the Services and complying with all applicable Laws;
- (m) be obliged to immediately take back the Materials if for any reason including but not limited to any Force Majeure Event, breach of Contract by the Customer and/or failure by the person to whom the Materials are being delivered and/or further to applicable Laws CEL is prevented from and/or is unable to provide the Services;
- (n) in the event the Customer is unable to take the Materials back further to paragraph 4.1(m), the Customer shall use its best endeavours to immediately put in place alternative arrangements for the storage, treatment, handling, processing and/or disposal of the Materials and shall immediately notify CEL of the same; and
- (o) maintain adequate insurance cover to meet all claims against the Customer and liabilities of the Customer that may arise under the Contract.
- 4.2 CEL reserves the right in its absolute discretion to:
- (a) refuse to provide the Services in the event that the Materials do not in any way match the description in the Specification and/or they may give rise to any non-compliance with applicable Laws; and
- (b) to employ any Affiliates for the purpose of providing the Services. Any duties or obligations which are owed by the Customer to CEL shall also extend to any such Affiliates.
- 4.3 The Customer shall be liable to reimburse CEL or its' Affiliates for any damage caused to CEL's or its' Affiliates vehicles and/or equipment in the provision of the Services provided that such damage is not caused by CEL or its' Affiliates.
- 4.4 If CEL's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation, or due to a breach of the Contract by the Customer (**Customer Default**):
- (a) CEL shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays CEL's performance of any of its obligations; and
- (b) CEL shall not be liable for any costs, charges, expenses, losses or liabilities sustained or incurred by the Customer arising directly or indirectly from CEL's failure or delay to perform any of its obligations under the Contract;
- 4.5 The Customer hereby covenants to pay CEL on written demand (in addition to the Charges) an amount equal to any costs, charges, expenses, losses or liabilities sustained or incurred by CEL arising directly or indirectly, whether they are consequential, economic, financial or otherwise, from the Customer Default. This paragraph 4.5 shall survive termination of the Contract.
- 5. CHARGES AND PAYMENT**
- 5.1 The Charges for the Services are set out in the Specification.
- 5.2 CEL reserves the right to increase the Charges to reflect any additional costs that it reasonably incurs in providing the Services.
- 5.3 CEL shall invoice the Customer monthly in arrears.
- 5.4 The Customer shall pay each invoice submitted by CEL within 30 days of the date of the invoice in full and in cleared funds to CEL's bank account detailed in the Specification and time for payment shall be of the essence of the Contract.
- 5.5 Unless otherwise clearly specified all amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT) or any other applicable tax or charge. Where any taxable supply for VAT purposes is made under the Contract by CEL to the Customer, or any other tax or charge is imposed on the Materials and/or the provision of the Services, on receipt of a valid VAT invoice from CEL, or an invoice for the other applicable taxes and/or charges, pay to CEL such additional amounts at the same time as payment is due for the supply of the Services. In the event that CEL notifies the Customer of these additional amounts after the Customer has paid for the Services, the Customer shall pay the additional amounts within 30 days of receiving an invoice for the additional amount in the manner prescribed in paragraph 5.4.
- 5.6 If the Customer fails to make any payment due to CEL under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per cent per annum above the Barclays Bank Plc base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the whole overdue amount, whether before or after judgment. The Customer shall pay the interest together with the whole overdue amount.
- 5.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). CEL may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by CEL to the Customer.
- 6. INTELLECTUAL PROPERTY RIGHTS**
- 6.1 All intellectual property rights howsoever arising in connection with the Services shall be owned by CEL and shall remain in the ownership of CEL.
- 6.2 The Customer acknowledges that, in respect of any third party intellectual property rights, the Customer's use of any such intellectual property rights is conditional on CEL obtaining a written licence from the relevant licensor on such terms as will entitle CEL to license such rights to the Customer.
- 7. CONFIDENTIALITY**
- 7.1 The Customer shall keep in strict confidence and not use for its own or anyone else's benefit or advantage all technical or commercial know-how, specifications, inventions, details, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by CEL, or its Affiliates, and any other confidential information concerning CEL's business, its products and services which the Customer may obtain (**Confidential Information**). The Customer shall only disclose such Confidential Information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Customers obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this paragraph as though they were a party to the Contract. The Customer may also disclose such of CEL's Confidential Information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 7.2 In order to protect the Confidential Information and business connections of CEL to which the Customer has had access as a result of the Services and further to this Contract, the Customer covenants with CEL that it will not while this Contract is in existence and for a period of 6 months following its expiry and/or termination solicit or endeavour to entice away or contract or engage with any Restricted Business with a view to providing services to or procuring services from any Restricted Business that are the same as or similar to the Services.
- 7.3 This paragraph 7 shall survive termination of the Contract.
- 8. LIMITATION OF LIABILITY**
- 8.1 Nothing in these Conditions shall limit or exclude CEL's liability for death or personal injury caused by its negligence, or the negligence of its Affiliates, or any fraud or fraudulent misrepresentation.
- 8.2 Subject to paragraph 8.1:
- (a) CEL shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential or economic or financial loss arising under or in connection with the Contract; and
- (b) CEL's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the Charges.
- 8.3 All warranties, conditions and other terms implied into this Contract by applicable Law, including any Incoterms are, to the fullest permissible extent, excluded from this Contract.
- 8.4 This paragraph 8 shall survive termination of the Contract.
- 9. TERMINATION**
- 9.1 Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party one month's written notice.
- 9.2 In the event that the Customer terminates the Contract on less than one month's written notice then the Customer shall indemnify and hold CEL harmless in respect of any loss, liability, damage, costs and expenses (including, without limitation, legal costs) suffered or incurred by CEL under the Contract whether such costs and expenses were suffered or incurred with the Customer, or otherwise.
- 9.3 Without limiting its other rights or remedies, CEL may terminate the Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of being required in writing to do so;

- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
 - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer or if an individual is the subject of a bankruptcy petition or order;
 - (e) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
 - (g) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
 - (i) any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in paragraph 9.3(b) to paragraph 9.3(h) (inclusive);
 - (j) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
 - (k) the financial position of the Customer deteriorates to such an extent that in CEL's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.4 Without limiting its other rights or remedies, CEL may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.
- 9.5 Without limiting its other rights or remedies, CEL may suspend provision of the Services under the Contract or any other contract between the Customer and CEL if the Customer becomes subject to any of the events listed in paragraph 9.3(b) to paragraph 9.2(k), or CEL reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

10. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to CEL all of CEL's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, CEL shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) paragraphs which expressly or by implication survive termination shall continue in full force and effect.

11. NOTICES

- 11.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this paragraph, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
- 11.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in paragraph 11.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one working day after transmission.
- 11.3 The provisions of this paragraph shall not apply to the service of any proceedings or other documents in any legal action.

12. GENERAL

12.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of CEL including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of CEL or any other party), failure of a utility service or transport network or service, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of CEL's Affiliates.
- (b) CEL shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents CEL from providing any of the Services for more than four weeks, CEL shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

12.2 **Variation:** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by CEL.

12.3 Assignment and other dealings:

- (a) CEL may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of CEL, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

12.4 Severance:

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this paragraph shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.5 **Waiver:** A waiver of any right under the Contract or applicable Law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.6 **Bribery:** The Customer and CEL shall at all times comply with all applicable Laws relating specifically to anti-bribery and anti-corruption.

12.7 **Third parties:** A person who is not a party to the Contract shall not have any rights to enforce its terms.

12.8 **No partnership or agency:** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

12.9 **Dispute resolution:** If a dispute arises in connection with this Contract CEL's managing director and the Customer's equivalent shall within 14 days of a written request from one party to the other meet in good faith in order to resolve the dispute. If the dispute is not resolved, the parties will attempt to resolve it by mediation in an appropriate forum agreed on by both parties. The commencement of mediation will not prevent the parties commencing or continuing court proceedings.

13. GOVERNING LAW AND JURISDICTION

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England, and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).