

## **Frontier Pitts Middle East Maintenance Contracts T&C**

Supply of Services: Standard Terms & Conditions

Parties:

1- **"Frontier Pitts Middle East"** Registered company in Abu Dhabi Under licence CN-4162890 and in Fujairah Free Zone Under licence 16126/2020.

2- **'The Customer'**: whose details are set out in Schedule 1.

Recitals:

(A) The Customer is the owner, controller or operator of the Equipment (as detailed in the Asset Register).

(B) The Customer wishes Frontier Pitts Middle East to provide a repair and maintenance and advisory service in relation to the Equipment and Frontier Pitts Middle East is willing to supply the same on the terms and conditions of this Agreement.

Operative provisions:

1. Interpretation

1.1. In this Agreement, unless the context otherwise requires:

'ADDITIONAL SERVICE(S)' means any services that the Customer instructs Frontier Pitts to carry out on its behalf (where Frontier Pitts has accepted those instructions) which are not included in the Basic Service, in return for the Charges associated with those

Additional Services.

'AUTHORISED EMPLOYEE' means the Customer's employees who are authorised by the Customer to act on its behalf, as notified to Frontier Pitts Middle East (as amended from time to time).

'ASSET REGISTER' means the document detailing the Equipment and related information, an agreed form attached to this agreement at Schedule 2 as amended from time to time and notified to Frontier Pitts Middle East.

'BASIC SERVICE' means the service to be provided pursuant to Schedule 1.

'CHARGES' means the fees including professional fees, any expenses or disbursements arising from carrying out services on the Customer's behalf.

'COMMENCEMENT DATE' shall be the date that from which Frontier Pitts Middle East agrees to provide the services detailed under this Agreement.

'CONTRACT OPTIONS' means the menu of Basic Services and Additional Services that Frontier Pitts Middle East may make available to the Customer as set out in Schedule 3 as amended from time to time.

'EQUIPMENT' means the equipment the description and location of which are shown in the Asset Register (as amended from time to time).

'EXCLUDED SERVICES' the services set out in clause 4 which do not form part of the services to be provided by Frontier Pitts Middle East to the Customer.

'FORCE MAJEURE' means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation, any strike, lock-out or other industrial action).

'LIABILITY' means any liability arising by reason of any representation (unless fraudulent), or any breach of any implied term or any duty at common law, or under any statute, or under any express term of this Agreement.

'LOCATION' means the location of the Equipment as set out in the Asset Register.

'LOSS' means, in relation to the Customer, any loss (whether loss of profit or otherwise), damages, costs or other compensation and any legal or other expenses which is or are awarded against or incurred by or paid or agreed to be paid in settlement of any claim by the Customer, however the same may arise and whether occasioned by the negligence of Frontier Pitts Middle East, its employees or agents or otherwise.

'NORMAL WORKING HOURS' means the hours of 8.00 am to 6.00 pm (inclusive) on any Working Day (As per UAE Law).

'PAYMENT SCHEDULE' means the rates and due date for payment of Fees as set out in Schedule 4.

'WORKING DAY' means any day other than Saturday or Sunday or a Bank or Public Holiday.

1.2. The headings in this Agreement are for convenience only and shall not affect its interpretation.

## 2. Services to be provided

2.1. During the continuance of this Agreement, Frontier Pitts Middle East shall provide the Basic Service to the Customer in respect of the Equipment, along with any Additional Service as set out in the agreement

2.2. The Basic Service shall consist of Frontier Pitts Middle East providing the number of site visits as set out in Contract Options.

2.3. Site visits shall be carried out by one of Frontier Pitts' Middle East suitably qualified engineers ('Engineer') attending at the Location at such times during Normal Working Hours as may be agreed in advance between Frontier Pitts Middle East and the Customer.

2.4. If the Engineer discovers a defect in or malfunction of the Equipment in the course of the site visit, the Engineer will advise the Customer of the same and advise as to any proposed repair work. If the Engineer has the necessary spare or replacement parts and has sufficient time to carry out the repairs during the course

of a site visit then such repairs may be carried out there and then, subject to the Customer's consent.

2.5. Where such routine maintenance or repairs are carried out during a site visit (as envisaged by clause 2.3 of the Agreement) then the Customer will not be additionally invoiced for the time spent traveling to and from the location. For the avoidance of doubt the Customer shall pay to Frontier Pitts Middle East its charges for the repairs on a time and materials basis.

2.6. Where such Equipment (or ancillary equipment plant or machinery) does not conform to reasonably acceptable health and safety standards, Frontier Pitts Middle East may take minimal remedial action in the absence of Customer instruction to ensure that the Equipment does not pose a risk to users or third parties.

2.7. Where routine maintenance or repairs are required, which does not form part of the Basic Service then the Customer shall pay to Frontier Pitts Middle East its charges on a time materials and expenses basis.

2.8. Frontier Pitts Middle East will carry out any necessary adjustments to the Equipment, provided the same are not part of the Excluded Service.

2.9. If the Customer informs Frontier Pitts Middle East that the Equipment is malfunctioning or has failed or is otherwise not in Good Working Order, Frontier Pitts Middle East shall use reasonable endeavours to:

- (i) to attend at the Location during Normal Business Hours within the relevant Response Time; and
- (ii) perform additional services to correct the Equipment within an agreed fix time.

2.10. On the Customer informing Frontier Pitts Middle East outside of Normal Business Hours that the Equipment is malfunctioning, has failed or is not in Good Working Order, Frontier Pitts Middle East shall use reasonable endeavours to:

- (i) attend at the Location within a reasonable time; and
- (ii) provide additional emergency maintenance services to the Equipment, which will be charged at the Additional Services Charges for each of the Engineers reasonably required to attend the Location. Any additional charges shall be calculated from when the personnel arrive at the Location until they leave the Location.

2.11. In performing the Additional Services, Frontier Pitts Middle East shall use reasonable endeavours to restore any malfunctioning or failed Equipment to Good Working Order while in attendance at the Location. Where this is not reasonably practicable, or not reasonably practicable within Normal Business Hours Frontier Pitts Middle East shall either arrange for a further visit to the Location within Normal Business Hours to complete the repair, or remove the Equipment or part of the Equipment for repair off-site.

2.12. All reports of defects in or malfunctions of the Equipment must be made by sending an email to our service department.

2.13. Frontier Pitts Middle East shall ensure that its employees comply with the Customer's reasonable health and safety and security policies in force at the Customer's premises which have been brought to the attention of such representatives.

2.14. The maintenance contract invoice includes the Response Time and the Maintenance visit of the contract and the customer is required to pay the invoice in full by stated date on invoice whether or not the maintenance visit has been completed for that period or not.

### 3. Spare parts and replacements

3.1. Frontier Pitts Middle East shall use reasonable endeavours to supply minor spare parts and replacement components required to maintain the Equipment in good working order. Frontier Pitts Middle East may (at its discretion) charge the Customer for any spare parts. Where the Equipment, or any part thereof, was originally supplied and/or installed by a third party then Frontier Pitts Middle East cannot guarantee to be able to supply the necessary spare parts or replacement components. The Customer is recommended to hold adequate stocks of recommended parts to facilitate necessary repairs.

3.2. All spare parts and replacement components supplied by Frontier Pitts Middle East shall become part of the Equipment and any parts and components removed from it shall no longer form part of the Equipment and shall become Frontier Pitts Middle East' property, unless otherwise agreed in writing between the parties.

3.3. If Frontier Pitts Middle East determines that it is necessary to move the Equipment or any part of the Equipment from the Location in order to carry out any repairs, and as a consequence a significant part of the Customer's operations are affected, Frontier Pitts Middle East shall use all reasonable endeavours to supply on loan to the Customer equivalent equipment while the Equipment or the part in question is being repaired.

### 4. Excluded Services

The services detailed in clauses 4.1 – 4.10 inclusive do not form part of either the Basic Service, the Warranty Upgrade, Standard, Fully Comprehensive or Extended Warranty Contracts. Such Excluded Services may however be undertaken by Frontier Pitts Middle East subject to renegotiation of suitable terms and conditions with the Maintenance Department.

4.1. Repair of any design defect or malfunction which is due to faulty materials or workmanship in manufacture, that is not covered under warranty or statutory obligations, or which in Frontier Pitts Middle East' opinion has arisen as a result of:

4.1.1 Electrical work external to the Equipment;

4.1.2 Transportation or relocation of the Equipment not performed by or on behalf of Frontier Pitts Middle East;

4.1.3 Any error or omission relating to the operation of the Equipment, i.e. incorrect usage of the Equipment and failure to follow either the manufacturer's or Frontier Pitts Middle East' operation instructions;

4.1.4 Any modification, adjustment or repair to the Equipment made by a third party without the written consent of Frontier Pitts Middle East;

4.1.5 The subjection of the Equipment by the Customer to unusual physical or electrical stress, the neglect or misuse of the Equipment or any failure or fluctuation of electrical power.

4.1.6 Any other cause (except fair wear and tear) which is not due to the neglect or default of Frontier Pitts Middle East.

4.1.7 Standard warranty would be void if another company maintains or complete repair works on the newly installed equipment

4.2. Failure to comply with the provisions of clause 5.1.

4.3 Removal of the Equipment, or part thereof, from the Location to another location.

4.4. Adjustment made necessary due to failure.

4.5. Adjustment of time keeping equipment, at the commencement and termination of Summertime each year.

4.6. Adjustment of the Equipment made necessary by use of spare parts or expendable requisites, other than those recommended by or supplied by Frontier Pitts Middle East.

4.7. Rectification of any faults found in the wiring of the Equipment due to damage caused by others.

4.8. Induction loops and underground cabling are not covered under any contract as Frontier Pitts Middle East has no control of the road surface conditions that may cause loop/cable deterioration.

4.9. If on investigation Frontier Pitts Middle East reasonably determines that any defect in or malfunction of the Equipment is the result of any of the matters referred to in clauses 4.1 – 4.8, the Customer shall be liable for all costs incurred by Frontier Pitts Middle East in investigating the same and determining its cause.

4.10. If any part of the Equipment can no longer be maintained in good working order by the provision of replacement spare parts or the whole of the Equipment is damaged beyond economic repair otherwise than through Frontier Pitts Middle East' fault (as to whether either of which events has occurred Frontier Pitts Middle East' decision shall be final and binding on the Customer). Frontier Pitts Middle East reserves the right to terminate this Agreement forthwith, by giving written notice to the Customer, in respect of the whole or any part of the Equipment which can no longer be maintained, in which case Frontier Pitts Middle East shall repay to the

Customer a fair proportion of any charges for Frontier Pitts Middle East' services which have been paid in advance by the Customer.

4.11. Deep cleaning and contaminant removal is not covered. Specialist cleaning equipment is not covered unless listed within contract. Drain cleaning is not covered with this contract.

## 5. Customer's obligations

### 5.1. The Customer shall:

5.1.1. At all times keep the Equipment in the environmental conditions recommended by the manufacturer of the Equipment;

5.1.2 Not move the Equipment from the Location without obtaining the prior written consent of Frontier Pitts Middle East;

5.1.3 Use the Equipment only in accordance with such instructions and recommendations relating to the care and operation of the Equipment as may be issued by the manufacturer of the Equipment or as may from time to time be advised in writing by Frontier Pitts Middle East;

5.1.4 Advise Frontier Pitts Middle East of all intermittent malfunctions of the Equipment in a prompt manner and in the event of any malfunction which may affect the safe operation of the Equipment, such malfunction should be reported to Frontier Pitts Middle East immediately.

5.1.5 Not allow any person other than Frontier Pitts Middle East' representatives to adjust, maintain, repair, replace or remove any part of the Equipment.

5.2. The Customer shall ensure that Frontier Pitts Middle East' representatives have full and free access to the Equipment and to any instruction manuals, up to date records of its use and any safety documentation kept by the Customer to enable Frontier Pitts Middle East to perform its duties.

5.3. The Customer shall provide Frontier Pitts Middle East with such information concerning the Equipment, its application, use, location and environment as Frontier Pitts Middle East may reasonably request to enable it to carry out its duties.

5.4. The Customer shall take all such steps as may be necessary to ensure the safety of any of Frontier Pitts Middle East' representatives who visit any premises of the Customer.

## 6. Charges

6.1. The Fees shall be due and payable in full in cleared funds to Frontier Pitts Middle East in accordance with the Payment Schedule set out in Schedule 4, within mentioned days of receipt of a valid invoice from Frontier Pitts Middle East. Any Additional Services Fees shall be due and payable monthly, within 30 days of receipt of a valid invoice from Frontier Pitts Middle East. Any charges for spare parts

recoverable in accordance with this Agreement shall be due within 30 days of receipt of a valid invoice from Frontier Pitts Middle East.

6.2. In consideration of the provision of any Additional Services, the Warranty Upgrade, Standard, Fully Comprehensive or Extended Warranty Contracts as appropriate, the Customer shall, subject to receipt of an invoice from Frontier Pitts Middle East, pay to Frontier Pitts Middle East the charges set out in the contract options within mentioned number of days of receipt of Frontier Pitts Middle East invoice for the same.

6.3. If Frontier Pitts Middle East' services are requested without any reasonable justification, or by reason of any defect in or malfunction of the Equipment due to causes not covered under this Agreement, the Customer shall be liable to pay Frontier Pitts Middle East' standard charges from time to time in force for such services.

6.4. The Charges (including the Contract Price) shall be increased as notified in writing six weeks prior to taking effect on each anniversary of this Agreement.

6.5. All charges and other sums payable by the Customer under this Agreement are exclusive of any applicable value added tax, which shall be additionally payable by the Customer at the rate and in the manner for the time being prescribed by law together with the Charge or the sum in question.

6.6. If the Customer fails to pay on the due date any amount which is payable to Frontier Pitts Middle East pursuant to this Agreement then, without prejudice to clauses 9.2 and 9.3, that amount shall bear interest from the due date until payment is made to Frontier Pitts Middle East (both before and after any judgment) at 10 per cent per annum.

6.7. Frontier Pitts Middle East is entitled to raise invoices for emergency call out services immediately, following the attendance of an Engineers at the Location. Invoices for emergency callouts are payable within the mentioned days as stated in our terms and conditions.

6.8. An additional cost will be charged for cancellation of PPMs with no notice and/or engineer being turned away from site providing confirmation has been received

## 7. Liability

7.1. Neither party excludes or limits liability to the other party for:

- (a) Fraud or fraudulent misrepresentation;
- (b) Death or personal injury caused by negligence; or

7.2. Subject always to clause 7.1, Frontier Pitts Middle East shall not be liable whether in contract, tort (including for negligence and breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- (a) Any loss (whether direct or indirect) of profits, business, revenue, or goodwill;
- (b) Loss or corruption (whether direct or indirect) of data or information; or

(c) Any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.

7.3. Subject always to clause 7.1, Frontier Pitts Middle East total aggregate liability in contract, tort (including negligence and breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the Charges paid by the Customer to Frontier Pitts Middle East during the preceding 12 months.

7.4. Further to clause 2 (as amended from time to time), where a defect or malfunction in the Equipment has been identified during the course of Frontier Pitts Middle East engagement under Agreement (either by Frontier Pitts Middle East, the Customer or a third party), but where Frontier Pitts Middle East has no instructions to remedy those defects or malfunction to the reasonable satisfaction of Frontier Pitts Middle East, Frontier Pitts Middle East does not accept liability for any damage or loss suffered by either the Customer or a third party. Nor does Frontier Pitts Middle East accept liability for any damage or loss arising from any act or omission arising from such remedial action.

## 8. Indemnity

The Customer shall indemnify Frontier Pitts Middle East against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Frontier Pitts Middle East arising out of or in connection with identified defects or malfunctions, including any claim made against Frontier Pitts Middle East by a third party for death, personal injury or damage to property arising out of or in connection with Equipment, to the extent that the defect or malfunction is attributable to the acts or omissions of the Customer, its employees, agents or subcontractors.

## 9. Duration and termination

9.1. This Agreement shall come into force on the Commencement Date and, subject to clauses

9.2 And 9.3, shall continue in force for an initial period of 12 months from that date and thereafter unless or until terminated by either party giving to the other not less than 3 months' prior written notice of termination such notice to expire at the end of the initial 12 month period or on the anniversary of the Commencement Date.

9.2. Frontier Pitts Middle East shall be entitled to terminate this Agreement:

9.3. In the circumstances and to the extent referred to in clause 4.9; or

9.3.1. Forthwith by giving written notice to the Customer if any sum payable under this Agreement is not paid on the due date.

9.3.2. Either party shall be entitled forthwith to terminate this Agreement by written notice to the other if:

9.3.3. That other party commits any continuing or material breach of any of the provisions of this Agreement and, in the case of such a breach which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

9.3.4. An encumbrancer takes possession or a receiver is appointed over any of the



property or assets of that other party;

9.3.5. That other party makes any voluntary arrangement with its creditors or becomes subject to an administration order;

9.3.6. That other party goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on that other party under this Agreement); or

9.3.7. that other party ceases, or threatens to cease, to carry on business.

9.4. For the purpose of clause 9.3.1, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

9.5. Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision.

9.6. The rights to terminate this Agreement given by this clause shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

9.7. Upon the termination of this Agreement for any reason, subject as otherwise provided in this Agreement and to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.

## 10. Force Majeure

10.1. If either party is affected by Force Majeure, it shall promptly notify the other party of the nature and extent of the circumstances in question.

10.2. Notwithstanding any other provision of this Agreement, neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations under this Agreement, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.

10.3. If at any time the Frontier Pitts Middle East claims Force Majeure in respect of its obligations under this Agreement with regard to the supply of the Products, the Customer shall be entitled to obtain from any other person such quantity of the Products as the Frontier Pitts Middle East is unable to supply, and that quantity shall be deemed for the purposes only of clause 2.2 to have been purchased from Frontier Pitts Middle East.

## 11. Nature of agreement

11.1. Frontier Pitts Middle East shall be entitled to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this Agreement through any other company which at the relevant time is the subsidiary of any such holding company, and any act or omission of any such company shall for the purposes of this Agreement be deemed to be the act or omission of Frontier Pitts Middle East.

11.2. Subject to the Customer's consent (which shall not be unreasonably withheld) Frontier Pitts Middle East shall be entitled to carry out its obligations under this Agreement through any agents or sub-contractors appointed by it in its absolute

discretion for that purpose.

11.3. Any notice may be sent by email in the case of Frontier Pitts Middle East to its registered office and in the case of the Customer to its Registered Office or other such address as agreed by the parties.

11.4. Except as provided in clauses 10.1 and 10.2, this Agreement is personal to the parties, and neither of them may, without the written consent of the other, assign, mortgage, charge (otherwise than by floating charge) or dispose of any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations under this Agreement.

11.5. Nothing in this Agreement shall create, or be deemed to create, a partnership between the parties.

11.6. This Agreement contains the entire agreement between the parties with respect to its subject matter, supersedes all previous agreements and understandings between the parties, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.

11.7. Each party acknowledges that, in entering into this Agreement, it does not do so on the basis of or rely on any representation, warranty or other provision except as expressly provided in this Agreement, and accordingly all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

11.8. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of this Agreement and the remainder of the affected provisions shall continue to be valid.

11.9. This Agreement shall be governed by and construed in all respects in accordance with the UAE Law, and the Customer agrees to submit to the non-exclusive jurisdiction of the UAE Courts.