

NOV 2016

Contract for Thorough Examination/Inspection of Plant

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Contract for Thorough Examination/Inspection of Plant

Registration and Regulatory Information

This product is administered by Covea Insurance plc, Norman Place, Reading, Berkshire RG1 8DA. Registered in England and Wales No. 613259.

Covea Insurance plc is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and Prudential Regulation Authority. Its Firm Reference Number is 202277.

Inspection Services are provided by HSB Engineering Insurance Services Ltd, New London House, 6 London Street, London EC3R 7LP. Registered in England and Wales No. 3010292.

HSB Engineering Insurance Services Ltd are an appointed representative of HSB Engineering Insurance Limited which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority No. 202738.

You can check a firm's regulatory authorisation and supervision on the Financial Services Register by visiting the FCA's website www.fca.org.uk/register or by contacting the FCA on 0800 111 6768.

Introduction

In consideration of the Fees specified in the Schedule and subject to the terms and conditions of this Contract HSB Engineering Insurance Services Limited (the "Company") agrees to provide the Client with Company Services as specified in this Contract.

In witness whereof this Contract has been signed for and on behalf of the Company



Peter Milton
Managing Director



Gareth Bendelow
Director

New London House
6 London Street
London
EC3R 7LP

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Contract

1. Definitions

The following words have been given the specific meaning set forth below and have the same meaning wherever they appear in the Contract, whether singular or plural.

1.1 Thorough Examination

A thorough examination of Plant or examination of Plant in accordance with a Written Scheme which is carried out solely in accordance with the requirements of the Statutory Regulations which apply to the Plant at the time of examination.

Unless otherwise agreed in writing, the scope of any such prescribed examination shall not include approval or verification of the fitness for purpose of any design or design features of Plant, performing or witnessing tests of a non-routine nature (unless stipulated as the responsibility of the Competent Person in a HSE (Health & Safety Executive) or SAFed (Safety Assessment Federation) Approved Code of Practice or Guidance) including but not limited to; in the case of boiler/pressure Plant, ultrasonic radiographic hydrostatic or other non-destructive testing; in the case of lifting and handling Plant, any proof load stability anchorage supplementary or similar test in accordance with industry guidance or thorough examination as required when exceptional circumstances have occurred; in the case of mechanical power press Plant subject to the requirements of PUWER 98 Part IV, the examination of enclosed parts and tests thereof; and in respect of local exhaust ventilation Plant, the initial appraisal of the Plant.

1.2 Inspection

An inspection of Plant which is exempt or excluded from the requirement for a periodic thorough examination or examination in accordance with a Written Scheme as specified in the Statutory Regulations.

Unless otherwise agreed in writing, any such inspection will be visual in nature limited by the design of the Plant and the extent to which the Client has prepared the Plant and made available a safe means of access to the Plant and may include such tests as are deemed appropriate to establish general condition and standard of Plant maintenance by a Competent Person. Any such inspection will not be deemed to comply with any specific regulations or Statutory Regulations unless specified in the Schedule.

1.3 Normal Working Hours

8:00 a.m. to 6:00 p.m. Monday to Friday excluding public, bank and local holidays.

1.4 Plant

The machinery, appliances and equipment shown in the Schedule.

1.5 Client

The owner/user of Plant subject to Thorough Examination/ Inspection.

1.6 Competent Person

An Engineer Surveyor employed and authorised by the Company to perform the Thorough Examination/Inspection.

1.7 Company Services

- (i) The periodic performance of a Thorough Examination/ Inspection of Plant within Normal Working Hours, and
- (ii) The provision of a Report of Thorough Examination/ Inspection within a reasonable time or within legal requirements if prescribed by applicable Statutory Regulations.

1.8 Fees

The amount payable for the Company Services as stated in the Schedule or as varied from time to time in accordance with Clause 4.

1.9 Report

A document in the Company's standard format issued to the Client electronically or on paper that provides details of the Thorough Examination/Inspection of the Plant that was undertaken.

1.10 Site

The location(s) shown in the Schedule.

1.11 Statutory Regulations

The following statutory regulations (as amended or extended by any enactment or statutory re-enactment thereof) as may be applicable to the Thorough Examination of Plant at the time of any such Thorough Examination:

- (i) The Lifting Operations and Lifting Equipment Regulations
- (ii) The Pressure Systems Safety Regulations
- (iii) The Provision and Use of Work Equipment Regulations, Part IV ("PUWER Part IV")
- (iv) The Control of Substances Hazardous to Health Regulations (as amended)
- (v) The Workplace (Health Safety and Welfare) Regulations

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- (vi) The Control of Major Accident Hazard Regulations
- (vii) The Electricity at Work Regulations
- (viii) The Dangerous Substances and Explosive Atmospheres Regulations
- (ix) The Factories Act 1955 (as amended by the Safety in Industry Act 1980)
- (x) The Safety in Industry Act 1980
- (xi) The Safety Health and Welfare at Work (General Application) (Amendment) Regulations
- (xii) The Safety Health and Welfare at Work (Quarries) Regulations

1.12 Written Scheme

A document drawn up by a competent person in accordance with Regulation 8 of the Pressure Systems Safety Regulations which contains information about selected items of Plant that form a pressure system including but not limited to the parts which require examination and the nature and frequency of such examinations.

1.13 Term

The duration of this Contract as shown in the Schedule unless terminated in accordance with Clause 5.

2. Provision of Company Services

- 2.1 The Company shall provide to the Client the Company Services at the Site within Normal Working Hours during the Term subject to the terms and conditions of this Contract and in consideration of which the Client shall pay the Fees.
- 2.2 The Company will comply with the Client's safe systems of work, provided such systems are notified to the Company in advance of any Thorough Examination/Inspection.
- 2.3 During the Term of this Contract, the Company may:
 - (i) decline to undertake any Thorough Examination/Inspection if, at its sole discretion, to do so would pose a health, safety or welfare risk;
 - (ii) appoint sub-contractors to provide services to support the Thorough Examination/Inspection and shall retain responsibility for the execution of any such sub-contracted work;
 - (iii) make a charge in addition to the Fees shown in the Schedule if:
 - (a) the Client requests and the Company agrees to perform Company Services outside Normal Working Hours;

- (b) the Client requires additional hard copies of Reports;
- (c) the Client fails to prepare or make the Plant available at the date and time agreed;
- (d) the Client requires additional services; or
- (e) the Client requires the Competent Person to undertake training or particular risk assessment specific to the Client's own premises or the Client's health, safety and welfare procedures.

3. Client Responsibilities

During the Term of this Contract, the Client shall:

- (i) retain sole responsibility for the care, custody and control of the Plant at all times;
- (ii) allow the Company access to the Site and Plant at such reasonable times during Normal Working Hours or as shall be agreed between the Client and the Company;
- (iii) provide the Company with:
 - (a) a safe working environment on the Site on which the Plant is located, and
 - (b) a safe physical means by which to gain access to perform the Company Services;
- (iv) have the Plant properly prepared, dismantled and reassembled as necessary in order to enable the Company to carry out the appropriate Thorough Examination/Inspection;
- (v) cooperate with and, upon request, provide the Company with information and data relating to the Plant as required by the Competent Person to perform the Company Services including without limitation full information concerning any modification to the Plant that has been made since the last Thorough Examination/Inspection and in respect of Plant that is capable of being moved from one location to another the precise location of any such Plant.

4. Fees

- 4.1 The Company shall charge Fees for the provision of Company Services and any such Fees shall be subject to Value Added Tax (or any other similar tax or duty levied by any government or other authority) at the appropriate rate. Any such taxes or duties will be payable by the Client in addition to the Fees.
- 4.2 The Fees shall be calculated on Plant as notified by the Client to the Company at the start of the Term, and the Client shall pay the Fees at the start of the Term or as otherwise agreed in writing between the parties.

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- 4.3** The Client agrees that the Company may adjust the Fees:
- (i) to take into account any charges identified in Clause 2.3 (iii);
 - (ii) during and at the end of the Term to take into account any Sites or individual items of Plant added to or deleted from the Schedule;
 - (iii) upon any renewal of the Contract;
 - (iv) where the Term is greater than 12 months, annually to take into account any changes to the Plant, the intervals between Thorough Examination/Inspections, and the retail price index, and the Client's payment of any such adjusted Fees shall be deemed acceptance by the Client of the adjusted Fees.

5. Term and Termination

- 5.1** The Term of this Contract is as shown in the Schedule unless terminated in accordance with this Clause.
- 5.2** The Company may terminate this Contract at any time by giving 30 days' written notice to the Client.
- 5.3** Either the Client or the Company may terminate this Contract with immediate effect at any time by giving written notice to the other:
- (i) where the other has committed a material breach of the terms of this Contract which is incapable of remedy;
 - (ii) where the other has committed a material breach of the terms of this Contract which is capable of remedy and fails to remedy such breach within 30 days after receipt of a written notice by the other party giving full particulars of the breach and requiring it to be remedied;
 - (iii) where the other goes into liquidation, or in the case of an individual or partnership, the individual(s) become(s) bankrupt, make(s) a voluntary arrangement with his(their) creditors or has(have) a receiver or administrator appointed;
 - (iv) where an event of Force Majeure delays a scheduled Thorough Examination/ Inspection for more than 30 days.

6. Confidentiality

- 6.1** Neither the Client nor the Company shall disclose or communicate to any third party any technical, business, or similar information relating to the business affairs of the other party obtained as a result of this Contract, and neither party shall use the other party's information for any purpose other than to perform its obligations under this Contract.

- 6.2** Nothing in this Clause shall impose an obligation of confidentiality on information that was already in the public domain; that was rightfully in the possession of the party prior to the commencement of the Contract; or that is required to be disclosed pursuant to any applicable law or regulatory body.
- 6.3** Unless otherwise agreed between the parties, all Reports and similar material prepared by the Company in connection with the Company Services shall be released only to the Client or its designated representative.
- 6.4** The Company may use data gathered in connection with the Company Services for statistical use.
- 6.5** The obligations under this Clause shall come into effect at the start of the Term and shall survive termination of the Contract.

7. Limitation of Liability and Indemnification

- 7.1** Neither the Company nor any of its employees shall be liable directly or indirectly for any loss, damage or injury to property or persons resulting from any accident or defect in any Plant; nor shall the Company be liable directly or indirectly for loss, damage or injury of any kind arising from or connected in any way with any Company Services or documentation of any Company Services including but not limited to Reports, or from the omission of any Company Services or documentation of any Company Services including but not limited to Reports, whether or not such Company Services, documentation or omission was at the request of the Client.
- 7.2** Neither the Company nor any of its employees makes any warranty, express or implied, concerning the activities described in this Contract.
- 7.3** Notwithstanding anything else in this Contract to the contrary, to the fullest extent permitted by law:
- (i) the Company shall not be liable to the Client for any special, incidental, indirect, consequential or exemplary damages, including, but not limited to, loss of profits or revenue, loss of use, loss of opportunity, loss of goodwill, cost of substitute facilities, goods or services, cost of capital, governmental and regulatory sanctions and claims of third parties for such damages;
 - (ii) the total cumulative liability of the Company to the Client, whether in tort or in contract, for all claims, losses, damages and expenses resulting in any way from this Contract shall not be greater than the total amount received by the Company from the Client as Fees during the Term;

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- (iii) except in the case of death or personal injury caused by the Company's negligence or in other circumstances where liability may not be so limited under applicable law, the Company's liability under or in connection with this Contract, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed the sum of £25,000,000 (twenty-five million pounds).
- 7.4** The Client shall indemnify and keep the Company indemnified in respect of any claims made against and all damages, costs and expenses suffered or incurred by the Company as a result of any third party claim arising out of the Client's failure to comply with its obligations under the Contract.
- 7.5** Upon completion of the Company Services or termination of this Contract, the provisions relating to indemnity, waivers, limitations of remedies and limitations of liability, including, but not limited to those contained in this Clause, shall remain in full force and effect.

8. "Force Majeure"

The Company shall not be liable for any delay or the consequences of any delay in performing the Company Services if such delay is due to any cause beyond its reasonable control and shall be entitled to a reasonable extension of time for performance of the Contract.

9. General

- 9.1** All matters relating to the validity, performance or interpretation of this Contract shall be governed by the laws of England. The Company and the Client hereby submit to the exclusive jurisdiction of the Courts of England.
- 9.2** No term of this Contract is intended, either expressly or by implication or other inference, to purport to confer a benefit or right of action upon any third party. No such third party shall have any right to enforce any terms of this Contract whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 9.3** The provision of the Company Services under this Contract does not relieve the Client of its legal duty under relevant Statutory Regulations to have the Plant inspected.
- 9.4** Failure by either party to enforce any of the rights under this Contract shall not be taken as or deemed to be a waiver of such rights.
- 9.5** If any term of this Contract is held to be illegal or unenforceable the remainder will remain in full force and effect.

- 9.6** This Contract represents the entire agreement between the parties and supersedes all prior agreements and representations made by either party, whether oral or written.
- 9.7** All notices to be given under this Contract shall be in writing and may be delivered by first class post or facsimile transmission, and shall be deemed to have been delivered 48 hours after posting in the case of first class pre-paid letter and 12 hours after dispatch in the case of facsimile transmission.
- 9.8** The Company shall be entitled to apply any monies due to the Client under the Contract in or towards any sum owing to the Company in relation to any matter whatsoever.

Customer Service and Complaint Resolution

We are committed to providing the highest standards of customer service and aim to achieve fair treatment and customer satisfaction in all cases. If you have any cause for complaint, therefore, we want to know about it as soon as possible.

You should initially contact the person who arranged the contract for you, to see if they can resolve matters. Alternatively you may contact us using the following details:

Customer Relations Leader
HSB Engineering Insurance Services
Chancery Place
50 Brown Street
Manchester
M2 2JT

Tel: +44 (0)330 100 3433 (Calls to this number are charged at the same standard land line rate as 01 or 02 numbers)

Or e-mail us at complaints@hsbeil.com

We will always acknowledge your complaint within 5 business days and do our best to resolve it within four weeks. When we acknowledge your complaint we will send you a summary of our complaints handling procedure. This document is also available to all customers, on request. If you make a complaint, your right to take legal action against us is not affected by this procedure.

You may be eligible to refer your complaint to the Financial Ombudsman Service. There are a few instances where they will not be able to assist and they will confirm if your complaint is eligible when you contact them. Their contact details are:

Financial Ombudsman Service
Exchange Tower,
Harbour Exchange Square,
London E14 9SR
www.financial-ombudsman.org.uk
email: complaint.info@financial-ombudsman.org.uk

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