

## Terms and Conditions - Service

### 1. Service

During the contract period and in accordance with the provisions of this contract Deltron Lifts Ltd. will in relation to the equipment provide the services to the customer. The services will be carried out using reasonable care and skill

### 2. Replacement Parts

- a. Any replacement part that Deltron Lift Ltd. provides in the performance of the service shall become the customer's property once installed or when paid for. A part removed from the equipment, for which a replacement part is provided, shall, at Deltron Lifts Ltd.'s election, become Deltron Lifts Ltd.'s property once the replacement part is installed and becomes the customer's property.
- b. If in the expert opinion of Deltron Lifts Ltd. a part to be repaired is obsolete then the customer agrees to pay all costs and expense necessarily incurred in modifying the equipment to ensure compatibility with the replacement part

### 3. Service Equipment

- a. Deltron Lifts Ltd.'s intellectual property, which forms part of any counter, remote lift monitoring system, meter or tool ("service equipment") which Deltron Lifts Ltd. may use or install under this contract (excl. electronic communication lines) is and remains the property of Deltron Lifts Ltd. and is provided only for the use of Deltron Lifts Ltd.'s employees. The customer will restrict access to the service equipment to authorised Deltron Lifts Ltd. personnel. The Customer agrees to keep the service equipment and the software in the service equipment in conditions as a trade secret for Deltron Lifts Ltd. If the contract is terminated for any reason, Deltron Lifts Ltd. is hereby irrevocably licensed to enter, and the customer will give access to, the Building to remove the service equipment.
- b. The customer will be responsible for providing, arranging for and for continuing the connection to and payment of all rental fees for the line electronic communication and associated communication lines for the operation of the service equipment except those from Deltron Lifts Ltd. office to its local exchange.

### 4. Equipment Immobilisation

On advising the appropriate representative of the customer, Deltron Lifts Ltd. shall have the right (not obligation) to mobilise the equipment if, in Deltron Lifts Ltd.' opinion, not to do so may risk injury or damage to any person or property.

### 5. Annual Fee

- a. In consideration of Deltron Lifts Ltd. agreeing to perform the services, the customer undertakes to pay each year annually in advance (unless otherwise specified in contract) without deduction or set off (other than any discount expressly provided in the contract), the annual fee in accordance with provisions of condition 5.b.
- b. The annual fee for the first year shall be fixed at the rate stated in the contract. Thereafter Deltron Lifts Ltd. shall be entitled at anytime and from time to time to increase the annual fee by, as a minimum, the percentage increase in the appropriate

Contract Price Adjustment (CPA) Indices published by the Lift & Escalator Industry Association (LEIA) for the respective time period (or failing such publication, such other Index or adjustment as Deltron Lifts Ltd. may reasonably select).

- c. The annual fee and all other charges are expressed excl. of VAT or other similar governmental taxes which shall be payable by the customer at the same time as the relevant annual fee or change at the rate prevailing in the United Kingdom.
- d. Without limiting any other right or remedy of Deltron Lifts Ltd., if the customer fails to make any payment due to Deltron Lifts Ltd. under the contract by the due date for payment, Deltron Lifts Ltd. has the right to charge additional sums in accordance with Clause 16 of these Terms and Conditions.
- e. If the customer fails to make any payment due to Deltron Lifts Ltd. under the contract, the customer shall from that point on cease to be entitled to any discounts from the annual fee payable for the year in which default has been made, and in respect of the annual fee due in any subsequent year.
- f. The method of payment of the annual fee shall be direct debit to the Deltron Lifts Ltd. designated bank account. Deltron Lifts Ltd. reserves the right to charge the customer an administration fee where payment is made by any other method than by direct debit, such charge to be calculated as 2.5% of the amount paid or payable
- g. Failure to adhere to any alternative payment terms set out in the contract will result in the full annual fee for the current year becoming immediately payable. Failure or delay by Deltron Lifts Ltd. in enforcing or partially enforcing any payment terms shall not be construed as a waiver of any of its rights under this contract.

### 6. Term

Subject to the right of termination in Condition 7.d below, this contract shall commence on the commencement date and subject to any such early termination, shall continue for an initial term of three (3) years or such shorter period (if any) as is specified in the contract (the "initial term"). The contract shall remain in force after the initial term for successive periods of five (3) years but shall in any event terminate on the eighteenth (18<sup>th</sup>) anniversary of the commencement date unless terminated earlier by either part giving to the other not less than three (3) months prior written notice to termination to expire at the end of the initial term or at the end of any three (3) year period after the end of the initial term.

### 7. Termination

- a. Either party may terminate this contract forthwith:
  - A. If the other party has committed a material breach of this contract and fails to remedy such breach within a reasonable period (seven (7) days in the case of the customer's default in payment of the annual fee or any part thereof and not less than sixty (60) in the case of any other breach) of receiving a written notice from the fault free party identifying the breach and requesting its remedy; or
  - B. If the other part:
    - (1) Suspends or threatens to suspend payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or is deemed unable to pay its debts within the meaning of Section 123. Insolvency Act 1986.

- (2) Makes any voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation.
  - (3) Has an administrator, administrative receiver or receiver appointed over all or part of its undertaking, property or assets; or
  - (4) Suffers any distress or execution of its property or assets.
- b. The customer shall be in material breach of this contract, and Deltron Lifts Ltd. may terminate the contract where work has been undertaken on the equipment by a person other than an employee of Deltron Lifts Ltd., and where as a result of such work, to perform the service may, in Deltron Lifts Ltd.'s reasonable opinion, give rise to risk of physical injury to any Deltron Lifts Ltd.'s employee or a user of the equipment or require a material change in the service or the cost of providing the service. Where the customer sells or otherwise disposes of its interest in the building, the customer may assign that part of this contract, with Deltron Lifts Ltd.'s consent, such consent not to be unreasonable withheld.
- c. Where the customer is in the breach of material provision of this contract. Deltron Lifts Ltd. may at its election suspend performance of the services (but without effecting the Customer's obligation to pay the annual fee) until such time as such breach is remedied. Where the breach is default in payment of annual fee or any part thereof Deltron Lifts Ltd. shall be at liberty to demand security for payment before performing or restoring the performance of the service.
- d. The customer may terminate the contract before expiry of the term (incl. before expiry of initial term) by giving Deltron Lifts Ltd. three (3) months written notice to that affect. If the customer does terminate the contract before expiry of the term it shall pay Deltron Lifts Ltd.:
- A. All amounts owed to Deltron Lifts Ltd., together with any interest on such amounts that are due in accordance with the conditions; and
  - B. An amount equal to half of the annual fees that would have been payable until the expiry of either (i) the initial term (in case of notice serviced more than three (3) months before expiry of the initial term); or (ii) the next following three (3) year period following expiry of the initial term (in any other case).

The customer and Deltron Lifts Ltd. agree that this sum represents a genuine pre-estimate of Deltron Lifts Ltd.'s loss arising as a result such early Termination.

#### 8. Contract Clarification

- a. The customer undertakes to report promptly to Deltron Lifts Ltd. any irregular performance of, or defect in or damage to the equipment.
- b. During the term of the customer shall use reasonable endeavours to ensure that, and the services shall exclude any work necessitated by the customer failing to ensure that:
  - A. Proper environmental conditions and clean electricity supplies are maintained for the equipment,
  - B. The equipment is used in a normal and proper manner, including preventing a material change in the use or usage of the equipment and the equipment is not

- sued to lift loads in excess of the specified working load of the equipment and in accordance with the manufacturer's instructions,
  - C. The equipment is not vandalised, abused or misused and does not suffer accidental damage,
  - D. The equipment is kept clean, that no act or omission on the part of the customer results Deltron Lifts Ltd.'s cost of providing the services being increased or its ability to provide the service being adversely affected, and that the equipment is not damaged by the presence of or contaminated by water or other material.
- c. The customer shall, without delay, inform Deltron Lifts Ltd. of the occurrence of and relevant particulars of any matter giving rise to a breach of the customer's obligation under 8.b.
- d. During the term the customer will make available to Deltron Lifts Ltd. free of charge, all facilities and services including certified and tested scaffolding and lifting points, that Deltron Lifts Ltd. reasonable requires to perform the service.
- e. The customer will comply with all Health and Safety at Work etc Act 1974, the management of Health and Safety at Work Regulation 1992 and all other environmental, health and safety and other related Acts, regulations, codes and legal obligations and good safety practices and the Lifting Operations & Lifting Equipment regulations 1998. Deltron Lifts Ltd. may suspend the Services if (i) Deltron Lifts Ltd. informs the customer that work outside the scope of the service is required to the safe or efficient operation of the equipment or the performance of the service and the customer fails to have the work carried out or (ii) which may involve exposure to any Hazardous Material. The customer will at its expense promptly remove or neutralise the effects of the Hazardous Material.
- f. Unless otherwise expressly stated in the Scope of the Service, the service do not include any work in relation to decorative and architectural finishes or lighting, the cleaning of the bottom tracks and shaft enclosure or any work resulting from shrinkage or settlement of the building and on hydraulic lifts, the inspection or replacement of buried or sunken piping, cylinders or pistons.
- g. Unless otherwise expressly stated in the Scope of the Service, the service does not cover any call costs and charges that occur by a faulty emergency communication.
- h. Any other provision of this contract in no event shall the service include work required by accidental damage or other than fair wear incurred in the ordinary and proper use of the equipment.
- i. Unless otherwise expressly stated in the scope of the service, the service does not include any work necessitated: (i) as a result of any failure by the customer to comply with the provisions of the conditions 8.a-8.g inclusive; or (ii) by the equipment not being in a safe or satisfactory condition at the commencement date; or (iii) by any parts of the equipment not being in safe or satisfactory condition at the commencement date; or (iv) by modifications to the equipment not performed by Deltron Lifts Ltd.

- j. The Company will reserve the right to pass on the difference in lodging and travel charges including ferry costs to the customer should these increase between the date of the quotation and the start date of the works.
- k. Deltron Lifts Ltd, may charge and the customer agrees to pay Deltron Lifts Ltd. for any call out to the equipment where (i) no fault exists with the equipment (incl. "working on arrival"); or (ii) the cause of the fault is other than fair wear and tear; or (iii) the service is described in the scope of the service as being outside the terms of the contract. Charges shall be calculated at Deltron Lifts Ltd.'s prevailing rates for such visits with a minimum charge equal to the charge for two (2) hours of a Deltron Lifts Ltd. engineer's time.
- l. Deltron Lifts Ltd. accepts no responsibility for, and the customer shall pay to remedy or repair any damage to the equipment or building arising from the proper performance by Deltron Lifts Ltd. of any examination or test undertaken at the request of the Customer or a competent person.

**9. Limit of Liability**

- a. Neither party shall be liable for any delay in performing any of its obligations hereunder if such delay is caused by circumstances beyond the reasonable control of the party so delayed and such party shall be entitled to a reasonable extension of time for the performance of such obligations. Where Deltron Lifts Ltd. anticipates such delay will continue for more than three (3) months the either party shall be entitled to terminate this contract free of penalty or payment damages.
- b. Deltron Lifts Ltd. will be responsible to repair, replace, or renew physical damage caused to the customer's property or compensate for personal injury including death to any person or other extent such damage or injury is caused by Deltron Lifts Ltd.'s negligence but not otherwise.
- c. Nothing in this contract shall limit or exclude Deltron Lifts Ltd.'s liability for: (i) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (ii) fraud or fraudulent misrepresentation; or (iii) breach of the terms implied by Section 2 of the supply of Goods and Services Act 1982.
- d. Subject to Condition 9.c, neither Deltron Lifts Ltd. nor Deltron Lifts Ltd.'s subcontractors nor their respective servants or agents shall be liable to the customer by way of indemnity or otherwise for breach of contract or statutory duty or in tort (incl. negligence) in respect of defects in the provision of or failure to perform the services or otherwise in connection with the contract for any: (i) loss of rent; (ii) loss of profits; (iii) loss of revenue; (iv) loss of business opportunity; (v) damages representing or calculated by reference to rent; (vi) damages represented or calculated by reference to diminution in the value of the building or of any property or accommodation; (vii) payment or imbursement for payments to third parties; (viii) indirect or consequential loss; or (ix) economic or pecuniary loss or damage whatsoever or howsoever occurring.

- e. Subject to Condition 9.c Deltron Lifts Ltd. total liability to the customer in respect of all losses arising under or in connection with the contract, howsoever arising shall not exceed £1,000,000.
- f. Except as set out in these conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest external permitted by law, excluded from the contract.
- g. In the performance by Deltron Lifts Ltd. of its obligation hereunder, time shall not be of the essence.
- h. The customer and Deltron Lifts Ltd. agree that any obligation to perform the scope of the service shall be a warranty entitling the customer to be exclusive remedy, subject to the provisions of this condition 9, of claiming damages.

**10. Entire Contract and Priority**

- a. These conditions in conjunction with the scope of the service, the agreement, and the contract schedule:
  - A. Subject to condition 11, constitute the entire contract between the parties and shall not incorporate or be deemed to incorporate the provisions of any other or extraneous document;
  - B. Shall supersede the provisions of the any contract, warranty or representation made or give relating to the service or equipment the subject of this contract, and
  - C. Expressly exclude the terms of any purchase order issued by the customer
- b. The customer acknowledges that in entering into the contract it does no rely on any statement, representation, assurance or warrant ("Representation") of any person (whether a party to the contract or not) other than as expressly set out in the contract. The customer agrees that that the only remedies available to it in connection with any representation shall be for breach of contract as expressly provided in the contract.
- c. Nothing in this condition shall limit or exclude any liability or fraud

**11. Variation to contract**

No variation, extension, omission or cancellation of the express terms of this contract shall be binding upon either party unless and until it is confirmed in writing under the hand of duty authorised officer of such party.

**12. Dispute Resolution**

- a. Any dispute which may arise between the parties concerning these conditions, the scope of the service or the contract shall be determined as provided in condition 12.
- b. For the purpose of this condition 12, a dispute shall be deemed to have arisen when one party serves on the other a notice in writing stating the nature of the dispute.
- c. Unless and until this contract has been terminated in accordance with condition 7, Deltron Lifts Ltd. shall in every case continue to provide the services with all due diligence regardless of the nature of the dispute and the customer shall continue to make payments in accordance with condition 5.
- d. The parties agree to use their best endeavours to resolve the dispute.

- e. Failing resolution of the dispute Deltron Lifts Ltd. may, at its election, refer the dispute to adjudication, such adjudication to be conducted in accordance with the provisions of Part 1 of the Schedule to the Scheme for Construction (England and Wales) Regulation 1998.

**13. General**

- a. Offers by Deltron Lifts Ltd. are subject to the condition that the contract partner is not listed with MK Denial, should be recipient be listed in MK Denial no valid contract will be formed. Should the recipient be listed at a later date in MK Denial, Deltron Lifts Ltd. will have the right to terminate the contract exceptionally without notice.
- b. The customer shall not, without the prior written consent of Deltron Lifts Ltd. assign, transfer or charge any of its rights or obligations under the contract.
- c. Deltron Lifts Ltd. may at any time assign transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under the contract.
- d. Through the term and for one year following its termination the customer shall not employ Deltron Lifts Ltd. staff who have provided services to it under the contract.
- e. If any provision of the contract is unenforceable, the other provisions of the contract shall remain in force.
- f. Failure by either party to enforce or exercise any right under the contract shall not amount to a waiver or bar to enforcement of that right.
- g. Deltron Lifts Ltd. shall not be liable for any failure to perform its obligations under the contract if such failure results from circumstances beyond its reasonable control.

**14. The contracts (right of third parties) Act 1999**

- a. All products supplied by the Company shall remain its property until full payment of the price and the company shall be entitled, in the event of the purchaser failing to pay, to enter the premises where the Product may be and remove the same.
- b. Except as expressly stated in condition 14.b the contract does not confer any rights on any person or party (other than the parties to the contract) under the contract (rights of third parties) Act 1999.
- c. Any employee of Deltron Lifts Ltd. shall be entitled to enforce all of the rights and benefits under the contract at all times as if such employee of Deltron Lifts Ltd. were a party to the contract.

**15. Terms of Payment**

- a. Terms of payment are as agreed in the contract.
- b. Payment needs to be paid within 30 days of any invoice date and interim applications for payment may be made on a monthly basis based upon request.
- c. Unless stated otherwise, the service contract or any repair quotation do not include any allowance for contingencies, provisional sums or prime cost sums. Should the scope of work prove to be affected by unknown factors which were not possible to determine at the time of quotation, e.g. asbestos or other matters which can only be found by an intrusive survey when building fabric is opened-up to undertake the works, we reserve the right to charge for additional costs incurred

**16. Overdue Accounts**

- a. Interest: Upon the expiry of the due payment dates (30 days after invoice sent date), any unpaid amounts will be considered overdue and interest will accrue at the rate of 8% per annum above the bank base rate from the date payment was due to the date when payment is actually received by the Company.
- b. Commercial Debts: Upon the expiry of the due payment dates (30 days after invoice sent date), any unpaid amounts will be considered overdue and as commercial debt. According to Section 5 A (2) (a-c) of the Late Payment of Commercial Debts (Interest) Act 1998 the company has then the right to claim a fixed sum for the costs depending on the level of debt. Please see below:
  - A. Less than £1,000 the company can claim £40
  - B. Between £1,000 but less than £10,000 the company can claim £70
  - C. Over £10,000 the company can claim £100

**17. Data Protection**

Deltron Lifts Ltd. may disclose the customer's personal information to any employee of Deltron Lifts Ltd. Deltron Lifts Ltd. may disclose the customer's personal information to third parties: (i) if Deltron Lifts Ltd. sells or buys any business or assets; (ii) if Deltron Lifts Ltd., or substantially all of its assets, are acquired by a third party, in which case such personal information held by it will be one of the transferred assets; or (iii) if Deltron Lifts Ltd. is under a duty to disclose the customer's personal information in order to comply with a legal obligation. This includes exchanging information with other companies for the purpose of fraud protection and credit risk reduction.

**18. Headings**

Heading to these conditions are included for convenience only and therefore, do not constitute a part

**19. Law and Jurisdiction**

This contract is governed by ad shall be construed in accordance with the Law of England. The parties submit to the non-exclusive jurisdiction of the English court.

**20. Notes**

- a. Whenever under the provisions of these conditions any notice or communication is required to be given or sent by any one party to another, such notice or communication shall be in writing and may be delivered by courier or by first class post.
- b. Such communication shall be sent to the address of the relevant party set out in the contract or to such other address as may from time to time be communicated in writing by one party to the other. Each communication shall be marked for the attention of the relevant person.

**21. Wording**

- a. In these conditions, the scope of the service and the contract the following expressions shall have the meanings set out in this condition 19:
  - A. "Annual fee" means the annual fee payable for the service as specified in the contract.



- B. "The building" means the customer's premises where the equipment is installed as the same is detailed in the contract.
- C. "Commencement Date" means the date specified as such in the contract.
- D. "Conditions" mean these terms and conditions of service which together with the scope of services and the contract, constitute the entire contract for the provision of the service.
- E. "Customer" means the person to whom Deltron Lifts Ltd. is to provide the service and whose details are set out in the contract
- F. "the Equipment" means each unit of equipment specified in the contract.
- G. "First year" means the period of 12 months commencing on the commencement date.
- H. "Hazardous Material" includes any hazardous or toxic material (which may if brought into contact or close proximity to an Deltron Lifts Ltd. employee have adverse consequences to health), techniques or processes.
- I. "Normal working hours" mean the hours between 08.00 and 17.00 Monday to Friday excluding public and bank holidays (unless varied in the contract).
- J. "Scope of the Service" means that part of the contract which details the service.
- K. "The Service" means the service to be provided by Deltron Lifts Ltd. to the customer in relation to the equipment in accordance with the contract details of which are set out in the scope of the service.
- L. "The term" means the duration of the contract as this is explained in condition 6.
- M. "Year" means (i) the first year, and (ii) any subsequent period during the term of 12 months commencing on an anniversary of the commencement date.