

**MM ENGINEERED SOLUTIONS LIMITED
TERMS AND CONDITIONS**

1. Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions (the "Conditions")

"Contract" the Customer's acceptance of a Quotation for the Services by the Supplier and for the supply of the Products under condition 2.2;
"Customer" the person, firm or company who purchases Products and/or Services from the Supplier;

"Customer Information" all Documents, information and materials provided by the Customer relating to the Property, Products and/or Services;

"Document" includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other information device;
"Operation and Maintenance Manual" the handbook(s) provided by the Supplier containing guidance and instructions on the use and maintenance of the Products;
"Products" the products to be supplied by the Supplier to the Customer under the Contract as set out in the Quotation or as otherwise agreed between the Parties in writing;
"Installation Services" the installation services to be provided by the Supplier under the Contract, namely the fixing, mounting and general setting of the Products at the Property;

"Intellectual Property Rights" all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Maintenance Services" the maintenance services provided by the Supplier, designed to check the correct working of the Products installed at the Property;
"Parties" the Supplier and the Customer together;
"Property" the premises, asset or location at which the Products are to be installed;
"Quotation" the written schedule provided by the Supplier detailing the assessment of the works required for the Property, which contains details of the Products to be supplied and/or the Installation Services and/or the Maintenance Services, and their associated costs;

"Services" the Installation Services, the Maintenance Services, together with any other services which the Supplier provides or agrees in writing to provide to the Customer;

"Supplier" MM Engineered Solutions Limited, a company registered in England and Wales under company registration number 10148554 and whose registered office is at Unit 4b Sirius Drive, Rutherglen Centre, Port Talbot, SA12 7BR;
"Survey" the physical examination of the Property as carried out by a suitably qualified professional surveyor or similarly trained representative of the Supplier;
"VAT" value added tax chargeable under English law for the time being and any similar additional tax.
"EOM" end of month; "30 days EOM" means 30 days after the end of the month in which the invoice is dated.

- 1.2 Condition, schedule and paragraph headings shall not affect the interpretation of these conditions.

- 1.3 A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

- 1.4 The schedules form part of the Contract and shall have effect as if set out in full in the body of these Conditions and any reference to the Contract includes the schedules.

- 1.5 Words in the singular shall include the plural and the opposite is true.

- 1.6 Reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

- 1.7 A reference to writing or written includes e-mail and faxes.

- 1.8 Where the words include(s), including or in particular are used in these terms and conditions, they are deemed to have the words without limitation following them and where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

- 1.9 Any obligation in the Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

- 1.10 References to Conditions and schedules are to the Conditions and schedules of the Contract.

2. Application of Conditions

- 2.1 These Conditions shall:

- 2.1.1 apply to and be incorporated into the Contract; and
2.1.2 prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation, acceptance of the Quotation or specification, or implied by law, trade custom, practice or course of dealing. In the event of inconsistency between these Conditions and the Quotation, the Quotation shall prevail.

- 2.2 The Customer's purchase order, or the Customer's acceptance of the Quotation for Services and the supply of the Products by the Supplier, constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:

- 2.2.1 by a written acknowledgement issued and executed by the Supplier; or
2.2.2 (if earlier) by the Supplier starting to provide the Services or supplying the Products, when a contract for the supply and purchase of those Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

- 2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any Quotation is valid for a period of 30 days from its date, provided that the Supplier has not previously withdrawn it.

3. Commencement and duration

- 3.1 The Services supplied under the Contract shall be provided, and the Products shall be supplied, by the Supplier to the Customer from the date specified in the Quotation until the Contract is terminated in accordance with condition 13.

4. Supplier's obligations

- 4.1 The Supplier shall use reasonable endeavours to manage and complete the Services in accordance with the Quotation.
4.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Quotation, but any such dates shall be estimates only and time shall not be of the essence of the Contract.

5. Products: delivery, acceptance and warranty

- 5.1 The Supplier shall supply the Products as set out in the Quotation. Any drawings, specifications or other design information provided by the Supplier are subject to review and written approval by the Customer (and, where applicable, any Principal Contractor) before manufacture. The Supplier shall be entitled to rely on Customer Information and any information provided by third parties engaged by the Customer. Unless expressly agreed in writing, the Supplier does not accept 'fit for purpose' obligations and shall perform the Services with reasonable skill and care.

- 5.2 Delivery and programme dates are estimates only and time shall not be of the essence for the supply of Products unless expressly stated in the Quotation. Any pre-order lead times are estimates only due to bespoke manufacture in a dynamic production environment; firm lead times will be confirmed upon placement and acceptance of order (subject to timely Customer Information/approvals, including design sign-off). The Supplier shall not be liable for programme slippage caused by the Customer or Customer interfaces. If delivery, installation, testing or commissioning is delayed due to the Customer (including lack of access, permits, outages/isolations, builder's works by others or any act or omission of the Customer), the Supplier may invoice for the Products when completed and ready for dispatch/collection and may charge for reasonable additional costs incurred, including waiting time, abortive visits and storage.

- 5.3 On completion of Installation Services (if applicable), the Customer shall promptly inspect the Products and the Services. Any defects or snagging items must be notified to the Supplier in writing

within 10 business days of completion or (if earlier) first use. Subject to such notification, the Products and Services shall be deemed accepted.

- 5.4 The Supplier warrants that, for a period of 12 months from completion of Installation Services (or, where no Installation Services are provided, from delivery), the Products will be free from material defects in workmanship and materials, and the Supplier will remedy such defects by repair or replacement at the Supplier's option. This warranty does not apply to defects arising from fair wear and tear, misuse, accidental damage, operation contrary to the Supplier's instructions (including the operation and maintenance manual) failure to carry out recommended maintenance, use with non-approved components, or any alteration or repair carried out by any person other than the Supplier or its authorised representative.

- 5.5 Title to Products shall not pass to the Customer until the Supplier has received payment in full (in cleared funds) of all sums due to the Supplier under the Contract. Risk in Products shall pass on delivery to the Property (or other agreed delivery point). Until title has passed, the Customer shall store the Products separately, keep them adequately insured, and not remove, deface or obscure any identifying marks. If payment is overdue, the Supplier may, without prejudice to any other rights or remedies, enter the Property or any premises where the Products are stored to recover them (to the extent permitted by law).

6. Customer's obligations

- 6.1 The Customer shall:

- 6.1.1 co-operate with the Supplier in all matters relating to the Services;
6.1.2 provide, for the Supplier, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Property, power supplies and other facilities as requested by the Supplier;
6.1.3 provide, in a timely manner, such Customer Information and other information as the Supplier may request and ensure that it is and remains accurate in all material respects;
6.1.4 be responsible (at its own cost) for preparing and maintaining the Property for the supply of the Services and for the installation and use of the Products, including identifying, monitoring, removing and disposing of any hazardous materials from the Property in accordance with all applicable laws, before and during the supply of the Services at the Property, and informing the Supplier of all of its obligations and actions under this condition 6.1.4;
6.1.5 inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Property;
6.1.6 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation (where applicable) of the Products, and the use of Customer Information in all cases before the date on which the Services are to start;

- 6.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

- 6.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

- 6.4 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of the Contract to the expiry of six months after the last date of supply of the Services or termination of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Supplier in the provision of the Services.

- 6.5 Any consent given by the Supplier in accordance with condition 6.4 shall be subject to the Customer paying to the Supplier a sum equivalent to 20% of the then current annual remuneration of the Supplier's employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee or sub-contractor.

- 6.6 The Customer warrant that all information provided to the Supplier pursuant to the Contract, including the Customer Information is and shall remain true, accurate and complete.

7. Changes to the Services

- 7.1 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:

- 7.1.1 the likely time required to implement the change;
7.1.2 any variations to the Supplier's charges arising from the change;
7.1.3 the likely effect of the change on Services; and
7.1.4 any other impact of the change on the terms of the Contract.

- 7.2 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements.

- 7.3 The Supplier may, from time to time and without notice, change the Services in order to achieve the successful installation of the Products. The Quotation is based upon the information provided in the Survey (which shall be paid for by the Customer), and upon any Customer Information and other information provided by the Customer. If such information is incorrect or inaccurate, or other unforeseen factors such as impediments to the installation of the Products come to light (for example the presence of utility supply pipes), the Supplier may amend the Quotation accordingly and change the scope or execution of the Services.

- 7.4 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

- 7.5 The Supplier may charge for its time spent in assessing a request for change from the Customer on a time and materials basis in accordance with condition 7.

8. Charges and payment

- 8.1 Condition 7.2 shall apply if the Supplier provides the Services on a time and materials basis. Condition 7.3 shall apply in relation to the supply of the Products, and if the Supplier provides the Services for a fixed price. The remainder of this condition 7 shall apply in either case.

- 8.2 Where the Services are provided on a time and materials basis:

- 8.2.1 the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates, as amended from time to time;
8.2.2 the Supplier's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day, worked between 8.00 am and 4.00 pm on weekdays (excluding public holidays);
8.2.3 the Supplier shall be entitled to charge an overtime rate of 150% of the normal daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in condition 8.2.2;
8.2.4 all charges quoted to the Customer shall be exclusive of VAT which the Supplier shall add to its invoices at the appropriate rate;
8.2.5 the Supplier shall ensure that every individual whom it engages on the Services completes time sheets recording time spent, and the Supplier shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 8.2.6; and
8.2.6 the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 8.2.

- 8.3 Where the Services or the Products are provided for a fixed price, the total price for the Services and/or for the Products shall be the amount set out in the Quotation. The Supplier shall invoice the Customer at the intervals set out in the Quotation.

- 8.4 Any fixed price and/or daily rate contained in the Quotation excludes VAT, which the Supplier shall add to its invoices at the appropriate rate.

- 8.5 The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, by the due date stated in the Quotation and/or the invoice (or, if none, 30 days EOM). Any advance payment or payment prior to dispatch stated in the Quotation is due immediately on issue and must be received in cleared funds before the Supplier schedules manufacture/procurement and/or dispatches the Products.

- 8.6 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:

- 8.6.1 charge interest on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of Lloyds TSB Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
8.6.2 terminate or suspend all Services or the supply of the Products until payment has been made in full.

- 8.7 Time for payment shall be of the essence of the Contract.

- 8.8 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision. This condition 8.8 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 8.9 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.
9. **Intellectual property rights**
- 9.1 As between the Customer and the Supplier, where applicable, all Intellectual Property Rights and all other rights in the Products and any other materials provided to the Customer as part of the Services, shall be owned by the Supplier. The Supplier licenses, if necessary, all such rights it has to the Customer free of charge and on a non-exclusive, UK-only basis to such extent as is necessary to enable the Customer to make reasonable use of the Products and any other materials provided to the Customer as part of the Services, and the Services.
10. **Confidentiality and the Supplier's property**
- 10.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents or sub-contractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential information to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to the Supplier, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 10.2 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.
- 10.3 This condition 10 shall survive termination of the Contract, however arising.
11. **Limitation of liability**
- 11.1 Condition 11 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 11.1.1 any breach of the Contract;
- 11.1.2 any use made by the Customer of the Services, the Products or any part of them; and
- 11.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in these Conditions limits or excludes the liability of the Supplier:
- 11.3.1 for death or personal injury resulting from negligence; or
- 11.3.2 for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.
- 11.4 Subject to condition 11.2 and condition 11.3
- 11.4.1 the Supplier shall not be liable for:
- (a) loss of profits; or
- (b) loss of business; or
- (c) depletion of goodwill and/or similar losses; or
- (d) loss of anticipated savings; or
- (e) loss of goods; or
- (f) loss of contract; or
- (g) loss of use; or
- (h) loss of corruption of data or information; or
- (i) any special, indirect, consequential or pure economic loss, damage, costs, damages, charges or expenses.
- 11.4.2 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the higher of £20,000 and the total Charges (excluding VAT) payable under the Contract.
12. **Data protection**
- The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to credit reference agencies and that personal data may be processed by and on behalf of the Supplier for the purposes of: (i) entering into and performing the Contract; (ii) credit control and debt recovery; (iii) compliance with legal obligations; and (iv) the Supplier's legitimate business purposes, including sharing relevant information with the Supplier's professional advisers, insurers, subcontractors and service providers where reasonably required to deliver the Services and/or Products. Each party shall process personal data in accordance with applicable data protection law (including the UK GDPR and the Data Protection Act 2018). The Supplier's privacy information is available on request.
13. **Termination**
- 13.1 Subject to condition 13.3, the Contract shall terminate automatically on completion of the supply of the Services.
- 13.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:
- 13.2.1 the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- 13.2.2 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
- 13.2.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 13.2.4 a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- 13.2.5 the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- 13.2.6 the other party ceases, or threatens to cease, to trade; or
- 13.2.7 the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 13.3 On termination of the Contract for any reason:
- 13.3.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services or Products supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- 13.3.2 the Customer shall, return any Products that have not been fully paid for, if they have not yet been installed at the Property. If the Customer fails to do so, then the Supplier may enter the Property and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- 13.3.3 the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
14. **Force Majeure**
- 14.1 The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, 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 suppliers or sub-contractors.
15. **Variation**
- Subject to condition 7, no variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.
16. **Waiver**
- 16.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 16.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
17. **Severance**
- 17.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 17.3 The parties agree, in the circumstances referred to in condition 17.1 and if condition 17.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.
18. **Status of pre-contractual statements**
- Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract. This provision shall not apply in the event of fraud.
19. **Assignment**
- 19.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 19.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
20. **No partnership or agency**
- Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
21. **Rights of third parties**
- The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.
22. **Notices**
- Notice given under the Contract shall be in writing, sent for the attention of the person, and to the address, fax number or e-mail address given in the Contract and/or Quotation (or such other address, fax number, e-mail address or person as the relevant party may notify to the other party) and shall be delivered personally, sent by e-mail, sent by fax or sent by pre-paid, first-class post or special delivery. A notice is deemed to have been received: (i) if delivered personally, at the time of delivery; (ii) in the case of e-mail, at the time of transmission provided that no delivery failure notification is received by the sender; (iii) in the case of fax, at the time of transmission; and (iv) in the case of pre-paid first-class post or special delivery, 48 hours from the date of posting. If deemed receipt under this condition 22 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was delivered, sent by e-mail to the e-mail address of the party (and no delivery failure notification was received), transmitted by fax to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.
23. **Governing law and jurisdiction**
- 23.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 23.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.