

TERMS & CONDITIONS OF MEP LIMITED

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Buyer: the person, firm or company who purchases the Products from the Company.

Company: MEP LIMITED, a company registered in England and Wales under company number 1278360 whose registered office is at Unit BB, St Michaels Close, The Forstal Estate, Aylesford, Kent, ME20 7BU.

Completion Date: as regards services forming part of the Products, means the date estimated by the Seller for completion of the same.

Contract: any contract between the Company and the Buyer for the sale and purchase of the Products, incorporating these conditions.

Delivery Point: the place where delivery of the Products is to take place under condition 4.

Products: any goods or services agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 References to "conditions" means the terms and conditions of sale set out in this document.

1.5 A reference to one gender includes a reference to the other gender.

1.6 Condition headings do not affect the interpretation of these conditions.

2. ORDERS AND SPECIFICATION

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document), save that payment terms can be varied by the agreement of both parties, confirmed by a written acknowledgement of order issued by the Company.

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 Any variation to these conditions shall have no effect unless expressly agreed in writing by the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation (whether or not in writing) made or given by or on behalf of the Company which is not set out in the Contract.

2.4 Each order or acceptance of a quotation for Products by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Products subject to these conditions.

2.5 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Products to the Buyer.

2.6 Any quotation is given on the basis that no Contract shall come into existence until the buyer accepts such quotation in writing and the Company issues a written acknowledgement of order to the Buyer. Unless otherwise stated, any quotation is valid for a period of 90 days only from its date, provided that the Company has not previously withdrawn it.

2.7 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.8 If the Products are to be manufactured or any process is to be applied to the Products by the Company in accordance with a specification submitted by the Buyer, then the Buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred (directly or indirectly) by the Company in connection with, or paid or agreed to be paid by the Company in settlement of any claim of an infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specification.

2.9 The Company reserves the right to make any changes to any specification of the Products which are required to conform with any applicable statutory or regulatory requirement and which do not materially affect their quality or performance.

2.10 No Order which has been accepted by the Company may be cancelled by the Buyer except with the agreement in writing of the Company and on terms that the Buyer shall indemnify the Company in full against all loss (including loss of profits), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of such cancellation.

3. DESCRIPTION

3.1 The description and (in the case of goods) any quantity of the Products shall be as set out in the Company's quotation or acknowledgement of order or in the Buyer's order (as the case may be).

3.2 All samples, drawings, descriptive matter and specifications issued by the Company and any descriptions or illustrations issued or published for the sole purpose of giving an approximate idea of the Products described in them shall not form part of the Contract.

3.3 All patterns, dies, moulds, tools, drawings, models, materials and other items supplied by the Company or manufactured or brought by the Buyer at the expense of the Company for the purpose of the Contract, shall be and remain the property of the Company. If the Company permits the Buyer to store such items away from the premises of the Company, the items shall at all times be clearly labelled and identified as the property of the Company but shall be at the risk of the Buyer until delivered or returned to the Company.

4. DELIVERY

This section shall apply only to the supply of goods forming part of the Products.

4.1 Unless otherwise agreed in writing by the Company, delivery of the Products shall take place at the Buyer's place of business at the place of unloading upon signing of the delivery slip (either provided by the Company or their carrier). Where an independent carrier is used for delivery, all Products are carried subject to the terms and conditions of that carrier, and it will be the Buyer's responsibility to request, read and understand those conditions.

4.2 When the Buyer has placed an order with or when the Buyer accepts a quote from the Company and a delivery date has been specified by the Company, the Buyer shall take delivery of the Products on the agreed date. However this clause shall not be interpreted so as to make time for delivery of the essence. Dates so specified are an estimate of time and should the Company not be able to comply with the specified date, delivery should take place within a reasonable time of such date. The Company shall confirm any new delivery date by giving at least one day's notice to the Buyer.

4.3 Subject to these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Products (even if caused by the Company's negligence).

4.4 If for any reason the Buyer fails to accept delivery of any of the Products or the Company is unable to deliver the Products on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

4.4.1 risk in the Products shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

4.4.2 the Products shall be deemed to have been delivered; and

4.4.3 the Company may store the Products until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.5 If agreed by the Buyer, the Company may deliver the Products in separate instalments. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

5. NON-DELIVERY

This section shall apply only to the supply of goods forming part of the Products.

5.1 The quantity of any consignment of Products as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

5.2 The Company shall not be liable for any non-delivery of Products (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 days of the delivery date.

5.3 Any liability of the Company for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products.

6. RISK/TITLE

This section shall apply only to the supply of goods forming part of the Products.

6.1 The Products are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Products shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

6.2.1 the Products; and

6.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Products has passed to the Buyer, the Buyer shall:

6.3.1 hold the Products on a fiduciary basis as the Company's bailee;

6.3.2 if not combined with other goods, store the Products (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and

6.3.4 maintain the Products in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.

6.4 The Buyer shall have the right to resell the Products before ownership has passed to it solely on the following conditions:

6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value;

6.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale; and

6.4.3 the Company may withdraw this right at any time during the Contract with immediate effect by service of written notice.

6.5 The Buyer's right to possession of the Products shall terminate immediately if:

6.5.1 the Buyer makes any voluntary arrangement or composition with his creditors or goes into liquidation (otherwise than for the purposes of amalgamation and reconstruction); or

6.5.2 the Buyer encumbers or in any way charges any of the Products; or

6.5.3 the Buyer ceases or threatens to cease to carry on business; or

6.5.4 the Company reasonably apprehends that any of the events mentioned at 6.5.1 to 6.5.3 are about to occur in relation to the Buyer and notifies the Buyer accordingly.

6.6 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

6.8 Where the Company is unable to determine whether any Products are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall survive such termination.

7. PRICE

7.1 Unless otherwise agreed by the Company in writing, the price for the Products shall be the price set out in the Company's written acknowledgement of order.

7.2 The price for the Products shall be exclusive of any value added tax, and any costs or charges in relation to packaging, loading, unloading, carriage and insurance, which may be charged to and paid by the Buyer in addition, unless otherwise agreed by the parties.

8. PAYMENT

8.1 Subject to condition 8.4, payment of the price for the Products is due in pounds sterling 30 days after the day on which either:

8.1.1 the goods were delivered or deemed to be delivered; or

8.1.2 in the case of services, the date of the invoice;

in each case unless otherwise agreed by the parties.

8.2 Time for payment shall be of the essence.

8.3 No payment shall be deemed to have been received until the Company has received cleared funds.

8.4 All payments payable to the Company under the Contract shall become due immediately on its termination.

8.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

8.6 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Natwest Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9. QUALITY OF GOODS

This section shall apply only to the supply of goods forming part of the Products.

9.1 Where the Company is not the manufacturer of the Products, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.

9.2 The Company confirms that the Products conform to any specification agreed with the Buyer (as may be varied under condition 2.9) provided that the Company does not accept any liability except as detailed in clause 10..

9.3 The Company shall not be liable for a breach of any of the warranties in condition 9 unless:

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9.3.1 the Buyer gives written notice of the defect (the "Notice") to the Company within 7 days of the time when the Buyer discovers or ought to have discovered the defect. The Buyer must adduce sufficient evidence both that its claim is reasonable and that the defect has not been caused by any act or omission of the Buyer, its employees or its agents; and

9.3.2 the Company is given a reasonable opportunity, after receiving the Notice, of examining such Products and the Buyer (if asked to do so by the Company) returns such Products to the Company's place of business at the Buyer's cost for the examination to take place there.

9.4 If delivery is not refused and the Buyer does not notify the Company in accordance with clause 9.3.1, the Buyer shall not be entitled to reject the Products and the Company shall have no liability for such defect or failure and the Buyer shall be bound to pay the price under the Contract as if the Products had been delivered in accordance with the Contract.

9.5 The Company shall not be liable for a breach of warranty in condition 9 if:

9.5.1 the Buyer makes any further use of such Products after giving the Notice; or

9.5.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or

9.5.3 the Buyer alters or repairs such Products without the written consent of the Company.

9.5 If any of the Products do not conform with the warranty given in condition 9.2 the Company shall, if it accepts that such defect arose, at its option repair or replace such Products (or the defective part) and if the Products are replaced, refund the price of such Products by way of a credit note provided that, if the Company so requests, the Buyer shall, return the Products or the part of such Products which is defective to the Company. A new invoice shall be produced to the Buyer on receipt of the replacement Products.

9.6 If the Company complies with condition 9.2 it shall have no further liability for a breach of the warranty contained in condition 9.5 in respect of such Products.

10 SUPPLY OF SERVICES

10.1 The Company will perform the services forming part of the Products, as specified in the Company's quotation or acknowledgment of order, with reasonable skill and care;

10.2 Any Completion Date is an estimate only, unless otherwise agreed by the Company in writing, and the Company shall accept no liability in relation to the same;

10.3 If services are performed defectively, or are not performed in accordance with the description in the Company's quotation or acknowledgment of order, then the Company shall have no liability unless the Buyer notifies the Company of the defect or failure in writing within 7 days of the Completion Date or (where such defect or failure is not apparent on a reasonable inspection) the Buyer notifies the Company of the same as soon as reasonably practicable after discovery of such defect or failure.

11 LIMITATION OF LIABILITY

11.1 Subject to condition 4, condition 5, condition 9 and condition 10, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

11.1.1 any breach of these conditions;

11.1.2 any use made or resale by the Buyer of any of the Products, or of any goods incorporating any of the Products; 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 excludes or limits the liability of the Company:

11.3.1 for death or personal injury caused by the Company's negligence; or

11.3.2 for fraud or fraudulent misrepresentation.

11.4 Subject to condition 11.2 and condition 11.3:

11.4.1 the Company'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 Contract price;

11.4.2 the Company shall not be liable to the Buyer or to any third party in contract or in tort for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise whether direct, indirect or consequential or any claims for consequential compensation whatsoever which arise out of or in connection with the Contract; and

11.4.3 the Company shall have no liability to the Buyer for any loss or damage of any nature which arises directly or indirectly as a result of the Products being incorporated into other goods or in any way being subject to any assembly or other process by the Buyer and/or any third party.

12 ASSIGNMENT

12.1 The Company may assign the Contract or any part of it to any person, firm or company.

12.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

13 CONFIDENTIALITY AND RIGHTS

13.1 The Buyer shall at all time keep secret and confidential and shall not disclose to any other party any information relating to the Company's business which may become known to the Buyer, save as is required by law or any other regulatory authority having jurisdiction.

13.1 The Buyer shall not without the Company's written consent, use any of the Company's intellectual property rights, including its name and any trademark, and the Buyer undertakes not to do anything which is likely to prejudice any such rights or which might otherwise damage the name or reputation of the Company and the Buyer acknowledges that such rights shall remain the absolute property of the Company.

14 FORCE MAJEURE

The Company shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war, a threat of war, shortage in raw materials, insurrection or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, tempest, accident, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), import or export regulations or embargoes, difficulties in obtaining new materials, labour, fuel, parts and machinery, power failure or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract. The Company accepts that its obligations are only suspended as long as it is so delayed or hindered.

15. GENERAL

15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

15.2 If any provision of the Contract is held to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

15.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

15.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

15.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.

16. COMMUNICATIONS

16.1 Subject to conditions 16.2 and 16.3, the parties agree that the following communications may be validly issued by email: quotations, acceptances of quotations, confirmations as to delivery dates, invoices, statements, purchase orders and requests for quotations.

16.2 All other communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

16.2.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or

16.2.2 (in the case of the communication to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.

16.3 Communications under condition 16.2 shall be deemed to have been received:

16.3.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

16.3.2 if delivered by hand, on the day of delivery; or

16.3.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

16.4 Communications addressed to the Company shall be marked for the attention of the Finance Director.