

**Conditions of Sale, Revision D, October 2011****MEP SOLUTIONS LIMITED****Definitions**

MEP Solutions Limited is herein defined as the Supplier and the company or firm with whom this quotation is addressed is defined as the Purchaser.

All quotations are made and all orders accepted subject to the following Terms and Conditions and no addition thereto or variation therein shall be made unless otherwise agreed by the Supplier in writing

**Acceptance of Orders**

Orders which are offered subject to the Purchaser's own Conditions of Purchase will only be accepted on the understanding that the Purchaser agrees to waive those of his own Conditions which differ from or are additional to the Supplier's Conditions

**Formation of Contract**

No Contract shall exist until the Purchasers order has been accepted by the Supplier in writing

**Scope of the Contract**

The scope of the Contract is the supply only of equipment in modular form excluding any infill or make up pieces between modules but including designing and draughting, for approval by others, the buildability of the units based on the received Services Engineering drawings, manufacturing and delivering to site, framed modules of services installation for unloading, storing, distributing, installing and connecting by others.

**Passing of Title**

Risk of damage or loss will pass to the Purchaser at the time of the delivery to site on delivery transport. Legal and beneficial ownership will remain with the Supplier until full and final payment has been received for the goods supplied. Until ownership passes, the Purchaser shall hold the goods as bailee for the Company and must keep the goods free from any lien or other encumbrance. The Purchaser shall have possession of the goods but shall at all times remain accountable to the Supplier on a fiduciary basis in respect of the goods or the proceeds of sale of the goods until payment in full has been made to the Supplier.

Notwithstanding anything to the contrary, if the person whom the Purchaser relies on, directly or indirectly, for payment under a contract relating to the Supplier's works, becomes insolvent in accordance with the provisions of Section 113 of the Housing Grants, Construction and Regeneration Act 1996, the Purchaser is obliged to make payment of any sum which is, or may become due to the Supplier from the Purchaser regardless of any payments that may or may not have been received by the purchaser in respect thereof from such person

**Patents**

The Supplier will indemnify the Purchaser against any claim of infringement of Letters Patent, Registered Trade Mark or Copyright (published at the date of Contract) by the use or sale of any article or material supplied by the Supplier to the Purchaser and against all costs and damages which the Purchaser may incur in any action for such infringements of for which the Purchaser may become liable in any such action; Provided always that this indemnity shall not apply to any infringement or alleged infringement which is due to the Supplier having followed a design furnished or driven by the Purchaser, or to the use of such article or material in a manner or for a purpose or in a foreign country not specified by or disclosed to the Supplier, or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by the Supplier.

**Dispute Resolution**

The parties will attempt, in good faith, to resolve any dispute or claim arising out of or relating to this agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the claim.

If at any time any question, dispute or difference whatsoever shall arise between the Supplier and the Purchaser upon, in relation to or in connection with this Contract, either party may give to the other notice in writing of the existence of such question, dispute or difference and the same shall attempt in good faith to resolve it through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution (CEDR).

Failing resolution by an ADR procedure within 28 days of initiation of such procedures or if either party will not participate in an ADR procedure the dispute shall be referred to the Arbitration of some person appointed by the President for the time being of the Royal Institution of Chartered Surveyors. The Arbitration shall be in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

If and to the extent that the Late Payment of Commercial Debts (interest) Act 1998 applies to this contract then the Purchaser shall pay to the Supplier interest at a rate equal to the official dealing rate of the bank of England (base rate) + 2% simple interest, calculated from the date of invoice.

The Supplier will not accept the claim of the Purchaser or any member of any associated Group to deduct from or set off against monies due or accruing due to the Supplier under this contract any monies due or claimed to be due to the Purchaser on any other contract.

### **Delivery**

Equipment will be delivered to site complete on suitable protective support frames, in side loaded transport, during normal working hours.

A signature by the Purchasers representative on the delivery note is acknowledgment that the product is delivered in good condition on the vehicle. A reasonable time will be allowed to confirm the quantities and quality. Notification of any disagreement on the consignment must be within 2 working days. Unloading and distribution is at the sole risk of the Purchaser or his agent.

The Purchasers attention is drawn to the method statement for the handling and unloading of the Equipment. No responsibility is accepted for damage to Equipment unloaded and handled by others.

Transport jigs are to be returned same day with the carrier.

All modules will be priced as per the schedule of rates ex works with transport billed at the declared transport rates

Delivery time slots can only be selected as am. or pm. unless otherwise agreed in writing

### **Price**

The price of the equipment to be supplied shall be fixed for 60 days. Variations instructed directly or directed by arising out of approval of our drawings shall be evaluated using the Agreed Schedule of Rates. The Supplier reserves the right to charge abortive drawing office time caused by changes to the scheme and acceleration, non-productive overtime or the like cost incurred by the Supplier in order to meet agreed programmes if the delay is caused by others.

Prices quoted are strictly Nett and exclusive of any discount and any other taxes, levies or similar charges whatsoever, all of which shall be paid by the Purchaser...

### **Defects**

The Supplier shall make good, by repair or as its option by the supply of a replacement, defects which under proper use, appear in the goods within a period to twelve calendar months after the goods have to be delivered and arise solely from faulty design or workmanship, provided always that defective parts have been returned to the supplier if it shall have so required. The Supplier will refund the cost of the carriage on such returned parts from the point of delivery to the purchaser and the repaired new parts will be delivered free of charge to the said point of delivery. The Supplier's liability under this clause shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the goods. The Supplier shall not be under any liability whether in Contract, tort or otherwise, in respect of defects in goods delivered or for any injury, (other than personal injury caused by the company's negligence as defined in Section 1 of Unfair Contract Terms Act 1977) damage or loss resulting from such defects or from any work done in connection therewith. The forgoing does not effect the statutory rights of persons acquiring goods otherwise than in the course of business

The Supplier shall not under any circumstances be liable for any direct or indirect damages or losses as a result of items which are outside our scope of supply for the Contract.

Any discrepancies with regards to system components which are not installed in strict accordance with the Manufacturer's Recommendations, British Standards, Code of Practice, Design Drawings, Specifications, or other relevant Contract Documents in force at the time of module delivery must be identified by the Purchaser and reported to the Supplier within 2 working days of module delivery, or as part of the purchasers relevant pre-commissioning checks and before system test and subsequent operation, whichever is the sooner.

The Supplier shall not under any circumstances be liable of any direct or indirect damages or losses arising in this respect once system test and subsequent operation has been carried out by the Purchaser.

### **Programme**

The Contract is based upon the proposed programme presented in our quotation. The lead in periods set out in our quotation are considered a term of our Contract.

The programme allowance for approvals is not within the Supplier's control but response by the Purchaser and/or his Consultants should be timely. The Purchaser should allow time in his programme for the approvals procedure and any delay caused out of such approval procedure is not the responsibility of the Supplier

### **Terms of Payment**

Payment is 100% payment, in sterling, within 30 days from date of invoice.

If the Purchaser fails to make full payment on the due dates, the Supplier is entitled, without prejudice to any other right or remedy available, to terminate the relevant Contract and suspend any performance of Contract work.

### **Force Majeure**

The Supplier shall not be liable to the Purchaser for any failure or delay in performance of any obligation hereunder as a result of strikes, lockouts, trade disputes, breakdown of plant, accident or any other cause whatsoever beyond the reasonable control of the Supplier.

### **Bribery Act 2010**

MEP Solutions fully embrace the aims of the Bribery Act 2010 and will not give, promise or offer a bribe, nor agree to receive or accept a bribe from any business relationship.

### **VAT**

All quotations and Contract values are exclusive of VAT which will be charged at the standard rate.

### **Co-ordination**

Responsibility for final services co-ordination with other trades and construction co-ordination with the structure rests with the Purchaser

### **Governing Law**

This Agreement shall be governed by the Law of England and subject to the exclusive jurisdiction of the English Courts (subject to ADR procedure)

### **Technical Submissions**

Please be advised that any manufacturers and parts detailed within any technical submission issued will have been deemed to be accepted by the Purchaser after a period of two weeks from document submission, or before engineering works (including co-ordination), material procurement or production has commenced, unless prior written notification is given.

The Supplier will reserve the right to charge for any abortive works in respect of the above after this period, including but not limited to, charges in relation to; consumed materials, material restocking, handling, transport, abortive engineering /co-ordination and abortive production costs.

**Drawing Approvals**

Module drawings detailing the Suppliers interpretation of the project requirements (as detailed in the specifications, design drawings and relevant Contract Documents in our possession at the time) for each module will be issued to the Purchaser for approval before production commences.

The Supplier shall not be held responsible for any misinterpretation of the project requirements in this respect once the Purchasers approval has been granted.

The Supplier reserves the right to charge for any abortive works in this respect, including but not limited to, charges in relation to; consumed materials, material restocking, handling, transport, abortive engineering /co-ordination and abortive production costs.