

## TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND/OR WORKS

The Customer's attention is particularly drawn to the provisions of clauses 4.4 and 13.

### 1. INTERPRETATION AND CONSTRUCTION

1.1 These Conditions, the Quotation and the Contract shall be read and construed in accordance with Annex 1 of these Conditions.

### 2. BASIS OF CONTRACT

2.1 Any quotations provided by IWECE to the Customer shall be in writing and valid for a period of sixty (60) calendar days from the date of such quotation. IWECE's quotation shall be deemed to be accepted by the Customer upon either: (i) written acceptance by the Customer (including by email), or (ii) when IWECE commences provision of the Works or delivers any Goods pursuant to Clause 4.2, or (iii) when any payment is made by the Customer to IWECE; at which point and on which date, the Contract shall come into existence (**Commencement Date**).

2.2 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of IWECE which is not set out in the Contract.

2.3 Any samples, drawings, descriptive matter or advertising issued by IWECE are provided for the sole purpose of giving an approximate idea of the Works and/or Goods described in them. They shall not form part of the Contract or have any contractual force. This is not a sale by sample.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. CUSTOMER'S DESIGNS

3.1 The Customer warrants and undertakes that IWECE's use of any drawings, designs, other documents and/or equipment supplied by the Customer to IWECE shall not give rise to any claim for actual or alleged infringement of a third party's intellectual property rights. This clause 3.1 shall survive termination of the Contract.

### 4. DELIVERY AND PERFORMANCE

4.1 IWECE shall use reasonable endeavours to deliver the Goods/Works to the location set out in the Quotation or such other location as the parties may agree (the **Delivery Location**) at any time after IWECE notifies the Customer that the Goods are ready.

4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

4.3 Any dates quoted for delivery of the Goods/Works are approximate only, and the time of delivery is not of the essence. IWECE shall not be liable for any delay in delivery of the Goods/Works that is caused by:

- (a) a Force Majeure Event; or
- (b) failure by or on behalf of the Customer to provide IWECE with adequate delivery instructions; or

(c) failure by or on behalf of the Customer to provide drawings, plans, calculations, instructions, comments or other information reasonably required by IWECE in respect of the Goods/Works; or

(d) failure by or on behalf of the Customer to approve IWECE's designs and drawings for the Goods/Works; or

(e) failure by or on behalf of the Customer to comply with Clause 9.

4.4 Without prejudice to Clause 4.3, if IWECE fails to deliver the Goods/Works (or part thereof), its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods/works of similar description and quality in the cheapest market available, less the price of the Goods/Works.

4.5 If the Customer fails to accept or take delivery of the Goods within five (5) Business Days of IWECE notifying the Customer that the Goods are ready then IWECE shall have the right to store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance). If, following a period of twenty (20) Business Days the Customer has not accepted or taken delivery of the Goods, IWECE shall be entitled to resell or otherwise dispose of part or all of the Goods and to terminate the Contract.

4.6 IWECE may deliver the Goods by instalments. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

### 5. WARRANTY

5.1 Following notification from the Customer, IWECE shall be responsible for making good by repair or replacement any latent defects to the Goods/Works that may appear during a period of twelve (12) months immediately preceding:

- (a) in respect of Goods, delivery of such Goods (or any part thereof) pursuant to clause 4.2; and
- (b) in respect of Works, completion of the relevant Works (or any part thereof).

5.2 Without prejudice to clause 5.1, if specified in the Quotation, IWECE agrees to make available to the Customer the benefit of any warranties from IWECE's vendors or OEMs relating to the Goods.

5.3 Except as provided in this clause 5 and to the extent permitted by law, IWECE shall have no liability to the Customer in respect of the Goods'.

### 6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until IWECE has received payment in full (in cash or cleared funds) for the Goods.

6.3 Until title to the Goods has passed to the Customer, the Customer shall store and maintain the Goods as IWECE's bailee.

### 7. SUPPLY OF WORKS

7.1 IWECE shall perform the Works with reasonable skill and care.

7.2 IWECE shall have the right to make any changes to the Works which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Works.

### 8. VARIATION TO GOODS/WORKS

8.1 Without prejudice to Clause 7.2, the Customer and IWECE shall endeavour to agree a price prior to IWECE carrying out any variation to the Contract.

### 9. CUSTOMER'S OBLIGATIONS

9.1 The Customer shall:

- (a) ensure that the terms of the Quotation are complete and accurate;
- (b) comply with any Customer responsibilities specified in the Quotation;
- (c) co-operate with IWECE in all matters relating to the Goods/Works;
- (d) provide IWECE, its employees, agents, consultants and subcontractors, with access to the Customer's premises, Delivery Location and other facilities as reasonably required by IWECE to provide the Goods/Works;
- (e) prepare the Customer's premises for the supply of the Goods and Works including providing clear access for unloading, lifting and fitting of the Goods;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Works before the date on which the Works are to start;
- (g) unless otherwise specified in the Quotation as being the responsibility of IWECE, provide or procure all access and lifting equipment for the unloading, lifting and fitting of the Goods at the Delivery Location (including, but not limited to, any necessary craneage and hoists);
- (h) co-ordinate the Works with service provided by others and be responsible for the interface of the Goods and Works with goods and works provided by others; and
- (i) ensure that any goods, materials, infrastructure or other components to which the Goods are to be affixed or connected are in a sound and suitable condition to receive the Goods.

### 10. CHARGES AND PAYMENT

10.1 The price for the Goods and Works shall (subject to adjustment in accordance with these Conditions) be the price set out in the Quotation.

10.2 Unless otherwise specified in the Quotation, the price for Works shall be deemed to include travelling expenses, hotel costs, subsistence and any other associated expenses.

10.3 Payments due in accordance with the Quotation shall be tendered in full and in cleared funds to a bank account nominated

- in writing by IWECElectrical Engineering. Time for payment shall be of the essence of the Contract and the Customer shall have no right to withhold or set off any payment due to IWECElectrical Engineering.
- 10.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by IWECElectrical Engineering to the Customer, the Customer shall, subject to receipt of a valid VAT invoice from IWECElectrical Engineering, pay to IWECElectrical Engineering such additional amounts in respect of VAT as are chargeable on the supply of the Goods/Works at the same time as payment is due for the supply of the Goods/Works.
- 10.5 Without limiting any other right or remedy of IWECElectrical Engineering, if the Customer fails to make any payment due to IWECElectrical Engineering under the Contract by the due date for payment, IWECElectrical Engineering shall have the right to charge interest on the overdue amount at the rate of 8% per cent per annum above the then current NatWest Plc base rate accruing on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 10.6 IWECElectrical Engineering may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by IWECElectrical Engineering to the Customer.
- 11. INTELLECTUAL PROPERTY RIGHTS**
- 11.1 Intellectual Property Rights in the Documents and/or Works shall remain vested in IWECElectrical Engineering.
- 11.2 All IWECElectrical Engineering Materials are the exclusive property of IWECElectrical Engineering.
- 12. CONFIDENTIALITY**
- A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, value engineering proposals, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain.
- 13. LIMITATION OF LIABILITY:**
- 13.1 Nothing in these Conditions shall limit or exclude IWECElectrical Engineering's liability for:
- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - fraud or fraudulent misrepresentation;
  - breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
  - breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
  - defective products under the Consumer Protection Act 1987.
- 13.2 Subject to clause 13.1:
- IWECElectrical Engineering shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - IWECElectrical Engineering's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed an amount equal to one hundred percent (100%) of the Contract Value.
- 13.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 13.4 This clause 13 shall survive termination of the Contract.
- 14. TERMINATION AND SUSPENSION**
- 14.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within fourteen (14) days after receipt of notice in writing of the breach; or
  - the other party is subject to an Insolvency Event.
- 14.2 Without limiting its other rights or remedies, IWECElectrical Engineering may terminate or suspend performance of the Contract:
- by giving the Customer one (1) months' written notice;
  - with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract within thirty (30) days on the due date for payment; or
  - pursuant to clause 16.1(b).
- 15. CONSEQUENCES OF TERMINATION**
- On termination of the Contract for any reason:
- the Customer shall immediately pay to IWECElectrical Engineering all sums which are outstanding and due in respect of Goods/Works;
  - the Customer shall return all of IWECElectrical Engineering Materials which have not been fully paid for. If the Customer fails to do so, then IWECElectrical Engineering may enter the Customer's premises and take possession of them;
  - the accrued rights and remedies of the parties as at termination shall not be affected; and
  - clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 16. GENERAL**
- 16.1 Force majeure**
- IWECElectrical Engineering shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
  - If the Force Majeure Event prevents IWECElectrical Engineering from providing any of the Works and/or Goods for more than four (4) weeks, IWECElectrical Engineering shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.
- 16.2 Assignment and subcontracting**
- IWECElectrical Engineering may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
  - The Customer shall not, without the prior written consent of IWECElectrical Engineering, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 16.3 Notices**
- Without prejudice to Clause 2.1, any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business. For the purposes of this clause "writing" shall not include email.
- 16.4 Severance**
- If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
  - If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 16.5 Third parties**
- A person who is not a party to the Contract shall not have any rights under or in connection with it pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 16.6 Variation**
- Any variation to the Contract shall only be effective if executed in writing and signed by both parties.
- 16.7 Governing law and jurisdiction**
- The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of England and Wales (as it is applied in Wales), and the parties exclusively submit to the jurisdiction of the courts of England and Wales.

## ANNEX 1

### 1. INTERPRETATION AND CONSTRUCTION

1.1 In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

**Commencement Date:** has the meaning set out in clause 2.1.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 16.6.

**Contract:** the contract between IWECE and the Customer for the supply of Goods and/or Works in accordance with these Conditions and the Quotation.

**Contract Value:** the total price payable for the Goods and Works as set out in the Quotation.

**Customer:** the person or firm who purchases the Goods and/or Works from IWECE.

**Delivery Location:** has the meaning set out in clause 4.1.

**Documents:** all designs, drawings, reports, models, specifications, plans, schedules, bills of quantity, calculations and other similar documents prepared by or on behalf of IWECE.

**Force Majeure Event:** means an event beyond the reasonable control of IWECE including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party 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 IWECEs, subcontractors, vendors or OEMs.

**Goods:** the goods (or any part of them) set out in the Quotation.

**Insolvency Event:** if a party:

- (a) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (b) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (d) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (e) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (g) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in sub-clause (a) through to (i) (inclusive) of this definition;
- (j) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (k) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

**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.

**IWECE:** IWECE International Limited, a limited liability company registered in England and Wales with company number 4038739 whose Registered Office is at Glangwendraeth Farm, Priory Street, Kidwelly, Carmarthenshire, SA17 4TY.

**IWECE Materials:** all materials, equipment, documents and other property of IWECE.

**OEM:** means the original equipment manufacturer for the Goods.

**Works:** the Works to be supplied by IWECE to the Customer as set out in the Quotation.

1.2 In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) month means a calendar month;
- (c) person includes a corporation;
- (d) the singular includes the plural and vice versa;
- (e) the masculine includes the feminine and vice versa;
- (f) a reference to a party includes its directors, agents, officers, representatives, successors or permitted assigns;
- (g) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and
- (h) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.