

Robot Maintenance Services Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 10.5.

Consumer Price Index: the percentage increase or decrease in the Consumer Price Index during the previous 12 months (CPI 12-month rate) published by the Office for National Statistics, or any comparable index which may replace such index.

Contract: the contract between MEU-UK and the Customer for the supply of Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Customer: the person or firm who purchases Services from MEU-UK.

Customer Default: has the meaning set out in clause 1.1.

Customer Materials: all materials, equipment and tools, drawings, specifications and data supplied by the Customer to MEU-UK.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

MEU-UK: Mitsubishi Electric Europe B.V. a Dutch limited liability company with a registered English branch (registered number FC019156, BR003391) with its principal place of business in England at Travellers Lane, Hatfield, Hertfordshire, AL10 8XB.

MEU-UK Materials: has the meaning set out in clause 4.1(g).

Order: the Customer's order for Services as set out in the Customer's written acceptance of the Supplier's quotation.

Services: the services to be supplied by MEU-UK to the Customer as set out in the Specification.

Specification: the description or specification of the Services to be provided by MEU-UK to the Customer.

1.2 Interpretation:

- (a) A reference to legislation or a legislative provision:
 - (i) is a reference to it as amended, extended or re-enacted from time to time; and
 - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes email.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when MEU-UK issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**). The Contract shall continue, unless terminated earlier in accordance with clause 8 (Termination), for [12] months (**Initial Term**) and shall automatically extend for [another] 12 months (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term. Either party may give written notice to the other, not later than three months before the end of the Initial Term or the relevant Extended Term, to terminate this Contract at the end of the Initial Term or the relevant Extended Term, as the case may be.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by MEU-UK, and any descriptions or illustrations contained in MEU-UK's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 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 law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by MEU-UK shall not constitute an offer, and is, unless stated otherwise in the quotation, only valid for a period of [one month] from its date of issue.

3. Supply of Services

- 3.1 MEU-UK shall supply the Services to the Customer in accordance with the Specification in all material respects using reasonable care and skill.
- 3.2 MEU-UK shall use all reasonable endeavours to meet any performance dates specified in the Order Acknowledgment, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 MEU-UK reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and MEU-UK shall notify the Customer in any such event.
- 3.4 MEU-UK shall take reasonable care of all Customer Materials in its possession and make them available for collection by the Customer on reasonable notice and request, always provided that the Supplier may destroy the Customer Materials if the Customer fails to collect the Customer Materials within a reasonable period after termination or expiry of the Contract..

4. Customer's obligations

4.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides are complete and accurate;
- (b) co-operate with MEU-UK in all matters relating to the Services;
- (c) provide MEU-UK, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by MEU-UK;
- (d) provide MEU-UK with such information and materials as MEU-UK may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) if applicable, prepare the Customer's premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services;
- (g) keep all materials, equipment, documents and other property of MEU-UK (**MEU-UK Materials**) at the Customer's premises in safe custody at its own risk, maintain MEU-UK Materials in good condition until returned to MEU-UK, and not dispose of or use MEU-UK Materials other than in accordance with MEU-UK's written instructions or authorisation; and
- (h) comply with any additional obligations as set out in the Specification.

- 4.2 If MEU-UK's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) without limiting or affecting any other right or remedy available to it, MEU-UK shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays MEU-UK's performance of any of its obligations;
 - (b) MEU-UK shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from MEU-UK's failure or delay to perform any of its obligations as set out in this clause 1.1; and
 - (c) the Customer shall reimburse MEU-UK on written demand for any costs or losses sustained or incurred by MEU-UK arising directly or indirectly from the Customer Default.

5. Charges and payment

- 5.1 In consideration for the provision of the Services, the Customer shall pay MEU-UK the Charges in accordance with this clause 5.
- 5.2 All amounts payable by the Customer exclude amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to MEU-UK at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
- 5.3 MEU-UK shall submit invoices for the Charges plus VAT if applicable to the Customer annually in advance.
- 5.4 The Customer shall pay each invoice due and submitted to it by MEU-UK, within 30 days of receipt, to a bank account nominated in writing by MEU-UK and time for payment shall be of the essence of the Contract.
- 5.5 If the Customer fails to make any payment due to MEU-UK under the Contract by the due date for payment, then, without limiting MEU-UK's remedies under clause 8 (Termination):
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%; and
 - (b) MEU-UK may suspend all Services until payment has been made in full.
- 5.6 All amounts due under the Contract from the Customer to MEU-UK shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5.7 MEU-UK reserves the right to increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the Consumer Prices Index.

6. Intellectual property rights

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by MEU-UK.
- 6.2 No Intellectual Property Rights will be granted or assigned to the Customer under the Contract.
- 6.3 The Customer grants MEU-UK a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to MEU-UK for the term of the Contract for the purpose of providing the Services to the Customer.

7. Limitation of liability

- 7.1 References to liability in this clause 7 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Nothing in this clause 7 shall limit the Customer's payment obligations under the Contract.
- 7.3 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.4 Subject to clause 7.3 (liabilities which cannot legally be limited), MEU-UK's total liability to the Customer shall not exceed the Charges actually paid by the Customer in the 12 month period immediately preceding the event giving rise to such claim.
- 7.5 Subject clause 7.3 (liabilities which cannot legally be limited), this clause 7.5 sets out the types of loss that are wholly excluded:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill; and
 - (g) indirect or consequential loss.

Changes for the Better

7.6 MEU-UK has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

7.7 Unless the Customer notifies MEU-UK that it intends to make a claim in respect of an event within the notice period, MEU-UK shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 24 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

7.8 This clause 7 shall survive termination of the Contract.

8. Termination

8.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term 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 to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.2 Without affecting any other right or remedy available to it, MEU-UK may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment or
- (b) there is a change of control of the Customer.

8.3 Without affecting any other right or remedy available to it, MEU-UK may suspend the supply of Services under the Contract or any other contract between the Customer and MEU-UK if:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment;

- (b) the Customer becomes subject to any of the events listed in clause 8.1(c) or clause 8.1(d), or MEU-UK reasonably believes that the Customer is about to become subject to any of them; and
- (c) MEU-UK reasonably believes that the Customer is about to become subject to any of the events listed in clause 8.1(b).

9. Consequences of termination

9.1 On termination or expiry of the Contract:

- (a) the Customer shall immediately pay to MEU-UK all of MEU-UK's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, MEU-UK shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- (b) the Customer shall return all of MEU-UK Materials. If the Customer fails to do so, then MEU-UK may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

9.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

9.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

10. General

10.1 Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

10.2 Assignment and other dealings.

- (a) MEU-UK may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of MEU-UK.

10.3 Confidentiality.

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of three years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10.3(b).

- (b) Each party may disclose the other party's confidential information:
- (i) to its (or, in the case of MEU-UK, its Group Companies') employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its (or, in the case of MEU-UK, its Group Companies') employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

For the purposes of this clause 10.3(b)(i), **Group Company** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

10.4 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

10.5 Variation. MEU-UK shall be entitled to amend or supplement these Conditions by notifying the Customer of any changes or amendments at least four weeks before they take effect. Otherwise, except as specifically set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.6 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

10.7 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 10.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

10.8 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the addresses specified by the parties.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email at the time of transmission
- (c) If deemed receipt under clause 10.8(b) would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 10.8(b)(iii)(c), **business hours** means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (d) This clause 10.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

10.9 Third party rights. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

10.10 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

10.11 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.