

TERMS OF TRADE

These terms and conditions are between Heat Excel Limited a company registered in England and Wales, with company registration number 16276791 (**we, us or our**) and you, being the person or entity stated in the Quote (**you or your**), together the **Parties** and each a **Party**. Together, these terms and conditions and the Quote (attached to these Terms or the Quote) form the entire agreement under which we will provide the Goods and Services to you (**Terms**).

Our Contact Details:

Address: 42 Houlgate Way Axbridge BS26 2BY

Phone: 01934 784 046

Email: info@heatexcel.co.uk

Our registered VAT number is 493404581

1. Acceptance

- 1.1 You have requested the Goods and Services set out in the Quote, and you are taken to accept these Terms by the earlier of:
- (a) signing and returning the Quote to us or accepting it in writing;
 - (b) instructing us to proceed with the Goods and Services; and/or
 - (c) making part or full payment of the Price.
- 1.2 Once you have accepted these Terms, these Terms will bind you in respect of any subsequent quote (even if they are not attached to the subsequent quote), except to the extent these Terms are varied by us.

2. Your right to change your mind.

- 2.1 This clause 2 applies to the extent that you purchase Goods and Services from us as a 'consumer', as defined in the Consumer Rights Act 2015.
- 2.2 If:
- (a) the Goods and Services involve a one-off delivery of the Goods, you have 14 days after the day you (or someone you nominate) receive the Goods; or
 - (b) the Goods and Services involve the delivery of some Goods on different days, or if they are split into several deliveries over different days, you have until 14 days after the day you (or someone you nominate) receive the last delivery,
 - (c) the Goods and Services involve delivery on a regular basis (during a defined period of more than one day), you have 14 days after the day you (or someone you nominate) receive the first delivery of the Goods,

to change your mind and cancel these Terms (**Cancellation Period**).

- 2.3 **When you don't have the right to change your mind:** You do not have a right to change your mind in respect of:

- (a) the Goods and Services if they are visits by us specifically requested by you for the purpose of carrying out urgent repairs or maintenance;
- (b) Goods that are other than for the supply of water, gas, electricity or district heating, where the Price is dependent on fluctuations in the financial market which cannot be controlled by us, and which may occur within the Cancellation Period; or
- (c) Goods you have damaged, or that are no longer in their original condition); or

- 2.4 **Tell us you want to cancel these Terms:** To exercise your right to cancel these Terms under this clause 2, please let us know by contacting us by email. You may use the form at Attachment 1.

- 2.5 **Returning Goods to us:** If you cancel these Terms for any reason after the Goods have been dispatched to you, you must return them to us (unless we agree to collect them, in which case, we will charge you the direct cost to us of collection). If you are exercising your right to change your mind under clause 2 you must send the Goods back to us without undue delay and in any event within 14 days of telling us you wish to cancel these Terms.

- 2.6 You must cover the costs of returning the Goods to us, except in the following circumstances, where we will pay the costs of return:

- (a) if the Goods are faulty or misdescribed; or
- (b) goods that are made to your specifications or are clearly personalized; or
- (c) if you are exercising your right to change your mind under clause 2 (provided you use a form of delivery (for example, a courier) approved by us.

- 2.7 If you are exercising your right to change your mind and return goods to us, we may reduce your refund of the Price (excluding delivery costs) to reflect any reduction in the value of the Goods, if this has been caused by your mishandling. If we refund you the Price paid before we are able to inspect the Goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.

- 2.8 We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind under clause 2 and we have not offered to collect them, your refund will be made

within 14 days from the day on which we receive the relevant Goods back from you.

- 2.9 If the Goods, by their nature, cannot normally be returned by post, the cost of returning the Goods is estimated to by manufacturer as per their fees plus our fee of £39.95

- 2.10 Notwithstanding that you do not have a right to change your mind in respect of Goods that are made to your specifications or are clearly personalised, if we do agree to allow you to return them, it will be subject to a restocking fee of 50% of the value of the Goods, which you must pay to us (or which we may retain).

3. Goods and Services

- 3.1 We agree to provide the Goods and Services to you in accordance with these Terms and all applicable laws, whether ourselves or through our Personnel.

- 3.2 We warrant to you that the Goods and Services will be provided using reasonable care and skill.

- 3.3 We will not be responsible for any Goods and Services unless expressly set out in the inclusions in the Quote.

4. Time

- 4.1 We will use our commercial best endeavours to provide the Goods and Services by the dates set out in the Quote, or where no date is specified, then within a reasonable period of time.

- 4.2 We will have no liability for delays to the Goods and Services to the extent they are caused by:

- (a) a Variation or deemed Variation;
- (b) acts, omissions or breaches by you or your Personnel;
- (c) inclement weather; or
- (d) delays in obtaining approvals for the Goods and Services from relevant authorities.

- 4.3 To the maximum extent permitted by law, if we are unable to begin work on your premises due to scheduling conflicts with your Personnel, a delay fee of £175 per day will be charged. This fee will be invoiced every 3 days for the duration of the delay.

5. Variations

- 5.1 You may request a variation or change to the Goods and Services, including the timing for the supply of the Goods and Services (**Variation**), by providing written notice to us, with details of the Variation (**Variation Request**). We will not be obliged to comply with a Variation Request unless we accept the Variation Request in writing. The Parties agree to comply with these Terms as varied by any Variation Request accepted in writing.

- 5.2 If we reasonably consider that any instruction or direction from you constitutes a Variation, then we will not be obliged to comply with such instruction or direction unless a Variation Request has been issued and accepted by us in accordance with clause 5.1.

- 5.3 All variations to the Goods and Services must be agreed in writing between the Parties and will be priced at a rate of £65 plus VAT, and invoiced and payable separately on the same day it is carried out, or otherwise as reasonably agreed between the Parties.

6. Price and Payment

- 6.1 You agree to pay us the Price in accordance with these Terms and the payment terms set out in the Quote.

- 6.2 For any Quote exceeding £850 plus VAT a 50% deposit is required before the Goods and Services commence.

- 6.3 The Quote includes the removal of project-related waste only.

- 6.4 Any drawings we commission for the Goods and Services on your premises are not included in the Price. These can be purchased separately for £75 plus VAT. If the Goods and Services have already begun, the cost of any drawings will be deducted from the final invoice.

- 6.5 If the Goods and Services are estimated to last longer than 2 weeks, we will establish a payment schedule payable weekly.

- 6.6 All invoices are due Immediately, unless otherwise stated in the Quote.

- 6.7 If you fail to make payment of the Price or any amount payable under these Terms, we may:

- (a) after a period of 3 days, cease providing the Goods and Services, and recover, as a debt due and immediately payable from you, our additional costs of doing so (including reasonable recovery costs) and charge a late payment fee of £25;
- (b) after 28 days, charge a fee of 2.5% of the original invoice;
- (c) charge interest at a rate equal to 4% above the Bank of England's base rate, from time to time, but at 4% a year for any period when that base rate is below 0%, per annum, calculated daily and compounding monthly, on any such amounts unpaid after the due date for payment; and/or
- (d) recover or repossess any Goods belonging to us, and you agree to grant us such rights of access to allow us (or our Personnel) to do so.

7. Warranties and Representations

- 7.1 You represent, warrant and agree that:

- (a) you will comply with these Terms and all applicable laws;
- (b) you will provide our Personnel access to the premises within 15 minutes of the scheduled appointment;

- (c) subject to clause (b) if access is not granted within the specified appointment time, a £25 fee will be payable before any rescheduling can occur and no refund will be issued where the appointment does not take place;
- (d) you will provide at least 72 hours' notice for any cancellation of scheduled appointments;
- (e) cancellations made within 72 hours of the scheduled appointment will not be refunded;
- (f) a fee of £119 plus VAT will be payable for Missed Appointments;
- (g) you have effected and will maintain appropriate insurance policies for the Site for the duration of our provision of the Goods and Services under these Terms, and on request, you agree to provide us with evidence sufficient to enable us to confirm your compliance with this clause 7.1;
- (h) you (and to the extent applicable, your Personnel) will cooperate with us, and promptly provide us with all documentation, information, instructions, facilities and access (including access to the Site) as may be reasonably necessary to enable us to provide the Goods and Services in accordance with these Terms;
- (i) all the information and documentation that you provide to us in connection with these Terms is true, correct and complete;
- (j) you will ensure that the Site is safe and free of harmful materials or substances;
- (k) you will ensure that any animals on the premises are secure while our Personnel conduct the Goods and Services;
- (l) you will ensure that the working area is clear and free of valuables;
- (m) you will ensure that, whilst we are carrying out the Goods and Services on the premises, any person under the age of 16 will be accompanied by an adult;
- (n) you are responsible for obtaining, and providing to us, if necessary, any access and approvals from third parties necessary for the Goods and Services to be provided, at your cost;
- (o) our Personnel will always wear and maintain appropriate work safety gear while on the premises; and
- (p) our Personnel will protect any carpets or flooring by wearing appropriate covers and employing any other reasonable method of protection.

8. Title and Risk

- 8.1 As between the Parties, you agree to pay for the reasonable costs of delivering and/or collecting the Goods.
- 8.2 Title in the Goods will remain with us until all amounts due and payable to us under these Terms are paid in full, and we

hold a general lien over the Goods for the satisfactory performance by you of your obligations under these Terms.

8.3 Risk in the Goods will pass to you on:

- (a) collection of the Goods at the collection location as agreed between the Parties, if you are collecting the Goods; or
- (b) delivery of the Goods to the Site, if we are delivering the Goods.

9. Term and Termination

- 9.1 These Terms will commence on the Commencement Date, and will continue until the date the Goods and Services are supplied to you in accordance with these Terms (as determined by us, acting reasonably), unless terminated earlier in accordance with this clause 9 (Term).
- 9.2 We may terminate these Terms at any time by giving 14 days' notice in writing to the other Party.
- 9.3 These Terms may be terminated immediately upon written notice by a Party (**Non-Defaulting Party**), if the other Party (**Defaulting Party**) breaches a material term of these Terms, and that breach has not been remedied within 10 business days of the Defaulting Party being notified of the breach by the Non-Defaulting Party.
- 9.4 Upon expiry or termination of these Terms:
 - (a) we will immediately cease providing the Goods and Services and you are to pay for all Goods and Services provided prior to termination;
 - (b) you agree to grant us such rights of access to any premises where the Goods are located (including the Site) to allow us (or our Personnel) to recover or repossess any Goods belonging to us; and
 - (c) if requested by the Disclosing Party, the Receiving Party must destroy or return to the Disclosing Party all of its confidential information.
- 9.5 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.

10. Latent Conditions

- 10.1 If we encounter any condition, event, circumstance, matter or thing in, on or around the Site or otherwise that could not have reasonably been foreseen or anticipated by us as at the date of the Quote, and that would or would likely result in us, you or any third party suffering or incurring additional cost or delay, or would require a change to the Quote, Goods, Services, Price, and/or these Terms (**Latent Condition**), during the provision of the Goods and Services, we will notify you as soon as reasonably practicable after becoming aware of the Latent Condition.
- 10.2 Any additional works, materials, costs or delays that we suffer or incur as a result of any Latent Conditions, or any instructions or directions given by you that are in addition to the Goods and Services, will constitute a deemed Variation. The pricing for any deemed Variation for a Latent Condition, will be handled in accordance with clause 5.

11. CDM Regulations

- 11.1 The CDM Regulations govern health and safety matters on construction projects, including during the pre-construction phase (which includes the design phase).
- 11.2 This clause applies to the extent the Goods and Services are covered by the CDM Regulations.
- 11.3 Before any construction works the subject of the Goods and Services commence, where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working at any time (including if you are also doing construction work yourself), a principal contractor and a principal designer must be appointed by you.
- 11.4 We agree to comply with the CDM Regulations to the extent they apply to us and the Goods and Services. This includes some of the obligations of a client under the CDM Regulations, if we are deemed to be the principal contractor.

12. Liability

- 12.1 Nothing in these Terms limits any Liability which cannot legally be limited, including liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, and defective products under the Consumer Protection Act 1987.
- 12.2 Subject to clause 12.1 (liability which cannot legally be limited), but despite anything else to the contrary, to the maximum extent permitted by law, we will not be liable for:
- (a) any errors or omissions in any information or documentation (including drawings and reports) provided by you;
 - (b) any property loss or damage or personal injury or death arising from or in connection with the acts or omissions of you; or
 - (c) any loss or damage which is an unavoidable consequence of the supply of the Goods or Services, including but not limited to, paint damage to surrounding fixtures.
- 12.3 Subject to clause 12.1 (liability which cannot legally be limited), but despite anything else to the contrary, to the maximum extent permitted by law:
- (a) we only supply the Goods and Services for domestic and private use. If you use the Goods and Services for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity;
 - (b) a Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel), including any failure by that other Party to mitigate its loss; and

- (c) our aggregate liability for any and all Liability arising from or in connection with these Terms will be limited to 100% of the Price.

13. Confidential Information and Intellectual Property

- 13.1 Subject to clause 13.2, each Party must (and must ensure that its Personnel) keep confidential, and not use (except to perform its obligations under this Agreement) or permit any unauthorised use of, information provided by the other Party, including information about this Agreement and the other Party's business and operations.
- 13.2 Clause 13.1 does not apply where the disclosure is required by law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with this Agreement and provided that the Disclosing Party ensures the adviser complies with the terms of clause 13.1.
- 13.3 Nothing in these Terms constitutes a transfer or assignment of one Party's intellectual property rights to the other Party.

14. General

- 14.1 **Amendment:** Subject to clause 5, these Terms may only be amended by written instrument executed by the Parties.
- 14.2 **Assignment:** Subject to clause 14.3, a Party must not assign, novate or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).
- 14.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 14.4 **Disputes:** Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use. You can submit a complaint to The Centre for Effective Dispute Resolution via their website at <https://www.cedr.com/>. The Centre for Effective Dispute Resolution will not charge you for making a complaint and if you are not satisfied with the outcome, you can still bring legal proceedings.
- 14.5 **Complaints:** All complaints must be sent to info@maplumbing.co.uk
- 14.6 **Contracts (Rights of Third Parties) Act 1999:** Notwithstanding any other provision of this Agreement, nothing in this Agreement confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.
- 14.7 **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under these Terms if and to the extent such delay or failure is caused or contributed to by a Force Majeure Event.
- 14.8 **Governing law:** These Terms are governed by the laws of England and Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in England and Wales and any courts

entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.

14.9 **Publicity:** Despite clause 13, you agree that we may advertise or publicise the broad nature of our provision of the Goods and Services to you and we may take and use content such as photos or videos of the Goods and Services, including on our website or in our promotional material.

14.10 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.

14.11 **Severance:** If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.

14.12 **Survival:** Each clause, which by its nature survives termination, will survive the termination or expiry of these Terms.

15. Definitions

In these Terms, unless the context otherwise requires:

CDM Regulations means the Construction (Design and Management) Regulations 2015.

Commencement Date means the date these Terms are accepted in accordance clause 1.1.

Expenses means any disbursements, including travel and accommodation costs and third-party costs, reasonably and directly incurred by us and approved in advance by you for the purpose of the provision of the Goods and Services.

Goods and Services means the goods and services to be provided by us to you under these Terms, as expressly set out in the Quote, as adjusted in accordance with these Terms.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), misrepresentation, restitution, indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

Missed Appointment: An appointment is considered missed when our Personnel are unable to gain access to the premises with 15 minutes of the agreed-upon time.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price set out in the Quote for the provision of the Goods and Services, as adjusted in accordance with these Terms, and includes all Expenses and any deposit set out in the Quote.

Quote means the quote (including any online quote) to which these Terms are attached or incorporated by reference.

Site means the site as set out in the Quote, and includes any other property or sites adjoined to, surrounding or neighbouring the Site that may be necessary to access or use for the provision of the Goods and Services.

Term has the meaning given in clause 1.1.

Variation has the meaning given in 5.1.

Variation Request has the meaning given in clause 5.1.