

**TERMS AND CONDITIONS OF SALE OF
MITSUBISHI ELECTRIC EUROPE B.V.
(‘CONDITIONS’)
ALL ORDERS PLACED OR CONTRACTS CONCLUDED WITH
MITSUBISHI ELECTRIC EUROPE B.V. ARE SUBJECT TO THESE CONDITIONS**

1. Terms of Contract

- 1.1 The following terms are given the following meanings in these Conditions: “**Mitsubishi**” means “**Mitsubishi Electric Europe B.V.**” operating through its Irish branch whose address in Ireland is Plunkett House, Grange Castle Business Park, Nangor Road, Dublin 22, D22 E9R0; “**the Customer**” means the person who submits the Order with Mitsubishi; “**the Order**” means the Customer’s instructions to Mitsubishi to supply the goods; “**the goods**” means the goods the subject of the Order; “**the date of purchase**” means the date on which Mitsubishi indicates its acceptance to supply pursuant to the Order in accordance with Condition 1.3 herein; “**the 1893 Act**” means the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act 1980; “**the 1980 Act**” means the Sale of Goods and Supply of Services Act 1980; “**Non-Customer**” means the Customer’s: supplier(s), customer(s), end customer(s), indirect customer(s), distributor(s), agent(s), associate(s), representative(s), investor(s), partner(s), subsidiaries, owner(s), parent(s) or ultimate parent company, any company wholly or partially owned by the Customer or by the Customer’s ultimate parent company or one of its group companies or any other party, whatsoever, to whom the Customer supplies the goods.
- 1.2 The contract concluded pursuant to the Order (“**a Contract**”) shall be subject to these Conditions alone, which shall prevail over any inconsistent printed or other terms or conditions used by the Customer or otherwise contained in or referred to in the Customer’s order or in correspondence or elsewhere and all or any conditions or stipulations inconsistent with these Conditions are hereby excluded and extinguished.
- 1.3 A Contract for the supply of the goods shall not be deemed to have come into existence until Mitsubishi agrees to accept the terms of the Order. Any person submitting the Order for the Customer shall be taken in good faith by Mitsubishi to be the authorised agent of the Customer, whether the person be so authorised or not.
- 1.4 Amendment of a Contract can only be made by agreement between Mitsubishi and the Customer and to bind Mitsubishi must be made in writing and signed by an authorised official of Mitsubishi.
- 1.5 Mitsubishi shall, in the performance of any obligations incurred under a Contract, be entitled to engage agents, contractors or otherwise.

2. Quotations

- 2.1 No quotation of Mitsubishi shall constitute an offer and all quotations may be withdrawn at any time.
- 2.2 Mitsubishi shall not be obliged to accept any Order and reserves its entire discretion in this respect.

3. Specification

- 3.1 The goods will be supplied in accordance with Mitsubishi’s then subsisting standard specification in relation to goods of that relevant type. Mitsubishi reserves the right at any time and from time to time to make such improvements, alterations and modifications of such specification as it or its suppliers think desirable in all circumstances.

4. Packaging

- 4.1 The specification for packaging the goods shall be entirely at the discretion of Mitsubishi who shall have the right to pack all the goods in such manner and with such materials and in such

quantities as it, in its absolute discretion, thinks fit and Mitsubishi shall not be obliged to comply with any packaging instructions or requests of the Customer.

5. Delivery and Risk

- 5.1 Delivery will be made by Mitsubishi to the Customer's address notified to Mitsubishi on the submission of the Order. The risk for the goods will pass to the Customer immediately on delivery of the goods at the above-described Customer's address (or into custody on the Customer's behalf, if sooner), and should be insured accordingly. Any person executing any delivery note provided by Mitsubishi in relation to the goods for the Customer shall be taken in good faith by Mitsubishi to be the authorised signatory of the Customer whether the signatory be authorised or not. Execution of a delivery note, in the manner described in this Condition 5.1, shall be taken to be conclusive proof that the goods were delivered to the Customer.
- 5.2 If a delivery schedule is agreed, Mitsubishi will endeavour to comply with same. Mitsubishi shall not in any circumstance be liable for failure to do so, in particular, and without prejudice to the generality of the foregoing, failure to deliver the goods by the agreed date or dates will not be accepted as sufficient cause for cancellation of a Contract by the Customer, nor will Mitsubishi be liable for late delivery arising out of any cause whatsoever or for any direct, indirect, actual or consequential loss, injury or damage whether pecuniary, financial or otherwise, arising therefrom suffered by the Customer or any other person firm or company. Where delivery is to be made by instalments, delay in delivering one instalment shall not entitle the Customer to refuse to accept the remaining instalments.
- 5.3 If the Customer fails to accept delivery of an Order on the agreed delivery date, then, except where that failure or delay is caused by Mitsubishi's failure to comply with its obligations under a Contract or a force majeure event, delivery of the Order shall be deemed to have been completed on the agreed delivery date. Mitsubishi may store the goods until re-delivery, in which case the Customer will be liable for all related costs and expenses including but not limited to restocking, storage and insurance.
- 5.4 Unless otherwise agreed, in the case of all non-Irish sales involving delivery outside the Republic of Ireland the goods will be delivered by a shipping method determined at Mitsubishi's sole discretion. Risk of loss and damage to the goods shall pass to the Customer upon delivery. The goods shall, once the risk has passed to the Customer in accordance with this Condition 5.4, be and remain at the Customer's risk at all times unless and until Mitsubishi has retaken possession of the goods and the Customer shall insure accordingly.

6. Property in the Goods

- 6.1 The property in the goods supplied by Mitsubishi to the Customer hereunder shall remain the property of Mitsubishi until all debts due by the Customer to Mitsubishi in respect of such goods have been paid in full (including any Value Added Tax or other tax or levy in respect thereof and any interest due pursuant to Condition 7.4 herein).
- 6.2 Until property in the goods passes to the Customer it shall
- (a) keep the goods as a trustee and in a fiduciary capacity for Mitsubishi and shall ensure that the same remain at all times separately identifiable as the property of Mitsubishi. In the event of non-payment of the goods at the time due, any employee, agent or contractor authorised by Mitsubishi shall be entitled to enter upon any premises owned or occupied by the Customer for the purpose of identifying any goods which are the property of Mitsubishi, and which are in the possession of the Customer and removing any of the said goods;
 - (b) keep the goods fully insured and any monies received by the Customer on foot of any insurance policy in respect of any damage, deterioration, loss or destruction of the goods shall be held on trust for Mitsubishi and if not paid directly to Mitsubishi shall be lodged to the separate account mentioned in Condition 6.3 below.

- 6.3 Should the Customer, while in possession of any goods the property wherein remains in Mitsubishi, sell or dispose of the goods to any other person, such part of the proceeds of such sale or disposal as is attributable to the price due by the Customer to Mitsubishi in respect of such goods, shall be held by the Customer on trust for Mitsubishi, said proceeds to be paid into a separate account and held on trust for and as the property of Mitsubishi. The Customer shall furnish to Mitsubishi at the end of every month, an up-to-date bank statement showing the balance in such account.
- 6.4 Where a cheque, bill of exchange or other instrument is received as payment for any of the goods, Mitsubishi shall only be deemed to have received payment when the amount of that payment is irrevocably credited to its bank account. Mitsubishi may, at any time, give notice to the Customer requiring the Customer to redeliver at the Customer's expense any goods supplied by Mitsubishi in which Mitsubishi has property where the Customer is in default of payment after 30 days from the end of the calendar month for which the invoice is dated or if any bill of exchange, cheque or other negotiable instrument drawn or accepted or endorsed by the Customer in favour of Mitsubishi is not irrevocably credited to its bank account.
- 6.5 Nothing in this Condition 6 shall prejudice Mitsubishi's right to sue the Customer for any debts due in relation to the goods and to payment of damages, loss of profits, and interest.
- 6.6 The customer acknowledges that Mitsubishi is the absolute owner of Mitsubishi's "**Intellectual Property Rights**" (being any patents, inventions, copyright and related rights, trademarks, trade names, rights to goodwill or to sue for passing of rights in designs, rights in computer software, database rights, rights in confidential information (including know-how), utility models and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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, and the customer shall not assert or attempt to assert any rights in relation to Mitsubishi Intellectual Property Rights. Mitsubishi shall not be liable for claims arising from an infringement of third-party Intellectual Property Rights.
- 6.7 The Customer shall not use or exploit Mitsubishi's Intellectual Property Rights, and in no circumstance shall the Customer reproduce, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer any of Mitsubishi's Intellectual Property Rights or any software embedded in, or forming part of (directly or indirectly) Mitsubishi's goods and/or ancillary services related to delivery of the goods, or create derivative works based on the whole of or any part of the software or incorporate the software into any other software program not provided by Mitsubishi, and the Customer undertakes to only use any such software in the operation of the goods and/or ancillary services related to delivery of the goods.
- 6.8 The Customer shall indemnify Mitsubishi and keep Mitsubishi indemnified from and against all claims, damage, losses, costs (including all reasonable legal costs), expenses, demands or liabilities arising out of or in connection with any claim alleging that Mitsubishi has infringed the Intellectual Property Rights of a third party in supplying the goods and/or ancillary services related to delivery of the goods in accordance with the Customer's instructions or to a specification provided by the Customer.

7. Price and Payment

- 7.1 Unless agreed separately and in writing by Mitsubishi, the price of the goods shall be the price ruling in Mitsubishi's current Trade price list relative thereto at date of despatch of the goods to the Customer or in the event of a quotation being given by Mitsubishi in relation to the sale of the goods the price reflected in said quotation ("**the price**").
- 7.2 The price is exclusive of Value Added Tax or any other tax, charge, duty or costs connected therewith and thereafter imposed and any Value Added Tax, charge, duty or costs connected therewith payable in respect of the goods supplied by Mitsubishi will be borne by the Customer.
- 7.3 Mitsubishi may complete a Contract by instalments and invoice the instalments separately. Payment of any instalment due is a condition precedent to starting further deliveries. Mitsubishi

shall have the right to terminate any Contract in respect of the goods or any of them when an instalment payment is in arrears. Termination so effected by Mitsubishi shall be without any liability whatsoever on its part. The losses of Mitsubishi resulting from withholding deliveries of any of the goods due to non-payment by the Customer shall be refunded in total by the Customer.

- 7.4 Unless otherwise agreed in writing by Mitsubishi, the Customer agrees to pay interest on any sums due to Mitsubishi set out in an invoice issued in relation to a Contract which have not been paid by the due date at a rate of two (2) percent per month accruing from day to day, until payment of all sums due on the relevant invoice is received by Mitsubishi. The Customer shall be responsible for all costs legal or otherwise incurred by Mitsubishi in seeking payment of the sums due. The interest referred to above shall be payable without prejudice to Mitsubishi's other rights and before as well as after judgment.
- 7.5 The Customer agrees and acknowledges that Mitsubishi reserves the right by notice in writing to withdraw any credit facility offered to the Customer in the event the Customer's financial standing deteriorates to a level whereby it is unable to pay its debts as they fall due; or Mitsubishi has reasonable cause to believe that the foregoing is imminent and/or reasonably likely to occur during the term of the respective Contract(s), as determined by Mitsubishi either (i) acting alone or (ii) in conjunction with its credit insurance provider (a **"Financial Change"**).
- 7.6 In the event that credit is withdrawn due to a Financial Change, Mitsubishi may:
- (a) at its option, without incurring any liability, cancel any undelivered or uncompleted portion of the respective Contract, or cancel any other agreement with the Customer and stop the manufacture and/or delivery of any goods
 - (b) change the Customer's account to cash with order account; and
 - (c) without prejudice to any other rights, demand immediate payment of other outstanding amounts which shall thereupon become due and payable.
- 7.7 Should the Customer become bankrupt or insolvent, or make any composition for the benefit of its creditors, or take or suffer any similar action in consequence of a debt, or being a company, the Customer goes into liquidation, whether voluntarily or compulsorily (other than for the purpose of reconstruction or amalgamation), or a receiver or examiner is appointed over all or any of its assets, or a petition is presented to a court for the appointment of an examiner to the Customer or the Customer is brought under the protection of the court, or by virtue of Section 570 of the Companies Act, 2014 the Customer is deemed unable to pay its debts, or if Mitsubishi has cause to believe that any of these events is likely to occur, then Mitsubishi shall be entitled forthwith, at its sole option, without prejudice to any other rights or remedies it may have and without incurring any liability, terminate a respective Contract, or any other agreement or accepted order, in part or full, with the Customer and may stop any of the goods in transit, and may, without prejudice to any other rights and remedies available to it, demand immediate payment of any outstanding amounts in relation to a Contract.

8. Guarantee/Warranty and Exclusions

- 8.1 The goods will be subject to the Mitsubishi standard form of guarantee/warranty for the relevant goods, or in the event a standard form of guarantee/warranty does not apply or is not otherwise applicable to the respective goods or Customer, the goods shall be subject to a defects warranty of no more than twelve consecutive calendar months starting from the date of Mitsubishi's order acknowledgment. Mitsubishi may amend any of its goods' guarantees/warranties from time to time on giving written notice to the Customer and the Customer will utilise such replacement guarantee/warranty and no other from the date of notice, including in respect of existing stock of Mitsubishi goods.
- 8.2 Mitsubishi shall not be liable for the goods' failure to comply with its specification pursuant to Condition 3, and any guarantee/warranty offered to the Customer in accordance with Condition 8.1 shall not apply if:

- (a) the Customer makes any further use of such goods after giving Mitsubishi notice of any alleged defect not in conformance with Mitsubishi's specification;
- (b) the alleged defect arises because the Customer failed to follow its obligations under Condition 12, any Technical Information (defined below) or Mitsubishi's other oral or written instructions as to the storage, installation, commissioning, use or maintenance of the goods or (if there are none) good trade practice;
- (c) the alleged defect arises because the Customer has integrated the goods with its internal software and/or IT systems which includes, but is not limited to: any third party software, application, operating system or any other intangible program whatsoever, that has the effect of not being compatible with the goods or otherwise causing the goods to not perform in accordance with Mitsubishi's specification;
- (d) the defect arises in connection with or as a result of Mitsubishi following any instruction, drawing, design or specification supplied by the Customer, or an affiliate, agent or subcontractor of the Customer, or any other information supplied by the foregoing prior to delivery of the goods;
- (e) the Customer, or an affiliate, agent or subcontractor of the Customer, alters, modifies or repairs such goods without the written consent of Mitsubishi; or
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

8.3 All Contracts undertaken pursuant to these Conditions are solely in regard to the direct sale of goods and/or ancillary services between Mitsubishi and its Customer. Mitsubishi accepts no liability in regard to any other agreement directly or indirectly arising out of or in connection with the goods or the Customer's sale/project process, including any third party agreement between the Customer and a Non-Customer. In the event the Customer and/or its Non-Customer elect to use any third party for the procurement and integration of non-Mitsubishi parts into or in combination with the goods, or for the performance of any works, deliverables, services or advice including, but not limited to: design, sub-contracting, construction, engineering and/or component integration services, as well as the provision of any intangible software, information technology, operating system, development and/or program (bespoke or off the shelf) works, that directly (or indirectly) affect or relate to the goods (together or separately "**Third Party Works**"), the Customer and/or Non-Customer shall be solely responsible for the scope, output and deliverables under any such Third Party Works contract; and the Customer shall always ensure it has appropriate mitigation measures in place when relying on any such Third Party Works including, but not limited to, obtaining a proportionate quantum of insurance, to protect against any defective Third Party Works when performing its work for (or with) the Non-Customer. In the event Mitsubishi introduces or otherwise recommends a third party to the Customer or a Non-Customer for any Third Party Works, any such recommendation shall be neither endorsed nor a binding nomination or mandatory requirement by Mitsubishi, and the Customer and/or Non-Customer shall in all cases be free to instruct any other third party to conduct its Third Party Works, and the Customer and Non-Customer shall be respectively responsible and liable for any reliance placed on any such Third Party Works. Mitsubishi does not undertake, warrant or represent (whether recommended or not) the quality of work, qualifications or skill of any third party performing Third Party Works, nor the functionality; specification; quality; accuracy; or output deriving from, and/ or contained within, any Third-Party Works. Mitsubishi shall not be liable for any: direct, indirect, special or consequential loss, damage, liability or expense incurred or suffered which is claimed to have resulted from the Customer's and/or the Non-Customer's use of, or reliance on, any Third Party Works, including without limitation, any fault, error, act, omission, interruption, negligence or delay; and the Customer shall hold harmless, reimburse and indemnify Mitsubishi for all claims, damage, losses, costs (including all legal costs), expenses, demands or liabilities arising out of or in connection with any Third Party Works.

8.4 In the event the Customer seeks to make a claim against Mitsubishi under a Contract pursuant to these Conditions, the Customer shall first notify Mitsubishi of its intention to make such a

claim in a period commencing from the day on which the Customer became, or ought reasonably to have become, aware of the claim-event having occurred (the “**Event Date**”) (but not from a date on which the Customer may become aware of its having grounds to make a claim), and expiring twenty-four months from the Event Date (the “**Notice Period**”). Mitsubishi shall have no liability in the event the Customer notifies Mitsubishi of the claim-event after the final day of the Notice Period. The Customer’s notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

- 8.5 The guarantee/warranty set out in these Conditions apply solely in regard to goods manufactured by Mitsubishi. In the event the Customer has sought to purchase goods from Mitsubishi that have been manufactured by a third party (“**Third Party Goods**”), the Customer shall be solely responsible for confirming and approving the functionality, scope, specification, output and desired performance of the Third Party Goods; and the Customer shall always ensure it has reviewed the Third Party Goods’ manufacturer’s specification and any applicable third party warranty terms and conditions before placing an Order for the respective Third Party Goods’ with Mitsubishi. The Customer warrants and represents that it has undertaken all applicable mitigation measures before it elected to rely on the Third Party Goods and placed its Order(s) for the Third Party Goods with Mitsubishi including, but not limited to, obtaining a proportionate quantum of insurance to cover any loss or damage, and having performed detailed technical assessments of the Third Party Goods’ suitability for the Customer’s requirements. In the event Mitsubishi recommends or expresses an opinion on the functionality and/ or compatibility of the Third Party Goods with Mitsubishi’s goods or any other goods, any such recommendation or expression of opinion by Mitsubishi shall be neither endorsed nor binding in any way, and the Customer shall in all instances purchase the Third Party Goods from Mitsubishi on an “as is” basis. Conditional on the Customer immediately notifying Mitsubishi in writing that the respective Third Party Goods are defective, the Customer acknowledges and agrees that Mitsubishi’s sole obligation and the Customer’s sole remedy shall be for Mitsubishi to use commercially reasonable endeavours to obtain the repair or replacement of the allegedly defective Third Party Goods, at Mitsubishi’s sole discretion, subject to the terms of Mitsubishi’s purchasing agreement with the supplier of the Third Party Goods. Mitsubishi does not warrant or represent that the specification; quality; accuracy; or performance output deriving from any Third Party Goods is suitable for the Customer’s purposes, and Mitsubishi shall not be liable for any: direct, indirect, special or consequential loss, damage, liability or expense incurred or suffered which is claimed to have resulted from the Customer’s use of, or reliance on, any Third Party Goods, including without limitation, any fault, error, act, omission, interruption, negligence or delay.

9. Exclusions

- 9.1 In view of the giving by Mitsubishi of its standard form of warranty for the relevant goods it is agreed between Mitsubishi and the Customer that the following are fair and reasonable:
- 9.1.1 Except as provided for herein and in and subject to the Mitsubishi standard form of warranty for the relevant goods, all conditions, warranties, terms and or representations which might otherwise be implied in relation to the sale of goods or the provision of services, whether statutory or arising under common law, shall be excluded, so however, that the implied undertakings as to title provided for under Section 12 of the 1893 Act or those under Section 12 of the 1980 Act shall in no way be restricted or excluded by any of the provisions of these Conditions.
- 9.1.2 The Customer does not and has not relied upon Mitsubishi’s skill or judgment or on any representation made by or on behalf of Mitsubishi in connection with a Contract and/or the goods, unless such representation was contained in any printed specification or technical data published by Mitsubishi, or was given in writing and signed by a director of Mitsubishi.
- 9.1.3 Mitsubishi shall not in any event be liable in connection with any representation unless the same was contained in any printed specification nor technical data published by Mitsubishi, or was given in writing and signed by a director of Mitsubishi.

9.1.4 Mitsubishi shall have no liability to the Customer whatsoever and howsoever arising in respect of the installation, maintenance, and servicing of and or any application of or provision of engineering advice in relation to the goods or for any act, default, omission or statement of or work performed by any contractor consulted or engaged by the Customer in relation to the installation and or servicing and or maintenance and or any application of or provision of engineering advice in relation to the goods, and this is so notwithstanding that the contractor may have been introduced or recommended by Mitsubishi or there may have been quoted by Mitsubishi to the Customer a global price covering the amount payable to Mitsubishi for the purchase of the goods and the amount payable to the contractor(s) for the installation and or maintenance and or servicing of and or any application of or provision of engineering advice in relation to the goods.

9.1.5 Mitsubishi shall have no liability to the Customer whatsoever and howsoever arising in respect of any damage injury or loss suffered directly or indirectly by the Customer or by any other person firm or company thereof arising out of or in connection with the incorrect delivery, late delivery, non-delivery, any application of or provision of engineering advice, sale, installation, maintenance, servicing, use, performance, failure, interruption or breakdown of or the remedying of any defect in the goods save as otherwise expressly provided in these Conditions. The Mitsubishi standard form of warranty in relation to the goods and/or ancillary services related to the delivery of the goods, and the remedies expressly set out shall be the full extent of Mitsubishi's liability which will not in any event exceed the cost of repair, replacement or credit, at Mitsubishi's option, of the goods, or in regard to any ancillary services related to delivery of the goods, the cost of re-performance of any such ancillary services. Mitsubishi shall not in any circumstances be liable for any other loss or damage whatsoever, including any consequential loss or any loss of profit, earnings or receipts or increased costs howsoever arising in any way in connection with a Contract or the goods and/or ancillary services related to delivery of the goods. This limit shall not apply to breach of the implied warranty of title under Section 12 of the 1893 Act, the warranty under Section 12 of the 1980 Act, negligently caused death or personal injury or liability of Mitsubishi under the Liability for Defective Products Act 1991 (as amended) to a person injured by a defective product.

9.2 In the event of Mitsubishi failing to perform or it believing that it may be prevented from performing anyone or more of the obligations undertaken pursuant to a Contract (including delivery in accordance with any delivery schedule, as appropriate) due to or arising out of any event or cause of whatsoever nature beyond the control of Mitsubishi or force majeure, Mitsubishi shall not be liable for any default in performance of a Contract arising therefrom and Mitsubishi shall have the option either to cancel a Contract wholly or partially or to extend the time of delivery or the time for performance of any obligations to be performed thereunder during such period as the circumstances or any of them continue. In the event of such cancellation or extension by Mitsubishi, the Customer shall have no claims whatsoever against Mitsubishi.

10. Non-delivery, Defects on Delivery, Short Deliveries and Over Deliveries

10.1 No claim by the Customer as to non-delivery of the goods or as to the failure by Mitsubishi to furnish goods in compliance with a Contract shall be considered by the Company unless the following requirements are complied with:

(a) Non delivery of the goods invoiced for delivery which are not received within seven (7) days of the date of despatch must be advised in writing by the Customer to Mitsubishi. Subject to it being established that the goods were not so delivered the liability of Mitsubishi shall be limited solely to procuring (subject at all times to the provisions of Condition 9.2 hereof) that a fresh delivery of the goods be despatched to the Customer.

(b) Where the goods are damaged in transit such damage must be notified in writing by the Customer to Mitsubishi within three (3) working days of delivery of the goods to

the Customer. Subject to it being established that the goods were so damaged the liability of Mitsubishi shall be limited to rectifying (whether through the employment of its employees, agents, contractors or otherwise) the damage without cost or charge in relation to such rectification or the labour expended, being made to the Customer. The Customer shall bear the costs of returning the goods to Mitsubishi for rectification, to include, inter alia, all carriage and insurance costs relating thereto. Mitsubishi shall, in turn, bear the costs of returning the goods to the Customer, following rectification, to include, inter alia, all carriage and insurance costs. Mitsubishi assumes no other liability apart from that expressly stated above, in particular, Mitsubishi shall have no obligation to provide substitute goods during the period when the damaged goods are returned to Mitsubishi for rectification.

- (c) Any shortfall in the number or items of the goods contracted to be delivered pursuant to a Contract shall be notified in writing by the Customer to Mitsubishi within three (3) working days of delivery of the goods or any of them to the Customer. Subject to it being established that such shortfall did occur on delivery the liability of Mitsubishi shall be limited solely to making a further delivery to make up the shortfall, the cost of such further delivery being borne by Mitsubishi.
- (d) Any over delivery in the number or items of the goods contracted to be delivered pursuant to a Contract shall be notified in writing by the Customer to Mitsubishi within three (3) working days of the delivery of the goods to the Customer. Subject to it being established that such oversupply did occur on delivery the Customer shall store the items of oversupply separate from his other goods and permit collection of them by a duly authorised employee or agent of or contractor to Mitsubishi who calls for same.
- (e) Where the goods arrive in a defective or faulty condition (such condition not arising as a result of damage in transit) the Customer shall be entitled to return the said goods to Mitsubishi for credit provided that said goods are returned in their original packing and are despatched (carriage and insurance paid) to Mitsubishi within 15 days of the above-mentioned arrival.

11. Cancellation

- 11.1 Orders, once accepted, cannot be cancelled by the Customer without Mitsubishi's written approval, in which case the Customer agrees to indemnify Mitsubishi for all loss suffered by it as a result of an approved cancellation. Mitsubishi may in any event terminate any Contract in part or full, or any other agreement or accepted order subject to these Conditions, at any time without incurring any liability; by giving the Customer no less than seven (7) days' notice by post or email.

12. Technical Information and Trade Marks

- 12.1 All technical information, specifications and drawings and any confidential information of any kind coming into the possession of the Customer in connection with any of Mitsubishi's goods remain the property of Mitsubishi and shall not be used by the Customer other than for the performance of any Contract between Mitsubishi and the Customer. All documents shall be returnable on request.
- 12.2 All information of a technical nature and particulars of the goods and performance given by Mitsubishi (including all technical Information, as defined in Condition 12.3 below) are given in good faith, but no responsibility is accepted by Mitsubishi for their accuracy and their supply shall not be used to found liability on Mitsubishi's part.
- 12.3 The Customer shall comply with and shall ensure it notifies all affected Non-Customers of their obligation to comply with, all applicable installation, commissioning, electrical and operational standards and directives, as well as all laws and regulations, in regard to the safe and compliant use of any purchased good(s) in its respective jurisdiction. The Customer further undertakes to comply with (and to notify the same to any Non-Customer) all information of a

technical nature that pertains to a respective goods' particulars and the compliant, safe and specified usage of any purchased goods including, but not limited to: all manuals, guidelines, directives, health and safety/ usage instructions, operational details, specifications, drawings, and any other documents whatsoever provided by Mitsubishi (or otherwise available through Mitsubishi's online hyperlinks, websites or applications) (together or separately "**Technical Information**").

- 12.4 The Customer shall comply with all laws and regulations affecting the purchase and/or resale, packaging and labelling of the goods and shall not alter the packaging or labelling of the goods (including any Technical Information) nor shall it conceal, obscure, remove or otherwise interfere with the packaging or labelling of the goods (including any Technical Information) unless authorised by Mitsubishi in advance and in writing.
- 12.5 The Customer shall not:
- (a) apply any trademark of which Mitsubishi is the proprietor or registered user ("**Mitsubishi Trade Mark**") to the goods after they have suffered any alteration in their state or condition, get-up or packing;
 - (b) alter, partly remove or partly obliterate any Mitsubishi Trade Mark;
 - (c) apply any other trade mark to the goods;
 - (d) add any other matter in writing that is likely to injure the reputation of any Mitsubishi Trade mark.

13. Notifications

- 13.1 Any notice or other communication authorised or required to be given in writing by any party hereunder or for the purposes hereof to the other party hereunder shall be sufficiently given if delivered by hand or sent by post to the address of Mitsubishi described above in Condition 1.1 hereof or the address of the Customer as provided for in Condition 5.1 hereof, as the case may be, or to such other address of either or both as the case may be as shall be notified from time to time by one party to the other. Any notice or communication shall be deemed to be received by the recipient in the case of a letter which is hand delivered, when actually delivered, and in the case of a letter sent by post, on the fourth day after posting (or on the actual receipt if earlier).

14. Declaration

- 14.1 NOTHING IN THESE CONDITIONS ARE INTENDED TO NOR SHALL BE INTERPRETED SO AS TO RESTRICT OR EXCLUDE IN ANY MANNER WHATSOEVER THE RIGHTS WHICH THE CUSTOMER ENJOYS BY VIRTUE OF SECTION 12 OF THE 1893 ACT OR SECTION 12 OF THE 1980 ACT. THE EXCLUSION OR RESTRICTION PROVIDED HEREIN OF THE RIGHTS CONFERRED ON THE CUSTOMER (BEING ONE WHO DOES NOT DEAL AS A CONSUMER) UNDER SECTIONS 13, 14 AND 15 OF THE 1893 ACT, IS SUBJECT TO SECTION 55 OF THE 1893 ACT. THE EXCLUSION PROVIDED HEREIN OF THE RIGHTS CONFERRED ON THE CUSTOMER UNDER SECTION 39 OF THE 1980 ACT, IS SUBJECT TO SECTION 40 OF THE 1980 ACT.

15. Special Delay

- 15.1 Significant events such as global pandemics, the process of the United Kingdom's exit from the European Union ("**Brexit**"), geopolitical events (including wars, conflicts, or civil commotion), acts of God, natural disasters or extreme weather events, acts of terrorism, nuclear or chemical or biological contamination, imposition of sanctions or embargos, or any other events beyond Mitsubishi's reasonable control, together and/or separately, may be likely to result in material delay to component procurement, production, shipment, delivery or other supply chain delays howsoever arising, especially such which may cause delays in any

delivery date or completion of Mitsubishi goods and/or ancillary services related to delivery of the goods, whether foreseen or unforeseen (together, or separately, a “**Special Delay**”).

- 15.2 As prevailing special condition to any Mitsubishi quotation, and without prejudice to these Conditions, the Customer acknowledges and agrees that any indicated or proposed date, milestone or other time period set out in a Contract and/or in any other document, email, purchase order, order acknowledgment or communication (in oral or recorded form); is to be construed solely as an estimate for time of delivery or performance; and any provision or term to the contrary is deemed amended and to be interpreted in accordance with this Condition 15.2.
- 15.3 Any Special Delay shall not be grounds for the Customer to terminate or cancel an order for goods and/or ancillary services related to delivery of the goods which is the subject of a Mitsubishi quotation, without Mitsubishi’s prior written approval.
- 15.4 Mitsubishi does not accept liability for any loss, cost, liquidated damages or any unascertained, general or special damages of any nature whatsoever or any other claim or fine or expense (directly or indirectly) connected to any Special Delay or any other such significant global event which acts as an impediment to trade of goods.
- 15.5 If either party becomes aware of the likelihood of delay or any actual delay in delivery or performance resulting from a Special Delay, the party first aware of the Special Delay shall use all reasonable endeavours to notify the other party of the same in writing, by recorded post, whereupon Mitsubishi shall issue a revised delivery date or alternative remedy.

16. Third Party Rights

- 16.1 A person who is not a party to a Contract has no right to enforce or to enjoy the benefits of any term of a Contract.

17. Anti-Bribery and Corruption

- 17.1 The Customer shall, and shall ensure that its directors, employees, agents, representatives, affiliates, group companies, members and any other party acting on its behalf, shall: -
 - 17.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Criminal Justice (Corruption Offences) Act 2018 and, where applicable, the UK Bribery Act 2010, and those relating to anti-slavery and human trafficking (including, where applicable, the UK Modern Slavery Act 2015) (“**Relevant Requirements**”), as well as complying with: its own ethics, anti-bribery and anti-corruption policies, any relevant industry code on anti-bribery and any such related guidance or policy made available by Mitsubishi (whether in physical copy or otherwise available from Mitsubishi’s website, hyperlink or any other digital method), in each case as may be updated from time to time (“**Relevant Policies**”);
 - 17.1.2 not engage in any activity, practice or conduct which would constitute an offence under the Relevant Requirements (including under sections 1, 2 or 6 of the UK Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK);
 - 17.1.3 have and shall maintain in place their own policies and procedures (where applicable including, but not limited to, adequate procedures under the UK Bribery Act 2010), to ensure compliance with the Relevant Requirements, the Relevant Policies, and will enforce them where appropriate; and
 - 17.1.4 promptly notify Mitsubishi (in writing) if a public official in any jurisdiction becomes its officer or employee (and the Customer warrants it has no public officials in any jurisdiction as officers, employees or direct or indirect owners at the date of the Contract).

17.1.5 Breach of this Condition 17 shall be deemed a material breach, whereupon Mitsubishi may terminate the respective Contract with immediate effect by giving written notice to the Customer. The Customer shall indemnify and hold Mitsubishi harmless against any and all claims, losses or damages arising from, or related to, such breach.

18. European Union (Waste Electrical and Electronic Equipment) Regulations 2014 - Take Back Offer:

18.1 Mitsubishi is committed to meeting the requirements of the European Union (Waste Electrical and Electronic Equipment) Regulations 2014. These Regulations require producers of electrical and electronic equipment to finance the takeback of WEEE resulting from products that such producers place on the Irish market. This helps us to ensure that WEEE is reused or recycled safely. In line with that commitment Mitsubishi will take back WEEE from the Customer. Please contact Mitsubishi for details.

18.2 The Customer also has a role to play in ensuring that WEEE is reused and recycled safely. So, if the Customer chooses not to return WEEE to Mitsubishi then the Customer should not dispose of it in its bin. The crossed out wheeled-bin symbol on the product reminds users not to dispose WEEE in the bin. The Customer should ensure that the WEEE is collected separately and sent for proper treatment. WEEE contains hazardous substances and if not managed and treated safely it can cause pollution and damage human health.

19. Validity, Proper Law and Jurisdiction

19.1 In the event of any Condition herein or part thereof being rendered void or unenforceable by virtue of any legislation, rule of law or otherwise to which it is subject, it shall be as void or unenforceable to that extent only and no further and the validity and enforceability of the rest of the Condition or Conditions as the case may be, shall not be affected thereby. Should any Condition herein be rendered void or unenforceable, whether wholly or in part, Mitsubishi and the Customer shall endeavour without delay to attain the economic result aimed at by the invalid Condition (or part thereof, as appropriate), in another legally permissible manner.

19.2 These Conditions shall be governed by and construed in accordance with the laws of Ireland and the courts of Ireland shall have exclusive jurisdiction to decide any difference or disputes arising between Mitsubishi and the Customer.

20. EU Data Act

20.1 Mitsubishi is committed to meeting the requirements of the EU Data Act. The 'EU Data Act Annex' is hereby annexed to and forms part of these Terms and Conditions (and any related sales agreements). This Annex shall apply in connection with the sale of Connected Products or Related Services to which the EU Data Act is applicable.

DATA ACT: USE ANNEX

1. Background

- 1.1 In the event the Customer is purchasing, renting or leasing Connected Products and/or Related Services from Mitsubishi Electric Ireland pursuant to the terms of these Terms & Conditions of Sale the provisions of this Annex may apply.
- 1.2 This Annex:
- 1.2.1 covers non-personal data generated by the use of a Connected Product or Related Service that Mitsubishi Electric Ireland obtains or can lawfully obtain (without disproportionate effort going beyond a simple operation) from Connected Product(s) and/or Related Service(s) that are subject to these Terms & Conditions, irrespective of whether Mitsubishi Electric Ireland is the manufacturer or provider of such Connected Product and/or Related Service; (hereinafter the “Data”)
 - 1.2.2 does not cover data that is not subject to EU Data Act (in particular inferred or derived data), and the Mitsubishi Electric Ireland’s obligations are limited in accordance with the provisions of the EU Data Act when it is not a Data holder.
 - 1.2.3 records the agreed scope of the Customer’s rights to access and use that Data and Mitsubishi Electric Ireland’s rights to use, transfer and share that data where and to the extent Mitsubishi Electric Ireland requires such a grant of use from the Customer (subject to any other rights provided under applicable law). The expression “use” should be read as including all forms of use and exploitation, such as to store, duplicate, modify, integrate, combine and otherwise process, as well as to develop into products, licence and/or otherwise commercially exploit.
 - 1.2.4 does not apply to personal data subject to GDPR.
- 1.3 All intellectual property rights in and in relation to the Data belong to Mitsubishi Electric Ireland, and Mitsubishi Electric Ireland may transfer and/or sublicense its rights under this Annex in respect of the Data.
- 1.4 The Customer acknowledges and agrees that on or before the execution of the Terms & Conditions of Sale it has accessed and reviewed Mitsubishi Electric Ireland’s EU Data Act website, found here at <https://europe.mitsubishielectric.com/en/privacy/data-act/> and, in particular, has ascertained the respective Connected Product(s) and/or Related Service(s)’ technical information sheet(s). The Customer further acknowledges and agrees, that in the event it is unable to find or understand the technical information sheet(s) for the applicable Connected Product(s) and/or Related Service(s)’ data format, type, frequency and estimated volume of collection; The Customer undertakes that it shall immediately contact the Mitsubishi Electric Ireland’s supplier for clarification regarding any such information including, but not limited to, the provisions of Article 3 of the EU Data Act, before executing the Agreement.

2. Definitions

- 2.1 **Connected Product** means an item that obtains, generates, or collects data concerning its use or environment and that is able to communicate product data via an electronic communications service, physical connection, or on-device access (e.g., a connected vehicle or motorcycle).
- 2.2 **Product data** is data generated by the use of a connected product that is designed to be retrievable, via an electronic communications service, physical connection, or on-device access.
- 2.3 **Related Service** means a digital service that can be linked to the operation of a connected products (resulting in a two-way/bidirectional exchange of data) and that affects the functionality, behavior or operation of this connected product (in such a way that its absence would prevent the connected product from performing one or more of its functions). Typical example is an app that is connected to a connected product.
- 2.4 **Related service data** means data representing the digitization of user actions or of events related to the connected product, recorded intentionally by the user, or generated as a by-product of the user's action during the provision of related service by the provider.
- 2.5 **User** is a person that owns a connected product or has the right to use that connected product or that receives related services.
- 2.6 **Data holder** means a natural or legal person that has the right or obligation to use and make available data, including, where contractually agreed, product data or related service data which it has retrieved or generated during the provision of a related service.
- 2.7 Regarding the terms used, we also refer to the definitions in Art. 2 EU Data Act.
3. **Party Rights and Obligations**
- 3.1 The Customer represent and warrant that following execution of the Agreement the Customer shall be:
- 3.1.1 the owner of the Connected Product;
 - 3.1.2 contractually entitled to use the Connected Product; or
 - 3.1.3 contractually entitled to receive the Related Services
- 3.2 At Mitsubishi Electric Ireland's] request (acting reasonably) The Customer will provide documentation and other information to evidence the commitments in clause 3.1.
- 3.3 The Customer acknowledges and agrees that Mitsubishi Electric Ireland may use, share and transfer EU Data Act applicable Connected Product/Related Service Data for the Permitted Purposes recorded in this Annex.
- 3.4 Mitsubishi Electric Ireland acknowledges and agrees to make Data available to the Customer upon reasonable request (or on request from an authorised party acting on your behalf) in accordance with Article 4(1) of the EU Data Act (a "**Request**").

Requests can be made by accessing <https://europe.mitsubishielectric.com/en/privacy/data-act/>

3.5 Pursuant to receiving a valid Request, Mitsubishi Electric Ireland will make the Data available to the Customer (or the party acting on its behalf):

- (a) with at least the same quality as it becomes available to it;
- (b) free of charge; and
- (c) in a comprehensive, structured, commonly used format.

Mitsubishi Electric Ireland may, at its discretion (acting reasonably), amend the specifications of Data or access arrangements, including by reason of a security vulnerability or a change in its infrastructure.

4. **Data sharing with a Data Recipient upon User Request**

4.1 This applies where the Customer (or an authorised party acting on its behalf) acting as “**User**” in accordance with the terms of the EU Data Act makes a request, in accordance with Article 5(1) EU Data Act, to Mitsubishi Electric Ireland to make Data available to a third party (“**Data Recipient**”) (together a “**User Request**”).

4.2 Pursuant to receiving a valid User Request, Mitsubishi Electric Ireland shall make Data available to a Data Recipient:

- 4.2.1 with at least the same quality as it becomes available Mitsubishi Electric Ireland and in any case a comprehensive, structured, commonly used and machine-readable format;
- 4.2.2 easily and securely; and
- 4.2.3 at no cost to the Customer.

4.3 Pursuant to receiving a valid User Request, Mitsubishi Electric Ireland shall use reasonable efforts to agree with the Data Recipient contractual arrangements for making the Data available.

4.4 The Customer represents and warrants, per Article 5(3), that the Data Recipient it specifies in its User Request is not a ‘gatekeeper’ under Article 3 of Regulation (EU) 2022/1925 (**‘Digital Markets Act’**).

5. **Data Use by User**

5.1 The Customer may use the Data you receive from Mitsubishi Electric Ireland pursuant to a Request subject to the limitations in clause 5.2.

5.2 The Customer shall not:

- 5.2.1 use the Data to develop a Connected Product that competes with the Connected Product, nor share the Data with a third party with that intent;
- 5.2.2 use such Data to derive insights about the economic situation, assets and production methods of Mitsubishi Electric Ireland;

- 5.2.3 use coercive means to obtain access to Data or, for that purpose, abuse gaps in Mitsubishi Electric Ireland technical infrastructure which is designed to protect the Data;
- 5.2.4 share the Data with a third-party that is a gatekeeper under Article 3 of the Digital Markets Act; or
- 5.2.5 use the Data they receive for any purposes that infringe applicable law.

6. **Non-Personal Data: Use by Mitsubishi Electric Ireland**

6.1 Mitsubishi Electric Ireland may use, collect, interpret, transfer, assign and/or convert into alternative formats the non-personal Data that is in scope of this Annex for the following purposes:

- 6.1.1 Performing any agreement with Mitsubishi Electric Ireland or related activities (e.g. issuing invoices, generating and providing analysis reports);
- 6.1.2 Providing support, warranty, guarantee or similar services or to assess the Customer, Mitsubishi Electric Ireland or third party's claims (e.g. regarding apparent defects) related to the Connected Product or Related Service;
- 6.1.3 Monitoring and seeking to maintain the functioning, safety and security of the Connected Product or Related Service;
- 6.1.4 Improving the functioning of any Mitsubishi Electric Ireland product or service;
- 6.1.5 Developing new products or services, including web 3.0 applications, blockchain, quantum computing and artificial intelligence (AI) solutions. Such development activity to include the transfer of the non-personal Data in scope of this Annex to any applicable Mitsubishi Electric companies and/or third parties;
- 6.1.6 Aggregating these Data with other data or creating derived data, for any lawful purpose, including with the aim of selling or otherwise making available such aggregated or derived data to third parties. Save that such data must not allow the Customer, the Connected Product or Related Service to be identified or allow a third party to derive those data from the dataset;

These are each and together the “**Permitted Purposes**”.

6.2 Mitsubishi Electric Ireland will not use the Data to derive insights about the Customer's economic situation, the Customer's assets and/or the Customer's production methods, or about the Customer's use of the Product or Related Service in any other manner that could undermine the Customer's position on the markets in which the Customer is active, as may be relevant to Customer as a user. None of the Permitted Purposes should be interpreted as including such Data use.

7. **Non-Personal Data: Sharing With Third Parties**

- 7.1 Save to the extent otherwise expressly agreed between the Customer and Mitsubishi Electric Ireland Mitsubishi Electric Ireland may share non-personal Data with third parties in particular but not limited to purposes of:
- 7.1.1 assisting Mitsubishi Electric Ireland in achieving the Permitted Purposes;
 - 7.1.2 achieving, independently or in collaboration Mitsubishi Electric Ireland or through special purpose companies, the Permitted Purposes.
- 7.2 Mitsubishi Electric Ireland contractually binds the third party:
- 7.2.1 not to use the Data for anything falling within the scope of Section 2.2 or otherwise outside the scope of the Permitted Purposes;
 - 7.2.2 to apply protective measures which it itself is obliged to apply; and
 - 7.2.3 not to share these Data further save to the extent such further sharing is subject to contractual terms reflecting this Section.

8. **Personal Data: Use and Sharing**

Mitsubishi Electric Ireland may use, share with third parties or otherwise process any Data that is personal data, provided it has a legal basis to do so. Mitsubishi Electric Ireland's Privacy Notice <https://europe.mitsubishielectric.com/en/privacy/> provides further detail.

9. **Multiple Users and Transfer of Use**

- 9.1 If the Customer, on a basis permitted by Customer contract for the corresponding Connected Product and/or Related Service, permits use by another natural or legal person ("**Additional User**") while retaining the Customer's position as a user, The Customer must:
- 9.1.1 ensure the Additional Users have provided the necessary consents and permissions to allow use of Data as envisaged in this Annex; and
 - 9.1.2 act as the contact point for the Additional User for any matter regarding the use of the Data pursuant to this Annex.
- 9.2 If the Customer, on a basis permitted by the Customer contract for the corresponding Connected Product and/or Related Service, transfer: (i) ownership of the product, or (ii) rights to use the product, and/or (ii) rights to receive Related Services, to a subsequent natural or legal person ("**Subsequent User**"), The Customer must:
- 9.2.1 notify Mitsubishi Electric Ireland of the transfer;
 - 9.2.2 ensure the Subsequent User agrees to the terms of this Annex for the benefit of Mitsubishi Electric Ireland with regard to the Data produced subsequent to the transfer.

The rights of Mitsubishi Electric Ireland to use Data generated prior to the transfer will not be affected by a transfer.

- 9.3 If the Customer fails to comply with the above obligations and this leads to the illegal use and sharing of Data by Mitsubishi Electric Ireland or by any third party that may have received the Data on the basis of clause 7.1 above, the Customer must indemnify Mitsubishi Electric Ireland and / or the third party and hold it harmless in respect of any claims by the Subsequent or Additional User towards Mitsubishi Electric Ireland or the third party.

10. **Termination / Expiry**

- 10.1 Two years after agreement on these terms The Customer may terminate this Annex at any time by giving Mitsubishi Electric Ireland a notice of three months.

- 10.2 Termination and/or expiry in accordance with clause 10.1 and 10.2 will not affect Mitsubishi Electric Ireland's rights to use the Data as granted under this Annex to the extend generated prior to the effective date of termination/expiry.

- 10.3 Regardless of the foregoing clauses, the following conditions shall enable immediate termination :-

10.3.1 upon the destruction of the Connected Product or permanent discontinuation of the Related Service, or when the Connected Product or Related Service is otherwise put out of service or loses its capacity to generate Data in an irreversible manner; or

10.3.2 upon the Customer ceasing to qualify as a User within the meaning of Article 2(12) of the EU Data Act (i.e. losing ownership of the Connected Product or when the User's rights with regard to the Connected Product under a rental, lease or similar agreement or the User's rights with regard to the Related Service come to an end); or

10.3.3 either party commits a material breach of any term of the Data Act Provisions and (where such breach is remediable) fails to remedy that breach within 60 days upon being notified in writing by the affected party to do so.

11. **Liability**

- 11.1 In regard to the subject matter of this Annex, neither party shall be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for any:

11.1.1 loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;

11.1.2 loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or

11.1.3 other indirect loss or liability.

- 11.2 In regard to the subject matter of this Annex, Mitsubishi Electric Ireland total aggregate liability arising out of or in connection with the Data Act Provisions EU Data Act whether in contract, tort (including for negligence and breach of statutory duty

howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise shall not exceed €100.

12. Governing law and interpretation

12.1 This Annex is governed by the law governing the Terms and Conditions of Sale.

12.2 Any provision in this Annex must be interpreted so as to comply with EU law or national legislation adopted in accordance with EU law, as well as any applicable national law that is compatible with EU law and cannot be derogated from by agreement.

13. Miscellaneous

13.1 Additional details and further information with regard to EU Data Act can be found at <https://europe.mitsubishielectric.com/en/privacy/data-act/>