

## Validair Monitoring Solutions Limited Installation Project Terms and Conditions

### 1. Formation of the Purchase Agreement

A Purchase Agreement between the parties shall only be formed when VMSL accepts any Order, instruction or letter of intent from the Purchaser in writing. A written acceptance by VMSL shall constitute an unequivocal agreement by both parties to be bound by these terms and conditions.

### 2. Definitions

The following words and phrases shall have the meanings set out below unless the context or specific clauses in this purchase agreement provide otherwise:

Word or phrase	Meaning
'Adjudicator'	the person appointed by the Confederation of Construction Specialists in accordance with clause 25 of these terms and conditions.
'Due Date for Payment'	the date on which VMSL's entitlement to payment becomes due under the contract.
'Final Date for Payment'	the date on which payment must be made by the Purchaser to VMSL.
'Purchaser'	the company, firm or person whose Order, instruction or letter of intent has been accepted by VMSL in writing.
'VMSL'	Validair Monitoring Solutions Limited.
'Purchase Agreement documents'	VMSL quotation, including system drawings approved by the Purchaser in writing, and/or specification and any Order, instruction or letter of intent that has been accepted in writing by VMSL and these terms and conditions.
'The Works'	the supply, installation and commissioning of any Environmental Monitoring System and equipment all as described in the VMSL quotation documents together with any variations made in accordance with these terms and conditions.
'Support Services'	installations, work, services, facilities, materials and equipment to be provided by the client to facilitate VMSL being able to perform the correct delivery of the works.
'URS'	User Requirement Specification is the document generated by the client detailing the performance requirements and acceptance criteria for the Environmental Monitoring System.
'WEEE'	Waste electrical and electronic equipment as defined in the WEEE Regulations
'WEEE Regulations'	The Waste Electrical and Electronic Regulations 2006 (SI 2006/3289)

### 3. Drawings

If VMSL produces any system drawings or specification documents on the instructions of the Purchaser in relation to a project that VMSL has quoted for and no purchase agreement is subsequently formed, VMSL shall be entitled, under a separate purchase agreement, to payment by the Purchaser of the sum of £700 for each layout drawing or specification document and each Revision plus VAT, where applicable. The cost of system drawings and any revisions which form part of the purchase agreement documents shall be included in the quotation price.

It is the responsibility of the Purchaser to Provide VMSL (free of charge) with accurate drawings in a format approved by VMSL from which VMSL will produce system drawings based on the Purchaser's drawings where appropriate together with a Schedule setting out the support services to be undertaken by the Purchaser prior to the commencement of the works by VMSL.

In the event that the Purchaser's drawings are inaccurate and such inaccuracy causes a delay to VMSL or results in additional works required by VMSL to properly deliver the works, VMSL shall be entitled to an extension of time under clause 21 and to loss and expense and/or damages under clause 20.

### 4. The Purchasers' Obligations

- The Purchaser shall at all times act in a fair and reasonable manner towards VMSL.
- The end user client shall appoint a system owner who will be responsible for providing a system URS together with all required configuration statement criteria within one week of being requested, and be the point of contact for the end user client team.
- The Purchaser shall provide VMSL with accurate drawings and configuration statement parameters in good time in order that VMSL may produce system drawings and validation documentation.
- The Purchaser shall provide VMSL with free, uninterrupted and safe access to enable VMSL to carry out a site survey which shall also form the basis of a Schedule setting out the support services to be undertaken by the Purchaser prior to the commencement of the works by VMSL.
- The Purchaser shall identify the required plant and equipment locations on site or detail these on an approved layout drawing prior to the commencement of the works by VMSL. In the event that the plant locations are not identified at the time of the VMSL quotation the following criteria is assumed and shall be included in the quotation price.
- Mains power will be terminated into all VMSL control panels and equipment by the client free of charge incorporating circuit protection devices and permanent means of local isolation all in accordance with the current regulations concerning electrical installations.
- Control panels that contain the VMSL user interface display screen will be located not more than 1 linear metre from the perimeter of the monitored environment.
- Control panels will be located not more than 6 linear metres from the remote VMSL user interface display screen.
- Vacuum pumps will be located outside the monitored environment in a plant area not more than 6 linear metres from the particle counter to which they are connected and not more than 6 linear metres away from the VMSL control panel.
- If the VMSL user interface display screen is part of a desktop PC with the PC running the VMSL software the desktop PC will be located not more than 6 linear metres from the perimeter of the monitored environment.
- Any additional PCs running further VMSL software in a backup or mirror capacity will be located not more than 6 linear metres from the primary client PC running the VMSL software.
- Alarm beacons will be located within the perimeter of the monitored environment.
- Remote alarm beacons will be located not more than 6 linear metres from the perimeter of the monitored environment.
- All items of VMSL equipment will be installed on the same floor level or if a mezzanine floor is installed for plant and equipment it is assumed that the mezzanine floor is located directly above and to the same footprint as the monitored environment.
- In the event that a facility layout is not provided to VMSL at the time of quoting it is assumed that the perimeter of the monitored environment is not more than 20 linear metres in any one direction.
- In the event that client supplied equipment is to be monitored it is assumed that all entry positions for the monitoring point will be pre-formed as a part of the client equipment. VMSL will not form, seal or make good penetrations of client supplied equipment. The client will be required to stipulate the location of the monitoring point within the equipment.
- Client equipment environmental monitoring will be performed in air and not in media.
- Sensors, probes and detectors in fridges, incubators, mini incubators and similar equipment will be placed in free space, away from sides/top/bottom, corners, shelf supports, inner flanges, hinges etc. The customer should be aware this may utilise space required for product/samples, but results in most accurate readings. VMSL cannot support or troubleshoot readings where sensors, probes or detectors have been moved to unrepresentative locations within equipment.
- Where sensors, probes or detectors are damaged by mishandling, inappropriate cleaning, impact from product or related storage equipment or any other such misuse, replacement, recalibration and revalidation will be at additional cost.
- VMSL can take no responsibility for discrepancies between the results recorded on the VMSL display to that shown on the client equipment display.
- Calibration accuracy will be in accordance with VMSL standard calibration SOPs, copies available upon written request, and which are valid at the time of issue and may be subject to change without notice. Customers should be familiar with the concept of accumulated errors and devices/systems' natural tendency to deviate due to unavoidable physical factors and variations, i.e. accuracy is not absolute but a function of real world dynamic physical factors. Also, accuracy and calibration at a given point in time are for that time only, and subject to subsequent deviation over time.
- The Purchaser shall ensure that the area for the performance of the works is safe and free from any hazardous contamination sources including any installed asbestos products and shall certify in writing that the area is safe prior to the commencement of the works by VMSL.
- The Purchaser shall ensure that any installed equipment is safe from any hazardous contamination sources and shall certify in writing that the equipment is safe prior to removal from the facility either by VMSL personnel or by the Purchasers personnel.
- The Purchaser shall ensure that any equipment returned to VMSL is safe from any hazardous contamination sources and shall certify in writing that the equipment is safe prior to return of that equipment. The certificate shall be sent via fax or email prior to despatch to VMSL and shall also be attached to the outside of any packing containing an item of returned equipment.
- The Purchaser shall not commit any act that causes its Sub-Contractor to be in breach of a contract with any Sub-Sub-Contractor.
- The Purchaser shall carry out all support services necessary for the proper delivery of the works in a good and workmanlike manner using materials of a satisfactory quality. The Purchaser shall provide free of charge to VMSL all reasonable and necessary support services to enable VMSL to complete the works on site in addition to any specific attendances and facilities set out in the purchase agreement.
- In the event that VMSL has not had the opportunity to inspect the site and the site logistics have not been identified at the time of the VMSL quotation the following criteria is assumed and shall be included in the quotation price. Support services shall include but not be limited to the following general items:
  - Site Contact
  - Delivery receipt, unloading and safe/secure storage
  - Car parking on site free of charge
  - Toilet and canteen facility
  - First aider and first aid facility
  - Fax and photocopy machine for occasional use only
  - Safe and secure storage facilities
  - Waste disposal facilities
  - Safe access to the areas of the installation activities
  - Site induction and emergency procedures
  - Any required access or lifting equipment to properly and safely complete the installation
  - Safe access above suspended ceilings
  - Safe access to all structural areas through which VMSL would need to install services
  - Permanent and adequate lighting
  - Permanent and adequate site power
  - Mains power supplies and associated isolation devices together with final power connection into the connected item of VMSL equipment
  - All builders work penetrations of the host building structure and any required making good
  - Fire stopping of services as required
  - All cable/tube containment will be installed by the client.
  - All terminal outlet position back boxes will be installed by the client.
- The client will ensure that safe access for the VMSL installation and ongoing service, calibration and maintenance is incorporated into the facility design and layout in accordance with CDM regulations.
- The client will ensure that any applicable local authority approval associated with any aspect of the VMSL installation is granted prior to VMSL commencing any part of the work. VMSL is happy to proceed with the works without the local authority approval being in place on the understanding that any subsequent non-compliance and costs for corrective works is at the Purchasers risk.
- The client will manage and control all system and services isolations required to allow the correct delivery of the works by VMSL.
- If a wireless system has been selected the client will conduct a survey to assess any potential sources of interference to the wireless transmission and furnish a copy of the results report to VMSL. The client will need to implement a program of regular interference assessment surveys throughout the operational life time of the system. It is recommended that an interference survey is conducted following any changes to the facility such as:
  - New process equipment installation
  - New wireless system installation
  - New extension to the VMSL system
  - Relocation of any part of the VMSL system
  - Relocation of any item of process equipment
  - Modifications to any part of the facility
  - Changes to the general environment around the facility
  - In any event it is recommended that an interference survey is conducted at least every 12 months.
- In the event that uninterrupted and continuous access is not granted to VMSL during VMSL attendance at site during the conduct of the works, then delays for said interrupted access shall be charged at the prevailing rate per man hour of delay or waiting. Such delay which causes operations to not be completed by the end of normal working hours, 5pm, may result in return the following working day, subject to availability of resources, charged at the prevailing rate per man day. Constant ongoing record or notification by VMSL of such delay may not be practical so may be notified in retrospect at time of invoice.

### 5. Abortive Visit

In the event that the client has instructed VMSL to attend site and perform the works and it is found that the site is not ready for VMSL to perform and complete the works resulting in either an abortive visit or the need for a return visit then VMSL will charge the Purchaser additional costs at the appropriate rates.

### 6. VMSL' Obligations

VMSL shall carry out and complete the works in accordance with the purchase agreement in a good and workmanlike manner using materials up to the standard required by the purchase agreement and of a satisfactory quality.

VMSL shall at all times act in a fair and reasonable manner towards the Purchaser.

VMSL shall produce accurate system drawings for the Purchaser and in good time.

### 7. Manufacture

The commencement of the manufacture of any Environmental Monitoring System is subject to the complete performance of the following conditions precedent:

The written approval by the Purchaser of VMSL system drawings, specifications and any revisions by the date notified by VMSL to the Purchaser in writing.

Receipt by VMSL of the initial deposit payment as detailed in the quotation price and payment terms. VMSL shall not commit resources or procure any materials before the deposit payment is received as cleared funds.

Thereafter, VMSL will commence and complete the manufacture of any Environmental Monitoring System. On completion of the manufacture of any Environmental Monitoring System, the Purchaser shall pay VMSL in accordance with the agreed payment terms.

- 8. Delivery**  
The delivery to site of any manufactured Environmental Monitoring System, or any component part is subject to the complete performance of the following conditions precedent:  
The receipt by VMSL of a Start on Site Form completed by the Purchaser.  
Notification in writing by the Purchaser that all support services have been properly and fully completed.  
Notification in writing that the Environmental Monitoring System or any part thereof shall be stored securely by the Purchaser. Any materials delivered to site upon the client instruction shall be at the Purchaser's risk.
- 9. Commencement of the Works**  
The works associated with the Environmental Monitoring System and component parts is subject to the complete performance of the following conditions precedent:  
Receipt by VMSL of a written notice from the Purchaser that the works may be commenced as detailed in the Start on Site form.  
The provision of clear, well lit, safe and uninterrupted access during the whole of the works.
- 10. Commissioning**  
Following the installation of any Environmental Monitoring System, VMSL will carry out the commissioning in the presence of the Purchaser. VMSL will, on completion of testing and commissioning demonstrate the completed installation, including safety procedures, to the Purchaser.  
Following the satisfactory performance of the above sub-clause, the Purchaser will sign and return to VMSL a Completion and Handover Certificate.  
System training for the appointed system owner shall be arranged at a mutually agreed date following the system commissioning and hand over.
- 11. Storage of materials on site**  
In the event that the Purchaser is unable to accept delivery or provide storage for the works, or any part thereof, on the agreed delivery date, VMSL shall retain and store the Works and any part thereof at its premises at a cost of £75.00 per week until delivery is made or storage is provided.  
Any delay to the completion of the Works resulting from the above sub-clause shall be at the Purchaser's risk.  
Any materials forming any part of the VMSL system that are held in storage by the Purchaser and are found to be damaged shall be notified to the Purchaser. If upon further inspection the damaged item is considered not usable it shall be replaced by VMSL and additional costs for the replacement materials will be charged accordingly.
- 12. User Guide**  
A relevant User Guide will be provided to the Purchaser on receipt by VMSL of the Completion and Handover Certificate referred to under clause 10 above.
- 13. WEEE B2B Financing Obligations**  
The Customer shall:  
  - be responsible for financing the collection, treatment, recovery and environmentally sound disposal of:
    - all WEEE arising or deriving from the Products; and
    - all WEEE arising or deriving from products placed on the market prior to 13 August 2005 where such products are to be replaced by the Products and the Products are of an equivalent type or are fulfilling the same function as that of such products;
      - comply with all additional obligations placed upon the Customer by the WEEE Regulations by virtue of the Customer accepting the responsibility set out here; and
      - provide the Seller's WEEE compliance scheme operator with such data, documents, information and other assistance as such scheme operator may from time to time reasonably require to enable such operator to satisfy the obligations assumed by it as a result of the Seller's membership of the operator's compliance scheme.

The Customer shall be responsible for all costs and expenses arising from and relating to its obligations under WEEE.  
Further information in respect of the arrangements set out here can be found at [www.electrolink.eu.com](http://www.electrolink.eu.com) by clicking on the 'WEEE FINAL USERS' button and quoting WEEE registration number [WEE/FE2806UU] where prompted.

**14. The Contract Price and Price Adjustment**  
The lump sum price set out in the quotation shall not be subject to fluctuations for a period of 90 days from the date of the quotation.  
The contract price shall be the sum set out in the purchase agreement together with a fair and reasonable sum for instructions, variations, storage, interest, fluctuations, where applicable, and direct loss and/or expense.  
VMSL shall be entitled to Day-works plus the percentage additions for overheads set out below:  
  - Labour 220%
  - Materials 100%
  - Plant 50%

**15. Payment**  
The Purchaser shall pay VMSL the contract price without any deductions or set-off as follows:  
The Due Date for payment of the 1<sup>st</sup> stage payment of the contract price shall be no later than 2 working days after a purchase agreement has been formed in accordance with clause 1 or no later than 2 working days from the date VMSL's first application for payment is made, whichever is the sooner.  
The Due Date for payment of the 2<sup>nd</sup> stage payment of the contract price shall be no later than 2 working days after notification by VMSL that the manufacture of the Works has been completed and the materials are ready for delivery. Delivery of the materials will not take place until the 2<sup>nd</sup> payment has been received in full.  
The Due Date for payment of the 3<sup>rd</sup> stage payment of the contract price shall be no later than 2 working days after notification by VMSL that the installation of the Works has been completed and the system is ready for commissioning and validation.  
In the event that the Works are delayed beyond 30 calendar days from the date the materials were delivered the Due Date for payment of the 3<sup>rd</sup> payment will revert to 30 calendar days after the materials were delivered.  
The Due Date for payment of the 4<sup>th</sup> payment of the contract price shall be no later than 2 working days after notification by VMSL that the testing, commissioning and validation of the Works has been completed and the system is ready for hand over and client training. In the event that the Works are delayed beyond 30 calendar days from the date the installation of the Works was completed the Due Date for payment of the 4<sup>th</sup> payment will revert to 30 calendar days after the installation of the Works was completed.  
The Final Date for Payment of all payments shall be no more than 12 calendar days from the Due Dates for Payment.  
It is a condition precedent that all payments must be received and cleared prior to delivery of any Environmental Monitoring System or components, commissioning or validation to site.  
VAT, where applicable, will be added to the contract price at the prevailing rate.  
No retention will be deducted from the contract price, or any other sum due and payable under the contract.  
VMSL will charge the Purchaser interest on all late payments in accordance with the late Payment of Commercial Debts (interest) Act 1998.  
The Purchaser is not entitled to deduct any discount unless the same appears within the purchase agreement.

**16. Suspension**  
If any payment has not been received in full by VMSL by the Final Date for Payment, then:-  
VMSL may serve a notice of intention in writing on the Purchaser to suspend all work and the further performance of the contract and VMSL shall be entitled 7 calendar days after the service of such a notice to suspend work and further performance of the contract until such payment has been received by VMSL.  
The Purchaser shall allow VMSL a reasonable period of time in which to re-commence performance of the sub-contract works after payment.  
The period of suspension shall not be a period of delay or a period of delay for which VMSL is responsible.

**17. Cancellation**  
It is assumed, that should this contract (once agreed and order received by VMSL), be cancelled by the client, prior to completion, the client will pay for all services, installations, materials and equipment on site or in the possession of VMSL at the time of cancellation together with a cancellation fee of 20% of the outstanding contract value at the time of cancellation.

**18. Defects Liability Period**  
The Defects Liability Period shall be 12 months from the date commissioning of any Environmental Monitoring System is completed. The defects liability warranty will be void if the client does not undertake a program of regular service, inspection, maintenance and re-calibration of the VMSL installation.  
Service, inspection, maintenance and re-calibration shall be by properly trained, authorised and qualified persons.  
Access to the system during the 12 month defects period by unauthorised and un-trained persons will render the warranty void.  
Misuse and/or equipment contamination will render the warranty void.

**19. Retention of Title**  
All goods, software licences and services delivered to site or retained at VMSL premises for incorporation into the Works shall at all times remain the property of VMSL until payment for the total contract has been received by VMSL.

**20. Loss and/or Expense**  
If the regular progress of the Works is either prolonged and/or disrupted and/or otherwise materially affected by any act, omission or default either on the part of the Purchaser (including those for whom the Purchaser is responsible) then VMSL shall notify the Purchaser in writing within a reasonable period of time of such matters and provide details of the direct loss and/or expense incurred by VMSL. The direct loss and/or expense incurred by VMSL shall be added to the contract price and shall be paid by the Purchaser to VMSL in the payment due to VMSL immediately following the notification referred to herein.

**21. Extension of Time**  
If the preparation, performance or completion of the works is delayed, disrupted or hindered by any event, circumstance or cause beyond VMSL control then the period for the completion of the Works shall be extended as a minimum by the same period of time as the period of delay, disruption or hindrance. VMSL reserve the right to reschedule the Works following such delay subject to any other existing commitments.  
VMSL shall constantly use his best endeavours to prevent delay to the progress of the Works.

**22. Damages / Performance Bonds and Guarantees**  
Under no circumstance shall VMSL be liable for liquidated and ascertained damages.  
Under no circumstance shall VMSL be liable for damages at large.  
Under no circumstance shall VMSL be required to provide performance bonds or guarantees.

**23. Consequential Loss**  
Under no circumstance shall VMSL be liable for consequential loss of any nature.

**24. Notices**  
Any notice or document may be served on the other party by any effective means.  
The effective means are a properly addressed, pre-paid notice served by first class post at the last known business address of the other party.

**25. Adjudication**  
Either party may at any time refer any dispute arising out of the purchase agreement to adjudication in accordance with The Scheme for Construction Contracts (England and Wales) Regulations 1998.  
The Adjudicator Nominating Body under the Scheme shall be the Confederation of Construction Specialists.

**26. Third Party Rights**  
Nothing in the purchase agreement shall confer or purport to confer upon any third party any benefit or right against VMSL or the Purchaser.

**27. Law**  
The law of England shall apply to this contract.