FARMWOOD
M&E - VENTILATION

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

In these conditions the following definitions apply:

"Buyer"	the person(s) or company whose order for the Goods is accepted by the Company;
"Company"	Farmwood Mechanical & Electrical Services Ltd. (04355696
"Conditions"	the Terms and Conditions of Sale set out in this document;
"Contract"	any contract between the Company and the Buyer for the sale and purchase of Goods;
"Credit Agreement"	a written agreement between the Company and the Buyer to sell the Product without a pro-forma payment;
"Goods"	any Good which the Company is to supply to the Buyer (including any of or any part of them);
"Operational Parameters"	the operational conditions under which the Goods will operate safely and effectively as notified by the Company to the Buyer (from time to time).;
"Purchase Order"	document of agreement provided by the Buyer as a company that matches the Quotation provided by the Company;
"Quotation"	document provided by the Company to the Buyer to show the price of the Goods before agreement is made;
"Service"	provided by the Company to install or maintain the Goods as agreed by the Company and the Buyer.

2. FORMATION AND INCORPORATION

2.1 Subject to any variation under Condition 2.3, each Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any Purchase Order, confirmation of order, specification, or similar document).

2.2 Each order for Goods by the Buyer from the Company must be complete and accurate and shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions. No order which the Company has accepted may be cancelled by the Buyer unless agreed in writing and approved in writing by a member of the Company's management team.

2.3 Any variation to these Conditions shall not be binding unless agreed in writing and approved in writing by member of the Company's management team.

2.4 Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.

3. DESCRIPTION

3.1 All drawings, descriptive matter and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them and will not form part of the Contract.

3.2 The Company may make any changes to the specification, design, materials or finishes of the Goods which are required to conform with any applicable safety or other statutory requirements or which it deems desirable, and which do not materially affect their quality of performance.

3.3 Any variation in the specification or design of any Goods which, in the Company's reasonable opinion, does not adversely affect the suitability of the Goods for the particular purpose for which they are supplied by the Company will not constitute a breach of contract or impose any liability upon the Company.

4. DELIVERY

4.1 The parties shall agree [in writing] the location for delivery of the Goods. Failing such agreement, delivery of the Goods shall be ex-works (Incoterms 2000).

4.2 Delivery of the Goods will take place when risk of damage to, or loss of the Goods, passes in accordance with Condition 6.1.

4.3 The Buyer must accept delivery of the Goods and make payment in full. Specified dates for delivery are approximate only and not made of the essence by notice. If no dates are so specified, delivery will be within a reasonable time.

4.4 The Buyer shall provide at its expense and risk at the agreed delivery point adequate and appropriate equipment and manual labour for unloading the Goods (whether the unloading is supervised by or on behalf of the Buyer) and ensure the Goods are unloaded using reasonable skill and care.

4.5 If the Buyer fails to take delivery of the Goods or to provide any instructions, documents, licences or authorisations required to enable the Goods to be delivered on time (except because of the Company's fault) risk in the Goods will be deemed to pass to the Buyer (including, without limitation, for loss or damage caused by the Company's negligence) pursuant to Condition 6.1 and the Goods will be deemed to have been delivered. Without prejudice to its other rights the Company may store or arrange for the storage of the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including, without limitation, storage, and insurance) and/or following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price under the Contract.

4.6 The Company may make delivery of the Goods by instalments and each separate instalment shall be invoiced and paid for in accordance with the Contract.

4.7 Failure by the Company to deliver any one or more (but not all) instalments in accordance with a Contract or any claim by the Buyer in respect of any one or more (but not all) instalments shall not entitle the Buyer to treat that Contract as repudiated.

4.8 Failure by the Buyer to pay for any one or more instalments in accordance with the Contract shall entitle the Company (without prejudice to its other rights and remedies):

a) to suspend without further notice deliveries of Goods or goods under any other contract between the Company and the Buyer pending payment by the Buyer; and/or

b) to treat that Contract as repudiated by the Buyer.

4.9 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's premises shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

4.10 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 7 days of the date when the Goods would in the ordinary course of events have been delivered.

4.11 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or, at the option of the Company, issuing a credit note against any invoice raised for such Goods.

4.12 A signature of qualified acceptance on a carrier's delivery note shall not be written notice to either the carrier or the Company for the purpose of these Conditions.

5. FORCE MAJEURE

5.1 The Company will not be liable to the Buyer for any failure or delay or for the consequences of any failure or delay in performance of a Contract if it is due to any event beyond the reasonable control of the Company including, without limitation, acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, national emergency and the Company will be entitled to a reasonable extension of time for performing such obligations.

6. RISK/OWNERSHIP

6.1 Risk of damage to, or loss of, the Goods shall pass to the Buyer:

a) in the case of Goods delivered otherwise than at the Company’s premises, at the moment of their discharge from the Company’s or carrier’s vehicle at the agreed delivery point;

b) in the case of Goods delivered at the Company’s premises, when the Goods are placed at the disposal of the Buyer at the Company’s premises.

6.2 The Company’s liability for any loss, costs, damages, charges or expenses arising out of or in

connection with the carriage of Goods by a carrier from the Company's premises to the Buyer's place of business (or such other address as agreed by the parties) in accordance with Condition 4.1 shall not exceed the carrier's liability to the Company save where such loss, cost, damage, charge or expense arises as a direct result of the negligence of the Company.

6.3 Ownership of the Goods shall not pass to the Buyer until the Company has received in full and in cleared funds all sums due to it in respect of the Goods and on any account.

6.4 Until ownership of the Goods has passed to the Buyer, the Buyer must:

a) hold the Goods on a fiduciary basis as the Company's bailee;
b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
d) maintain the Goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company; and
e) hold the proceeds of the insurance referred to in Condition 6.4.4 on trust for the Company and not mix such proceeds with any other money, nor pay the proceeds into an overdrawn bank account.

6.5 The Buyer may resell the Goods before ownership has passed to it providing that any sale shall be effected in the ordinary course of the Buyer's business at full market value and the Buyer shall account to the Company and any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

6.6 Where the Company is unable to determine whether any goods are the Goods, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.7 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.8 The Buyer grants the Company, its agents, and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7. PRICE AND PAYMENT

7.1 The price for the Goods (exclusive of value added tax or other applicable tax, transport, loading, unloading and insurance charges unless otherwise agreed) shall be the price set out in the Company's published price list current at the date of delivery or the Company's quoted price which shall be binding upon the Company only if the Buyer accepts the Company's quotation within 30 days (provided the price for the Goods (exclusive of value added tax or other applicable tax, transport, loading, unloading and insurance charges unless otherwise agreed) shall be the price set out in the Company's published price list current at the date of delivery or the Company's quoted price which shall be quotation has not already been withdrawn by the Company) after which time it may be altered by the Company without notice.

7.2 The Company may invoice the Buyer for the Goods at any time after delivery and payment of the price for the Goods shall be made by the Buyer (unless otherwise agreed) in sterling on the last working day of the month following the month in which the Goods are delivered at latest, or prior to delivery if a Credit agreement has not been reached between the Company and the Buyer. Payment will occur upon receipt of cleared funds by the Company.

7.3 The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim or otherwise unless the Buyer is required by law to make any such deduction or withholding.

7.4 If the Buyer fails to make any payment under this Contract on the due date then (without prejudice to its other rights and remedies) the Company may charge the Buyer interest (both before and after judgement) on the amount unpaid at the annual rate of 4% above the base rate of Bank of England from time to time until payment is made in full (a part of a month being treated as a full month for the purpose of calculating

interest) and the Company shall be entitled to suspend performance of any of its obligations under the Contract until the outstanding amount has been received by the Company from the Buyer.

8. QUALITY

8.1 Where the Company is not the manufacturer of the Goods supplied by the Company to the Buyer at the request of the Buyer the Company will endeavour to transfer to the Buyer the benefit of any warranty, guarantee or other contractual term given to the Company. This shall be the Company's only obligation in respect of the supply of such Goods and the Company shall have no liability (including in relation to negligence) in respect of such Goods.

8.2 Subject to Conditions 8.1 and 8.4, the Company warrants that (subject to the other provisions of these Conditions) upon delivery the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and free from defects in material, or workmanship and will operate in the Operational Parameters;

8.3 Subject to Conditions 8.1 and 8.4, the Company will, free of charge, within a period of 3 (three) months from the date of delivery (or deemed delivery under Condition 4.5) repair or, at the option of the Company replace Goods (or the relevant part of the Goods) which are proved to the reasonable satisfaction of the Company to have been at the time of delivery (a) damaged or defective in material or workmanship, or (b) not capable of operating in the Operational Parameters. This obligation will not apply where:

a) the Buyer has failed to notify the Company of any defect or suspected defect within 14 days of delivery where the defect should be apparent on reasonable inspection, or within 14 days of the same coming to the knowledge of the Buyer (where the defect is not one which should be apparent on reasonable inspection) and in any event no later than 6 months from the date of delivery, or
b) the Buyer has failed to give the Company a reasonable opportunity of examining such Goods after receiving the notice of any defect or suspected defect, or
c) the defect arises because the Buyer (or the Buyer's customer) failed to follow the Company's oral or written instructions as to the storage, installation, use, Operational Parameters, or maintenance of the Goods or (if there are none) good trade practice, or
d) the Buyer (or the Buyer's customer) alters or repairs such Goods or without the written consent of the Company, or
e) the defect in such Goods arises from any defect in any drawing, design, specification, or instruction supplied or approved by the Buyer.

8.4 Provided that the Goods comply with Condition 8.2 on delivery the Company makes no warranty as to the life of the Goods. The Buyer acknowledges that the life of the Goods is dependent on, and may be adversely affected by, the conditions in which they operate (even where these are within the Operational Parameters) and therefore may vary in individual cases.

8.5 Any Goods repaired or replaced by the Company pursuant to this Condition 8 will be supplied in accordance with these Conditions.

8.6 If the Company complies with Condition 8.3 it shall have no further liability for a breach of warranty in Condition 8.2 in respect of the quality of such Goods.

8.7 The Buyer shall indemnify the Company against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with any Contract brought or threatened to be brought against the Company by any third party except to the extent the Company is liable to the Buyer in accordance with these Conditions.

8.8 Subject to Conditions 8.2 and 8.3 and to the maximum extent permissible in law, all conditions and warranties which are implied by statute or otherwise by general law into any Contract or relating to the Goods are hereby excluded.

8.9 The Company does not, unless otherwise expressly provided in the Contract, warrant that the Goods as described or provided or the incorporation thereof within some larger project will satisfy the Buyer's requirements.

8.10 The Company will accept unlimited liability for death or personal injury caused by the negligence of the Company and/or any breach of its obligations implied by Section 12 of the Sale of Goods Act 1979 and/or fraudulent misrepresentation.

8.11 ❗ Subject to Condition 8.10:

a) the Company's total liability arising in connection with the performance or contemplated performance of this Contract by reason of any breach of contract or of statutory duty or tort (including but not limited to negligence) or any failure to perform or delay in performing of any obligation by the Company under the Contract shall be limited to the price payable by the Buyer for the damaged or defective Goods or Goods not capable of operating in the Operational Parameters under the Contract; and

b) the Company shall not be liable by way of indemnity or by reason of any breach of contract or of statutory duty, by reason of tort (including but not limited to negligence) for any loss of profit, loss of use, loss of production, loss of contracts, loss of goodwill or for any financial or economic loss or for any indirect or consequential damage whatsoever that may be suffered by the Buyer. ❗

9. TERMINATION

9.1 Each Contract will terminate immediately upon the happening of any one or more of the following events; the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal) or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver, manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.

9.2 Each Contract will terminate immediately upon service of written notice of termination by the Company on the Buyer on the happening of any one or more of the following; the Buyer suffers or allows any execution whether legal or equitable to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations or duties under the Contract or any other contract between the Company and the Buyer or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade.

9.3 The Company's rights contained in Condition 6 (but not the Buyer's rights) shall continue beyond the discharge of the Buyer's and the Company's primary obligations under the Contract consequent upon its termination.

9.4 The termination of a Contract howsoever arising shall be without prejudice to the rights and duties of either the Buyer or the Company accrued prior to termination.

10. GENERAL

10.1 Time for performance of all obligations of the Buyer is of the essence.

10.2 Each right or remedy of the Company under a Contract is without prejudice to any other right or remedy of the Company whether under a Contract or not.

10.3 Any provision of a Contract which is held by any competent authority to be invalid, void, voidable, unenforceable, or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable, and the other provisions of that Contract and the remainder of such provision shall not be affected.

10.4 Failure by the Company to enforce or partially enforce any provision of a Contract will not be construed as a waiver of any of its rights under that Contract.

10.5 The Company may assign, license or sub-contract all or any part of its rights or obligations under a Contract without the Buyer's consent. Each Contract is personal to the Buyer who may not assign, license or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.

10.6 The Company and the Buyer do not intend that any terms in a Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

10.7 Each Contract shall be governed by English law and subject to the exclusive jurisdiction of the English Courts.

10.8 All communications under these Conditions shall be in writing and given to:

a) the Company at such address as shall be notified to the Buyer by the Company and marked for the attention of a Director of the Company;

b) the Buyer at such address as shall be notified to the Company by the Buyer.

10.9 Communications shall be deemed to have been received if sent by pre-paid first-class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting), or if delivered by hand, on the day of delivery, or if sent by facsimile transmission or electronic mail on a working day prior to 4:00pm, at the time of transmission and otherwise on the next working day.