

# Terms Conditions for Supply of Service between Focus 360 Energy and the Consumer

1. The Company' shall mean Focus 360 Energy Ltd and where the context permits its employees, agents or subcontractors. 'The Company' shall mean any person or persons, firm or corporate body that instructs, or is co- sponsor with, The Company to carry out test investigations, research or similar work. 'Agree' shall mean agreed between the Client and The Company. 'Equipment' shall mean plant, machinery or

other devices of any kind in respect of which The Company undertakes to carry out tests, make investigations or issue reports, certificates, information, or advice.

- 1.1. All research, testing, services or project of any kind (hereinafter referred to as 'the project') carried out by Focus 360 Energy Ltd is carried out subject to the following terms and conditions. If any proposal made by Focus 360 Energy for the carrying out of the services is accepted by a Client of Focus 360 Energy (the Client) then such acceptance shall be deemed to include the acceptance of the following terms to the exclusion of any other terms including conditions, warranties or representations written or oral, expressed or implied, even if contained in any of the Client's documents which purport to provide that the Clients own or some other terms shall prevail. Any order placed by the Client with Focus 360 Energy is accepted on the basis of the following terms and conditions only. The Client means the person, firm or corporate body together with any holding or subsidiary or associated company for liability or payment.
- 1.2. These conditions shall apply to all work undertaken by The Company for the Client and no additions or variations to these conditions shall apply unless agreed in writing. If the Client is an agent acting on behalf of a principal, the obligations of the Client, set out herein, may be transferred to the principal provided that The Company has agreed in writing to this arrangement before being given instructions to proceed with the work.
- 1.3. Any quotation by Focus 360 Energy does not constitute an offer and Focus 360 Energy reserves the right to withdraw or revise the same at any time prior to Focus 360 Energy acceptance of the Client's order. Any price given in any quotation is subject to the Client supplying all recovery components, requested information, data, drawings, equipment or instruments to enable Focus 360 Energy to proceed with the project forthwith; if the Client does not do so, Focus 360 Energy may increase the price to reflect any increase in cost resulting from the delay or additional work required as a result.
- 1.4. Terms of the contract can only be varied by written agreement signed by both the Client and Focus 360 Energy. Any purported variation of the contract which is not in writing and signed by a Director shall be of no effect.
- 1.5. The price quoted or accepted by Focus 360 Energy shall, unless expressly specified, be deemed to be exclusive of all duties and taxes in respect of the project and exclusive of any export and/or import duties on any services involved in the project, all of which duties and taxes shall be paid by the Client. Focus 360 Energy Limited will charge VAT at 20% (the current prevailing rate) without exception unless the client can show (prior to acceptance of said quotation) either an HMRC zero rating certificate or an HMRC letter to the client advising of the appropriate rate to be charged (said letter must be no more than twelve months older than the date of quotation).
- 1.6. Payment shall be made in accordance with these Terms and Conditions. Subject to any special terms agreed in writing between the Client and Focus 360 Energy, Focus 360 Energy shall invoice the Client at any time. The full price may be requested to be paid on placing of an order, unless otherwise agreed in writing between the Client and Supplier. Clients with approved credit accounts within limits shall pay all invoiced amounts within 30 days of the date of Focus 360 Energy's invoice or otherwise in accordance with such credit terms as may have been agreed in writing between the Client and Focus 360 Energy in respect of the Contract. Focus 360 Energy withhold the right to send any Certification / Reports prior to payment being made. Receipts for payment will be issued on request. All payments shall be made to Focus 360 Energy as indicated in the invoice issued by Focus 360 Energy. Focus 360 Energy shall have the right to charge interest on overdue accounts at the appropriate rate, pursuant to the Late Payment of Commercial Debts (Interest) Act (1998), at 8% above the Bank of England base rate until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest) plus an administration charge of £125 plus VAT per letter issued. Failure to make payment within the due date will result in the matter being referred to our debt collection agents whose charges will be added to and payable with the invoice debt.



- 1.7. If, by reason of any rise or fall in the cost of materials, fuel, power, overheads, equipment, labour or transport, or of confirming to any Act of Parliament or any order, regulation, or by-law made with statutory authority by Government Departments or by local, or other, authorities after the date of quotation the cost to Focus 360 Energy of performing its obligations under the contract shall be increased or reduced, then a fair and reasonable estimate of the amount of such increase or reduction shall be added to or deducted from the contract price as the case may be, provided that no account shall be taken of any amount by which any cost incurred by Focus 360 Energy has been incurred by Focus 360 Energy's default or negligence.
- 1.8. Where the period for the carrying out of the contract is to exceed, or is likely to exceed, TWO (2) months Focus 360 Energy shall be entitled to interim payments from the Client on terms agreed under section 1.6, which payment shall be on account of the price quoted or accepted by Focus 360 Energy.
- 1.9. Where the Client requires Focus 360 Energy to carry out work or provide services in addition to those agreed between the Client and Focus 360 Energy such additional work and services shall be supplied to the Client in accordance with these terms and conditions at the current price ruling at the date at which the additional work or services are agreed.
2. The Company shall exercise all reasonable skill, care and diligence in the discharge of the duties performed and in producing any report, certificate, information or advice. However, The Company shall not be liable for any loss or damage, whether direct or indirect, arising from the use of reports, certificates, information, or advice issued by it.
- 2.1. The Company shall not be liable for any damage, loss or expense suffered by the Client by reason of any delay in carrying out any test, investigation or constancy or in issuing any reports, certificates, information or advice to the Client
- 2.2. The liability of The Company for loss or damage to any equipment on the premises of The Company by fire, theft or accident shall be limited to £100 or the cost of manufacturing such equipment if less than £200.
- 2.3. The Company shall not bear any liability for any damage to the equipment arising from or attributable to tests, investigations or constancy undertaken by The Company. For equipment tested on the premises of The Company: The Company shall not be liable for any errors or losses, which result from the failure of the Client clearly to identify any piece of equipment submitted to The Company for testing?
- 2.4. All times for completion of the project stated in the contract are approximate only and are given without commitment. Subject to the foregoing, Focus 360 Energy shall use reasonable endeavours to effect performance by the stipulated time or, if no such time is stipulated, within a reasonable time. Focus 360 Energy shall be under no liability for any loss or damage whatsoever arising directly or indirectly out of delay in or lateness of performance, whether due to the fault of Focus 360 Energy or not, nor shall such delay or lateness be a breach or repudiation of the contract.
- 2.5. Focus 360 Energy shall be entitled, without liability on its part and without prejudice to its other rights, to determine the contract or any unfulfilled part thereof, or at its option to effect partial performance, if performance is prevented, hindered or delayed, whether directly or indirectly, by reason of war, civil commotion, government restrictions, lock-outs, strike, mutiny, fire, flood, ice, transport difficulties, accidents or stoppage to works, non or restricted availability or late delivery of fuel, power, or raw materials, difficulties with or non-performance by any supplier or sub-contractor or any other cause whatsoever beyond the reasonable control of Focus 360 Energy, whether such cause existed or was foreseeable at the date of the contract or not. All descriptions, drawings, illustrations, particulars of weights and measures, ratings, Project Proposal stage, verbally or in writing, whether or not contained in a contract document, are approximate only, are given without responsibility and shall not form part of the description of the project, goods or services. Further, the content of any catalogues, price lists, advertisements, or other published matter are intended to present a general idea of Focus 360 Energy's goods and services and none shall form a part of the contract or be considered a collateral warranty or a representation inducing the same.
- 2.6. No report or abridgement or abstract of a report shall be used in any company prospectus, advertisement or other publication or reproduced on the equipment or on the packaging thereof without the prior written consent of The Company. No certificate issued by The Company shall be published except in full without the prior written permission of The Company



2.7. The final product of any work developed or arising in the course of the carrying out of any work or other project for the Client shall remain the property of Focus 360 Energy until the full performance or satisfaction of the obligations of the Client hereunder, whereupon the same shall become the property of the Client. The Client shall, except with the prior written consent of Focus 360 Energy until such time hold the same confidential and shall not divulge the same to, or use the same for the benefit of, any other person. Notwithstanding his rights under paragraph 2.6 the Client shall not in any publication or publicity materials at any time make use of any report or statement issued by Focus 360 Energy, nor any extract therefrom, nor refer to the fact that any product or process has been the subject of a contract with Focus 360 Energy in any publication or publicity material without the express written permission of a Director of Focus 360 Energy, unless legislation requires Focus 360 Energy to provide the report for public inspection. If permission is required such permission shall not be unreasonably withheld by any Director of Focus 360 Energy.

3. In the case of work being carried out at the clients' property, Focus 360 Energy undertakes to take all reasonable care and attention whilst on the premises, whilst all associated risk remains the responsibility of the client with regard to all risks and associated costs. The Client gives full and unrestricted permission to Focus 360 Energy for the purpose of data collection and required testing. Focus 360 Energy reserves the right to refuse to continue with the contract if it deems the property unsafe for its Employees, agents or representatives to enter, a cancellation charge would still be payable by the Client to Focus 360 Energy.

- 3.1 The Company reserve the copyright in any report or certificate issued by it and no such report or certificate shall be used in any legal or arbitration proceedings without the consent of The Company, except to the extent that may be required by law.
- 3.2 Charges for work shall be in accordance with a quotation submitted to the Client by the Company. In the event of the company agreeing to carry out any work without the Client's written acceptance of a quotation, then the company shall be entitled to reasonable remuneration for the work performed by it.
- 3.3 Quotations shall be open for acceptance within 60 days unless agreed otherwise.
- 3.4 Testing will normally be carried out in accordance with the standards for the time being laid down by the British Standards Institution or other recognised authority. In the event of such standards not being applicable testing will be carried out according to a specification to be agreed before the commencement of the testing. By arrangement tests may be witnessed by the Client or his representative, but The Company shall be entitled to charge for any additional costs thereby incurred
- 3.5 Focus 360 Energy works are considered to be consultancy and testing work and do not form any part of a standard sub-contract arrangement. Our works are CIS scheme registered Gross payment. Retentions are also specifically excluded as our works are considered to be consultancy works and testing. Main Contractors Discount can NOT be applied to the Quoted amount
- 3.6 All services where a checklist is required, must be adhered to for the test (s) or service to be carried out. Negligence from the client will incur a retest or abortive fee as per
- 3.7 Cancellations less than 48 hours before an agreed test date will be subject to a 100% cancellation fee.
- 3.8 Quotation allows for carrying out the test during normal site hours of 08:00-17:00, Monday to Friday. If our operatives are required on site before or after these hours, or if attendance is required over any time on a Saturday, Sunday or Bank Holiday – an hourly rate for the works must be agreed with the Focus 360 Energy's Account Manager, prior to commencement of those works. Our fees are inclusive of all travel and equipment costs associated with the various areas of work. We require a parking space for a transit van type vehicle within 20 meters of the test location on site. If you are unable to provide a parking space, parking charges including any fines incurred will be chargeable. Congestion charges and road / bridge tolls are included in the quoted price.
- 3.9 Whilst every reasonable care is taken to avoid damage during the testing process, we are unable to take any responsibility for damage caused to finishes or paintwork during the testing regime.



4. In the absence of written confirmation of acceptance, once we have visited site to undertake our works, you are deemed to have fully accepted our terms and conditions.

- 4.1.a Focus 360 Energy will be entitled to terminate the contract at any time with good reason including:
- 4.1.b If the Client does not settle Focus 360 Energy's invoices in accordance with the agreed terms.
- 4.2 Unless the Client notifies Focus 360 Energy to the contrary, by instructing Focus 360 Energy, the Client agrees that communication may be made by email. Email is not a confidential means of communication: by using it to communicate with Focus 360 Energy and by allowing Focus 360 Energy to use it to communicate with the Client, the Client accepts the risk that the contents of such communications may become known to others.
- 4.3 Focus 360 Energy undertakes that personal data:
  - 4.3.a will be dealt with in accordance with the Data Protection Act 1998 or similar legislation
  - 4.3.b will only be processed for the purpose of providing email, phone or post information to provide correspondence between the company and Client / Company
- 4.4 Except in the case of death or personal injury caused by Focus 360 Energy negligence, Focus 360 Energy's liability under or in connection with this agreement whether arising in contract or negligence, breach of statutory duty or otherwise, shall not exceed the sum of £5,000,000 (five million pounds sterling).
- 4.5 Neither party shall be liable to the other in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or being suffered by that other party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill
- 4.6 In the event of a dispute or difference arising from these conditions or the interpretation thereof or otherwise arising as a result of work carried out by The Company for the Client under these conditions, such dispute or difference shall be referred to arbitration by a single arbitrator mutually agreed between the parties or, failing such agreement, by an arbitrator nominated by the President of the Institute of Arbitrators. Any such arbitration shall be conducted in accordance with the Arbitration Act 1950 and by application of the law of England.

