



MAJI MILELE LTD TERMS AND CONDITIONS

1. Your contract

- 1.1 Your contract is with Maji Milele Limited (referred to as "Maji Milele", "us" or "the company") for the Services described in the Proposal.
- 1.2 Our Proposal and these terms constitute the entire agreement between you and Maji Milele. They prevail over any inconsistent terms and conditions contained or referred to in the Client's acceptance of order or otherwise. No variations shall be valid unless confirmed in writing (including email) by us. Special terms, if any, shall be specified in the Proposal. In the event of any ambiguity in interpreting the Proposal with these terms and conditions these terms will prevail.
- 1.3 The following words and expressions have the following meanings:

"Client": the individual or organization to whom the Proposal is addressed;

"Goods": all items supplied;

"Proposal": the documents issued by Maji Milele defining the services to be provided and the price payable for the services;

"Price": the price specified in the Proposal or subsequently agreed between the parties;

"Services": the services described in the Proposal;

2. Price and Payment

- 2.1 Full on order, unless other stated in the Proposal. All figures exclude VAT unless otherwise stated. On amounts due but not paid we reserve the right to charge interest at 1.5 per cent per every 1-30 (one to thirty) days.
- 2.2 We reserve the right to revise our Price if circumstances arise which will increase our costs in excessive way. The latter includes changes to our disadvantage of 6% or higher in exchange rate between the moment of product order and moment of delivery . We will only incur these costs with your permission but work will not proceed until additional work and costs have been agreed. . An invoice shall be deemed to have been received by the Buyer twenty four (24) hours after dispatch of the invoice by Maji Milele either electronically or by hard copy.

3. Scope of Work

- 3.1 An equitable adjustment shall be made to the Price and / or the programme if any change to the project causes a significant change in the Services, costs or the time for delivery of the Services. The Services and Goods to be provided by Maji Milele are defined in the Proposal.
- 3.2 No materials will be ordered or allocated for the Services until an order is placed with Maji Milele. We shall not be liable for any delay in any programme caused by the Client's failure to place a confirmed order sufficiently early.
- 3.3 The Proposal is based on facts known at the time of its preparation including information supplied by the Client.

3.4 Subsequent information and/or changes in circumstances may mean that the services need to be redefined. An equitable adjustment shall be made to the Price and / or the programme if any change to the project causes a significant change in the Services, costs or the time for delivery of the Services.

3.5 Our contract with you does not cover any authorization issues for the installation of our system on your property. You are responsible for making these arrangements, obtaining these authorizations and for paying any associated charges. We accept no liability whatsoever caused by changes due to lack of authorization.

4. Time

4.1 The estimated time for delivery of the Services is stated in the Proposal. The Client shall allow at least 14 weeks between placing an order and delivery of the Goods to site. Unless otherwise agreed time shall not be of the essence.

5. Risk & Property

5.1 Unless otherwise agreed, risk in all Goods passes on delivery to site and the Client will be responsible for off-loading and secure storage of the Goods.

5.2 Notwithstanding delivery and passing of risk, the Goods remain the property of Maji Milele until the Buyer pays to Maji Milele the agreed price in line with the Proposal. If payment as stipulated in the Proposal is not received within a reasonable time we reserve the right to remove the Goods and you give us permission to enter your property to do so.

5.3 Any property of the Client in Maji Milele's possession or under its control and all property supplied to Maji Milele by or on behalf of the Buyer is held at the Buyer's risk.

5.4 Sales by Maji Milele to the buyer shall be deemed to have been delivered in correct quantity and in good condition, unless the buyer has clearly listed the non-conformity in writing, within 24 hours.

5.5 In case of specific conditions from our supplier put upon us, these conditions, to the extent that they are included in an annex below these general conditions, will also hold for the Client.

6. Liability & Indemnity

6.1 Maji Milele warrants that the Services shall be performed with reasonable skill care and diligence in accordance with accepted professional standards and practices current at the time of delivery of the Services and that the Services and Goods shall conform to the contract specifications .

6.2 We will not enter into any collateral warranty unless the Client has advised us prior to the commencement of delivery of the Services a collateral warranty will be required. Sufficient time shall be allowed for negotiating any warranty.

6.3 Maji Milele shall not be liable to the Buyer for:

6.3.1 Defects in the Goods caused by fair wear and tear, abnormal or unsuitable conditions of storage or use or any act, neglect or default of the Client;

6.3.2 Expendable items (components that are likely to request periodic replacement during the product useful life, like batteries, etc.).

6.3.3 Any costs incurred or losses suffered as a result of incorrect installation of the Goods by the Buyer on supply only contracts as well as due to not following up instructions in case Goods are installed under our supervision.

6.3.4 Any cost incurred in relation to installation/update of new Software versions/patches.

- 6.3.5** Damages or defects due to inappropriate product employment, use or treatment, for purposes other than normal usage.
- 6.3.6** Damages or defects due to incorrect product storage
- 6.3.7** Damages due to product usage under environment and operating conditions that are abnormal, or anyway don't comply with the specifications contained in the user and installation manual
- 6.3.8** Damages or product changes due to:
- i.** Incorrect use, including format numbering
 - ii.** Treatments causing damages or physical, style or surface alterations to the product
 - iii.** Wrong installation or use of the product for purposes other than the designed ones, or failure to follow Susteq's
 - iv.** installation and user instructions
 - v.** Incorrect product maintenance, not complying with the manufacturer's proper maintenance instructions, including
 - vi.** the use of spare parts that are not genuine or indicated by Maji Milee,
 - vii.** Product installation or use not complying with the technical or safety regulations in force
 - viii.** IT virus or use of the product in combinations with software not supplied with the product.
 - ix.** Defects of the systems to which the product is connected, or into which it is incorporated, except for the products Maji Milele declares as specifically designed to be used in combination with its product
 - x.** Use of the product with accessories, devices and other products whose type, condition and standard are different from those prescribed by Maji Milele
 - xi.** Repair operations or repair attempts by untrained/unqualified personnel
 - xii.** Product adaptations or changes made without prior written authorization by Maji Milele
 - xiii.** Carelessness
- 6.3.9** If we accept liability under these conditions our only obligation shall be at our option:
- i.** to make good any shortage or non-delivery;
 - ii.** to replace or repair any Goods found to be damaged or defective;
 - iii.** to re-perform any part of the Services;
 - iv.** to refund to the Client the amount paid by the Client for the Goods which are the subject of a claim.
- 6.4** Maji Milele shall not be liable for any loss, damage or liability of any kind suffered by any third party directly or indirectly caused by repairs or remedial work carried out without Maji Milele's prior written approval. The Client shall indemnify Maji Milele against each loss, liability, and cost arising out of such claims.
- 6.5** Maji Milele's aggregate liability to the Client, whether for negligence, breach of contract, misrepresentation or otherwise, shall in no circumstances exceed the Price of the Services as determined by the net price invoiced to and paid by the Client in respect of any occurrence or series of occurrences.
- 6.5.1** Maji Milele shall not be liable to the Client for:
- 6.5.2** any loss, damage or injury, direct or indirect, resulting from defects in design, materials or workmanship or otherwise caused howsoever arising (and whether or not caused by the negligence of Maji Milele, its employees or agents) other than liability for death or personal injury resulting from Maji Milele's negligence;
- 6.5.3** any indirect or consequential loss or expenses suffered by the Client, howsoever caused, and including, without limitation, loss of anticipated profits, goodwill reputation, business receipts or contracts, or losses or expenses resulting from third party claims.

7. Intellectual Property rights

- 7.1** For the purposes of these terms “Intellectual Property” means any patent, rights to inventions, utility model, registered design, copyright and related right, database right, design right, topography right, trade mark, service mark, trade, business and domain name, right in goodwill or to sue for passing off, unfair competition right, right in computer software, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection whatsoever in any part of the world
- 7.2** Any and all of the Intellectual Property in the drawings, concepts or other materials that Maji Milele may provide to Seller in connection with the Contract shall remain the exclusive property of Maji Milele and the Seller shall not during or at any time after the expiry or termination of the contract in any way question or dispute the ownership of any such rights of Maji Milele.
- 7.3** You agree that any new Intellectual Property that arises in connection with the contract, or products belonging to Maji Milele, shall be owned absolutely by Maji Milele. Seller hereby assigns to Maji Milele with full title and guarantees all rights in and to any such new Intellectual Property for the full duration of such rights, wherever in the world enforceable, and shall procure such an assignment from any employee, consultant or any other party who is involved with the contract. You agree to execute (or procure that the employee, consultant or any other party it shall involve with the contract executes) all documents and assignments and do all such things as may be necessary to perfect Maji Milele’s title to the new Intellectual Property or to register Maji Milele as owner of all registrable rights
- 7.4** Copyright in all outputs generated by Maji Milele in connection with the Services (such as drawings and reports) shall remain vested in Maji Milele but the Client shall have a license to copy and use such outputs for any purpose solely related to the project for which the Services are performed. Maji Milele shall not be liable for any use by the Client of any of the outputs for any purpose other than that for which the same were prepared and provided.

8. Non-solicitation

- 8.1** Neither party shall recruit or engage directly or indirectly whether as an employee or as a contractor or through any third party any personnel who have been connected with the delivery of the Services.

9. Disputes

Any dispute arising under these conditions which cannot be resolved by agreement shall be referred to an arbitrator agreed between the parties or failing agreement the dispute will be settled in line with Keynan law.

10. Warranty

- 10.1** Any warranty provided by Maji Milele relating to the Goods and Services is stated in the Proposal. The Buyer will moreover benefit from any warranty given by the manufacturer of the Goods.
- 10.2** Warranty applies to product Parts and doesn’t cover the costs associated with operation restoring onsite. Any travelling and mission expenses concerning the personnel authorized by Maji Milele, therefore, shall be fully borne by the client.

11. Force Majeure

- 11.1** If Maji Milele is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, but not limited to, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party’s workforce), undue delay of imports by the customs authority, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 60 days, Maji Milele shall be entitled to give notice in writing to terminate the contract.

12. Termination by Purchaser

12.1 Any order or contract may be cancelled or altered by Purchaser only upon payment of charges based upon expenses already incurred by and commitments made by Maji Milele, and a reasonable amount in respect of Maji Milele’s overhead and profit. Goods will be considered for return only if they are in their original condition and packaging. Maji Milele may adjust the amount of any credit or refund depending on the condition of the goods on arrival in the store.

13. Law and Jurisdiction

13.1 These conditions and any Contract made under them shall be governed by and construed in accordance with Kenyan law and the courts of Kenya shall have exclusive jurisdiction. Nothing in these conditions shall limit the right of Maji Milele to take proceedings in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

14. Compliance with Laws/Anti-corruption

14.1 Buyer shall comply fully with all applicable laws, rules and regulations, that apply to Buyer’s business activities in connection with its purchase of goods from Maji Milele. Specifically, Buyer shall comply with all the Laws relating to anti-corruption, bribery, extortion, kickbacks, or similar matters that are applicable to Buyer’s business activities in connection with this contract. Buyer will take no action that will cause Buyer or Maji Milele or any of their affiliates to violate any such Laws.

15. Change in the Buyer’s financial conditions

15.1 Any enforceable or protective proceedings to be borne by the Buyer, or the request for receivership or agreement among creditors, as well as any substantial changes in the Buyer’s membership interest, shall grant Maji Milele the right to terminate the fulfillment of any contract, and to receive the single payment of all the sums still due.

ANNEX: SUSTEQ TERMS THAT APPLY TO US AND TO OUR CLIENTS.

Susteq Clause 8. Software Copyright and Non Exclusive Right of Use

o Software and Documentation delivered to Customer from Susteq under this Agreement is furnished on the following terms and conditions.

i. Copyright in the Software and the Documentation shall remain with Susteq. Customer is solely purchasing the right to use the Software and the Documentation on a non-exclusive basis and the Software and the Documentation shall not under any circumstances or pursuant to this Agreement become the property of Customer.

ii. Without prejudice to the generality of the foregoing (i) Customer is not entitled to, and may not, copy the Software or the Documentation and

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(ii) Customer may not sell, sub-license in any other way transfer the Software or the Documentation, whether for free or for a fee, to any third party without the prior written consent of Susteq.

iii. Customer may make the necessary copies of the Software solely for back up purposes.

iv. If Customer is in material breach of any of the provisions of this Clause 8, Susteq may terminate the license granted hereunder by giving written notice to Customer. Customer shall upon termination destroy all Software and Documentation and back up's and submit a written certificate of such destruction to Susteq within two (2) weeks after the date of termination.

v. The Software and the Documentation does not include updates and upgrades. Updates and upgrades are available from Susteq under a separate Support and Maintenance Agreement. In the event of Susteq releasing a new version to Customer then the new version of the Software and the Documentation will always replace the old version in such a way that Customer's rights to the old version are transferred to the new version and that subsequently, Customer shall have no rights to the old version.

vi. The terms of this Agreement that have applied to the old version of the Software and the Documentation shall apply equally to the new version unless it is specified by agreement or the nature of the relationship that other terms shall apply.

vii. Customer is not entitled to free updates and license only cover the original version sold with the system. New version of software is subject to charge.

Susteq clause 9. Transfer of Rights

o Customer shall have no rights whatsoever to transfer any or all of its rights and/or obligations under this Agreement to any third party without the prior written consent of Susteq.

Susteq Clause 12. Product related responsibility

o Unless it provides evidence that the defect that caused the damage to people or objects already existed at sale time, the Buyer shall hold Susteq harmless from any responsibility, damage, expense and cost the latter may be called to account for, in case the damage can anyway be ascribed to the Buyer, in particular if the latter has improperly used the product, has allowed the intervention of personnel not authorized by Susteq for product maintenance or repair, has used spare parts without the marking artwork of Susteq, or approved by the latter, has used any products not recognized by the manufacturer (see the "Warranty" section), has failed to carry out product maintenance when planned, or has failed to comply with the indications contained in the installation, user and maintenance manuals during installation, maintenance and use.

o Customer is responsible for providing a working sim card with sufficient credits. All mobile network communication charges are to be paid by the customer.

o To guarantee the availability of data in our online dashboard and database there must be a compatible GSM network available with sufficient signal strength (90 dBm or better as reported by the GSM module inside the Hub).

o At times of no or bad functional GSM network there is no means of data exchange with the online dashboard and database. Susteq is not responsible for any consequences of data not being available or SMS commands not being executed at his time. Without a GSM network the Hub will stay functional in such a way that water can be fetched and data will be recorded. Once the Network is back online any data will be synchronized with the online dashboard and database.