

Terms and Conditions

M+W HARGREAVES TERMS AND CONDITIONS OF SERVICE.

**1. Interpretation**

- 1.1 These terms and conditions apply to any User who downloads HDL Content from the Website.
- 1.2 No amendment to these Terms and Conditions of Service shall be effective unless agreed in writing. References herein to Clauses mean clauses of these Conditions. Clause headings are used for ease of reference only and shall not affect the interpretation of the Clauses to which they refer.

**2. Definitions**

- 2.1 The definitions within these terms and conditions apply throughout this document

<b>“BIM”</b>	Building Information Modelling; newly established design and construction process implemented across the AEC Industry.
<b>“BIM Component”</b>	A Digital file that represents a real world component, the file contains graphical data and metadata inside the properties of the object.
<b>“BEP”</b>	BIM Execution Plan; a Project document which outlines the BIM strategy which will be implemented in a particular Project.
<b>“HDL”</b>	Hargreaves Ductwork Limited, a Company registered in England and Wales (under company number 00288899) whose registered address is C/o Burges Salmon, 6 New Street Square, 10 <sup>th</sup> Floor, London, EC4A 3BF
<b>HDL Content</b>	A BIM Component which is downloaded from mw-hargreaves.net, This object can be used inside a Revit Project to correctly design duct systems to HDL manufacturing standards. The content is based upon the commercially available product in the Trade catalogue.
<b>“IP”</b>	Intellectual Property: patents, rights to inventions, copyright and related rights, trade marks business names and domain names, rights in get-up goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information including know-how and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, 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.
<b>“Meta Data”</b>	The accompanying data that is attached to every instance of a component within the project environment. To comply with PAS 1192 BIM objects have to have the correct Meta Data attached and completed at the necessary design gates as per the BEP.
<b>“MEP”</b>	Mechanical/ Electrical/ Plumbing
<b>“NBS BIM Object Standard”</b>	National Building Specification BIM Object Standard; UK national standard to which BIM Objects conform to. It guidelines what BIM Objects should include as metadata to comply with the UK Government BIM Level 2 mandate.

<b>“PAS 1192-3:2014”</b>	Publically available standard (PAS 1192) is broken into 4 parts to help with standardising the delivery and operation of construction projects. The documents detail the different constituent parts of the BIM mandate for 2016 outlined by the UK government.
<b>“Project”</b>	A Project in which the User will utilise the HDL Content acquired from mw-hargreaves.net.
<b>“Product Code Data”</b>	Meta Data that resides within the BIM Object component. The Product code data can be scheduled and delivered to HDL for a quick cost estimate of the project.
<b>“Training Documents”</b>	Training materials provided by HDL which explains how the HDL Content can be used.
<b>“User”</b>	A person who downloads HDL Content from the Website, for use on a Project.
<b>“Website”</b>	The website belonging to HDL at the following address: mw-hargreaves.net

### **3. BIM Compliance**

- 3.1 HDL confirms that the HDL Content downloaded from the Website is BIM compliant in accordance with NBS BIM Object Standard.
- 3.2 The objects must be used by the User in the correct manner and naming convention to align with PAS 1192-3:2014 COBie. The required data at the required design gate is to be input as per the relevant project BIM Execution Plan to which the BIM Components will be applied.
- 3.3 HDL assumes that the User of the BIM Components will align themselves to the BEP in question to maintain compliance with the relevant government mandate on using such content.

### **4. Services**

- 4.1 The HDL Content is to be used in conjunction with a BIM compliant MEP design in a Project. It is the User’s responsibility to specify the correct fittings.

### **5. Change Management**

- 5.1 HDL reserves the right to change the content on the Website. HDL will contact the User using the User-email contact address, which the User will supply to HDL when signing into the BIM content area on the Website.
- 5.2 It is the sole responsibility of the User to check that the HDL Content they have downloaded from the Website is the most up to date version. Updates to the Product Code Data will occur annually and an E-mail will be generated to notify the User of this update.
- 5.3 If an update occurs during a Project, the updated BIM Components can be downloaded from the Website. HDL will make the necessary Training Documents available to the User.

### **6. Charges**

- 6.1 This service provided by HDL to the User is a free service for Users to specify the HDL real manufacturer’s content.

### **7. Intellectual Property Rights**

- 7.1 HDL owns the IP rights in the data within the HDL Content and the information in the Training Documents provided by HDL.
- 7.2 Once the data is placed within the models for a Project, the HDL Content may be used as part of the Project. HDL hereby grants to the User a non-terminable perpetual transferable nonexclusive royalty-free licence (which includes the right to grant sub-licences) to copy, use and communicate any part of the HDL Content which the User has downloaded, including using modifications, adaptations or enhancements of them for the purposes set out in this Contract.

## **8. Confidentiality**

- 8.1 Any and all information generated in connection with the Contract, except information in the public domain, shall be maintained in confidence by the HDL and shall not be divulged to any third party or used by HDL except as and to the extent necessary for the performance of the Contract or as may be required by law.

## **9. Marketing**

- 9.1 The email address provided to HDL will be used in marketing to contact the User regarding the service provided. It will be used to help develop the BIM Components further.
- 9.2 HDL will also utilise the email to provide a platform to engage Users with new services and products produced by HDL.

## **10. Liability and insurance**

- 10.1 HDL shall have no liability, by way of indemnity, by breach of contract or statutory duty or by reason of tort (including but not limited to negligence) for any: loss of profit, loss of use, loss of production, loss of contracts, or for any financial or economic loss or for any indirect or consequential damage howsoever arising. In any event, HDL will not be liable to the User under this agreement for more than £1,000.
- 10.2 Without limitation to its obligations and responsibilities under the Contract, HDL shall maintain adequate insurance in order to cover its responsibilities under this Contract.

## **11. Termination**

- 11.1 HDL may be entitled to terminate this Contract at any time by giving 14 days' notice to the User via the email address provided by the User to HDL.

## **12. Third Party Rights**

- 12.1 Nothing in this Agreement confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

## **13. Severability**

- 13.1 If any provision of this agreement is found to be void or unenforceable, that provision shall be deemed to be deleted from this agreement and the remaining provisions of this agreement shall continue in full force and effect and the parties shall use their respective reasonable endeavours to procure that any such provision is replaced by a provision which is valid and enforceable, and which gives effect to the spirit and intent of this agreement.

#### **14 Entire Agreement**

- 14.1 This agreement constitutes the entire understanding and agreement between the parties in relation to the subject matter of this agreement.

#### **15. Governing Law**

- 15.1 This agreement shall be governed by, and construed in accordance with, the law of England and Wales. Any dispute arising out of or in connection with, or concerning the carrying into effect of, this agreement shall be subject to the non-exclusive jurisdiction of the courts of England and Wales.