
STANDARD SERVICE TERMS AND CONDITIONS

BACKGROUND:

Smoke Vent Systems Ltd, a company registered in England under number 07502781 with its registered office at Unit 1 Freemantle Business Centre, 152 Millbrook Road East, Southampton, Hampshire SO15 1JR and with a business address at Forest Edge, Salisbury Road, Blashford, Hampshire BH24 3PB (the “Company”) provides installation, maintenance and repair services to business clients. The Company has reasonable skill, knowledge and experience in that field. These Terms and Conditions shall apply to the provision of services by the Company to its clients.

1. Application of Terms and Conditions

- 1.1 The Company shall provide the Services in accordance with the Quotation which shall be subject to these Terms and Conditions.
- 1.2 The Agreement shall be to the exclusion of any other terms and conditions subject to which the Quotation is accepted or purported to be accepted, or any order for Services is made or purported to be made, by the Customer
- 1.3 Where in purporting to accept a Quotation the Client has issued an order or where in the absence of a Quotation the Client issues an order, the Agreement will not be formed until such time as the Company accepts in the writing the Client's order, and such acceptance shall at all times be subject strictly to the requirement that the resulting contract shall incorporate these Terms and Conditions.

2. Definitions and Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Agreement”	means the agreement entered into by the Company and the Client comprising the Client's specification and drawings (if any) and the Quotation, and incorporating these Terms and Conditions (or variation thereof agreed upon by both Parties) which shall govern the provision of the Services;
“Business Day”	means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in London;
“Client”	means the party procuring the Services from the Company as identified in the Quotation;
“Commencement Date”	means the date on which provision of the Services will commence, as set out in the Quotation;

- “Confidential Information”** means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
- “Fees”** means any and all sums due under the Agreement from the Client to the Company, as specified in the Quotation;
- “Quotation”** means the written quotation or offer of the Company for the provision of the Services to the Client;
- “Services”** means the services to be provided by the Company to the Client in accordance with Clause 3, as fully defined in the Client’s specification and drawings and in the Quotation, and subject to these Terms and Conditions; and
- “Term”** means the duration of the Agreement as set out in the Quotation.

- 2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- 2.2.1 “writing”, and any similar expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
 - 2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - 2.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
 - 2.2.4 a Clause is a reference to a clause of these Terms and Conditions; and
 - 2.2.5 a "Party" or the "Parties" refer to the parties to the Agreement.
- 2.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 2.4 Words imparting the singular number shall include the plural and vice versa.
- 2.5 References to any gender shall include the other gender.
- 2.6 References to persons shall include corporations.

3. Provision of the Services

- 3.1 With effect from the Commencement Date, the Company shall, throughout the Term, provide the Services to the Client.
- 3.2 The Company shall provide the Services with reasonable skill and care, commensurate with prevailing standards in the smoke ventilation sector in the United Kingdom.
- 3.3 The Company shall act in accordance with all reasonable instructions given to it by the Client provided such instructions are compatible with the specification of Services provided in the Agreement.
- 3.4 The Company shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 3.5 The Company shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Client, subject to the Client's acceptance of any related reasonable changes to the Fees that may be due as a result of such changes.

4. Client's Obligations

- 4.1 The Client shall use all reasonable endeavours to provide all information to the Company that is necessary for the Company's provision of the Services.
- 4.2 The Client may, from time to time, issue reasonable instructions to the Company in relation to the Company's provision of the Services. Any such instructions should be compatible with the specification of the Services provided in the Agreement.
- 4.3 In the event that the Company requires the decision, approval, consent or any other communication from the Client in order to continue with the provision of the Services or any part thereof at any time, the Client shall provide the same in a reasonable and timely manner.
- 4.4 If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Client's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).
- 4.5 If the nature of the Services requires that the Company has access to any part the Client's premises or any other location access to which is lawfully controlled by the Client, the Client shall ensure that the Company has access to the same at the times to be agreed between the Company and the Client as required.
- 4.6 Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any of the provisions of Clause 3 of the Agreement shall not be the responsibility or fault of the Company.
- 4.7 It is the sole responsibility of the Client to ensure that any window or

ventilation unit supplied and/or fitted by others or already in situ is suitable and to the appropriate permissible standard to enable the provision of the Services. The Client shall be liable to the Company for any costs incurred by the Company and for any abortive Fees where as a consequence the Company is unable to carry out or complete the Services (or any part thereof).

5. Fees and Payment

- 5.1 The Client shall pay the Fees to the Company in accordance with the provisions of the Agreement.
- 5.2 The Company shall invoice the Client for Fees due in accordance with the provisions of the Agreement. Unless otherwise stated in the Quotation, the Company shall be permitted to invoice the Client on a monthly basis for Services provided during that month.
- 5.3 All payments required to be made pursuant to the Agreement by the Client shall be made within 30 Business Days of the issue by the Company of the relevant invoice.
- 5.4 All payments required to be made pursuant to the Agreement by the Client shall be made in cleared funds to such bank in United Kingdom as the Company may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as the Client is required to deduct or withhold by law.
- 5.5 Where any payment pursuant to the Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 5.6 .Without prejudice to Clause 10.3.1, the Company shall be at liberty to charge the Client interest (both before and after any judgement) on the amount of any Fees unpaid on the due date, at the maximum rate permitted from time to time under the Late Payment of Commercial Debts Act 1999, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. Limitation of Liability

- 6.1 Save in relation to death or personal injury, the Company shall be under no liability to the Client or to any third party (including the Client's employees and agents) for any injury, damages, or loss howsoever caused in respect of or arising from the provision of the Services or any defect in goods, parts or components supplied as part of the Services other than for direct physical loss or direct physical damage arising from the sole negligence of the Company or its employees or agents. Nothing contained in these Terms and Conditions shall affect the statutory rights of a customer as a consumer, whether a direct customer of the Company or an indirect customer by virtue of any intermediate or sub sale.

7. Guarantee

- 7.1 The Company provides no guarantee or warranty save that it warrants that any goods, parts or components supplied as part of the Services will be free from any and all defects for a period as defined in the Quotation.
- 7.2 If any defects are found in any of the goods, parts or components supplied as part of the Services and are notified to the Company in accordance with and subject to Clause 7.1, the sole liability of the Company shall be to rectify any and all such defects at no cost to the Client.

8. Confidentiality

- 8.1 Each Party undertakes that, except as provided by Clause 8.2 of the Agreement or as authorised in writing by the other Party, it shall, at all times during the continuance of the Agreement and for 10 years after its termination:

- 8.1.1 keep confidential all Confidential Information;
- 8.1.2 not disclose any Confidential Information to any other party;
- 8.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Agreement;
- 8.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
- 8.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of Clauses 8.1.1 to 8.1.4 of the Agreement.

- 8.2 Either Party may:

- 8.2.1 disclose any Confidential Information to:
 - 8.2.1.1 any sub-contractor or supplier of that Party;
 - 8.2.1.2 any governmental or other authority or regulatory body; or
 - 8.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by the Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under Clause 8.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of Clause 8 of the Agreement, to keep the Confidential Information confidential

and to use it only for the purposes for which the disclosure is made;
and

8.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.

8.3 The provisions of this Clause 8 shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

9. Force Majeure

9.1 No Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

10. Term and Termination

10.1 The Agreement shall come into force on the Commencement Date and shall continue for the Term, subject to the provisions of this Clause 10.

10.2 Either Party may terminate the Agreement by giving to the other not less than 30 days written notice, to expire on or at any time after the expiry of the Term.

10.3 Either Party may immediately terminate the Agreement by giving written notice to the other Party if:

10.3.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 14 Business Days of the due date for payment;

10.3.2 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 30 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;

10.3.3 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

10.3.4 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

- 10.3.5 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Agreement);
 - 10.3.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
 - 10.3.7 the other Party ceases, or threatens to cease, to carry on business; or
 - 10.3.8 control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of Clause 9, “control” and “connected persons” shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 10.4 For the purposes of Clause 10.3.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 10.5 The rights to terminate the Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

11. Effects of Termination

Upon the termination of the Agreement for any reason:

- 11.1 any sum owing by the Client to the Company under any of the provisions of the Agreement shall become immediately due and payable;
- 11.2 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain in full force and effect;
- 11.3 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Agreement which existed at or before the date of termination;
- 11.4 subject as provided in this Clause 11 and except in respect of any accrued rights, neither Party shall be under any further obligation to the other; and
- 11.5 each Party shall (except to the extent referred to in Clause 8) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

12. No Waiver

No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

13. Further Assurance

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the Agreement into full force and effect.

14. Set-Off

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Agreement or any other agreement at any time.

15. Assignment and Sub-Contracting

15.1 Subject to Clause 15.2, the Agreement shall be personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

15.2 The Company shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of the Agreement, be deemed to be an act or omission of the Company.

16. Time

16.1 The times and dates referred to in the Agreement shall be for guidance only and shall not be of the essence of the Agreement and may be varied by mutual agreement between the Parties.

17. Relationship of the Parties

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Agreement.

18. Third Party Rights

18.1 No part of the Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

19. Notices

19.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

19.2 Notices shall be deemed to have been duly given:

19.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

19.2.2 when sent, if transmitted by facsimile and a successful transmission report or return receipt is generated; or

19.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

19.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address or facsimile number notified to the other Party.

20. Entire Agreement

20.1 The Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

20.2 Each Party shall acknowledge that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in the Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

21. Counterparts

The Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

22. Severance

In the event that one or more of the provisions of the Agreement and/or of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, the provision in question shall be deemed severed from the remainder of the Agreement and/or these Terms and Conditions. The remainder of the Agreement and/or these Terms and Conditions shall be valid and enforceable.

23. Dispute Resolution

- 23.1 If one Party has a complaint about the other, the complaint must be raised in writing by post or fax. The complainer will inform the other Party exactly what the nature of the complaint is and the resolution it seeks and allow the other Party at least 7 days to resolve the complaint.
- 23.2 If the complaint remains unresolved to the satisfaction of the complainer, the Parties must first seek to resolve the dispute by submitting to mediation in good faith. The Parties shall seek to hold the mediation within 60 days from the date when the complaint was first made in writing and served on the recipient. The complainer shall provide the other recipient with a choice of three experienced, independent and qualified commercial mediators.
- 23.3 If one Party seeks to take part in the mediation and the other Party refuses or fails to provide details of three mediators or fails to agree the choice of mediator or venue for mediation without good reason, then the one Party will be entitled to recover costs for the dispute from the date when the other Party refused to take part in the mediation.

24. Law and Jurisdiction

- 24.1 The Agreement and these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 24.2 Subject to the provisions of Clause 23 of the Agreement, any dispute, controversy, proceedings or claim between the Parties relating to the Agreement or these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.