

Scott Heating & Ventilation Limited Standard Terms and Conditions

The Supplier shall supply and the Customer shall purchase the Goods and Services in accordance with the quotation which is subject to these Conditions.

These Terms and Conditions are the only terms upon which the Supplier is prepared to deal with the Customer, and they shall govern the Contract to the entire exclusion of any other terms and conditions and subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

1. Definitions and Interpretation:-

Business Day means any day other than a Saturday, Sunday or bank holiday;

Customer means the person who accepts a quotation or offer of the Supplier for the sale of the Goods and supply of the Services, or whose order for the Goods and Services is accepted by the Supplier;

Commencement Date means the commencement date for this agreement as set out in the quotation;

Contract means the contract for the purchase and sale of the Goods and supply of the Services under these conditions;

Conditions means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier;

Delivery Date means the date on which the Goods and Services are to be delivered as stipulated in the Customer's order and accepted by the Supplier;

Goods means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Conditions;

Month means a calendar month;

Services means the Services to be provided to the Customer as set out in the quotation;

Supplier means Scott Heating & Ventilation Limited;

Quotation means a formal statement setting out the estimated cost for a job or a service submitted to the Customer;

Schedule means milestones, activities and deliverables with an intended start and finish date;

Specification means a detailed, exact statement of particulars, prescribing materials, dimensions and quality of work for something to be built, installed or manufactured;

Subcontractor means a person or business who works under contract to the Supplier;

Writing includes any communications effected by electronic mail or any comparable means;

Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of Sale and Service

- The Supplier's employees or agents are not authorised to make any representations concerning the Goods and Services unless confirmed by the Supplier in writing. In entering into the Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.
- An order placed by the Customer may not be withdrawn cancelled or altered prior to acceptance by the Supplier and no contract for the sale of the Goods and Services shall be binding on the Supplier unless the Supplier has issued a quotation which is expressed to be an offer to sell the goods and services or has accepted an order placed by the Customer by whichever is the earlier of the Supplier's written acceptance; the delivery of the goods; or the Supplier's invoice.
- Any typographical, clerical or other accidental errors or omissions in any quotation, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

3. The Goods

- No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.
- The specification for the Goods shall be those set out in the Supplier's sales documentation unless varied expressly in the Customer's order (if accepted by the Supplier).
- The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Supplier's specification, which do not materially affect their quality or performance.
- No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.
- The Customer will additionally pay to the Supplier all outstanding payments previously invoiced by the Supplier in respect of Goods and Services prior to the date of cancellation.

4. The Services

- With effect from the Commencement Date the Supplier shall, in consideration of the Fees being paid in accordance with the Terms of Payment will provide the services expressly identified in the quotation or otherwise agreed under this agreement.
- The Supplier will use reasonable care and skill to perform the services identified in the quotation or otherwise agreed under this agreement.

5. Price

- The price of the Goods and Services shall be the price listed in quotation current at the date of acceptance of the Customer's order or such other price as may be agreed in writing by the Supplier and the Customer.
- Where the Supplier has quoted a price for the Goods and Services, the price quoted shall be valid for 30 days only or such lesser time as the Supplier may specify.
- The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods and Services to reflect any increase in the cost to the Supplier which

is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and Services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

- Except as otherwise stated under the terms of any quotation, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport as specified in the quotation.
- The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods and Services, which the Customer shall be additionally liable to pay to the Supplier.

6. Payment

- An advance payment of 30 percent of the value of the goods will be required prior to commencement of any services or delivery of any goods on all orders unless otherwise agreed in writing.
- All payments required to be made pursuant to this Agreement by either party shall be made within 30 days of the date of the relevant invoice, or as stipulated in the quotation, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.
- The time of payment shall be of the essence of these terms and conditions. If the Customer fails to make any payment on the due date in respect of the price or any other sum due under these terms and conditions then the Supplier shall, without prejudice to any right which the Supplier may have pursuant to any statutory provision in force from time to time, have the right to charge the Customer UK statutory interest on a daily basis on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgement.
- All payments shall be made to the Supplier as indicated on the form of acceptance or invoice issued by the Supplier.
- The Customer shall immediately notify the Supplier in writing if the Customer disputes any invoice or part thereof. The Customer will immediately pay the undisputed portion of the invoice and the parties to the Contract shall seek to resolve the dispute within 14 days and in the absence of agreement the provisions of Clause 12 shall apply.

7. Delivery and Performance

- Delivery of the Goods shall be made by the Supplier to the place specified in the quotation.
- The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Supplier in writing. The Goods may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer.
- If the Customer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled, upon given written notice to the Customer, to store or arrange for the storage of the Goods and then notwithstanding the provision of Clause 9.1 of these Conditions, risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.
- With effect from the Commencement Date the Supplier shall, in consideration of the amount(s) being paid in accordance with the quotation will provide the services expressly identified in the schedule or otherwise agreed under this agreement.

8. Non-Delivery of Goods and Services

If the Supplier fails to deliver the Goods or Services on the Delivery Date other than for reasons outside the Supplier's reasonable control or due to the Customer's or its carrier's fault, the Supplier shall have no liability in respect of such late delivery; and the Customer shall give written notice to the Supplier within 10 business days after the Delivery Date and in the event of the Supplier failing to deliver the Goods and Services within 30 Business Days after receiving such notice the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) of the cost of the Customer (in the cheapest available market) of similar goods to those not delivered over the price of the Goods not delivered.

9. Risk and Property

- The risk of loss of or damage to the Goods shall pass to the Customer at:-
 - 1 in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection; or
 - 2 in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods
 - 3 in the case of goods being installed by the Supplier, the time that the Supplier notifies the Customer that the installation is complete
- Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Supplier to the Customer for which payment is then due.
- The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

10. Assignment

- The Supplier may assign the Contract or any part of it to any person, firm or company.
- The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

11. Defective Goods

- If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within 3 business days of such delivery, the Supplier shall at its option; replace the defective Goods within 14 days of receiving the Customer's notice; or refund to the Customer the price for the Goods which are defective; but the Supplier shall have no further liability to the Customer in respect thereof and the Customer may not reject the Goods if delivery is not refused or notice given by the Customer as aforesaid.
- No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. Subject thereto any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection shall either be replaced free of charge or, at the Supplier's sole discretion the Supplier shall refund or credit to the Customer the price of such defective Goods, but the Supplier shall have no further liability to the Customer.

- The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration of the Goods without the Supplier's approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.
- Goods, other than defective Goods returned by the Customer, and accepted by the Supplier may be credited to the Customer at the Supplier's sole discretion and without any obligation on the part of the Supplier.
- Subject as expressly provided in these Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- The Customer shall be responsible to ensure that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss damage or injury which the Supplier might suffer as a result of the Customer's failure to comply with this condition.

12. Customer's Default

- If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the order or suspend any further deliveries of Goods and Services to the Customer; and appropriate any payment made by the Customer to such of the Goods and Services (or the goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer);
- The terms additionally apply if
 - 1 the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract; or
 - 2 the Customer becomes subject to an administration order or makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
 - 3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
 - 4 the Customer ceases, or threatens to cease, to carry on business; or
 - 5 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- If a specified event occurs then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. Liability

- Except in respect of death or personal injury to any person or loss of or damage to any tangible property caused by the default or negligence of the Supplier, the Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of this contract, be liable for any loss of profit or any indirect, special or consequential loss, damages, costs, expenses or other claims suffered by the customer or its servants or agents

(whether caused by the Suppliers' servants or agents or otherwise) which arise out of or in connection with the supply of the Goods and Services.

- The Customer shall indemnify and keep indemnified the Supplier against injury or death to any persons or loss or damage to any tangible property, materials, plant and equipment which may arise out of the default or negligence of the Customer, or any person engaged by the Customer (other than the supplier) and against all claims, demands, proceedings, damages, costs and expenses whatsoever in respect thereof or in relation thereto.
- Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

14. Communications

- All communications between the parties about the Contract shall be in writing by electronic mail or sent by pre-paid first-class post:
- (in the case of communications to the Supplier) to its Head Office at 5 Brookside Industrial Estate, Sawtry, PE28 5SB; or
- (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Supplier by the Customer. Communications shall be deemed to have been received:
- if sent by pre-paid first-class post, two Business Days after posting (exclusive of the day of posting); or if delivered by hand, on the day of delivery; or if sent by electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

15. Force Majeure

- In the event that either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake, strike or lockout, the party shall not be deemed to be in breach of its obligations under this Agreement. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.
- The above clause shall not apply with respect to strikes and lockouts where such action has been induced by the party so incapacitated.

16. Termination for Breach

- Each party shall be liable to pay to the other damages for any breach of this Agreement and all expenses and costs incurred by that party in enforcing its rights under this Agreement.
- If and when the period of such incapacity exceeds 6 months, then this Agreement shall automatically terminate unless the parties first agree otherwise in writing.

17. Waiver

No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

18. Severance

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

19. Third Party Rights

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. Governing Law and Jurisdiction

These terms and conditions shall be governed by the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English and Welsh courts.