

## Pivotal Plumbing and Heating Ltd – Terms and Conditions of Sale

### 1. DEFINITIONS

- 1.1 "Customer" means the person and/or organisation who purchases Services and Products from the Plumber/Engineer.
- 1.2 "Consumer" an individual using the Product and/or Services for personal use.
- 1.3 "Contract" means the contract between the Plumber/Engineer and the Customer for the sale of Products and provision of Services incorporating these Terms and Conditions, the Proposal which will together form the whole of the agreement with the customer.
- 1.4 "Products" and/or "Materials" means the products/articles which the Customer agrees to buy from the Plumber/Engineer as specified in the Proposal and which may be used by the Plumber/Engineer to deliver the Services.
- 1.5 "Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, any contact or database rights, knowhow, confidential information or process, any application for any of the above, and any other intellectual property rights recognized in any part of the world, whether or not presently existing or applied for, which are held by the owning party.
- 1.6 "Proposal" means the document describing the Services and Products to be provided by the Plumber/Engineer in the form of a "Quotation" or "Estimate".
- 1.7 "Services" means the Plumbing/Heating services that the Customer agrees to buy from the Plumber/Engineer, as specified in the Proposal.
- 1.8 "Plumber/Engineer" means Pivotal Plumbing and Heating Ltd of Street House, Llandysilio, Llanymynech, SY22 6RB and Registration Number 9188629 VAT Registration 200 8515 50.
- 1.9 "Supplier" means a person or organisation that provides the Plumber/Engineer with Products/Materials needed to deliver the Services to the customer.
- 1.10 "Terms and Conditions" means these Terms and Conditions, but will also include any special terms and conditions agreed in writing by the Plumber/Engineer.
- 1.11 "Working day" means any day Monday to Friday from 9am to 5pm, excluding all public and bank Holidays in England and Wales.

### 2. CONDITIONS

- 2.1 These Terms and Conditions and the Proposal will together form the whole of the Agreement with the customer and apply to all contracts for the sale of Products/Materials and Services by the Plumber/Engineer to the Customer.
- 2.2 Nothing in these Terms and Conditions is intended to affect a Customers statutory rights as a Consumer.
- 2.3 These Terms and Conditions can only be varied if agreed between the parties in writing.
- 2.4 Any special conditions, which apply, will be set out in the Proposal.
- 2.5 Any complaints by the Customer must be in writing to the Plumbers/Engineers address as stated in Clause 1.8.
- 2.6 The Customer is not entitled to withhold any payment of the price, or part thereof, from the Plumber. Any complaints or queries by the Customer, including any snagging lists must be in writing to the Plumbers/Engineers address stated in the Proposal.

### 3. THE PRODUCTS/MATERIALS AND SERVICES

- 3.1 Details of the Products/Materials and Services, which the Plumber/Engineer will supply to the Customer, are contained within the attached Proposal. Only those Products/Materials and Services as detailed in the Proposal are included. The Quote provided in the Proposal will be valid for a period of 30 days and is subject to Suppliers prices not increasing during this time period. Any samples, drawings, specification, product details in any format or in any form of advertising materials are shown by the Plumber/Engineer to provide some indication of the Products/Materials and/or Services and are not part of any Agreement unless specifically stated within the Proposal.
- 3.2 The price in the Proposal relates to the Products/Materials and Services as detailed in the Proposal. Where further work is required or requested due to unforeseen circumstances or the Plumber/Engineer finding something completely out of scope from the original Proposal any additional Services

and/or Products/Materials will be communicated to the Customer by the Plumber/Engineer and must be agreed by the Customer before the additional Services and/or Products/Materials can be supplied. The Customer has the right to cancel if they do not agree.

- 3.3 When the Customer places an Order with the Plumber/Engineer ("the Order") they will be deemed to have accepted the Proposal and these Terms and Conditions.
- 3.4 An Agreement between the Plumber/Engineer and the Customer, incorporating these Terms and conditions, shall only come into force when the Plumber/Engineer confirms an order to the Customer. Prior to any confirmation, the Plumber/Engineer has the right to refuse any order.

### 4. PRICE AND PAYMENT

- 4.1 The Price of the Products/Materials and Services are exclusive of VAT and is shown on the Proposal. Any additional Products/Materials and Services supplied and agreed between the Customer and the Plumber/Engineer will be subject to an additional charge.
- 4.2 Payment must be made in accordance with the Proposal, a deposit of 40% will be required before work commences and the balance on receipt of the Invoice, our payment terms are strictly 7 days from the date of Invoice. Once a deposit has been received the job will be booked in within 5 working days.
- 4.3 If the Customer fails to make payment within these terms the Plumber/Engineer will add a 5% surcharge to cover administration charges and there after interest on any overdue amount at the rate of 8% per annum and is also entitled to recover all reasonable expenses incurred in obtaining payment from the Customer, where any payment or part payment is late.
- 4.4 Where any payment is overdue then on providing notice the Plumber/Engineer reserves the right to suspend or cease the provision of any Products/Materials and/or Services until full cleared payment is received.

### 5. CUSTOMERS OBLIGATIONS

- 5.1 To enable the Plumber/Engineer to supply and complete the Services, the Customer will at all times:
  - a) provide access for the duration that the Plumber/Engineer requires to enable the Services to be provided
  - b) provide electricity, water and toilet facilities
  - c) where applicable will ensure that the area is clear, free of furniture and the Customers other items and that the area is prepared in accordance with the proposal
  - d) ensure there is adequate ventilation available: and
  - e) co-operate with and comply with all reasonable requests from the Plumber/Engineer within a reasonable time of such a request from the Plumber/Engineer
  - f) ensure and agree that any information, materials or documents or anything passed to the Plumber/Engineer have been checked by the Customer as being accurate, suitable for the use the Customer requires and does not breach any health and safety legislation or the rights of any third party, whatsoever in nature, is not contrary to any law, functions satisfactorily and will be provided by the Customer in the format the Plumber/Engineer specifies.
  - g) comply with the Proposal and any special terms contained within that Proposal.
- 5.2 Prior to the Services starting the Customer will obtain the approvals, licences and permissions and authority as detailed in the Proposal to enable the Plumber/Engineer to carry out the Services and where required will provide evidence of such to the Plumber/Engineer. Unless specified within the Proposal, the costs of meeting this obligation will be the responsibility of and paid directly by the Customer. However by placing an Order the Customer undertakes they have the express authority of any owners, and those with any other interest or rights of the premises where the Services are to be performed.
- 5.3 Where the Customer has supplied any measurements, then their accuracy remains the sole responsibility of the Customer and the Customer will be

solely responsible for any expenses incurred because of any inaccuracy or problems arising because of the measurements.

- 5.4 Other than specifically provided within the Proposal, the Customer will be solely responsible for any replacing of items removed to enable the Services to be supplied and any redecoration required after the Services have been supplied
- 5.5 The Customer will take all reasonable steps to ensure the Plumbers/Engineers equipment is not damaged or lost whilst on the premises where the Services are supplied.
- 5.6 Where the Customer fails to take such precautions and care advised by the Plumber/Engineer above in clause 5.5, the Plumber/Engineer will regard this as a breach of the Customers obligations which is not capable of remedy and will be entitled to terminate the Agreement immediately. The Customer will be responsible for all and any damages or losses incurred because of the Customers failure to take such action, precautions and care.
- 5.7 Unless it has been specifically agreed by the Plumber/Engineer to the contrary, the Customer is responsible for ensuring that, for the duration of the supply of the Services and until completion, neither the Customer nor any third party visits the area where the Services are being supplied unless accompanied by the Plumber/Engineer or the Plumbers/Engineers authorised representative and shall wear any appropriate Personal Protective Equipment advised by the Plumber/Engineer.
- 5.8 The Customer shall be solely liable for any expenses incurred by the Plumber/Engineer as a result of the Customers failure to comply with its obligations within the Proposal and these Terms and Conditions.
- 5.9 The Customer shall inspect the products on delivery and Inspect Services as applicable daily for the duration of the Services and within 3 days of completion and shall notify the Plumber/Engineer in writing of any damaged, missing or defective Products or Services within 3 days from the date of delivery of Products or supply of Services.

### 6. PLUMBER/ENGINEERS OBLIGATIONS

- 6.1 The Plumber/Engineer will supply Products/Materials and Services in accordance with the description of such Products/Materials and Services contained within the Proposal and within a reasonable time.
- 6.2 The Plumber/Engineer may work outside the hours of a 'typical' Working day if the Customer allows.
- 6.3 The Plumber/Engineer will perform the Services with reasonable skill and care and to a reasonable standard in accordance with recognised standards, current trade guidance and in compliance with relevant health and safety regulations. The Plumber/Engineer also warrants that any Products they supply will comply in accordance with the Proposal.
- 6.4 The Plumber/Engineer is entitled to appoint a sub-contractor and will supply details of such sub-contractor following a written request from the customer.
- 6.5 The Plumber/Engineer will only be responsible for waste management, disposal and recycling as detailed in the Proposal. Removal of any additional waste will be at extra cost.
- 6.6 The Plumber will, as applicable, take reasonable steps to:
  - a) match any finish with existing materials;
  - b) protect furniture, floor coverings and the Customers items;
  - c) maintain security in the Customers premises
  - d) take care of any key or any method of entry (including code, badges, letters of authority etc.)
- 6.7 Where the Plumber/Engineer connects needs to connect new equipment to the Customers existing pipes and/or system, the Plumber/Engineer will not accept liability for the costs of repairing or replacing parts of the existing pipes and/or system, which occur due to faults in the existing pipes and/or system unless the Plumber/Engineer has been negligent in not realising that such damage may occur or in the way the work was done.
- 6.8 The Plumber/Engineer will advise the Customer, as relevant as to what action, precautions and care must be taken in respect of any gases, flammable, dangerous or hazardous substances that the Plumber may use to provide the Services.
- 6.9 The Plumber/Engineer shall hold:

## Pivotal Plumbing and Heating Ltd – Terms and Conditions of Sale

- (a) current Employer and Public liability insurance policies  
(b) relevant Health and Safety documentation
- 6.10 Except as expressly stated in these Terms and Conditions and Agreement or those statutory warranties which apply to consumers, all warranties whether express or implied, by operation of law otherwise, are hereby excluded in relation to the Products and Services to be provided by the Plumber/Engineer.

### 7. RESPONSIBILITY AND USE

- 7.1 The Plumber/Engineer and/or Supplier will supply the Customer with information on using the Products and/or Services. It is important that the Customer reads and follows this information and does not misuse the Products and/or Services. Where the Customer fails to read and follow such information and/or misuses these then the Plumber/Engineer cannot be responsible for damages or losses as a direct result of the Customer's misuse and/or failure to read and follow the information provided.
- 7.2 It is the Customer's responsibility to ensure that the Products and/or Services are suitable for the Customer's own use.

### 8. PROPERTY AND RISK

- 8.1 The Plumber/Engineer retains the title in any Products, Materials or results of Services until the Customer has made full and cleared payment and the Customer may not place any lien or other chargeable interest on any Products or any of the Plumber/Engineers equipment at any time.
- 8.2 The risk in any Products, Materials or results of Services will pass from the Plumber/Engineer or Supplier to the Customer once delivery has been accepted.

### 9. GUARANTEE

- 9.1 In addition to any applicable Consumer's and/or statutory rights, the Plumber/Engineer offers a guarantee in respect of provision and installation of new boilers (as detailed on the proposal) on parts and labour.
- 9.2 However this entire Clause will not apply if a fault arises due to:  
(a) abnormal use or working conditions, failure to follow instructions, misuse, unauthorised alteration or repair or annual servicing not completed by Pivotal Plumbing and Heating Ltd, willful damage, improper maintenance or negligence on the part of the Customer or a third party; or  
(b) any subsequent mechanical, chemical, electrolytic or other damage after risk has passed to the Customer, which is not due to a defect in the Services and/or Products.

### 10. CANCELLATION AND TERMINATION

- 10.1 If the Products or Services do not comply with the Proposal or are faulty, then the Customer should notify the Plumber/Engineer in writing within 3 days of such noncompliance or fault. The Plumber/Engineer will, at their sole discretion:  
(a) for Products – provide the Customer with replacement Products, or where a replacement is not available, with a refund.  
(b) for Services – rectify the problem or provide the Customer with a refund. However, if the Customer has not paid in full for the Products and/or Services, or the Customer has not complied with their obligations, then the Plumber/Engineer is under no obligation to rectify any defect in respect of this Clause.
- 10.2 If one party commits a material breach of these Terms and conditions between them and either:  
(a) the breach is not capable of being remedied, or;  
(b) where it is capable of being remedied, the breach has not been remedied within 30 days of written notice of the breach by the party who has not committed the breach, then the party who has not committed the breach may terminate the Agreement between them forthwith by written notice to the other party.
- 10.3 Other than as provided for in this Clause, either party may terminate the Agreement between them (as regards some or all of the Services) at any time for any reason, by giving to the other 30 days' written notice. Any payment,

which is due for Products and Services, supplied up to the date of termination remains payable. Any payment already made for Products and Services supplied up to the date of termination is non-refundable.

- 10.4 If you are a Consumer we will end this Agreement straight away if we find out that your belongings have been taken from you to pay off your debts, or a receiving order has been made against you

### 11. LIMITATION OF LIABILITY

- 11.1 Nothing in these Terms and Conditions shall exclude or limit the Plumbers/Engineers liability for death or personal injury resulting from the negligence of the Plumber/Engineer or their employees or agents.
- 11.2 The Plumber/Engineer will not be liable under this Agreement for any loss or damage caused by the Plumber/Engineer or by any of its employees or agents in circumstances where:  
(a) There is no breach of a legal duty of care owed by the Plumber/Engineer or by any of its employees or agents;  
(b) Such loss or damage is not a reasonably foreseeable result of any such breach; and  
(c) Any increase in loss or damage resulting from breach by the Customer of any term of this Agreement

### 12. INDEMNITY

Except for any legal responsibility that we cannot exclude in law (such as for death or personal injury) or arising under applicable laws relating to the protection of your personal information, we are not legally responsible for any:

- (a) losses that:  
i) were not foreseeable to you and us when the contract was formed; or  
ii) that were not caused by any breach on our part;  
(b) business losses; and  
(c) losses to non-consumers.

### 13. WAIVER

Nothing in these Terms and Conditions and no express or implied waiver by the Plumber/Engineer in enforcing any of its rights under any contract shall prejudice its rights to do so in the future.

### 14. NOTICES

- 14.1 Any Notices for either party must be sent by e-mail, or to the address which appears on the Proposal.
- 14.2 Unless the contrary is proved, Notices sent by email will deemed to be received on the day on which they were sent.
- 14.3 Notices being served by post must be served using Royal Mail Special Delivery or other guarantee services and will be deemed to have been received on the date that Royal mail obtains a record of receipt from or on behalf of the addressee.

### 15. INVALIDITY AND SEVERANCE

Each clause or any part at all of these Terms and Conditions and Agreement is to be regarded as independent of the others. This means that should any clause or any part at all of these Terms and Conditions and Agreement be found to be unenforceable or invalid, it will be severed and will not affect the enforceability or validity of the rest of these Terms and Conditions.

### 16. GOVERNING LAW AND JURISDICTION

These Terms and Conditions and Agreement shall be interpreted, construed and enforced in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.