

Business to Business Terms & Conditions

- 1. Scope**

The following terms shall have the following meanings for the purposes of this agreement:

 - 1.1. 'Agreement' means any contract between Drain 247Ltd and the Employer for the works to be carried out.
 - 1.2. 'Services' means those specified in the Contractor's Quotation or other documentation, subject to amendment.
 - 1.3. 'Contractor' means Drain 247 Ltd
 - 1.4. 'Employer' means the person, firm or Company for whom works are carried out
 - 1.5. 'Engineer' means the person agreed by the Contractor and Employer or, failing agreement, nominated by the Contractor
 - 1.6. The Employer agrees to be bound legally by the following terms and conditions set out by Drain 247Ltd the Contractor as agreed in the contract. I.e. by Email, Letter, Fax, Web, Online Booking form, Purchase Order or WrittenConfirmation.
 - 1.7. Headings contained in this agreement are for reference purposes only and should not be incorporated into this agreement and shall not be deemed to be an indication of the meaning of the clauses to which they relate.
 - 1.8. All agreements on the part of either of the parties which comprise more than one person or entity shall be joint and several and the neuter singular gender throughout this agreement shall include all genders and the plural and the successor in title to the parties.
 - 1.9. Acceptance of the Contractor's Quotation, either by Employer's Official Order or by Letter of Intent is deemed as acceptance of these Terms and Conditions.
- 2. Application of Terms**

Subject to any variation under condition 2.2. The Agreement will be on these Terms and Conditions only with the exclusion of all other terms and conditions (including any terms or conditions which the Employer purports to apply under any purchase order, confirmation of order, confirmation by Email, or verbal, or confirmation by specification or other document). Employer needs to be aware that this terms and conditions will be enforced at all times.

 - 2.1. No terms or conditions endorsed upon, delivered with or contained in the Employer's purchase order, confirmation of order, specification or other document will form part of the Agreement simply as a result of such document being referred to in the Agreement.
 - 2.2. These Terms and Conditions apply to the provision of the Works and any variation to these Terms and Conditions and any representations about the Works shall have no effect unless expressly agreed in writing and signed by the Contractor.
 - 2.3. Each order for Works placed by the Employer with the Contractor shall be deemed to be an offer by the Employer to purchase Works or services subject to these Terms and Conditions.
 - 2.4. No order placed by the Employer shall be deemed to be accepted by the Contractor until an acknowledgement or confirmation of order is issued by the Contractor i.e. by letter, fax, email, and phone.
 - 2.5. The Employer must ensure that the terms of its order and any applicable specification are complete and accurate.
 - 2.6. Any quotation is given on the basis that it is not an offer capable of acceptance and that no contract will come into existence until the Employer places an order and the Contractor acknowledges the order to the Employer by Email.
 - 2.7. By the very nature of work Drain 247 Ltd occasionally uses sub-contractors to carry out work on our behalf if Drain 247 Ltd accepts a quote or price from a sub-contractor this is strictly on our terms and conditions only. Drain 247 Ltd will not pay any interim payments to the sub-contractor. The sub-contractor will be paid the agreed price only on completion of the work together with any relevant documentation or certificates that may be required to complete the project.
 - 2.8. Drain 247 Ltd reserves the right under these terms and condition to withhold or stop any payment due to a sub-contractor for poor workmanship, delays in the contract, refusing to issue certificate or guarantee or cost in bringing a third party in to rectify the sub-contractor's work under the agreement or failure to complete the Contract.
 - 2.9. Drain 247 Ltd will guarantee to release payment to the sub-contractor if the sub-contractor does not breach their agreement or our terms and condition with the Contractor, The Contractor reserve the right to deduct any tax or CIS that is required by government legislation.
- 3. Description**

The description of the Works shall be as set forth in the Agreement.
All technical data, descriptions and illustrations of the Works in offers, leaflets, and advertising material are illustrative only and subject to change without notice. They will not form part of the Agreement.
- 4. Supply of the Works**
 - 4.1. Unless otherwise agreed in writing by the Contractor, supply of the Works shall take place at the site address within the United Kingdom shown in the Agreement.
 - 4.2. Any dates specified by the Contractor for the supply of the Works are intended to be an estimate and time for supply of the Works shall not be made of the essence by notice. If no dates are so specified, the supply of the Works will be within a reasonable time.
 - 4.3. The Employer will provide at the site address adequate and appropriate access when access to the site reasonably requires the crossing of land, which is not owned or occupied by the Employer, the Employer warrants that he/she has obtained the necessary consents for access at the times agreed or providing the Works. The Employer will indemnify the Contractor against any claim for trespass or damage arising from the crossing of any such land.
 - 4.4. The Contractor reserves the rights to terminate the supply of works if it is found that the Employer is in breach of Health & Safety regulations and will be obligated under clause 13 to pay the contractor any due amount.
 - 4.5. The Contractor will ensure that at the end of each working day the site will be left in a safe condition.
 - 4.6. The Contractor will not be liable for the maintenance of any temporary reinstatement carried under the Agreement and will not be responsible for permanent reinstatement of the surface at the site unless specifically ordered by the Employer under the Agreement the Contractor hereby grants to the Employer a non-transferable license to use the Report at the Employer's sole discretion.
- 5. Specific Works**
 - 5.1. **Cleaning** - Removal of silt/debris in excess of 10%, or which requires additional equipment for the removal of fat deposits, grout, encrustation, concrete, builders' rubble or roots will be charged additionally unless otherwise stated in writing.
 - 5.2. **CCTV/Sonar Inspection Works** - Due to the nature of CCTV inspection, the Contractor cannot guarantee the accuracy of any CCTV inspection or measurement. A CCTV Survey will only show the interior of the sewer or pipe, and will not show the exterior. Alternatively, sonar may be used to track the route of a pipe, however Sonar by its nature may be up to 1 meter out in accuracy. Any interpretation and advice as a result of CCTV inspection shall not be binding on the Contractor, and is the sole responsibility of the Employer. In the event that the measurements or advice given is inaccurate, the Contractor shall not be responsible for any loss or damage howsoever caused.
 - 5.3. **Sewer Condition** - Where information is provided or implied either verbally or in writing or through CCTV recordings concerning the condition of the sewers and this is found to be inaccurate or out of date the Employer shall be responsible for any extras costs incurred for additional work that may be required to complete the works. The Contractor shall not be liable for any deterioration, structural or otherwise, that develops or becomes apparent on any pipe they are working on howsoever caused.
 - 5.4. **Waste Disposal** - Unless otherwise stated the Contractor has not quoted for the removal of waste or debris from site. If disposal is found to be necessary the Employer will be responsible for the additional costs incurred by the Contractor in the removal, transporting and disposal of waste to a registered site, together with additional administrative costs.
 - 5.5. **Re-lining** - Due to the nature of relining there can be no delays once the linings have been impregnated. In the event that there are delays beyond the Contractor's control any linings impregnated may have to be discarded and new linings provided. Further the Employer warrants that the sewers or pipes will be free of live water prior to the works being undertaken by the Contractor. In the event that live water is present, the linings used by the Contractor will not function. The Employer will be liable for the additional costs incurred should new linings be required in any event.
- 6. Parking**

The Employer shall provide at the site address adequate parking for the Contractor or sub-contractors vehicles to allow for the Work to be carried out, if parking cannot be arranged on site, the Employer must arrange to contact the local authority and make arrangements for a parking bay dispensation notice to be displayed in the Contractor or sub-contractor vehicle. If the Employer fails to arrange parking for our vehicles and the Contractor or sub-contractors' vehicles get parking tickets issued, the cost will be recovered from the Employer.
- 7. VAT**
 - 7.1. All sums payable under this agreement unless otherwise stated are exclusive of VAT and other duties or taxes.
 - 7.2. Any VAT or other duties or taxes payable in respect of such sums shall be payable in addition to such sums.
- 8. Price**
 - 8.1. Unless otherwise agreed by the Contractor in writing, the price for the Works shall be: the price set out in the Agreement; or where the Contractor cannot identify the extent, and therefore the cost, of the Works in advance of carrying them out, such reasonable charges as the Contractor shall subsequently make for carrying out the Works.
 - 8.2. The price for the Works shall be exclusive of any value added tax.
 - 8.3. Any delay in the supply of the Works due to the unforeseen attributes of the site or the conditions of any existing pipe work, will be charged at the Contractor standard hourly/daily rates from time to time in force.
- 9. Payment Terms**
 - 9.1. The Employer must pay the Contractors invoice within 21 days from the date of invoice unless special arrangements have been agreed with the Contractor prior to the work commencing.
 - 9.2. Payment of the Price and VAT shall be due within 21 days of the date of the invoice. Time for payment shall be of the essence. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 8% above the Bank of England Base Rate from time to time in force and shall accrue at such a rate after as well as before any judgment. In the event that the Employer is acting in the course of a business, the Contractor reserves the right to claim compensation for late payment pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 10. The Employer's obligations**
 - 10.1. In consideration of the services to be rendered by the Contractor under this agreement the Employer agrees to make the Payments promptly without demand deduction or set-off.
 - 10.2. The Employer shall make available to the Contractor the whole of the site of the proposed works at the commencement on site unless otherwise agreed in writing.
- 11. Damage or Loss to Equipment**
 - 11.1. If damage or loss is sustained to the Contractors equipment due to reasons beyond their control, or due to the condition of the pipe work or some other known or unknown risk, the Contractor reserves the right to charge for the costs in retrieving the Equipment, including the instruction of another contractor and/or the costs of replacing the Equipment. The Contractor also reserves the right to charge for loss of profits and down time whilst the items are recovered or replaced.
- 12. Cancellation**
 - 12.1. Prior to commencement of the works on site the Employer may cancel this agreement at any time by giving the Contractor 5 working days' written notice, and shall then be liable to pay to the Contractor for all work undertaken and expenses incurred in preparing for the works. Upon commencement of the works on site the Employer may not cancel this agreement, save as set out in clause 13.
 - 12.2. **Refund**

In the event that the Employer requests a refund for an advanced payment, the Contractor will gladly grant the refund to the Employer on the basis that the Contractor has not incurred any financial losses or charges from a Third Party for specialist equipment that may have been hired for a particular project. If the Contractor has incurred losses; this will be recovered from the Employer.
- 13. Termination**
 - 13.1. The Agreement shall terminate automatically on completion of the Works by the Contractor to the satisfaction of the Employer but such termination shall be without prejudice to any provision intended to operate thereafter.
 - 13.2. The Contractor shall not be required to fulfil its duties and obligations under these Terms and Conditions and the provisions of this clause shall not apply if at any time the Contractor is prevented from fulfilling its duties and obligations by any acts or omissions of the Employer or the Employer's personnel provided always that in order to avail itself of this provision the Contractor must give written notice to the Employer of any such act or omission of the Employer within 24 hours of the occurrence of such act or omission.
 - 13.3. In the event the Agreement, after the commencement of the Works, is terminated due to a breach by the Employer, he/she shall pay to the Contractor the full value of the Agreement. The Employer must also pay to the Contractor any overdue payments and interest that the Employer owes to the Contractor under the Agreement and any costs incurred by the Contractor in collecting from the Employer any payments still owed to the Contractor.
 - 13.4. In the event the Employer, after the commencement of Works, terminates the Agreement due to a breach by the Contractor, the Employer is entitled to exercise any rights and remedies as set out in the terms of this Agreement and that any right or remedy to which the Employer may become entitled to under this agreement may be enforced by the Employer.
- 14. Limitation of Liability**

The following provisions set out the entire financial liability of the Contractor (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Employer in respect of:

 - 14.1. Any breach of these Terms and Conditions; and, any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.
 - 14.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
 - 14.3. Nothing in these Terms and Conditions excludes or limits the liability of the Contractor for death or personal injury caused by the Contractor's negligence or fraudulent misrepresentation.
- 15. Threats**

The Contractor has a zero tolerance policy on any abuse, threats, violence or any form of harassments to any member of staffs or sub-contractors the Contractor will not tolerate any departure from these rules and will take the appropriate action.
- 16. Recording**

All incoming calls and outgoing calls to Drain 247 are recorded for trainees, quality, and security purposes the Contractor reserves the right under this terms of conditions to listen to any recording in matters of dispute, threats, and malicious allegation made by a member of the public or members of staff or any individual Drain 247 Senior Management and CEO will make a decision on the outcome of the recording. The Contractor has a zero tolerance policy on any abuse, threats, violence or any form of harassments to any member of staffs or sub-contractors the Contractor will not tolerate any departure from these rules and will take the appropriate action.
- 17. Force majeure**

In the event of national emergency, war, prohibitive governmental regulation or any other cause beyond the control of the parties ('force majeure event') the obligations of the parties shall be suspended for 30 days as the force majeure event renders performance of the agreement impossible and upon the occurrence of a force majeure event all money then due to the Contractor shall be paid immediately
- 18. Proper law and jurisdiction**
 - 18.1. This agreement shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.
- 19. Notice**

Any notice required or permitted to be given by either party to the other under these Terms and Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may be the relevant time have been notified pursuant to this provision to the party giving the notice.
- 20. Warranties of the Contractor**

The Contractor hereby warrants that, provided the Employer complies with these Terms and Conditions, the Contractor will comply with all statutory and regulatory requirements, which may apply to it in connection with the provision of the Works.
- 21. Whole agreement**

Each party acknowledges that this agreement contains the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.
- 22. Severance**

If any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority the remaining provisions of this agreement shall remain in full force and effect unless the Contractor in the Contractor's discretion decides that the effect of such declaration is to defeat the original intention of the parties in which event the Contractor shall be entitled to terminate this agreement by 30 days' notice to the Client.
- 23. Third party rights**
 - 23.1. A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.
- 24. Copyright Infringements or Data Theft**

Drain 247 Ltd Tracks and Monitors all its Date, Images and Websites any person or Contractor committing any Copyright Infringements or Data Theft will be pursued through Legal Action.