

# Terms and Conditions of SmartDry Ltd.

Company No: 09814653

Approved By Which? Trusted Traders

## Definitions

In these conditions the following expressions shall have the following meanings:

- 1.1 "Contractor" SmartDry Ltd. Company number 09814653. VAT number 227037916.
- 1.2 "Customer" The Customer identified in the Installation Quote.
- 1.3 "Installation Quote" The Installation Quote between the Contractor and the Customer for the installation of the SmartDry units.

## Scope of Agreement

- 2.1 These conditions ("Conditions") shall apply to all orders and contracts for the installation of the SmartDry units by the Contractor and if there are any qualifications or variations to the Conditions it is important for the avoidance of doubt that such variations should be in writing.

## Installation

- 3.1 The Contractor shall install the SmartDry units in accordance with the Installation Quote Subject to these Conditions.
- 3.2 The quantity, quality and description of any specification for the SmartDry units shall be that set out in the Installation Quote. The Contractor reserves the right to make any changes to the specification of the installation which are strictly required to conform with any applicable safety or other statutory requirements or where the SmartDry units are to be supplied to the Customer's specification to the extent that the Customer's specification differs from that set out in the Installation Quote. The contractor will clean site and remove any waste permitting to circumstances.
- 3.3 The Contractor will confirm the agreed installation date in writing within 24 hour of the agreement. Standard 14 day full cancellation consumer rights will apply, as described by the British Department for Business Innovation & Skills. If the customer wishes the installation date to be within the 14 day cancellation period, the customer agrees that if they then cancel they will be liable for any costs incurred by the Company.

## Price

- 4.1 The Basic Net Price of the installation will be the amount stated in the Installation Quote, based on our standard prices per linear meter of exterior wall in which the SmartDry units are installed.
- 4.2 If requested by the Contractor the Customer shall pay the Contractor 10% of the value of the Installation Quote as a deposit within 7 days of accepting the installation Quote. If the Customer cancels the accepted Installation date and is not covered by the standard 14 day cancellation period, the Customer is liable for all reasonable losses incurred by the company to the Contractor. The following values will be used as a guideline: £250.00 (+VAT) per additional day per team of two installation engineers and any transportation costs calculated at 32p/Mile (+VAT).
- 4.3 The Customer has the right to reschedule the Installation date at no additional cost provided notice is given to the Contractor in writing within a minimum of 7 days before the installation date. Should either party delay the installation without reasonable notice, either party may claim reasonable losses according to the guides set out in 4.2
- 4.4 In the case the customer cancels or changes the installation after works have commenced for whatever reason, the price will be calculated to include work already completed plus any reasonable losses as set out in the guidelines of 4.1. Furthermore the customer will waive rights to the guarantee as set out in paragraph 7.1 - 7.3
- 4.5 If the Customer does not meet their Customer Obligations set out in 6.1, the Customer will be notified of such discrepancies and will be subject to charges covering for expenses as set out in 4.1 for any extra day of work required to complete the installation.
- 4.6 If additional works are required in excess of the Installation Quote the Contractor shall inform the Customer of such additional works and require an acceptance from the Customer in writing.
- 4.7 Any other changes to the price will need to be agreed between the customer and the contractor in writing.

## Payment

- 5.1 The Customer shall pay to the Contractor the deposit amount described in 4.2 and only if requested beforehand by the Contractor in writing.
- 5.2 If additional works have been carried out the Customer shall pay the additional costs as stated in 4.6.
- 5.3 The Contractor shall be entitled to invoice the Customer for the price of the installation and any further charges shown in the Installation Quote minus any deposits paid beforehand after completion.
- 5.4 The Customer shall pay the invoice in UK Pounds Sterling within 30 days of receiving the invoice, after the works have been completed.
- 5.5 If the Customer fails to make full payment on the due date then the Contractor shall be entitled to charge the Customer interest (both before and after a Court judgment) on the amount unpaid at the rate of 2% above Barclays Bank PLC base rate from time to time until payment in full is made.
- 5.6 In addition to the rights set out in Clause 5.5 above, if the Customer fails to make any payment on the due date the Contractor shall be entitled (without prejudice to other rights of recovery) to instruct a debt collector to recover any sums owed by the Customer. The Customer shall in addition to the amount outstanding be charged and shall pay the costs of the debt collector recovering the outstanding amount, and shall further reimburse the Contractor all other costs of or incidental to recovery (including court, legal and other professional fees) on a full indemnity basis.

## Customer Obligations

- 6.1 During the installation the Customer shall ensure the availability to the Contractor, free of charge, of such water and electricity as the Contractor may require. Prior to the commencement of installation the Customer shall remove all obstructions which is likely to interfere with the installation, and shall for the duration of installation ensure access to the site for the contractor.

## Guarantee

- 7.1 The installation involves the fixing of humidity regulating units into the wall. The contractor guarantees that the humidity regulating units will last for at least the lifetime of the brickwork in which they are installed. If a humidity-regulating units is defective, the Contractor will replace it to ensure the continuing operation of the SmartDry units as a whole. Provided that the customer shall have accepted and paid for the installation in full in accordance with the recommendations of the Contractor (including as to extent of installation), the additional guarantee set out in 7.2 below shall also apply.
- 7.2 The Contractor guarantees to the Customer that upon 12 months following the installation the relative humidity of the brickwork in which the SmartDry units are installed will be reduced to below 10% as measured by the Contractor using an electronic conductivity moisture reading machine, and if it is not, the Customer shall be entitled to its money back provided that the Customer brings any written claim under this guarantee within 13 months of the installation. The Contractor will carry out one free re-check only, at 12 months. It is the customer's responsibility to call the contractor at 11 months to arrange for this service. A fee of £100 + VAT will be charged for any inspection other than the rebooked free re-check. Any changes to paperwork (such as change of ownership) will incur a standard administrative charge of £45 + VAT.
- 7.3 The Contractor shall not be liable under the above guarantees where the claim has arisen because of:
- 7.3.1 interference by the Customer or a third party with or modifications to the installation;
  - 7.3.2 application by the Customer or a third party of any material such as a coating to the inner or outer surfaces of the walls which are treated with the SmartDry units which could prevent the walls from breathing;
  - 7.3.3 failure by the Customer to carry out or comply with any recommendations of the Contractor;
  - 7.3.4 failure of the Customer to keep the property in which the SmartDry units have been installed in a dry waterproof condition and adequately maintained; without limitation "adequately maintained" in these Conditions shall include proper maintenance of the structure of the property in which the SmartDry units have been installed, adequate sub-floor ventilation of such property and ensuring that the soil level outside the property does not exceed the level of any damp course;
  - 7.3.5 pre-existing structural defects.
- 7.4 The contractor shall not be liable under the above guarantees if payment is not completed as set out in 5.3 to 5.5 for the installation of the SmartDry units in full.

## Liability

- 8.1 The Contractor's liability to the Customer save in the case of liability for personal injury or death arising as a result of the Contractor's negligence shall:
- 8.1.1 in the case of the contractor not complying with either these Conditions or the Installation Quote, and subject to the money back guarantee offered in clause 7.2 limited to repairing or replacing the SmartDry units; and
  - 8.1.2 in the case of physical damage to the Customer's property the amount set for any incident or series of related incidents will be as agreed between the Customer and the Contractor in writing. In the case that an agreement cannot be reached, the courts will have to establish the limit of any claim.
- 8.2 The Contractor shall not be liable to the Customer or deemed to be in breach of the Installation Quote by reason of any delay in performing or any failure to perform any of the Contractor's obligations in relation to the installation if the delay or failure was due to any cause beyond the Contractor's reasonable control including fire, frost, periods of heavy rainfall, faulty machinery or other faults at the Contractor's industrial premises, strikes, war risk, riots, war, epidemics, flooding, and storms.
- 8.3 If the indicative delivery period contained in the Installation Quote is exceeded by more than 6 months as a result of any cause beyond the Contractor's reasonable control the Customer shall be entitled to terminate the Installation Quote in which event the Contractor shall return the Customer's deposit and the Contractor shall have no other liability to the Customer of any kind whether by way of consequential loss or otherwise howsoever.
- 8.4 If the Installation Quote and these Conditions constitute a consumer transaction the statutory rights of the Customer are not affected by these Conditions. If the Customer is in any doubt about the relevant statutory rights it is for the Customer to be advised by the local Trading Standards Office or Citizens Advice Bureau or otherwise as the Customer chooses.

## Complaints & Dispute

- 9.1 In the case of a complaint, The Contractor is obliged resolve any issues that fall under the guarantee a set out in 7.1 - 7.4; and the Contractor vows to resolve any complaints that may not fall under the guarantee but can be dealt with reasonably to the interests of both parties.
- 9.2 If the complaint cannot not be resolved directly, The Customer has the obligation to make known the exact nature of the complaint to the Contractor in writing. The Contractor is obliged to a written response within 10 working days.
- 9.3 The Customer is prohibited to make the complaint know to any third parties during the complaints procedure and until the Contractor has had a chance to respond in writing.
- 9.4 Where we are cannot resolve your complaint using our own complaints procedure, as a Which? Trusted trader we use Dispute Resolution Ombudsman for dispute resolution. In the unlikely event of a complaint arising and you wish to refer your complaint to them please contact 0333 241 3209 or via their website:  
<http://www.disputeresolutionombudsman.org/which-trusted-traders-partnership/>.

## Choice of Law

- 10.1 The formation, existence, construction, performance, validity and all aspects whatsoever of the Installation Quote and the Conditions shall be Governed by the law of England and subject to the exclusive jurisdiction of the courts of England.