



# SMART HANDS TERMS & CONDITIONS: CUSTOMER

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Keyboard Knights is a trading name of Keyboard Knights Limited. Registered as a company in England and Wales no. 12433683. Registered office: Keyboard Knights Limited, 130 Old Street, London, EC1V 9BD.

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**PLEASE READ THE TERMS OF THIS POLICY CAREFULLY BEFORE USING THE SITE.**

## 1. INTERPRETATION

**THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THESE CONDITIONS.**

### 1.1 Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 5 (Charges and payment).

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.5.

**Contract:** the contract between Keyboard Knights Limited and the Customer for the supply of Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

**Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures:** as defined in the Data Protection Legislation.

**Customer:** the customer who purchases Services from Keyboard Knights Limited in accordance with these Conditions.

**Customer Default:** has the meaning set out in clause 4.2.

**Data Controller:** has the meaning set out in section 1(1) of the Data Protection Act 1998.

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's order for Services as set out in the Online Order Form.

**Services:** the arrangement, on the Customer's behalf, of local tradespersons to attend the Customer's residence to undertake works specified by the Customer.

**Supplier:** KEYBOARD KNIGHTS LIMITED registered in England and Wales with company number 12433683.



UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

## 1.2 Interpretation:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

(b) Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to writing or written includes faxes.

## 2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when we issue written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).

2.3 Any samples, drawings, descriptive matter or advertising issued by us, and any descriptions or illustrations contained in any catalogue or brochure, produced by us, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract nor have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by us shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.

## 3. SUPPLY OF SERVICES

3.1 We shall supply the Services to the Customer.

3.2 We shall use all reasonable endeavours to meet any performance dates specified by the Customer but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 We reserve the right to amend the specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and we shall notify the Customer in any such event.



3.4 We warrant to the Customer that the Services will be provided using reasonable care and skill.

3.5 Notwithstanding clause 3.4, we cannot accept liability for any errors in the work undertaken by any local tradespersons instructed by us in accordance with these Conditions due to the acts, omissions or defaults of said tradespersons, third parties or sub-contractors or inaccurate copy instructions or materials or other acts or defaults beyond our control.

## 4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with us in all matters relating to the Services;
- (c) provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (d) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (e) comply with all applicable laws, including health and safety laws; and

4.2 If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- (a) without limiting or affecting any other right or remedy available to it, we shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays our performance of any of its obligations;
- (b) we shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from our failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) the Customer shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.



## 5. CHARGES AND PAYMENT

5.1 (a) The Charges for the Services shall be calculated on a time and materials basis at the following rates:

2 hours fixed – £130

4 hours fixed – £260

6 hours fixed – £390

8 hours fixed – £520

Any incremental additional charges will be paid out at £32.30 per 30 minutes

(b) we shall be entitled to charge the Customer for any expenses reasonably incurred by the tradespersons whom we engage in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by us for the performance of the Services, and for the cost of any materials.

5.2 We reserve the right to review the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be the latest available figure for the percentage increase in the Retail Prices Index.

5.3 The total charge owed will be taken immediately upon order of services

5.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by us to the Customer, the Customer shall, on receipt of a valid VAT invoice from us, pay such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.5 If the Customer fails to make a payment due to us under the Contract by the due date, then, without limiting our remedies under Clause 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 5.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 6. DATA PROTECTION

6.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause 7, Applicable Laws means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and



Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

6.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

6.3 Without prejudice to the generality of Clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.

6.4 The Customer does not consent to the Supplier appointing any third party processor of personal data under the Contract.

## **7. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

7.1 We have obtained insurance cover in respect of our own legal liability for individual claims not exceeding £500,000.00 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

7.2 The restrictions on liability in this Clause 8 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

7.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

7.4 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

7.5 Subject to clause 8.4, our total liability to the Customer shall not exceed £500,000.00.

7.6 In Clause 8.5:

- (a) cap. The cap is the greater of £500 and 100 per cent (100.0%) of the total charges in the contract year in which the breaches occurred;
- (b) contract year. A contract year means a 12-month period commencing with the Commencement Date or any anniversary of it;
- (c) total charges. The total charges means all sums paid by the Customer and all sums payable under the Contract in respect of goods and services actually supplied by the Supplier, whether or not invoiced to the Customer.

7.7 This Clause 8.7 sets out specific heads of excluded loss:

- (a) Subject to Clause 8.2, the types of loss listed in Clause 8.7(b) are wholly excluded by the parties.
- (b) The following types of loss are wholly excluded:





- (i) loss of profits
- (ii) loss of sales or business.
- (iii) loss of agreements or contracts.
- (iv) loss of anticipated savings.
- (v) loss of use or corruption of software, data or information.
- (vi) loss of or damage to goodwill; and
- (vii) Indirect or consequential loss.

7.8 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

7.9 This Clause 8 shall survive termination of the Contract.

## 8. CANCELLATIONS AND REFUNDS

8.1 You acknowledge that you do not have any statutory right to cancel a booking made for a Smart Hands operative. However, you have a contractual entitlement to cancel any booking you have made with an operative through us in the following circumstances and on the described terms.

Subject to the cancellation being a Late or Very Late Cancellation (as described below), if you change your mind about your booking prior to the agreed appointment start time in that booking ("Appointment Time") then the operative will be willing to treat your booking as cancelled (without requiring payment of all or any part of the applicable fee and without levying any cancellation fee) if you cancel your booking via Our Site:

- at least twenty-four (24) hours prior to the Appointment Time; or
- if the Appointment Time falls within twenty-four (24) hours of the time of booking, within ten (10) minutes of you having confirmed that you want to make a booking ("Grace Period").

If your cancellation of a booking is:

- within twenty-four (24) hours of the Appointment Time; or
- after the Grace Period has elapsed,
- then unless the cancellation represents a Very Late Cancellation (as described below), we will be entitled to retain (or charge, as the case may be) thirty per cent (50%) of the applicable fee because your cancellation represents a Late Cancellation.
- However, if your cancellation of a booking is within six (6) hours of the Appointment Time and if applicable, the Grace Period has elapsed, the operative will be entitled to retain (or charge, as the case may be) one hundred per cent (100%) of the applicable fee because your cancellation represents a Very Late Cancellation.

You will also be charged the full fee if you:





- Cancel a booking other than as permitted above;
- Attempt to cancel a booking on or after the Appointment Time; or
- Fail to attend a booking at the Appointment Time and/or at the Designated Premises.

A cancellation fee is charged in order to compensate the Independent professional because it is not reasonable to expect the Independent professional to be able to provide a Professional Service at another booking where you cancel with short or no notice.

8.2 Cancellation fees may in our absolute discretion be waived where you have been unable to cancel a booking without incurring the cancellation fee for genuine reasons which were outside of your control. Where cancellation fees are waived by us, we act as agent of the Independent professional who is the principal in supplying the Professional Service.

## 9. GENERAL

9.1 Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

9.2 Confidentiality.

(a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.3(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

9.3 Entire agreement.

(a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.



9.4 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

9.5 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

9.6 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

9.7 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by fax to its main fax number

(b) Any notice or other communication shall be deemed to have been received:

(i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

(ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or

(iii) if sent by fax, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 11.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

9.8 Third party rights.

(a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

(b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

9.9 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

9.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including

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non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

