

POWERFAN[®]POD

TERMS AND CONDITIONS OF HIRE

POWERFAN[®] and POWERFAN[®]POD are trading names of Dropzone (UK) Ltd.
 UK Registered Company No: 05276043

1. Application

These terms and conditions shall apply to the provision of Services by the Supplier to the Client. No terms or conditions of the Client or otherwise, shall apply.

2. Definitions

2.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Business Day" means a day (excluding Saturdays) on which banks generally are open for the transaction of normal banking business;

"The Client" means any individual, firm or corporate body (which expression shall, where the context so admits, include its successors and assigns) which purchases Services from the Supplier;

"The Supply Date" means the date or dates the Services will be provided as set out in the Supplier's booking confirmation;

"Services" means the provision of the POWERFAN[®]POD, with associated equipment and POWERFAN[®] staff to operate the POWERFAN[®]POD;

"The Supplier" is Dropzone (UK) Ltd Trading as POWERFAN[®]POD and POWERFAN[®];

"The Fees" means the fees set out in the Supplier's booking confirmation;

"The Location" means the location set out in the Supplier's booking confirmation;

"Travel Costs" means the travel costs set out in the Supplier's booking confirmation.

2.2 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.

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

3. The Services

3.1 The Supplier shall, in consideration of the Fees being paid in accordance with the terms of payment, provide the Services on the Supply Date at the Location.

3.2 The Supplier will use reasonable care and skill to perform the Services.

3.3 The Supplier shall use all reasonable endeavours to complete its obligations.

3.3 The Client shall be responsible for ensuring that the Location meets any requirements specified by the Supplier and for ensuring that the Supplier is given full and unrestricted access to enable it to provide the Services and the Client shall comply with all requirements of the Supplier in connection with the Supply of the Services.

4. Price

4.1 The Client agrees to pay the Fees in accordance with the terms of payment plus travel costs as set out in the Schedule.

4.2 All sums payable by either party pursuant to this Agreement are exclusive of any value added tax for which that party shall be additionally liable.

5. Payment

5.1 An initial deposit of £500 is required to secure a booking. The full amount less the £500 deposit shall be paid to the Supplier at least 6 weeks prior to the Supply Date.

5.2 The time of payment shall be of the essence.

6. Variation and amendments

6.1 If the Client wishes to vary any details set out in the schedule it must notify the Supplier in writing as soon as possible. The Supplier shall endeavour to make any required changes and any additional costs thereby incurred shall be invoiced to the Client.

6.2 If, due to circumstances beyond the Supplier's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Client. The Supplier shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

7. Termination

7.1 The Supplier may terminate the agreement forthwith if:

7.1.1 the Client is in breach of any of its obligations hereunder; or

7.1.2 the Client has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets; or

7.1.3 the Client has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986; or

7.1.4 the Client ceases or threatens to cease to carry on business; or

7.1.5 any circumstances whatsoever beyond the reasonable control of the Supplier (including but not limited to the termination of the Supplier offering to provide the Services due to the Supplier being required to cease providing the Services or the Supplier doing so for reasons of health and safety) that necessitate the termination for whatever reason of the provision of Services.

7.2 In the event of termination under clause 7.1 the Supplier shall retain any sums already paid to by the Client without prejudice to any other rights the Supplier may have whether at law or otherwise.

POWERFAN[®] is a trading name of **Dropzone (UK) Ltd** Everley Blandford Dorset DT11 8PT UK
 t: +44(0)870 803 5514 f: +44(0)870 130 7560 e: info@drop-zone.eu w: www.drop-zone.eu

Registered in Cardiff: Company No: 05276043 VAT No: 890 2466 11 Registered address: 2nd Floor Jonsen House 43 Commercial Road Poole Dorset BH14 0HU UK

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8. Cancellation

- 8.1 In the event that the Client cancels the event a cancellation fee will be charged as follows:-
- 8.1.1 Cancellation up to 6 weeks (42 days) before the Supply Date - loss of deposit only.
 - 8.1.2 Cancellation between 42 days and 14 days before the Supply Date - 50% (travel costs will not be charged).
 - 8.1.3 Cancellation between 14 days and 7 days before the Supply Date - 75% (travel costs will not be charged).
 - 8.1.4 Between 7 days to 24 hours before the Supply Date - 100% (excluding travel costs.)
 - 8.1.5 Less than 24 hours before the Supply Date – 100% and travel costs.
- 8.2 If in the opinion of the Supplier the weather conditions are unsuitable for the event to take place then the Supplier may cancel the event for one or all of the days of hire. Alternatively the Supplier may offer the Client alternative days to host the event which the Client is under no obligation to accept. In the event of cancellation the Client will be entitled to a refund but only for the days of inclement weather. If during the course of an event the weather in the opinion of the Supplier becomes unsafe to continue then the Client will be entitled to a refund for the day on a pro-rata basis.
- 8.3 In the event of cancellation as described in clause 8.2 the Supplier shall not be liable for any expenses that the Client may incur as a result of such cancellation.

9. Sub-Contracting

The Client may not sub-contract the performance of any of its obligations under this Agreement without the prior written consent of the Supplier and shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of the party itself.

10. Liability

- 10.1 The Supplier shall perform the Services with reasonable care and skill.
- 10.2 The Client shall indemnify the Supplier against all damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any equipment (including that of third parties) caused by the Client, or its Appointed Representative or employees.
- 10.3 The Supplier shall not be liable to the Client 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.
- 10.4 Subject to clause 10.5 and save for death or personal injury caused by its negligence the entire aggregate liability of the Supplier for any act or omission whether arising in contract, tort (including negligence), misrepresentation (other than fraudulent misrepresentation), or otherwise shall not exceed the Fees.

10.5 The liability of the Supplier for damage to tangible property shall not exceed £3m.

10.6 The Supplier shall not be liable for loss of profit, loss of business, increased costs, loss of goodwill, or any indirect, consequential or special loss or damages.

11. Force Majeure

11.1 The Supplier shall not be liable or be deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Services, if the delay or failure was due to any cause beyond its reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:-

- 11.2 act of God, explosion, flood, tempest, fire or accident;
- 11.3 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 11.4 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 11.5 import or export regulations or embargoes;
- 11.6 strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Client or of a third party);
- 11.7 difficulties in obtaining raw materials, labour, fuel, part or machinery;
- 11.8 power failure or breakdown in machinery.

12. Waiver

- 12.1 No waiver by the Supplier of any breach of these terms and conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of this agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which the waiver is given.
- 12.2 No failure or delay on the part of the Supplier in exercising any right, power or privilege under this agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

13. Severance

If any provision of these terms and 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 terms and conditions and the remainder of the provision in question shall not be affected thereby.

14. Copyright

The Supplier reserves all copyright and any other rights (if any) which may subsist in the products of, or in connection with, the provision of the Supplier's services or facilities. The Supplier reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such copyright.

15. Notices and Service

- 15.1 Any notice or other information required or authorised to be given by either party to the other shall be given by:- sending by pre-paid registered post; or sending by email, facsimile transmission or comparable means of communication.
- 15.2 Any notice or information given by post in the manner provided by Clause 15.1 which is not returned to the sender as undelivered shall be deemed to have been given on the 2 days after the envelope containing was so posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that has not been so returned to the sender, shall be sufficient evidence that the notice or information has been duly given.
- 15.3 Any notice or information sent by email, facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission, provided that a confirming copy is sent to the other party 24 hours after transmission.

16. Applicable Law and Jurisdiction

These terms and conditions shall be governed and construed in accordance with English and Welsh law and the parties shall submit to the non-exclusive jurisdiction of the English and Welsh courts.

17. Entire Agreement

These Conditions constitute the entire agreement between the Client and the Supplier concerning the supply of the Services and replace and supersede any prior arrangement, understanding, warranty or representation (other than any fraudulent misrepresentation).

18. Rights Cumulative

The Supplier's rights are cumulative and in addition to any rights available to it at common law.

19. No Third Party Rights

The Contracts (Rights of Third Parties) Act 1999 shall not apply.