

ENERVENT PROFESSIONAL MOBILE APP TERMS AND CONDITIONS (“App Terms”)

Applicable from [*].

These App Terms are between Enervent Zehnder Oy, business ID FI29287244, a limited liability company established under Finnish laws (“Enervent”) and you (together the “Parties”). They govern the use of the Enervent professional mobile application provided by Enervent (“App”), which is designed to operate on your mobile device in connection with our customer’s Enervent ventilation system (“System”). **The App is licensed under these terms, not sold.**

Please read these App Terms carefully and print a copy for your records. **By agreeing to these App Terms, you represent and warrant that you are (i) at least 18 years of age, (ii) an Enervent ventilation system repair and maintenance professional, employed by or otherwise work under one of our authorized contractors and have sufficient expertise to service our ventilation systems (“Professional”), and (iii) legally able to accept and assume the obligations set forth in these App Terms.** If you do not accept these App Terms, you will not be authorized or able to use the App.

SUMMARY OF THE APP TERMS

- Enervent offers the App for Professionals to service Enervent’s customers’ Enervent systems. The App provides remote access to the system in case it is connected to the internet and our customer has consented to such access by a professional.
- You agree to use the App solely as a professional, not to redistribute the App in any way nor use it for any illegal activities.
- Enervent reserves the right to make any modifications to the App and the App Terms.
- The App and all its contents are owned, controlled or licensed by or to Enervent.
- The App is offered “as is” and “as available”. Enervent strives to keep the App available and error-free, but you rely on the App at your own risk.

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1 OVERVIEW OF THE APP TERMS AND THEIR RELATION TO OTHER AGREEMENTS

These App Terms, including incorporated references, constitute the entire agreement between you and Enervent with respect to the App.

Before using the App, you must agree to the terms and conditions of the app store from where you acquired the App (“App Store Terms”). You agree to comply with, and your right to use the App is conditioned upon your compliance with such App Store Terms. Should the App Store Terms be more restrictive than or conflict with the App Terms, the App Store Terms shall prevail.

2 MODIFICATIONS TO THE APP AND THE APP TERMS

2.1 Modifications to the App Terms

Enervent may at its sole discretion update or otherwise modify these App Terms at any time. Enervent will notify you about any modifications to the substance of these App Terms by a written notice displayed in the App and they will be effective immediately upon such notification. Your continued use of the App, following the notification, constitutes your acceptance of the modification.

If you do not accept the modifications, you must immediately stop using the App. Enervent will not notify you about any changes that are merely technical and as such do not affect you.

2.2 Modifications to the App

The App is constantly evolving and Enervent may at its sole discretion modify or update the App at any time, including deleting or changing any features of the App in order to enhance its functionality or address security issues. Your continued use of the App will indicate your acceptance of the modification. If you do not accept the modification, you must immediately stop using the App.

Enervent may also ask you to update the App in order to enhance its functionality or address security issues. If you choose not to install such updates or if you opt out of automatic updates, you may not be able to continue using the App.

In case Enervent change the App in a way that affects the processing of your personal data, Enervent will notify you of such changes by a written notice displayed in the App, and, if applicable, ask for your consent prior to continuing to process your data.

3 SCOPE OF YOUR USE OF THE APP

3.1 Scope of license

Enervent grants you a non-transferable, non-exclusive, non-sublicensable, limited right and license (“License”) to install and use the App on a device you own or control for your personal use (“Device”), as permitted by these App Terms and any applicable App Store Terms. All rights not expressly granted to you by these App Terms are reserved by Enervent, and the rights granted herein are subject to your compliance with these App Terms and the App Store Terms. You are required to use the App solely in your role as a Professional to render System repair and/or maintenance services and for no other purpose whatsoever.

Where applicable, prior to downloading and using the App, you are required to ensure that such downloading and use are not contrary to any company policies of your employer.

3.2 Certain restrictions

You agree

- (i) to use the App and any data collected by the System (“System Data”) solely for your own use when you are rendering services as a Professional;
- (ii) not to install or use the App on a device that you do not own or control;
- (iii) not to rent, sell, redistribute or sublicense the App or System Data or any part thereof, and not to copy, decompile, reverse engineer, attempt to derive the source code of, modify, or create derivative works of the App or System Data or any part thereof, **except as and only to the extent any foregoing restriction is prohibited by applicable law;**
- (iv) not to tamper with or circumvent any security technology included in the App;
- (v) not to use the App or System Data for any illegal activities;
- (vi) not to use the App or System Data in any hazardous environments that require fail-safe performance; and
- (vii) to preserve all copyright, trademark and other proprietary rights notices on or within the App or System Data.

4 TECHNICAL REQUIREMENTS

4.1 Compatibility requirements

The App is currently compatible with and will work on mobile operating systems Android 5.1 and iOS 11 and above. You understand and agree that Enervent cannot guarantee that the App will be compatible with and work on all new Android or iOS mobile operating systems in the future.

4.2 System requirements

The App will not be accessible without a working Wi-Fi network communicating reliably with the Device. It is your responsibility to make sure the network and the Device are compatible with the App and that they are properly configured and secured.

5 LIMITATIONS TO THE USE OF THE APP

5.1 Use of the App

The App is intended to be used by you when you service the Systems of Enervent's customers who have consented to a Professional accessing their Systems and System Data ("Customer"). The App provides remote access to the System in case a customer has connected it to the internet. The App provides access to all settings and configurations and System Data.

For all the features of the App to function, the System must be connected to the internet through a working WLAN connection.

You must not connect to any wireless network which you are not authorized to use while using the App.

In case internet connection is not available, or the Customer has not provided his/her consent for the processing of his/her personal data for System analytics, facilitation of spare part purchases and System maintenance, System troubleshooting, System maintenance reminders, and access to the System by a Professional, the App will only work locally on a point-to-point basis between the System and the Device.

You are required to check that the App is suitable for you. The App has not been developed to meet your individual requirements. Please check that the facilities and functions of the App meet your requirements.

5.2 Protocol

You are responsible for your use of the App. When using the App, you may not violate any law, statute or regulation or infringe upon any third-party intellectual property, privacy, publicity or other legal rights. Moreover, you may not transmit any viruses or other destructive items such as worms, Trojan horses and malicious scripts, or use automatic methods to use the App.

You warrant that you only use the App and the WLAN module of the System in countries where such use is in compliance with local laws, statutes and regulations. In case you have any doubts regarding compliance, please consult a local legal counsel for advice.

5.3 Availability of App

Although Enervent aims to keep the App constantly available, the App may be unavailable or interrupted from time to time for a variety of reasons beyond Enervent's control, such as Wi-Fi intermittency. Moreover, the App may be suspended temporarily due to security reasons, maintenance and repair, or other circumstances.

5.4 No life-safety or critical uses of the App

The System Data may include inaccuracies or false information. The App, including System Data, cannot be used in hazardous environments or situations that require fail-safe performance, including without limitation in the operation of nuclear facilities, navigation or communication systems, weapon systems, life-support machines, or any other life-safety or other critical situations or emergencies. The App, including System Data, is not intended to be reliable or to constitute advice of any kind.

It is prohibited to use the App without appropriate professional knowledge and expertise of our ventilation systems and their repairs and maintenance. **If you are not a Professional, as defined at the beginning of the App Terms, immediately stop using the App and delete it from the Device.**

Enervent recommends that you back up any content and data used in connection with the App, to protect yourself in case of problems with the App.

You agree to use your independent judgement and use and rely on the App at your own risk.

6 GEOGRAPHIC AVAILABILITY OF THE APP

The App is intended, but not guaranteed, to be available for download in select European markets. Not all activities may be available in all markets, and you acknowledge that the availability of the App is also dependent on the third-party application store from which you download the App.

7 THIRD PARTY SERVICE PROVIDERS

Enervent uses cloud service providers (such as Amazon Web Services) to enable certain aspects of the App. Enervent collects data about the identification number, serial number, settings, malfunctions, maintenance and sensor data of the System to the cloud to be used for troubleshooting, maintenance reminders and product development of the Enervent ventilation systems. Enervent also collects information about the user of the App such as the name, e-mail address, address and phone number of the user to the cloud to be used to facilitate troubleshooting, maintenance, and spare part purchases.

Enervent strives to use reliable cloud service providers who provide sufficient guarantees for their compliance with data protection laws.

Please see more in our privacy policy referred to in section 8 below.

8 PRIVACY

8.1 Your privacy

Enervent respects your privacy and recognizes the importance of protecting your personal data. In order to use the App, you must consent to the processing of your personal data. Your consent is requested when you launch the App on the Device for the first time. Please find more information about the processing of your personal data and your related rights in our [privacy policy](#).

Please note that you have the right to object to the processing of your personal data on certain grounds laid down in the privacy policy.

8.2 Enervent's Customers' privacy

You acknowledge that you are responsible for complying with any applicable data protection laws when processing Customers' personal data via the App. You warrant that you only use the App and any System Data for your own use when you are rendering System repair and maintenance services as a Professional to Customers.

9 INTELLECTUAL PROPERTY AND OWNERSHIP

Unless otherwise stated in these App Terms, the App and all content contained in the App, including graphics, user interfaces, images, software, and all other forms of information and intellectual property, whether registered or unregistered, are (i) where applicable, protected by trade dress, copyright, patent and trademark laws, and various other proprietary rights and laws, and (ii) owned, controlled or licensed by or to Enervent.

Enervent may copy, modify and use in any way and for any purposes any suggestions or feedback provided by you in relation to the App without any compensation to you.

10 WARRANTIES

Enervent strives to keep the App available and error-free. However, you expressly acknowledge that you rely on the App at your own risk. **To the fullest extent permissible under applicable law**, the App is provided to you "as is" and "as available", and Enervent and Enervent's officers, employees, directors, shareholders, parents, subsidiaries, affiliates, agents, licensors and suppliers do not make and hereby expressly disclaim all warranties, whether express, implied or statutory, including any warranties of accuracy, non-infringement, merchantability, fitness for a particular purpose, or title.

Enervent does not guarantee that the App or System Data will be accurate, reliable, error-free or uninterrupted. Further, Enervent does not guarantee that the App or System Data will be available on an uninterrupted, timely or error-free basis, that defects will be corrected, or that the App will be compatible with all networks, devices and operating systems known or developed in the future.

Enervent does not guarantee back-up or other recording of the System Data.

Enervent does not warrant or assume responsibility for any product or service advertised or otherwise offered by third parties in or through the App, any hyperlinked third-party website, or any content, products or services available from such websites.

Enervent does not warrant that the App is free of viruses or other destructive items such as worms, Trojan horses and malicious scripts.

Some jurisdictions do not allow limitations and/or exclusion of all warranties, in which case the above limitations shall only apply to the fullest extent possible under applicable law in such jurisdictions.

11 LIMITATION OF LIABILITY

You accept and agree that **to the fullest extent possible under applicable law**, you assume all risk for the use of the App and Enervent will in no event be liable to any party for any direct, indirect, special or other consequential damages caused by your possession, access, use, inability to use or malfunction of the App or the data/content therein, including without limitation any lost profits, malfunction or loss of programs, System Data or other data on the Device, damages to property or personal injury, even if advised of the possibility of such damages. Further, Enervent will not be liable for damage that you could have avoided by following advice to apply an update offered to you free of charge or for damage that was caused by you failing to follow installation instructions correctly or to have in place the minimum system requirements advised by Enervent.

Some jurisdictions do not allow certain limitations of liability, in which case the above limitations shall only apply to the fullest extent possible under applicable law in such jurisdictions.

12 FORCE MAJEURE

To the fullest extent possible under applicable law, Enervent will not be liable or responsible for any failure to perform, or delay in the performance of, any of Enervent's obligations under these App Terms that is caused by an act or event beyond Enervent's reasonable control, including without limitation, strikes or other industrial action by third parties, riot, terrorist attack, war, fire, explosion, storm, flood, earthquake, epidemic or other natural disaster, failure of public or private telecommunications networks or impossibility to use public or private transport.

13 INDEMNIFICATION

You agree to indemnify Enervent from and against all claims, costs, proceedings, demands, losses, damages, and expenses of any kind or nature, arising from or relating to your System

Data, your possession, access to or use of the App, your violation of the rights of a third party, your violation of any statutes, laws, rules or regulations, or any actual or alleged breach of these App Terms by you or anyone using the Device. Enervent reserves the right to participate and/or assume the exclusive defence and control of any matter otherwise subject to indemnification by you at its own expense. If this is the case, you agree to cooperate with Enervent in such defence.

Notwithstanding the above, the Parties acknowledge that in the event of any third-party claim that the App or your possession and/or use of the App (excluding System Data,) infringes upon a third party's intellectual property rights, then Enervent, but neither you nor any third party, will be responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

14 TERMINATION OF THE LICENSE AND THE APP TERMS

The License and these App Terms are effective from the date you accept these App Terms.

You may terminate the License and the App Terms with immediate effect by disposing of the App.

The License and the App Terms will be terminated automatically if you are in breach of these App Terms. In such case, you must cease all use of the App and destroy all copies, full or partial, of the App and any System Data that you have stored on the Device or elsewhere.

15 SURVIVAL CLAUSE

Any provision of these App Terms which imposes an obligation after termination of these App Terms shall survive the termination of these App Terms.

16 ASSIGNMENT

These App Terms and the rights and obligations herein may not be assigned, subcontracted, delegated or otherwise transferred by you to a third party without Enervent's prior written consent.

Enervent may freely assign these App Terms and its rights and obligations at any time without restriction. The terms and conditions set forth in these App Terms shall then be binding upon assignees.

17 ADDITIONAL IOS APP TERMS

17.1 Acknowledgment

The Parties acknowledge that these App Terms are a binding agreement between you and Enervent, and not with Apple Inc. Enervent, not Apple Inc., is solely responsible for the iOS App and the content thereof in accordance with these App Terms. You further acknowledge that the usage rules for the App are subject to any additional restrictions set forth in the usage rules set forth in the [App Store Terms of Service](#).

17.2 Scope of license

You may access the App only using Apple's software and may not modify or use modified versions of such software. The App may be accessed and used by other accounts associated with you via volume purchasing.

17.3 Maintenance and support

Apple Inc. has no obligation whatsoever to furnish any maintenance and support services with respect to the Apps.

17.4 No warranty

To the maximum extent permitted by applicable law, Apple will have no warranty obligation whatsoever with respect to the App.

17.5 Product claims

Apple is not responsible for addressing any of your claims or claims of a third party relating to the App or your possession and/or use of the App, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation.

17.6 Third-party terms of agreement

You represent and warrant that you comply with applicable third-party terms of agreement when using the App, such as a wireless data service agreement.

17.7 Third-party beneficiary

The Parties acknowledge and agree that Apple Inc. and Apple Inc.'s subsidiaries are third-party beneficiaries of these App Terms, and that upon your acceptance of these App Terms, Apple Inc. will have the right to enforce the App Terms against you as a third-party beneficiary thereof.

17.8 Legal compliance

You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

18 GOVERNING LAW

These App Terms will be governed by the laws of Finland without reference to its choice of law rules. The United Nations Convention for the International Sale of Goods shall not apply.

19 DISPUTE RESOLUTION

If the Parties fail to reach an agreement through amicable negotiations, any dispute, controversy or claim arising out of or relating to these App Terms or the breach, termination or validity thereof shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The arbitration shall be conducted in Helsinki, Finland, in the English language. The number of arbitrators shall be one.

20 MISCELLANEOUS

Each of the paragraphs of these App Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

These App Terms, including all documents incorporated by reference, constitutes the entire agreement between you and Enervent with respect to the App. Enervent's failure to exercise or enforce any present or future right or provision governed by these App Terms shall not be seen as or operate as a waiver of such right or provision. The section titles are for convenience only and suggest no particular legal meaning.

21 MAINTENANCE AND SUPPORT

Please use the contact information in section 22 below for user support.

The Parties acknowledge that Enervent is solely responsible for providing maintenance and support services for the App; third party service providers are not obligated to provide such maintenance or support services.

22 CONTACT ENERVENT

If you have any questions, complaints or claims with respect to the App, please contact Enervent Zehnder at

Enervent Zehnder Oy
Kipinätie 1
06150 PORVOO
Finland
Tel. +358 207 528 800
Email: enervent@enervent.com]