

**STANDARD TERMS AND CONDITIONS OF BUSINESS  
OF**

**ABLE JOINERY LTD**

**1 DEFINITIONS**

The following expressions shall have the following meanings:

- 1.1 "Supplier" means Able Joinery Ltd of Unit 9, Radium Works, Bridgewater Road, Altrincham WA14 1LZ.
- 1.2 "Customer" means any person, company, body or organisation who purchases Services and/or Products from the Supplier;
- 1.3 "Consumer" shall have the meaning ascribed in section 12 of the Unfair Contract Terms Act 1977;
- 1.4 "Proposal" means a statement of work, quotation or other similar document describing the Services and/or the Products;
- 1.5 "Services" means the services as described in the Proposal and include any materials required to complete the work;
- 1.6 "Products" means any products supplied by the Supplier to the Customer;
- 1.7 "Terms and Conditions" means the terms and conditions of supply of Services and/or Products set out in this document and any subsequent terms and conditions agreed in writing by the Supplier;
- 1.8 "Order" means the formal acceptance by the Customer of the Proposal;
- 1.9 "Agreement" means the contract between the Supplier and the Customer for the provision of the Services and/or Products incorporating these Terms and Conditions.
- 1.9 "Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, right to extract or exploit information from a database, database rights, know-how, confidential information or process, any application for any of the above, and any other Intellectual Property Right recognized in any part of the world whether or not presently existing or applied for;
- 1.10 "Adjudicator" is the party nominated to resolve a dispute between the Customer and the Supplier.

**2 GENERAL**

- 2.1 These Terms and Conditions shall apply to the Agreement for the supply of Services and/or Products by the Supplier to the Customer and shall supersede any other documentation or communication between the Supplier and the Customer.
- 2.2 Any variation to these Terms and Conditions must be agreed in writing by the Supplier.
- 2.3 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Services and/or Products, by virtue of any statute, law or regulation.
- 2.4 Nothing in these Terms and Conditions shall affect the Customer's statutory rights as a Consumer.

### **3 PROPOSAL**

- 3.1 The Proposal for Services and/or Products is as presented on the Supplier's standard Estimate Sheet.
- 3.2 The Proposal for Services and/or Products shall remain valid for a period of Fourteen Days.
- 3.3 The Proposal must be accepted by the Customer in its entirety, or where itemized a full item must be accepted.
- 3.4 The Customer shall be deemed to have accepted the Proposal by placing an Order with the Supplier.
- 3.5 The Agreement between the Supplier and the Customer, incorporating these Terms and Conditions, shall only come into force when the Supplier confirms an Order in writing to the Customer or pays a deposit. Prior to any confirmation the Supplier has the right to refuse any Order.

### **4 SERVICES, PRODUCTS AND DELIVERY**

- 4.1 The Services and/or Products are as described in the Proposal.
- 4.2 Any variation to the Services and/or Products must be agreed by the Supplier in writing.
- 4.3 Any drawings, descriptions or specifications contained in advertising material, brochures or catalogues issued by the Supplier are for the sole purpose of giving an approximate idea of the Products and/or Services and will not form part of any Agreement unless otherwise agreed in writing by the Supplier.
- 4.4 The Services and/or Products will be delivered between the hours of 8am and 5pm Monday to Friday. The Supplier may vary these times by intimating details of the change to the Customer.
- 4.5 Dates given for the delivery of Services and/or Products are estimates only and not guaranteed. Time for delivery shall not be of the essence of the Agreement and the Supplier shall not be held liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery.
- 4.6 The supply of Services and/or Products specified in the Proposal must be approved by the Supplier's appointed surveyor prior to completion and any modifications recommended by the surveyor shall be the responsibility of the Supplier.
- 4.7 Painting or staining of Products is not included in the price unless expressly included in the Proposal.

### **5 PRICE AND PAYMENT**

- 5.1 The price for Services and/or Products is as specified in the Proposal and is inclusive of VAT and any other charges as outlined in the Proposal.
- 5.2 The price for any materials required to complete the Services is as specified in the Proposal.
- 5.3 The terms for payment are as specified in the Proposal and are to Supplier's installer or deliverer strictly on completion or delivery unless otherwise outlined on Proposal.

- 5.4 The Customer must settle all payments for Services and/or Products within 0 days from the invoice date.
- 5.5 The Customer will pay interest on all late payments at a rate of 6% per annum above the base lending rate of Bank of England.
- 5.6 The Supplier is also entitled to recover all reasonable expenses incurred in obtaining payment from the Customer where any payment due to the Supplier is late, including debt recovery fees.
- 5.7 The Customer is not entitled to withhold any monies due to the Supplier for any reason whatsoever unless written in the Proposal or agreed to in writing prior to commencing or delivering Products and/or Services.
- 5.8 The Supplier is entitled to vary the price to take account of:
- 5.8.1 any additional Services and/or Products requested by the Customer which were not included in the original Proposal;
  - 5.8.2 any excess increase in the cost of materials;
  - 5.8.3 any additional work required to complete the Services which was not anticipated at the time of the Proposal, including items in clause 7.16
- and any variation must be intimated to the Customer by the Supplier.
- 5.9 Painting or staining of Products is not included in the price unless expressly included in the Proposal.

## **6 CUSTOMER OBLIGATIONS**

- 6.1 The Customer will provide access to the Supplier at the times specified in these Terms and Conditions and will co-operate with all reasonable requests by the Supplier.
- 6.2 The Customer shall provide access to the Supplier's surveyor at any time during the hours specified in Clause 4.4 of these Terms and Conditions.
- 6.3 The Customer will provide free issue electricity, water and toilet facilities to the Supplier for the purpose of completing the Services.
- 6.4 The accuracy of any measurements requested by the Supplier for the *supply only* of Products shall be the responsibility of the Customer and any expenses incurred by the Supplier as a result of inaccurate sizes shall be met by the Customer.
- 6.5 The Customer will apply for, obtain and meet the cost of all necessary approvals and permissions required to complete the Services prior to the commencement of the work.
- 6.6 The Customer will take all reasonable steps to ensure that the Supplier does not sustain any damage or loss to any materials or equipment stored on site.
- 6.7 The Customer shall be liable for any expenses incurred by the Supplier as a result of the Customers failure to comply with the obligations as defined by these Terms and Conditions.
- 6.8 The Customer shall be responsible for any redecoration required after the Services/Products have been supplied unless otherwise provided for in the Proposal. Also where new timber items are fitted by the Supplier the customer shall be responsible for their protection, decoration and weather-proofing.

- 6.9 The Customer shall be responsible for having the area to be worked on completely clear. Furniture, Curtains, Blinds, Carpets, TV's & appliances etc. are worked near or moved by the supplier at Customers' own risk.
- 6.10 The Customer shall be responsible for re-instating intruder alarms, telephone systems, television systems and other electrical systems should they get disturbed by the Supplier and if the Supplier is unable to re-instate them themselves. The cost of this cannot be passed to the Supplier.
- 6.11 The customer shall be responsible prior to the Supplier starting for obtaining and meeting the costs of any statutory Planning Permission or other permissions.
- 6.12 The customer shall not entitled to withhold any payment due to the Supplier should any dispute between the customer and any Statutory Body or other third party arise during or after supply or installation.

## **7 SUPPLIER OBLIGATIONS**

- 7.1 The Supplier shall supply the Services and/or Products as specified in the Proposal. The Supplier cannot guarantee an exact match to the items described in the proposal, or to Customer's existing items in which case the supplier reserves the right to substitute the next closest available item.
- 7.1.1 Items' shades or grains cannot be guaranteed to match each other or any existing items' even when ordered as a set.
- 7.2 The Supplier shall perform the Services with reasonable skill and care and to a reasonable standard and in accordance with recognised codes of practice.
- 7.3 The Supplier shall comply with all relevant health and safety regulations.
- 7.4 The Supplier shall advise on product suitability, but will not be held liable for any failure due to customer's choice of goods supplied or installed contrary to this advice.
- 7.5 Where appropriate, the Supplier shall be registered with the relevant organisation for the purpose of self-certification or notify building control to arrange for an inspection of the work carried out if so required to do so in terms of the relevant building regulations.
- 7.6 The Supplier shall not be responsible for waste management and disposal required in the course of providing the Services and/or Products, except glass, unless stated on the Proposal.
- 7.7 The Supplier shall take all reasonable steps to reduce the expansion of external items such as gates, doors and windows but cannot be held liable should any such expansion occur.
- 7.8 The Supplier shall take all reasonable steps to protect furniture, floor coverings, curtains, blinds, TV's and appliances when providing the Services but clause 6.9 shall take precedence.
- 7.9 Without prejudice to Clause 10.2.3 the Supplier shall ensure that all external wooden Products are treated with preservative to reduce the possibility of rot or insect infestation.
- 7.10 The Supplier shall take all reasonable steps to match the finish with existing materials such as internal plastering and external pebble dash or similar materials but cannot guarantee that this will be possible.

- 7.11 The Supplier shall restore any damage to plaster, or brickwork in the surrounding area with the exclusion of wallpaper, paint and ceramic tiling which shall remain the responsibility of the Customer.
- 7.12 The Supplier shall remove any existing glass, frames and secondary glazing units before completion of the Services unless otherwise specified in the Proposal.
- 7.13 If light conditions are not satisfactory or glazing material is for any reason unavailable then boarding or a similar measure to secure a window or opening shall be undertaken until such times as a glaze can be installed.
- 7.14 When supplying patterned or coloured glass or film the Supplier shall endeavour to produce or match exact colours or designs but, as each piece is unique or possibly obsolete, this may not always be possible.
- 7.15 When working on or near roofs the Supplier shall take all reasonable care to avoid damage to them. Any consequent repair costs shall be passed on to the customer.
- 7.15 The Supplier shall ensure that all glazed areas are watertight but this cannot be guaranteed where existing structures or materials are involved.
- 7.16 The Supplier cannot be held responsible for any pre-existing or unknown structural or other conditions or situations in a building which result in a compromise or deviation from the Proposal or recognized codes of practice. An extra charge for any extra work may be made to the Customer. The course of any resultant compromise or deviation will be at the discretion of the Supplier.
- 7.17 Work by the Supplier using Customer's own materials is carried out at customer's risk. This includes timber repair and restoration work, including windows and their existing glass. Any extra materials including glass needed to complete Services in the Proposal will be charged extra to the Customer.
- 7.18 The Supplier shall hold valid employer and public liability insurance policies.
- 7.19 The Supplier shall notify the Customer of any intention to engage a subcontractor.

## **8 CANCELLATION**

- 8.1 The Customer may cancel an Order for Services and/or Products by notifying the Supplier in writing within 7 days of placing the Order and any monies paid by the Customer will be refunded in full except where a prompt turnaround is requested by the Customer.
- 8.2 If the Customer does not notify any cancellation within the time specified in Clause 8.1 any monies paid will not be refundable and the Supplier will invoice the Customer for any other reasonable extra costs incurred, including an administration charge of at least £50 + VAT or as determined by the Supplier.

## **9 INSPECTION OF PRODUCTS AND SERVICES**

The Customer shall inspect the Products and/or the Services on completion of their installation or their delivery if supplied only, and notify the Supplier of any damaged, missing or defective items or work within 1 day from the date of delivery.

## **10 DEFECTIVE PRODUCTS AND SERVICES AND GUARANTEE**

- 10.1 In addition to the Customer's statutory rights, the Supplier guarantees that the Services and/or Products will be free from defects in materials and/or workmanship for a period of 12 months from the date that the Services and/or Products were supplied except if an extended guarantee of up to ten years is offered in the Proposal which is issued separately after full settlement by the Customer.
- 10.2 Clause 10.1 does not apply:
- 10.2.1 if a fault arises due to any subsequent damage not due to a defect in the Services and/or Products after risk has passed to the Customer;
  - 10.2.2 if a fault arises due to willful damage, abnormal working conditions, failure to follow instructions, misuse, alteration or unauthorised repair, improper maintenance or negligence on the part of the Customer or a third party;
  - 10.2.3 if a fault arises due to rot or insect infestation;
  - 10.2.4 in respect of condensation which is the result of the environment within the dwelling.
  - 10.2.5 for timber products after installation or delivery. As they are from natural materials they are subject to changes in ambient moisture and reactions with different paint and stain finishes. Further work carried out on them by the Supplier will be chargeable to the Customer at a notified prior rate.
- 10.3 If the Services and/or Products are found to be defective in accordance with these Terms and Conditions then the Supplier shall, at their sole discretion, either repair, re-perform or replace the Services and/or Products or refund any monies paid for the defective Services and/or Products.
- 10.4 Where the Services and/or Products are defective or do not comply with the Agreement the Customer must notify the Supplier in writing within 1 day from the date of delivery.
- 10.5 If the Customer has not paid for the Services and/or Products in full by the date the defect in Services and/or Products is notified to the Supplier then the Supplier has no obligation to remedy the defect in terms of this Clause 10.
- 10.6 The Company will not entertain any reimbursement payment to a Customer resulting from the employment by a Customer of a repairer or third party not approved of by the Supplier. The Supplier will not be liable for any resultant cost, loss or damage and will have no obligation to remedy any resultant work or situation.

## **11 INTELLECTUAL PROPERTY RIGHTS**

All intellectual property rights, registered or unregistered, including but not limited to patents, trademarks, design rights and know-how remain the property of the Supplier and cannot be used by the Customer without the written permission of the Supplier.

## **12 PROPERTY AND RISK**

- 12.1 Risk in the Products or in any property or materials used to provide the Services shall pass from the Supplier to the Customer when the Products or property or materials leave the premises of the Supplier or on delivery if the Supplier is transporting the items.
- 12.2 Title or ownership of any property or materials belonging to the Supplier remains with the Supplier until payment is received from the Customer in full.

12.2.1 The Company will be entitled to recover Customer's goods to the value of any monies 60 days overdue without any further permissions or access arrangements.

12.3 The Customer must store any property or materials belonging to the Supplier separately from any other property or materials belonging to the Customer or a third party.

### **13 TERMINATION AND DEFAULT**

13.1 The Agreement shall continue until the Services and/or Products have been provided in terms of the Proposal or any subsequent date as mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions.

13.2 The Customer may terminate the Agreement if the Supplier fails to comply with any aspect of these Terms and Conditions and this failure continues for a period of 13 weeks after notification of non-compliance is given.

13.3 The Supplier may terminate the Agreement if the Customer has failed to make over any payment within 1 week of the sum being requested.

13.4 Either party may terminate the Agreement by notice in writing to the other if:

13.4.1 the other party commits a material breach of these Terms and Conditions and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or

13.4.2 the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or

13.4.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or

13.4.4 the other party ceases to carry on its business or substantially the whole of its business; or

13.4.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

13.5 In the event of termination the Customer must make over to the Supplier any payment for work done and expenses incurred up to the date of termination including any purpose made or ordered materials not yet installed.

13.6 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination.

### **14 WARRANTIES**

14.1 The Supplier warrants that the Products will, at the time of delivery, correspond to the description given by the Supplier. The Supplier cannot guarantee an exact match to the items described in the Proposal, or to Customer's existing items. In which case the Supplier reserves the right at their discretion, to substitute the next closest available item.

- 14.2 The Supplier warrants that the Services will be performed using all reasonable skill and care.
- 14.3 Without prejudice to clause 13.1 and clause 13.2 and except as expressly stated in these Terms and Conditions, all warranties whether express or implies, by operation of law or otherwise, are hereby excluded in relation to the Service and/or Products to be provided by the Supplier.

## **15 LIMITATION OF LIABILITY**

- 15.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Supplier for death or personal injury, however the Supplier shall not be liable for any direct loss or damage suffered by the Customer howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the price of the Service and/or the Products.
- 15.2 The Supplier shall not be liable under any circumstances to the Customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the Customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise.
- 15.3 For the avoidance of doubt, time shall not be of the essence and the Supplier shall incur no liability to the Customer in respect of any failure to complete the Services or supply the Products by any agreed completion date.

## **16 INDEMNITY**

The Customer shall indemnify the Supplier against all claims, costs and expenses which the Supplier may incur and which arise directly or indirectly from the Customer's breach of any of its obligations under these Terms and Conditions.

## **17 SETTLEMENT OF DISPUTES**

- 17.1 Any dispute arising under this Agreement will be referred to and decided by the Adjudicator.
- 17.2 The Adjudicator will be appointed by application to
- 17.2.1 in the first instance to the conciliation service offered by HomePro.com
  - 17.2.2 the second instance where conciliation fails for any reason to Adjudication in accordance with clauses 17.3 to 17.7 below.
- 17.3 The Adjudicator shall be appointed at the request of either the client or the contractor by the Head of Chambers at 3, Paper Buildings, Temple, London, EC4Y 7EU (currently Michael Parroy QC) or his nominee. The party requesting the appointment shall pay a fee of £50.00 plus VAT and the appointment will be made within 7 days of receiving the request and the fee. They will charge a fee for his services. The Parties are jointly and severally liable for the Adjudicators fees. The Adjudicator may decide which of the parties is to pay his fees and in what proportion. Alternatively, if both the Client and the Contractor are in agreement they may appoint an Adjudicator independently. A list of Adjudicators can be acquired from the Chartered Institute of Arbitrators on 0207 837 4483 or at [www.arbitrators.org/](http://www.arbitrators.org/).
- 17.4 A party wishing to refer a dispute to the Adjudicator shall advise the other party of this intention in writing at any time during the term of this Agreement. The dispute must then be referred to the Adjudicator within seven (7) days of this intention being intimated.
- 17.5 The Adjudicator shall act impartially and be free to take the initiative in ascertaining the facts and the law. The Adjudicator must reach a decision within twenty eight (28) days of referral or such longer period as the parties may agree.
- 17.6 During the period of adjudication both parties must continue with their obligations as stated in this Agreement.



- 17.7 The decision of the Adjudicator is binding on both parties unless and until revised by legal proceedings, arbitration or agreement.
- 17.8 The Adjudicator will decide which party is liable to meet the fees of the adjudication and in what proportion if both parties are held liable.

**18 FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

**19 RELATIONSHIP OF PARTIES**

Nothing in the Agreement shall be construed as establishing or implying a partnership or joint venture between the parties or suggest that either of the parties are agent for the other.

**20 ASSIGNMENT**

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier.

**21 SEVERANCE**

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

**22 WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions.

**23 NOTICES**

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Proposal or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

**24 THIRD PARTY RIGHTS**

Nothing in these Terms and Conditions intend to or confer any rights on a third party.

**25 ENTIRE AGREEMENT**

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral.

**26 GOVERNING LAW**

These Terms and Conditions shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.