

# WHITLOCK & LOWE LTD

## TERMS & CONDITIONS OF CONTRACT

### 1 INFORMATION ABOUT US AND HOW TO CONTACT US

**Who we are.** We are Whitlock & Lowe Ltd trading as Prime Oak, Julius Bahn and Montpelier Joinery (“**Prime Oak**”, “**Julius Bahn**”, “**Montpelier Joinery**” “**us**”, “**our**” or “**we**”) a company registered in England and Wales. Our company registration number is 03453676 and our registered office is at The Millworks, Heath Mill Road, Wombourne, South Staffordshire, WV5 8AP. Our registered VAT number is 364195678.

**How to contact us.** You can contact us by telephoning or by emailing to us at directors@whitlockandlowe.co.uk or writing to The Millworks, Heath Mill Road, Wombourne, South Staffordshire, WV5 8AP. We may record calls for quality and training purposes.

**How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us.

### 2 THESE TERMS

2.1 **What these terms cover.** These are the terms and conditions (the “**Terms**”) on which we supply the Products to you, whether these are Goods or Services.

2.2 **Why you should read them.** Please read these Terms carefully before you submit your order to us. These Terms tell you who we are, how we will provide the Products to you, how you and we may change or end the Contract, what to do if there is a problem and other important information. If you think that there is a mistake in these Terms, please contact us to discuss.

### 3 DEFINITIONS

3.1 To make these Terms quicker to read, we use the following definitions throughout.

“**CONSTRUCTION PROJECT**” means your construction project, as referred to in the Specification, which will consist of a number of separate, independent contracts (including this Contract);

“**CONTRACT**” means the contract between us and you, the Customer, for the supply of the Products to you;

“**CONTRACT ORDER FORM**” means the order form setting out your name, address, contact details, the Price, payment details, and other important information;

“**CUSTOMER**”, or “**YOU**”, or “**YOUR**” means the person named in the Contract Order Form;

“**GOODS**” means those Products which are manufactured items or other goods (including any instalment of such items or any part of them);

“**PLANNING COSTS**” means all costs and expenses incurred by or on behalf of Whitlock & Lowe Ltd in connection with the initial and all subsequent planning applications (including re-submitted or renewed applications) which we submit on your behalf (including all surveys);

“**PLANNING FEES**” means all fees payable to the local authority in relation to all applications, which shall be calculated at the local planning authority’s then current rate plus their current handling fee per application;

“**PRICE**” means the price of the Products (which includes VAT) to be supplied by Whitlock & Lowe Ltd to you, as set out in the Contract Order Form;

“**PRODUCTS**” means the Goods and Services (or any instalment of such Goods and Services or any part of them) set out in the Specification;

**“SERVICES”** means those Products which are services, including concept design and development, planning, delivery, and fitting and installation of the Goods;

**“SPECIFICATION”** means the specification for the Products, as set out in our written quotation, the Contract Order Form, order check lists, and/or sales drawings provided in writing by us to you, the Customer. If there is any conflict or inconsistency between the specification for the Products set out in those documents, such conflict or inconsistency shall be resolved according to the following order of priority: (1) the Contract Order Form; (2) the sales drawings; (3) the order check lists; and (4) our written quotation. If there is any conflict or ambiguity between the details shown in any sales drawings, the details in the later dated sales drawing shall prevail; and

**“TERMS”** shall have the meaning given in clause 2.1.

- 3.2 When we use the words “writing”, “written” or any similar expression in these Terms, this includes email.
- 3.3 A reference in these Terms to a law, regulation or other provision of a statute is a reference to that law, regulation or provision as amended, re-enacted or extended at the relevant time.
- 3.4 The headings in these Terms are for convenience only and shall not affect their interpretation.

#### **4 OUR CONTRACT WITH YOU**

4.1 **Our quotations.** If you express an interest in purchasing the Products, you may receive a written quotation from us. However, please note that any written quotation we provide to you simply expresses our willingness to discuss supplying you with the Products. It is not an offer and cannot be accepted so as to form a binding contract. Any written quotation we provide to you shall be valid for 14 days from the date of such quotation, unless Whitlock & Lowe Ltd and you, the Customer, agree otherwise.

4.2 **Making an order.** You place an order when you sign the Contract Order Form in person, or when you return the signed Contract Order Form to us by email or by post, or when you return the unsigned Contract Order Form to us by email and confirm your acceptance in the email itself.

4.3 **How we accept your order.** Our acceptance of your order will take place when we:

- 4.3.1 countersign the Contract Order Form;
- 4.3.2 call you or write to you to accept the Contract Order Form; or
- 4.3.3 start supplying the Products to you,

whichever is earlier, at which point a contract will come into existence between you and us.

4.4 **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this and will not charge you for the Products. This might be because of unexpected limits on our resources which we could not reasonably plan for, because we have identified an error in the Price or Specification, or because we are unable to meet an estimated delivery date.

4.5 **You will need to enter into contracts with other suppliers.** The Contract relates only to the supply of the Products. It does not cover the entirety of the Construction Project. You will need to enter into additional contracts directly with other suppliers separately and independently from Whitlock & Lowe Ltd in order to complete the Construction Project. Whitlock & Lowe Ltd will not supply and is not contracting to supply any goods or services other than the Products, nor will we project manage the work of other suppliers. Whitlock & Lowe Ltd is not responsible for the completion of or failure to supply any goods or services required to complete the Construction Project which are not set out in the Specification, nor are we responsible for providing working plans, diagrams, or drawings in respect of works being carried out by other suppliers unless otherwise set out in the Specification.

4.6 **Reliance on these Terms and on things said by our employees or agents.** Whitlock & Lowe Ltd intends to rely upon these Terms. Our employees and agents are not authorised to make any oral representations about the Products and you must not rely on any such oral representations when entering into the Contract. If you

require any changes to these Terms, for example, to record anything said by our employees or agents, please make sure you ask for these to be put in writing. In that way, we can avoid any problems surrounding what Whitlock & Lowe Ltd and you, the Customer, are expected to do. Nothing in this clause 4.6 affects our liability for fraud, fraudulent misrepresentation, or for breach of an obligation which you relied upon when entering into the Contract.

## 5 YOUR RESPONSIBILITIES

5.1 We require you to comply with the following obligations in order for us to supply the Products to you:

- 5.1.1 **You need to provide us with good, uninterrupted access.** At all times when we are delivering the Goods to your property, or fitting or installing the Goods at your property, you must provide us with good, uninterrupted access to that property between 8.00am and 6.00pm Monday to Friday. Such access must be sufficient for us to deliver, fit, and install the Goods using heavy goods vehicles and machinery.
- 5.1.2 **You need to provide certain facilities.** At all times when we are fitting or installing the Goods at your property, you must provide or arrange for one of your other suppliers to provide:
- a) a skip located at your property sufficient to hold all of the waste we create as a result of supplying the Products;
  - b) access to WC facilities;
  - c) access to an electrical power supply; and
  - d) access to a mains water supply.
- 5.1.3 **You must check the groundwork and building footprint.** You are responsible for ensuring that your other suppliers complete the groundwork or building footprint before we fit and install the Goods. You are also responsible for making sure that your other suppliers complete the groundwork or building footprint so it matches the requirements set out in the Specification. You will contact us to let us know that the groundwork or building footprint is completed at least four weeks before we fit and install the Goods. If requested, you shall allow us to visit your property to check the condition of the site at a mutually convenient time before we fit and install the Goods. If we visit your property to check the condition of the site, our visit does not relieve you of your responsibilities under this clause 5.1.3.
- 5.1.4 **You must protect your property from damage.** You are responsible for taking reasonable steps to protect your property, including driveways and dwarf walls, from damage caused by us while supplying the Products. Nothing in this clause 5.1.4 affects our liability for damage caused by us, or our employees or agents, as a result of our or their negligence, or our or their failure to use reasonable care and skill.
- 5.1.5 **Compliance with laws and regulations.** You are responsible for obtaining and ensuring that the Construction Project complies with all building regulation approvals, by-law approvals, and any other consents, licences and authorisations, such as party wall agreements, required from any competent authority, or other person either for the carrying out of the Construction Project or for its intended use. However, subject to clause 8.3, where and to the extent that we have provided planning application and/or building regulations services as part of the Services, we will be responsible for:
- a) obtaining the consents, licences and authorisations set out in the Specification; and
  - b) ensuring that the part of the Construction Project covered by this Contract complies with all such consents, licences and authorisations.
- 5.1.6 **Suitability of plans, diagrams and drawings.** We will prepare any and all working plans, diagrams and drawings set out in the Specification with reasonable care and skill. You are

responsible for ensuring that such plans, diagrams and drawings meet with the requirements of the supplier that you have appointed to complete the relevant part of the Construction Project. However, we will be responsible for ensuring that any plans, diagrams and drawings meet our requirements where they relate to Products provided under this Contract.

5.2 While we will supply the Products in accordance with the Specification, there are some additional jobs which we are not responsible for carrying out, including:

5.2.1 **Additional protection for Goods that are timber.** We will deliver all Doors & Windows with base coats ready for staining or painting by your other suppliers. You acknowledge that all external timber will require further protection, as set out in the "Caring for Your Building" letter provided to you by Whitlock & Lowe Ltd. You are responsible for any additional protection of such Goods against moisture ingress beyond the base coats.

5.2.2 **Other work relating to the Construction Project.** Whitlock & Lowe Ltd will not supply any goods or services required to complete the Construction Project which are not set out in the Specification. Work that Whitlock & Lowe Ltd will not supply (unless set out in the Specification) includes, but is not limited to, demolition, external works, groundworks and foundations, brickwork and blockwork, enabling works, modifications to the existing property, internal works, plumbing, heating and electrical works, decoration and internal joinery; such as internal stairs, partitions, doors, architraves, skirting & window boards.

## 6 YOUR RIGHT TO MAKE CHANGES

**Customer's right to make changes.** If you wish to make a change to the Products you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the Price, the timing of supply or anything else which would be necessary as a result of your requested change, and ask you to confirm whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, you may want to end the Contract (see clause 11). Unfortunately, we are not normally able to make a change to the Products more than 7 days after the date on which you paid the Manufacture Payment (see clause 16.2.2 & 16.3.2).

## 7 OUR RIGHT TO MAKE CHANGES

7.1 **Minor changes to the Products.** We may change the Products and/or these Terms:

7.1.1 to reflect changes in relevant laws and regulatory requirements; and/or

7.1.2 to implement minor technical adjustments and improvements, for example, to improve the structural integrity of the Products, or to improve the efficiency of the fitting and installation process. These changes will not affect your use of the Product.

7.2 **More significant changes to the Products and these Terms.** In addition, as told to you over the telephone, or as set out in our brochure, or on our website, or told to you in the course of email exchanges, we may make the following changes to these Terms and/or the Product, but if we do so we will notify you and you may then contact us to end the Contract before the changes take effect and receive a refund of fees paid towards Products not yet manufactured:

7.2.1 we may change part of the Services from that set out in the Specification where we are unable to supply that part of the Services due to operational reasons;

7.2.2 we may change the material used to manufacture the Goods where, after making reasonable efforts, we are unable to source the material set out in the Specification.

7.2.3 we may change the concept design where we are unable to follow the concept design set out in the Specification due to structural reasons.

## 8 PROVIDING THE PRODUCTS

8.1 **When we will provide the Products.** Whitlock & Lowe Ltd will contact you to agree an estimated date for delivery of the Goods and, where requested, estimated dates for supply and completion of the Services once you have:

8.1.1 paid the Manufacture Payment (see clause 16.2.2 and clause 16.3.2); and

8.1.2 you have notified us that the groundwork or building footprint is completed (see clause 5.1.3).

Any such estimated dates shall be week commencing dates only.

8.2 **Delivery arrangements and delivery by instalments.** You agree that we may deliver the Goods over several deliveries over different days. If we are supplying you with Goods only, we will always contact you before delivering the Goods or any instalment of the Goods so that you can make arrangements depending on when Goods or any instalment of the Goods are due to arrive.

8.3 **We are not responsible for delays outside our control.** If our supply of the Products is delayed by:

8.3.1 the failure of your other suppliers to complete the groundwork or building footprint;

8.3.2 the failure of your other suppliers to ensure that the groundwork or building footprint matches the requirements set out in the Specification;

8.3.3 the delay or failure by a local planning authority to grant planning permission or give notice of another material decision related to or arising in connection with the Construction Project; or

8.3.4 any other event outside our reasonable control,

then we will endeavour to contact you as soon as possible to let you know and we will take reasonable steps to minimise the effect of the delay. Provided we do this, Whitlock & Lowe Ltd will not be liable for any delays in the supply of, or failure to supply the Products caused by the event.

8.4 **If you are not at home when the Goods are delivered.** If you fail to take delivery of the Goods (or any part of the Goods) or fail to give Whitlock & Lowe Ltd adequate delivery instructions before the estimated delivery date, we will contact you for further instructions and may charge you for storage charges and any further delivery costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery, we may terminate the Contract and clause 13.2 will apply.

8.5 **What will happen if you do not give us the necessary information and approvals.** We may ask you to provide us with certain information, approvals, permissions, consents, and/or agreements (the “**Consents**”) so that we can supply the Products, for example, we may need you to provide evidence of planning permission before supplying fitting and installation services. If so, this will have been told to you over the telephone or in writing. You are responsible for ensuring the accuracy and timely delivery of the Consents to us. If you do not give us the Consents within a reasonable time of us asking for them, or if the Consents are inaccurate or incomplete, we may either end the Contract (and clause 13.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the Products late or not supplying any part of them if this is caused by you not giving us the Consents we need within a reasonable time of us asking for them. This clause 8.5 does not apply to the extent that we are obtaining the Consents on your behalf as part of the Services.

8.6 **You authorise us to make planning applications and also agree to pay the Planning Costs.** If the Construction Project requires planning permission and Whitlock & Lowe Ltd is making the planning application as part of the Services, you authorise Whitlock & Lowe Ltd to prepare and submit any planning application on your behalf without your further instruction, and you agree to pay the Planning Costs. You agree that any such planning application will be for the use set out in the signed Planning Questionnaire. If planning permission is refused, Whitlock & Lowe Ltd shall be entitled to resubmit or renew that application or, alternatively, appeal the refusal. If any resubmission, renewal or appeal is unsuccessful in overturning the refusal, Whitlock & Lowe Ltd shall within 14 days of receiving your written request to cancel, reimburse you for any payments received from you less the Planning Costs. If the payments received from you are insufficient to cover the Planning Costs, you shall pay to us the outstanding balance of the Planning Costs within 30 days of the date of invoice.

- 8.7 **If you do not allow us access to provide the Services.** If you do not allow us access to your property to perform the Services as arranged, we may charge you additional costs reasonably incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to your property we may end the Contract and clause 13.2 will apply.
- 8.8 **Making sure your measurements are accurate.** If we are making the Products to measurements you have given us, you are responsible for ensuring that these measurements are correct.
- 8.9 **Products may vary slightly from their pictures.** The images in our brochure do reflect our product accurately, however, due to the bespoke nature of Oak and the bespoke nature of each design and the ongoing development of our product details, products will vary to some degree in each case.
- 8.10 **Reasons we may suspend the supply of Products to you.** We may have to suspend the supply of a Product to:
- 8.10.1 deal with technical problems or make minor technical changes;
  - 8.10.2 update the Products to reflect changes in relevant laws and regulatory requirements;
  - 8.10.3 make changes to the Products as requested by you or notified by us to you (see clause 6).
- 8.11 **Your rights if we suspend the supply of Products.** We will contact you in advance to tell you we will be suspending supply of the Product, unless the problem is urgent or an emergency. You may contact us to end the Contract for a Product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 6 months and we will refund any sums due to you which you have paid in advance for the Product.
- 8.12 **Product Warranty.** When you purchase the Products, you will also receive coverage from the Whitlock & Lowe Ltd Product Warranty. This Warranty operates alongside and in addition to your legal rights under consumer law. Should the Products be defective or if they do not conform with the Contract, you can choose to make a claim under consumer law or the Whitlock & Lowe Ltd Warranty. You can find the terms and conditions relating to the Whitlock & Lowe Ltd Warranty on our websites. The customers rights against Whitlock & Lowe Ltd under this condition are not assignable.

## 9 OWNERSHIP OF THE GOODS

- 9.1 **When you own the Goods.** You own the Goods, whether fixed or unfixed to your property, once we have received payment of the Price in full. Until payment of all such sums, you shall hold the relevant Goods in a fiduciary capacity. This means you will hold the relevant Goods for and behalf of Whitlock & Lowe Ltd.
- 9.2 **You must not deal with Goods owned by Whitlock & Lowe Ltd.** You shall not pledge or in any way charge by way of security for any indebtedness any Goods (or any part of them) which remain the property of Whitlock & Lowe Ltd.

## 10 RISK IN THE GOODS

- 10.1 **When you become responsible for the Goods.** The Goods, whether fixed or unfixed to your property, will be your responsibility from the time we deliver them to the address set out on the Contract Order Form (or such other address that we and you, the Customer, agree in writing).
- 10.2 **You must still pay us for damaged, destroyed or stolen Goods.** If the Goods are lost, damaged, destroyed or stolen, after the time set out in clause 10.1, you must still pay us the part of the Price which relates to these Products.
- 10.3 **Replacing damaged, destroyed or stolen Goods.** If you require us to supply additional goods or services to replace, reinstate, or restore any Goods that are lost, damaged, destroyed or stolen after the time set out in clause 10.1, we will provide you with a written quotation for the supply of such Products. The supply of any such additional goods or services will be covered by a separate contract.

## 11 YOUR RIGHTS TO END THE CONTRACT

11.1 **You can always end the Contract.** Your rights when you end the Contract will depend on whether there is anything wrong with the Products, how we are performing and when you decide to end the Contract:

11.1.1 If the Products are faulty or misdescribed you may have a legal right to end the contract (or to get the Goods repaired or replaced or the Service re-performed or to get some or all of your money back), see clause 14.

11.1.2 If you want to end the Contract because of something we have done or have told you we are going to do, see clause 11.2.

11.1.3 If you have changed your mind about the Products, see clause 11.3. You may be able to get a refund if you are within the 14 day notice period, but this may be subject to deductions and you will have to pay the costs of return of any Goods.

11.1.4 In all other cases (if we are not at fault and there is no right to change your mind), see clause 11.6.

11.2 **Ending the Contract because of something we have done or are going to do.** If you are ending the Contract for a reason set out in clause 11.2.1 or clause 11.2.2, the Contract will end immediately and we will refund you in full for any Products which have not been manufactured or provided and you may also be entitled to compensation. The reasons are:

11.2.1 we have told you about an upcoming change to the Product or these Terms which you do not agree to (see clause 7.2); or

11.2.2 you may have a legal right to end the Contract because of something we have done incorrectly.

11.3 **Exercising your right to change your mind (Consumer Contracts Regulations 2013).** For Products bought off-premises (for example in your own home) or at a distance (for example, by email), you have a legal right to change your mind within 14 days and receive a refund (see clause 11.5 for details on when this 14 day notice period will start). These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these Terms.

11.4 **When you don't have the right to change your mind.** You do not have a right to change your mind in respect of:

11.4.1 Products bought on-premises, including at our show sites;

11.4.2 Services, once these have been completed, even if the cancellation period is still running;

11.4.3 Goods which become mixed inseparably with other items after their delivery; and/or

11.4.4 where you have purchased Goods only, Goods that we make to your specification or they are clearly personalised.

**As the Goods we supply are handcrafted and made to your order, this will normally mean that, if you purchase Goods only (as opposed to Goods and Services), you will not have the right to change your mind.**

11.5 **How long do I have to change my mind?** How long you have to change your mind depends on whether you have purchased Goods and Services or Goods only, and, if you have purchased Goods only, how those Goods are delivered.

11.5.1 **Goods and Services.** If you have purchased Goods and Services, you have 14 days after the day we confirm that we have accepted your order. This means either 14 days after the day when we:

a) countersign the Contract Order Form;

- b) call you or write to you to accept the Contract Order Form; or
- c) start supplying the Products to you,

whichever is earlier.

If you cancel after we have started supplying the Products, you must pay us for the Products up until the time you tell us that you have changed your mind. We start supplying the Products to you as soon as we, for example, begin drawing a design or manufacturing part of a building, so you will need to pay us for any such work we have done for you up until the time you tell us that you have changed your mind.

11.5.2 **Goods only.** Unless we have made the Goods to your specification or they are clearly personalised (see clause 11.4.4):

- a) if you have purchased Goods only, you have 14 days after the day you (or someone you nominate) receives the Goods; or
- b) if the Goods are split into several deliveries over different days, you have 14 days after the day you (or someone you nominate) receives the last delivery to change your mind about the Goods.

11.6 **Ending the Contract where we are not at fault and there is no right to change your mind.** Even if we are not at fault and you do not have a right to change your mind (see clause 11.4), you can still end the Contract before it is completed, but you may have to pay us compensation. If we are supplying you with Goods only, the Contract is completed when the Goods are delivered. If we are supplying you with Goods and Services, the Contract is completed when we have finished providing the Services and you have paid for them. If you want to end the Contract before it is completed where we are not at fault and you are not exercising your right to change your mind (see clause 11.4), please contact us to let us know. The Contract will end immediately and we will refund any sums paid by you where due, but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for any and all net profits we have lost as a result of your ending the Contract.

## 12 HOW TO END THE CONTRACT

12.1 **Tell us you want to end the Contract.** To end the Contract, please let us know by contacting us using the details set out in clause 1 or, if you are exercising your right to change your mind, you may tell us by returning the notice of cancellation appended to the Contract Order Form.

12.2 **Returning Goods after ending the Contract.** If you end the Contract for any reason after the Goods have been dispatched to you or you have received them, you must return them to us. You must allow us to collect them from you. Please contact us using the details set out in clause 1 to arrange collection. If you are exercising your right to change your mind, you must allow us to collect the Goods within 14 days of our confirmation that we wish to collect the Goods.

12.3 **When we will pay the costs of return.** We will pay the costs of return:

12.3.1 if the Goods are faulty or misdescribed;

12.3.2 if you are ending the Contract because we have told you of an upcoming change to the Products or these Terms, or because you have a legal right to do so as a result of something we have done incorrectly;

In all other circumstances you must pay the costs of return.

12.4 **What we charge for collection.** If you are responsible for the costs of return and we are collecting the Products from you, we will charge you the direct cost to us of collection. We charge £800 plus VAT (for Mainland Britain) per collection.

12.5 **How we will refund you.** We will refund you for sums paid by you by an agreed method. However, we may make deductions from such sums, as described in clause 12.6.

12.6 **Deductions from refunds if you are exercising your right to change your mind.** If you are exercising your right to change your mind:

12.6.1 We may reduce your refund of sums paid by you to reflect any reduction in the value of the Goods if this has been caused by your handling them in a way which would not be permitted in a shop. If we refund you any sum before we are able to inspect the Goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.

12.6.2 Where the Product is a Service, we may deduct from any refund an amount for the supply of the Service for the period for which it was supplied, this will be capped from the point you informed us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the Contract.

12.7 **When your refund will be made.** We will make any refunds due to you as soon as possible. If you have purchased Goods only and are exercising your right to change your mind, your refund will be made within 14 days after the day on which we receive the Goods back. If you have purchased Goods and Services, and are exercising your right to change your mind, your refund will be made within 14 days of you telling us you have changed your mind. We will normally contact you to discuss the amount of your refund and any proposed deductions before making such refund.

## 13 OUR RIGHTS TO END THE CONTRACT

13.1 **We may end the Contract if you break it.** We may end the Contract at any time by writing to you if:

13.1.1 you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;

13.1.2 you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the Products;

13.1.3 you do not, within a reasonable time, allow us to deliver the Goods to you or collect them from us; or

13.1.4 you do not, within a reasonable time, allow us access to your property to supply the Services.

13.2 **You must compensate us if you break the Contract.** If we end the Contract in the situations set out in clause 13.1, we will refund any money you have paid in advance for Products we have not supplied but we may deduct or charge you reasonable compensation for any and all expenses, losses and profit we have incurred as a result of your breaking the Contract.

13.3 **Our short term right to end the Contract.** We may end the Contract at any time within 14 days after the day we confirm that we have accepted your order (see clause 11.5.1 for details on when this date will be) by writing to you if there is a material error in:

13.3.1 the Price;

13.3.2 the Specification, or any part of the Specification, including the concept design.

13.4 **We will refund you the Deposit if we exercise our short term right to cancel.** If we end the Contract for a reason set out in clause 13.3, the Contract will end immediately and we will refund you in full for the Deposit (if paid).

## 14 IF THERE IS A PROBLEM WITH THE PRODUCTS

14.1 **How to tell us about problems.** If you have any questions or complaints about the Products, please contact us. You can contact using the details set out in clause 1.

14.2 **Our legal duty in respect of the Products.** We are under a legal duty to supply the Products in a way that is in conformity with the Contract. For information about your legal rights, please visit the Citizens Advice website [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 03454 04 05 06.

14.3 **Your obligation to return rejected Goods.** If you wish to exercise your legal rights to reject Goods you must allow us to collect them from you. We will pay the costs of collection. Please contact us using the details set out in clause 1 to arrange collection.

## 15 YOUR RIGHTS IN RESPECT OF LATE OR INCORRECT DELIVERY

15.1 **Your legal rights if we deliver Goods late.** You may, in certain circumstances, have legal rights if we deliver any of the Goods late. For information about those rights, please contact Citizens Advice (see clause 14.2).

15.2 **How and when you must tell us about incorrect deliveries.** You must tell us if we have delivered the incorrect Goods or if the Goods delivered are short in writing within 7 days of the date we delivered the Goods to you. Whitlock & Lowe Ltd shall make good any shortage or errors in delivery of the Goods within a reasonable time of you having told us. Whitlock & Lowe Ltd shall not be liable for any loss resulting from such shortages or errors in delivery which you fail to tell us about within the 7 day timeframe set out in this clause 15.2.

## 16 PRICE AND PAYMENT

16.1 **Where to find the Price.** The Price (which includes VAT) will be the price as set out in the Contract Order Form.

16.2 **When you must pay (supply and install).** If we are supplying you with Goods and Services:

16.2.1 **Deposit.** You must pay to us the deposit set out in the Contract Order Form immediately upon entering the Contract (including any planning fees as applicable).

16.2.2 **Manufacture Payment.** Within 30 days of the date on which any planning application is approved (whether or not the planning application has been subject to amendment, alteration, resubmission, renewal, and/or appeal by either you or by Whitlock & Lowe Ltd), you must pay to us such sum as is required so that the total payments you have made to us equal 40% of the Price (the “**Manufacture Payment**”). For example, if you have paid a deposit equal to 10% of the Price, you will need to pay an amount equal to 30% of the Price. If planning permission is not required or if Whitlock & Lowe Ltd is instructed to proceed without such permission, you must pay to us the Manufacture Payment promptly upon entering the Contract and in any event within 30 days of entering into the Contract.

16.2.3 **Payment prior to delivery of the Goods.** You must pay to us a further 50% of the Price 14 days prior to the initial scheduled date for delivery of the Goods.

16.2.4 **Payment of the final balance.** You must pay to us the remaining 10% of the Price upon Whitlock & Lowe Ltd notifying you of completion of the Services.

16.3 **When you must pay (supply only).** If we are supplying you with Goods only:

16.3.1 **Deposit.** You must pay to us the deposit set out in the Contract Order Form immediately upon entering the Contract (including any planning fees applicable).

16.3.2 **Manufacture Payment.** Within 30 days of the date on which any planning application is approved (whether or not the planning application has been subject to amendment, alteration, resubmission, renewal, and/or appeal by either you or by Whitlock & Lowe Ltd), you must pay to us such sum as is required so that the total payments you have made to us equal 50% of the Price (the “**Manufacture Payment**”). For example, if you have paid a deposit equal to 10% of the Price, you will need to pay an amount equal to 40% of the Price. If planning permission is not required or if Whitlock & Lowe Ltd is instructed to proceed without such permission, you must pay to us the Manufacture Payment promptly upon entering the Contract and in any event within 30 days of entering into the Contract.

16.3.3 **Payment of the final balance.** You must pay to us the remaining 50% of the Price 14 days prior to the initial scheduled date for delivery of the Goods.

16.4 **We may suspend supply of the Products if you do not pay.** If you do not pay us for the Products when you are supposed to (see clauses 16.2 and 16.3) and you still do not make payment within 7 days of us reminding you that payment is due, Whitlock & Lowe Ltd may suspend supply of the Products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the Products. We will not suspend the Products where you dispute the unpaid amount on reasonable grounds. If we have to suspend supply of the Products, Whitlock & Lowe Ltd will normally resume supply of the Products within a reasonable time, but we do not guarantee the timing of the resumption of the supply of the Products.

16.5 **We can charge interest if you pay late.** As well as suspending supply of the Products (see clause 16.4), we can also charge you interest on your overdue payments. If you do not make any payment to us by the due date, we may charge you interest on the overdue amount at a rate of 4% a year above the base lending rate of Barclays Bank plc. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

16.6 **You must not withhold payments.** You are not entitled to withhold any payments as a result of any failure of any other supplier in complying with the terms of that supplier's agreement with you in connection with the Construction Project.

16.7 **The Price may change in certain limited circumstances.** We may change the Price to reflect any increase in supplying the Products so as to comply with changes in the building regulations, such as changes to the regulations relating to thermal insulation elements of the Products. If we do change the Price, we will notify you before the change takes effect.

## 17 YOUR PERSONAL INFORMATION

17.1 **How we may use your personal information.** We will only use your personal information as set out in our privacy policy. You can find our privacy policy on our websites.

17.2 **Photographs of the Construction Project.** Provided we comply with any and all relevant data protection laws, we may photograph the completed Construction Project for our records and/or for marketing purposes. We will own the intellectual property rights of any photographs that we take of the Construction Project.

## 18 OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU

18.1 **We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking the Contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both we and you knew it might happen.

18.2 **We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the Products, including the right to receive Products which are: as described and match information we provided to you and any sample or model seen or examined by you; of satisfactory quality; fit for any particular purpose made known to us; supplied with reasonable skill and care and, where fitted and installed by us, correctly fitted and installed; and for defective products under the Consumer Protection Act 1987.

18.3 **When we are liable for damage to your property.** If we are providing Services at your property, we will make good any damage to your property caused by us while doing so. However, we are not responsible for the following:

18.3.1 the cost of repairing any pre-existing faults or damage to your property that we discover while supplying the Services;

18.3.2 damage to your property that could have been prevented or reduced by you taking reasonable steps to protect your property (see clause 5.1.4); or

18.3.3 damage to your property while supplying the Products, such as damage to any lawn, hedge, driveway or building (including damage caused by heavy goods vehicles or machinery), unless such damage is a result of our failing to use reasonable care and skill.

18.4 **We are not liable for loss and damage caused by defects in adjoining buildings.** We are not responsible for loss or damage you suffer which is caused by defects in adjoining buildings to which the Goods are fixed, other than where we should have seen the defect and reasonably foreseen the loss or damage caused by the defect at the time of fitting and installation.

18.5 **Our liability to you for certain losses is limited.** Subject to clause 18.2, our total liability to you shall not exceed 125% of the Price, whether or not invoiced to you. However, the cap on our total liability to you set out in this clause 18.5 shall not apply where our liability arises out of breach of Terms implied into this Contract under the Consumer Rights Act 2015.

18.6 **We are not liable for business losses.** We only supply the Products for domestic and private use. If you use the Products for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

## 19 GOVERNING LAW

**Which laws apply to the Contract and where you may bring legal proceedings.** The Contract shall be governed by the laws of England and you can bring legal proceedings in respect of the Products in the English Courts. If you live in Scotland you can bring legal proceedings in respect of the Products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the Products in either the Northern Irish or the English courts.

## 20 OTHER IMPORTANT TERMS

20.1 **If a court finds part of the Contract illegal, the rest will continue in force.** Each of the paragraphs of these Terms operates separately. If any court or other relevant authority decides that any of them are unlawful in whole or in part the remaining paragraphs shall continue in full force and effect.

20.2 **Nobody else has any rights under the Contract.** The Contract is between us and you, the Customer. None of the Terms are intended for the benefit of any other person and no other person shall have any rights to enforce any of the Terms.

20.3 **If you are outside of the UK (supply only).** If we are supplying the Goods to you outside of the UK, you shall be responsible for complying with any relevant laws governing the importation of the Goods into your country and for the payment of any customs and duties in respect of the Goods. Regardless of any other provision of these Terms, we will supply the Goods to you on the following terms:

20.3.1 We will:

- a) prepare the Goods for you, suitably packed, ready for collection and loading by you (or your carrier);
- b) deliver the Goods when they come into your physical possession or the physical possession of your carrier;
- c) we are not responsible for loading or unloading the Goods; and
- d) we are not responsible for export clearance. However, we will provide you, with all the assistance required to obtain an export licence.

20.3.2 You will:

- a) bear the full costs and risks of carriage of the Goods to their ultimate destination, including loading and unloading; and
- b) be responsible for both export and import clearance.

20.4 **We may transfer the Contract to someone else.** We may transfer our rights and obligations under these Terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the Contract.

20.5 **You need our consent to transfer your rights to someone else.** You may only transfer your rights or your obligations under these Terms to another person if we agree to this in writing.

20.6 **Even if we delay in enforcing the Contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaking the Contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the Products, we can still require you to make the payment at a later date.

April 2022