

Standard Terms and Conditions
for the Supply of Goods and Services
BY
Wisteria Kitchens Limited

Wisteria Kitchens Limited Terms and Conditions

The following terms together with the documents referred to by them set out the whole agreement for the sale of goods and supply of services purchased from Wisteria Kitchens Limited. Please ensure you have read and understand these terms, they are binding once you order any products or services. Your attention is drawn in particular to the provisions of Clause 9. If you do not understand any term, please contact us before ordering.

Wisteria Kitchens Limited can be contacted by phone on 01626 202122 or by email to enquiries@wisteriakitchens.co.uk. Its registered office address is Wisteria Kitchens Limited, 3 Zealley Estate, Greenhill Way, Kingsteignton, Newton Abbot, Devon, TQ12 3TD and its company number is 08112798.

1. Interpretation

In these Terms:

a. "Consumer" means a person who is not dealing in the course of their business; "Contract" means a written contract between Us and You for the sale and purchase of the Goods incorporating these Terms; "Order" means your order for the Goods; "Goods" means the goods (or any part of them) set out in the Order; 'Services' means services for kitchen, Bedroom & Bathroom design and installations and any associated services we may offer such as, but not limited to. "Terms" means these terms and conditions; "We", "Us" and "our" means Wisteria Kitchens and Bedrooms Limited; "Working Day" means every day of the year except weekends and English bank holidays; and "You" and "your" means the person, firm or company ordering the Goods subject to these Terms.

b. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

c. Words in the singular include the plural and in the plural include the singular.

2. Basis of Sale

2.1 These Terms apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, subject to any variation under Clause 2.2.

2.2 Any variation to these Terms and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of Wisteria Kitchens and Bedrooms Limited. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in the Contract. Nothing in this clause shall exclude or limit our liability for fraudulent misrepresentation.

2.3 The Order constitutes an offer by you to purchase the Goods and Services in accordance with these Terms. It is your responsibility to carefully read the details in the Terms or in the Contract and to ensure they are complete and accurate before you commit yourself to the Contract. If you think that there is a mistake, please ensure you ask Us to confirm any changes in writing.

2.4 The Order shall only be deemed accepted when we issue a written acceptance of the Order in the form of the Contract, at which point the contract between us shall come into existence. We are not obliged to supply Goods or Services to you until we have confirmed acceptance of your Order and this is when the Contract is made.

2.5 Any quotation is given on the basis that no contract shall come into existence until a written Contract is signed. Any quotation is valid for a period of 14 days only from its date, provided that we have not previously withdrawn it.

2.6 The quantity and description of the Goods and Services shall be as set out in our quotation or Contract and any design plan provided to you. It is your responsibility to check the list of goods to be supplied and make sure that they are suitable for your needs. This includes the measurements of the goods.

2.7 Whilst We will use reasonable endeavours to verify the accuracy of any samples, drawings, or advertising We issue, and any descriptions or illustrations contained in our catalogues, website or brochures and those of the manufacturers supplying us, these are issued or published solely to provide You with an approximate idea of the Goods and Services they describe. They do not form part of the Contract or any other contract between you and Us for the sale of the Goods or Services unless indicated in the Contract.

2.8 The price set out in the Contract is conditional upon the manufacture of the Goods and provision of the Services proceeding as anticipated by us at the time of signature of the Contract. In the event that delivery of the Goods to Us by a third party or provision of the Services involves work or delay in addition to that anticipated by Us at the time of signature of the Contract than we reserve the right to increase the price for the Goods or Services. Any increase in the price will be at a reasonable cost, in accordance with the Supply of Goods and Services Act 1982.

2.9 You may need to employ a professional such as a decorator or plasterer to complete the works and any fees charged by a third party shall be your responsibility. We shall endeavour to tell you at the time we provide a quotation to you if we consider that additional third party services will be required.

2.10 If you instruct us to make any changes to the Goods or Services or if changes to the Goods and Services are necessary due to no fault of ours then We are entitled to amend the price set out in the Contract.

3. The Goods

3.1 We warrant to you that any Goods purchased from us are of satisfactory quality and reasonably fit for all the purposes for which Goods of the kind are commonly supplied.

3.2 We shall not be liable for a breach of the warranties in Clause 3.1 unless:

a. You give written notice of the defect to us within 7 days of the time when you discover or ought to have discovered the defect; and

b. We are given a reasonable opportunity after receiving the notice of examining such Goods or defect.

3.3 You acknowledge that you are responsible for:

a. Ensuring all instructions, handbooks, notices and warnings provided with Goods are properly understood and complied with at all times by all persons using the Goods or working within close proximity to them; and

b. Complying with all applicable regulations and legislation.

3.4 We shall not be liable for a breach of the warranties in Clause 3.1 if:

a. You make any further use of such Goods after giving notice in accordance with clause 3.2

b. The defect arises because of your failure to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice;

c. The defect arises as a result of us following any drawing, design or specification supplied by you

d. You alter or repair such Goods without the our written consent; or

e. The defect arises as a result of fair wear and tear, wilful damage, negligence by you or any third party, or abnormal working conditions.

3.5 Subject to Clauses 3.2, 3.3 and 3.4, if any of the Goods do not conform with the warranties in Clause 3.1 please notify Us and We shall at our option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if We so request, You return the Goods to Us at your expense.

3.6 These Terms apply to any repaired or replacement Goods We supply to you.

4. Consumer Rights

4.1 Where the Contract was made in your home or place of work, under The Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008, a Consumer has the additional legal right to cancel your Contract with us and receive a refund. To cancel your Contract You must inform us in writing of your desire within seven (7) Working Days of signature of the Contract. If you have asked Us to begin work on your order or to order goods from a third party which are non-refundable before the expiry of the seven day period, then we are entitled to charge you for the work We have undertaken and/or the goods we have ordered.

4.2 Nothing in these Terms shall exclude or restrict the legal rights you have as a Consumer. The warranties in Clause 3.1 and Clause 6 are in addition to your legal rights as a Consumer in relation to goods which are faulty or which otherwise do not conform with these Terms and services which are not carried out with due care and skill.

4.3 Consumers can obtain advice about their legal rights from their local Citizens' Advice Bureau or trading standards office.

5. Delivery and Installation

5.1 Delivery shall be completed on the Goods' arrival at the location set out in the Order or such other location as the parties may agree at any time.

5.2 Any dates specified by Us for delivery and installation of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery and installation shall be within a reasonable time.

5.3 Subject to the other provisions of these Terms, We shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery or installation of the Goods (even if caused by our negligence), nor shall any delay entitle You to terminate or rescind the Contract unless such delay exceeds 180 days.

5.4 Subject to the other provisions of these Terms We shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any error in the installation of the Goods (even if caused by our negligence).

5.5 If for any reason you fail to accept delivery of any of the Goods when they are ready for delivery, or we are unable to deliver or install the Goods on time because you have not provided appropriate instructions, documents, licences or authorisations:

- a. Risk in the Goods shall pass to you (including for loss or damage caused by our negligence);
- b. The Goods shall be deemed to have been delivered; and

c. We may store the Goods until delivery, whereupon you shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

5.6 If you have not taken delivery of the Goods within two weeks of our notifying you that they are ready, we may, after giving You reasonable prior notice in writing, resell or otherwise dispose of part or all of the Goods.

5.7 We may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle you to repudiate or cancel any other Contract or instalment.

5.8 If You have chosen to use our Services, then we warrant to you that all work carried out by Us shall be compliant with, where applicable, current Building Regulations and Part P of Schedule 1 to the Building Regulations 2000 and any gas installer We use shall be appropriately registered with Gas Safe (or the equivalent register from time to time).

5.9 Our normal working hours for provision of the Services are 9am to 5pm with one hour for lunch and two fifteen minute breaks.

5.10 We will endeavour to leave your premises in a reasonably clean and tidy condition.

6. Warranty

We warrant that installation work carried out by us will be free from defects for a period of twelve months from the final invoice date. Cover does not extend to goods supplied by others, physical damage, wilful misuse or instances where the installation has been altered or tampered with by third parties. The warranty also excludes fair wear and tear, fuses and other consumables.

7. Risk and Title

7.1 Goods will be your responsibility from the time of delivery.

7.2 Ownership of the Goods will only pass to you when We receive in full payment (in cash or cleared funds) of all sums due for the Goods or any other products and all other sums which are or which become due to Us on any account.

8. Deposit, Price and Payment

8.1 The deposit shall be payable as follows:

8.1.1 If We are only supplying You with Goods then We shall require a deposit of 33% of the total purchase price upon signature of the Contract and We shall invoice You for the balance of the total purchase price which shall be payable before delivery of the Goods.

8.1.2 If We are supplying You with Goods and Services then We shall require a deposit of 33% of the total purchase price upon signature of the Contract and We shall invoice You for 33% of the total purchase price which shall be payable before delivery of the Goods and the final 34% of the total purchase price shall be payable upon completion of the Services.

8.2 We shall determine when completion of the Services has taken place.

8.3 Unless otherwise agreed by us in writing, the price for the Goods and Services shall be the price set out in the Contract, subject to clause 2.10.

8.4 You must pay any invoice from us in pounds sterling within the number of calendar days of the date as specified on the invoice. If no time is specified on the invoice then payment must be made within 14 days. Time for payment shall be of the essence. Any payment shall not be deemed received until we have received cleared funds.

8.5 All payments payable to us under the Contract shall become due immediately on its termination despite any other provision. You shall not be entitled to withhold payment of any sums after they become due by reason of any right of set-off or Counter claim which You may have or allege to have or for any other reason whatsoever. We may at any time, without limiting any other rights or remedies it may have, set off any amount owing to Us by You against any amount payable by Us to You.

8.6 If you fail to pay us any sum due pursuant to the Contract We shall reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. If your purchase is not connected with a business, You shall be liable to pay interest to Us on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment.

8.7 We do not accept payments by credit card.

9. Limitation of Liability

9.1 Nothing in these Terms shall limit or exclude our liability for:

- a. Death or personal injury caused by our negligence or that of our servants, agents or employees;
- b. Fraud or fraudulent misrepresentation;
- c. Breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- d. Defective products under the Consumer Protection Act 1987;
- e. Any matter in respect of which it would be unlawful for us to exclude or restrict liability; or
- f. Any deliberate breaches of these Terms by Us that would entitle you to terminate the Contract.

9.2 Subject to Clause 9.1:

a. Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the purchase price of the Goods and, where applicable, the Services; and

b. We shall not be liable to You, whether in contract, tort (including negligence or breach of statutory duty), or otherwise, for any loss of profit or indirect or consequential loss whatsoever (howsoever caused) arising out of or in connection with the Contract including in connection with third party contractors.

c. You will indemnify Us in respect of any liability, loss, claim or proceeding whatsoever arising whether under Statute or at Common Law in respect of any damage to property or the death of or injury to any person caused by or by the use of any Goods sold by Us to You unless in the cases of death or personal injury only, such death or injury shall be proved to have been caused by our negligence or that of our employees.

10. General Conditions

10.1 Events beyond our control. We shall not be liable to You where performance of any of our obligations to You is prevented, frustrated or impeded by acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, or any other cause not within our reasonable control.

10.2 Assignment and subcontracting. The Contract between You and Us is binding on you and us and on our respective successors and assigns. You shall not be entitled to assign the Contract or any part of it without our prior written consent, which we will not withhold unreasonably. We may assign the Contract or any part of it to any person, firm or company.

10.3 Notices. Any notice (or other communication) given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail. Notice will be deemed received and properly served 1 Working Day after an e-mail or fax is sent or the second Working Day after posting on after the date of posting of any letter. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

10.4 Severance. If any part of these Terms is found to be unenforceable as a matter of law, all other parts of these Terms shall not be affected and shall remain in force.

10.5 Waiver. Failure or delay by us in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. If we do waive a default by you, that will not mean that we will automatically waive any subsequent default by you. No waiver by us of any of these Terms shall be effective unless we expressly say that it is a waiver and we tell you so in writing.

10.6 Without prejudice. Each right or remedy of ours under the Contract is without prejudice to any other right or remedy of us whether under the Contract or not.

10.7 Third party rights. A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

10.9 Governing law and jurisdiction. These terms are to be governed by English law and we both agree to the non-exclusive jurisdiction of the English courts.