

YOUR ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 9

1. Definitions

1.1 The following definitions apply to these Terms and Conditions:

- (a) **we, us, our:** Gelder Joinery Limited
- (b) **you, your:** you, the customer.
- (c) **Contract:** these terms and conditions, the Specification and Quotation as accepted by us in writing following your Order.
- (d) **Deposit:** the deposit specified in clause 4.1.
- (e) **Job:** the design, construction and installation of the item(s) to be made predominantly of wood as specified in the Quotation.
- (f) **Order:** your indication to us that you wish to offer us the Job on the basis of the Quotation.
- (g) **Quotation:** the quotation for the Job which forms part of the Contract.
- (h) **Site:** your site where our item is to be installed.
- (i) **Special Terms and Conditions:** special terms and conditions set out in the Quotation that prevail over these Terms and Conditions.
- (j) **Specification:** the specification of the Job as set out in the Quotation.
- (k) **Terms and Conditions:** these terms and conditions that form part of the Contract between us and you
- (l) **VAT:** value added tax in force from time to time.

2. Quotation

- 2.1 Acceptance of the Quotation for the Job by you shall not constitute a contract unless confirmed by us in writing.
- 2.2 Subject always to availability of plant, labour and materials at the time of your Order and unless otherwise stated in writing, the Quotation shall remain open for one calendar month from the date thereof, after which it may be subject to revision or withdrawal.
- 2.3 This quotation assumes that, following mobilisation of our labour and equipment, we shall be able to work progressively in an economic manner, without cessation, to completion. Any costs arising from any delay or disruption caused to the progress of our works by others or instructions issued by you shall be paid in addition to our quoted price in accordance with clause 4.3. Should we be required to demobilise from your Site and remobilise then an additional charge of £1,000 will be paid by you.
- 2.4 These Terms and Conditions are incorporated in any contract unless otherwise agreed by us in writing. In the event of any conflict between these Terms and Conditions and any Special Terms and Conditions set out in the Quotation the Special Terms and Conditions shall prevail.
- 2.5 The Quotation is exclusive of VAT which shall be added where applicable.
- 2.6 As the supplier of services to you we have a duty to assess the Contract for VAT to determining whether there are taxable supplies and the rate of VAT that applies. If you believe that the Job should be exempt or zero rated it is your responsibility to produce a certificate signed by an appropriate VAT officer prior to the

commencement of the Job to that effect. In the absence of such a certificate we will charge VAT at the standard rate.

- 2.7 We reserve the right to increase the price of the Job, by giving you notice at any time before delivery, to reflect any increase in the cost to us of the raw materials for the Job that is due to:
- (a) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, materials and other manufacturing costs);
 - (b) any request by you to change the delivery date(s), quantities or types of materials used, or the Specification; or
 - (c) any failure on your part to give us adequate or accurate information or instructions in respect of the Job.

3. Customer's obligations

3.1 You will:

- (a) ensure that the terms of the Order and the Specification are complete and accurate;
- (b) co-operate with us in all matters relating to the Job;
- (c) provide us with access to your Site as reasonably required by us to complete the Job;
- (d) provide us with such information as we may reasonably require and ensure that such information is accurate in all material respects;
- (e) ensure that your Site is prepared for the installation;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Job before the date on which we are to start installation; and
- (g) keep and maintain all our materials, equipment, and other property at your Site in safe custody.

3.2 If our performance of any of our obligations in respect of the Job is prevented or delayed by any act or omission by you or your other contractors or failure by you or your other contractors to perform any relevant obligation (**Your Default**):

- (a) we may, without limiting our other rights or remedies, suspend performance of Job or any of our obligations under this Contract until you remedy Your Default;
- (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure to perform or delay in performing any of our obligations under this Contract; and
- (c) you will reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from Your Default.

4. Payment

4.1 You will pay a Deposit of 40% of the Quotation price at the time you ask us to accept your Order. We will not accept your Order until we have received such Deposit in cleared funds.

- 4.2 A further 40% of the Quotation price shall be paid immediately we notify you that we are ready to install the item at your site.
- 4.3 The balance of the Quotation price and any additional amounts arising under this Contract shall be paid immediately following acceptance by you of the installation of the item(s). You may not retain any sums due to us following acceptance of the Job by you.
- 4.4 All payments should be made to: Lloyds Bank Ltd. 1-5 High Street, Carfax Oxford, OX1 4AA. Sort code 30-96-35, account number 70709668.
- 4.5 We will supply you with VAT invoice for all payments due from you.
- 4.6 If any payment set out above is not paid in full (together with any applicable VAT) by its due date:
- (a) you will pay us simple interest at the rate of 5% over the Bank of England base rate applicable at the due date such interest accruing daily from the due date of the payment until the actual date of payment; and
 - (b) we shall be entitled to suspend all or part of our work until such time as we are paid in full with accrued interest.
- 4.7 The legal ownership of the materials used for the Job remains with us until such time as you have met your payment obligations under this Contract in full.

5. Measurement

- 5.1 We will use due skill and care to ensure that the items we make fit their location at your Site at the time they are installed by us.
- 5.2 Should any adjustments be required for a period of one month after acceptance of the installation of the item by you we will make such adjustments free of charge.
- 5.3 You acknowledge, however, that wood is a living material and, whilst we use well-seasoned wood for all our jobs, subject to clause 5.2, we cannot be held responsible for changes in the properties or shape of the wood due to changes in relative humidity, other weather related causes.
- 5.4 You agree to indemnify us and to pay for any increase in our costs caused:
- (a) by subsidence, shift or heave in your Site after we have taken measurements of the Site and prior to or within three months of installation;
 - (b) poor preparation of the Site by other contractors;
 - (c) delay and or disruption because of instructions issued by you or caused by others contractors at your Site; or
 - (d) as a result of your failure to pay us on time.

6. Timing

- 6.1 We will endeavour to meet any installation dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Job.
- 6.2 Any agreed completion date shall be subject to a fair extension of time for any delay or disruption which could not have been envisaged by an experienced joiner at the time of making the Quotation. Unless any delay or disruption is because of our

negligence or wilful fault, we shall be entitled to recover any additional costs we incur under clause 5.4.

7. Risk

Risk in the Job passes to you upon installation and you should insure the Job from that point forward.

8. Intellectual property rights

All Intellectual Property Rights in or arising out of or in connection with the Job shall be owned by us.

9. Marketing

We reserve the right to photograph our Job at your Site and to use such photographs for any reasonable marketing purpose such as on our website, in interior design magazines or in brochures. We will not identify the location of the Job or your name without your prior consent.

10. Limitation of liability

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10.1 Nothing in these Conditions shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

10.2 Subject to clause 10.1:

- (a) we will not be liable under any circumstances whatever to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 40% of the value of this Contract before VAT; and
- (c) we have insurance cover for employer's liability and public liability claims for which we are legally liable. Our public liability cover is for £5 million for any one occurrence. At your request we will provide you with copies of our insurance cover notes. We believe that this is a reasonable level of cover for us to carry, but should you, for a specific reason, require higher cover please let us know. You will indemnify us against all liabilities, costs, expenses,

damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by us in connection with any claim made against us in connection with the Job for the amount by which any claim exceeds our public liability insurance cover or to the extent that such claim is not covered our public liability insurance.

10.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

10.4 This clause 10 shall survive termination of the Contract.

11. Confidentiality

11.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

11.2 This clause 11 shall survive termination of the Contract.

12. Termination

12.1 Without limiting its other rights or remedies either party may terminate the Contract by giving the other party written notice.

12.2 On termination of the Contract for any reason:

- (a) you shall immediately pay us:
 - (i) all of our outstanding unpaid invoices and interest; and
 - (ii) a further invoice to be issued by us after termination of the Contract in respect of costs (including labour, materials and any orders we have place or commitments made to third parties with respect to the Job which we are unable to cancel) incurred by us on the Job but for which no invoice has yet been submitted;
- (b) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

13. Force majeure

- 13.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond our reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 13.2 We will not be liable to you as a result of any delay or failure to perform our obligations under this Contract as a result of a Force Majeure Event.
- 13.3 If a Force Majeure Event prevents us from completing the Job for more than eight weeks, we will, without limiting our other rights or remedies, have the right to terminate this Contract immediately by giving written notice to you.

14. COMPLAINTS POLICY

We always endeavour to provide the best service and products for our customers. However, on rare occasions, we recognise that there may be times where our customers may not be completely satisfied.

To ensure we are able to put things right as soon as we can, please read our complaints procedure below and we will respond promptly to ensure complete satisfaction.

14.1 As soon as possible after the completion of the works, please inspect the work to ensure everything has been carried out to our usual high standards.

14.2 In the unlikely event there is anything you are not completely satisfied with, please contact us as soon as you can in order that we can rectify any problems as soon as possible. Either call us on 01865 247197 or write to us at Gelder Joinery Ltd, 15B Station Field Industrial Estate, Kidlington, Oxford OX5 1JD.

or email us at info@gelderjoinery.co.uk

We aim to respond within 1 day of receiving your complaint and where possible, will provide you with a date to remedy any issues raised.

14.3 Where we are unable to resolve your complaint using our own complaints procedure, as a Which? Trusted trader we use the Dispute Resolution Ombudsman for dispute resolution. In the unlikely event that we cannot remedy your complaint to your satisfaction you may wish to refer your complaint to them. If you wish to do so please contact Which? Trusted traders in the first instance on **0333 241 3209**.

15. General

- 15.1 Assignment and other dealings
- (a) We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- (b) You will not, without our prior written consent, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of your rights or obligations under the Contract.

15.2 Notices

- (a) Any notice or other communication given to a party under or in connection with this 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 delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, at 9.00 am on the first Business day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

15.3 Severance

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver

A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the

agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties

A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 Variation

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier.

15.8 Governing law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

15.9 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).