

AUDREY JOHNS LIMITED: TERMS AND CONDITIONS OF BUSINESS ( 2015 )

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## OUR TERMS

These are our Standard Terms of Business which will apply to all orders and instructions to provide Goods and/or Services.

### 1. Definitions

1.1. When the following words with capital letters are used in these terms, this is what they will mean:

EVENT OUTSIDE OUR CONTROL: is defined in clause 12.2;

ORDER: your order for the goods and/or services as set out in the estimate;

GOODS: the goods we create for you as set out in the estimate;

SERVICES: the services that we are providing to you as set out in the estimate;

TERMS: the terms and conditions set out in this document; and

WE/OUR/US: Audrey Johns Limited (Registered Number 05405669) of Unit 1A & 1B Brunel Quay, Neyland, Pembrokeshire, SA73 1PY.

1.2. When we use the words "writing" or "written" in these terms, this will include e-mail unless we say otherwise.

### 2. Our contract with you

2.1 These are the terms and conditions on which we supply the goods and/or services to you.

2.2 Please ensure that you read these terms carefully, and check that the details on the estimate and in these terms are complete and accurate, before you sign to confirm your acceptance of the estimate. If you think that there is a mistake or require any changes, please contact us to discuss. We will confirm any changes in writing to avoid any confusion between you and us.

2.3 When you confirm the estimate, this does not mean we have accepted your order for services. Our acceptance of the order will take place as described in clause 2.4. If we are unable to supply you with the goods and/or services, we will inform you of this and we will not process the order.

2.4 After you have confirmed the estimate and we have confirmed receipt of that acceptance, at which point a contract will come into existence between you and us.

2.5 We shall assign an order number to the order and inform you of it when we confirm the order. Please quote the order number in all subsequent correspondence with us relating to the order.

2.6 The images of any goods on our website or in our brochures are for illustrative purposes only. Although we have made every effort to display the goods accurately, we cannot guarantee that your computer's display of the colours or the printed pictures accurately reflect the colour of our goods. Your goods may vary slightly from those images.

### 3. Changes to Order or terms

3.1 Particularly following changes in relevant laws and regulatory requirements.

3.2 If we have to revise these terms under clause 3, We will give you at least one month's written notice of any changes to these terms before they take effect. You can choose to cancel the contract in accordance with clause 12.4.

3.3 Because the goods are made to your specific requirements, unfortunately you will not be able to cancel an order once it is made without incurring a charge.

### 4. Made-to-Measure Goods

4.1 We make the goods according to the measurements you provide us.

4.2 Please make sure your measurements are correct and accurate. Unfortunately, we cannot accept the return of made-to-measure goods if the reason for the return is because you provided us with incorrect measurements. This will not, however, affect your legal rights as a consumer in relation to made-to-measure goods that are faulty or not as described.

### 5. Delivery of Goods

5.1 This clause applies to orders made by you for goods only. See clause 8 for the delivery of goods when services are also provided.

5.2 Please note that timescales for delivery and delivery charges will vary depending on the availability of the goods and your address.

- 5.3 We will contact you with an estimated delivery date. Occasionally, our delivery to you may be affected by an event outside our control. See clause 12 for our responsibilities when this happens.
- 5.4 If you have asked to collect the goods from our premises, you can collect the goods from us at any time during our working hours [as set out on our website] or by appointment.
- 5.5 If we are unable to deliver the whole of the order at one time due to operational reasons or a shortage of stock, we may deliver the order in instalments.
- 5.6 Delivery of an order shall be completed when we deliver the goods to the address you gave us or you collect them from us. The goods will be your responsibility from that time.
- 5.7 You own the goods once we have received payment in full.

## 6. If the Goods are faulty

- 6.1 If the goods are faulty or not as described in the estimate, you have legal rights in relation to those goods. Nothing in these terms and conditions will affect these legal rights.

## 7. Our guarantee of Goods

- 7.1 We guarantee that on delivery the goods shall be free from material defects. However, this guarantee does not apply in the circumstances described in clause 7.2.
- 7.2 This guarantee does not apply to any defect in the goods arising from:
  - (a) fair wear and tear;
  - (b) wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party;
  - (c) if you fail to use or handle the goods in accordance with the user instructions and care guides;
  - (d) any alteration or repair by you or by a third party who is not one of our authorised repairers;and
  - (e) any specification provided by you.
- 7.3 This guarantee is in addition to and does not affect your legal rights in relation to goods that are faulty or not as described.

## 8. Providing the Services

- 8.1 A project plan will be included in the estimate setting out the project requirements and specifications of the services to be provided including:
- (a) a description of work to be done; and
  - (b) the date on which the services are due to commence (the commencement date) and the date on which the services are to be completed (the completion date).
- 8.2 We will supply the services to you in accordance with the project plan.
- 8.3 We will make every effort to complete the services on time. However, there may be delays due to an event outside our control. See clause 11.4(e) for our responsibilities when an event outside our control happens.
- 8.4 We will need you to complete the following in order for us to provide the services:
- (a) ensure that the information supplied to us (for example measurements and details of the physical structure or integrity of the building in which the goods may be installed is complete and accurate;
  - (b) ensure that the order details contained in the estimate are complete and accurate;
  - (c) provide us with any other information as reasonably required for the performance of the services, and ensure that such information is accurate;
  - (d) provide us or our employees or contractors with access to the premises at which the services are to be provided; and
  - (e) provide us with adequate free parking accessible from the premises at which the services are to be provided for the duration of the services.

We will contact you for information before producing the estimate. If you do not comply with the above requirements, or you provide us with incomplete or incorrect information, we may make an additional charge of a reasonable sum to cover any extra work that is required, or we may suspend the services by giving you written notice. We will not be liable for any delay or non-performance where you have not provided this information to us after we have asked. If we suspend the services under this clause 8.4, you do not have to pay for the services while they are suspended, but this does not affect your obligation to pay for any invoices we have already sent you.

- 8.5 You will be charged in respect of communication costs, accommodation and travel reasonably incurred by us in the performance of the services.
- 8.6 We may have to suspend the services if we have to deal with technical problems on our part. We will contact you to let you know in advance where this occurs, unless the problem is urgent or an emergency. You do not have to pay for the services while they are suspended under this clause 8.5 but this does not affect your obligation to pay any invoices we have already sent you.
- 8.7 If you do not pay us for the services in accordance with clause 10.3, we may suspend the services with immediate effect until you have paid us the outstanding amounts (except where you dispute an invoice under clause 10.7). We will contact you to tell you this. This does not affect our right to charge you interest under clause 10.6.
- 8.8 Where our On Site Installation Services have been requested and a cost for those services has been agreed , we reserve the right to invoice a full daily Installation Cancellation Fee for each of the attending installers labour costs, tolls, parking , congestion charges where applicable in the event of cancellation at the clients request for any reason, within 48 hrs of the scheduled calendar installation date and / or on the requested calendar day of the installation itself if deemed by ourselves that site isn't ready at that time. A return to site at a requested later date will incur the original Installation Fee as per the accepted project quotation.

## 9. If there is a problem with the Services

- 9.1 In the unlikely event that there is any defect with the goods and/or services:
- (a) please contact us and tell us as soon as reasonably possible;
  - (b) please give us a reasonable opportunity to repair or fix any defect; and
  - (c) We will use every effort to repair or fix the defect as soon as reasonably practicable.
  - (d) You will not have to pay for us to repair or fix a defect with the goods and/or services under this clause 9.1.
- 9.2 As a consumer, you have legal rights in relation to services not carried out with reasonable skill and care, or if the materials we use are faulty or not as described. Nothing in these terms will affect these legal rights.

## 10. Price and payment

- 10.1 The price of the goods and/or services will be set out in the estimate and must be confirmed by you to place the order. Our prices may change at any time, but price changes will not affect orders that we have confirmed with you.
- 10.2 If the rate of VAT changes between the date of the order and the date of delivery or performance, we will adjust the rate of VAT that you pay, unless you have already paid for the goods and/or services in full before the change in the rate of VAT takes effect.
- 10.3 Where we are providing goods and no additional services to you, you must pay a 50% deposit at the time that you place the order. Payment of the outstanding balance must be provided in advance, before the goods are despatched. Cheques should be made payable to Audrey Johns Limited and sent to Unit 1A & 1B Brunel Quay, Neyland, Pembrokeshire, SA73 1PY. We accept payment with most credit and debit cards, however a 3% fee is charged. We will not charge your credit or debit card until we despatch the goods to you.
- 10.4 Where we are providing services or a combination of goods and services to you, We will ask you to make an advance payment of 50% of the price of the goods and services at the time that you place the order. Your rights to a refund on cancellation are set out in clause 12.4. We will invoice you for the balance of the goods and services [on the completion date as set out in the estimate. OR [any time after we have provided the goods and performed the services. OR we will invoice you monthly in arrears for the goods and/or services from the commencement date as set out in the estimate until the services are completed.] Each invoice will quote the order number. You must pay each invoice in cleared monies within 7 calendar days at the date of invoice by one of the payment methods set out in the invoice. We accept payment with most credit and debit cards, however a 3% fee is charged.
- 10.5 Any delay to the dates as agreed in the project plan and contained in the estimate will not vary the dates for payment, unless expressly agreed by us, at our absolute discretion.
- 10.6 If you do not make any payment due to us by the due date for payment as indicated on your invoice, we may charge interest to you on the overdue amount at the rate of 3% a year above the base lending rate of HSBC Bank PLC from time to time. 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.

10.7 However, if you dispute an invoice in good faith and contact us to let us know promptly after you have received an invoice that you dispute it, clause 10.6 will not apply for the period of the dispute.

## 11. Our liability to you

11.1 If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of the terms or our negligence. Loss or damage is foreseeable if it is an obvious consequence of our breach or if it was contemplated by you and us at the time we entered into this contract.

11.2 If we are installing the goods and/or providing services in your property, we will make good any damage to your property caused by us in the course of installation or performance. However, we are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover in the course of installation and/or performance by us.

11.3 We do not exclude or limit in any way 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 sections 3, 4 and 5 of the supply of goods and services act 1982 (description, satisfactory quality, fitness for purpose and samples); and
- (e) defective products under the consumer protection Act 1987.

## 12. Events Outside Our Control

12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these terms that is caused by an event outside our control.

12.2 An event outside our control means any act or event beyond our reasonable control, including with out limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat

or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.

- 12.3 If an event outside our control takes place that affects the performance of our obligations under these Terms:
- (a) We will contact you as soon as reasonably possible to notify you; and
  - (b) Our obligations under these terms will be suspended and the time for performance of our obligations will be extended for the duration of the event outside our control. Where the event outside our control affects our performance of services to you, we will restart the services as soon as reasonably possible after the event outside our control is over.
- 12.4 You may cancel the contract if an event outside our control takes place and you no longer wish us to provide the services. Please see your cancellation rights under clause 12.4. We will only cancel the contract if the event outside our control continues for longer than four weeks in accordance with our cancellation rights in clause 12.4.

### 13. Your rights to cancel and applicable refund

- 13.1 Before we begin to provide the services, you have the following rights to cancel an order for services, including where you choose to cancel because we are affected by an event outside our control or if we change these terms under clause 3 to your material disadvantage:
- 13.2 You may cancel any order for services [at any time before the commencement date for the services] by contacting us. We will confirm your cancellation in writing to you;
- 13.3 If you cancel an order under clause 13.2 and you have made any payment in advance for goods and/or services that have not been provided to you, we will refund these amounts and any delivery charges to you;
- 13.4 However, if you cancel an order for goods and/or services under clause 13.2 and we have already started work on your order by that time, you will pay us any costs we reasonably incurred in starting to fulfil the order, and this charge will be deducted from any refund that is due to you or, if no refund is due to you, invoiced to you. We will tell you what these costs are when you contact us. However, where you have cancelled an order because of our failure to comply with these terms (except where we have been affected by an event outside our control), you do not have to make any payment to us.

- 13.5 Once we have begun providing the services to you, you may cancel the contract for the services at any time by providing us with at least 30 calendar days' notice in writing. Any advance payment you have made for goods and/or services that have not been provided will be refunded to you.
- 13.6 Once we have begun making the goods or providing the services to you, you may cancel the contract for services with immediate effect by giving us written notice if:
- (a) We break this contract in any material way and we do not correct or fix the situation within 30 days of you asking us to in writing;
  - (b) We go into liquidation or a receiver or an administrator is appointed over our assets;
  - (c) We change these terms under clause 3 to your material disadvantage;
  - (d) We are affected by an event outside our control.

#### 14. Our rights to cancel and applicable refund

- 14.1 We may have to cancel an order to make goods or before the commencement date for the services, due to an event outside our control or the unavailability key personnel or key materials without which we cannot provide the services. If this happens:
- (a) We will promptly contact you to let you know; and
  - (b) if you have made any payment in advance for services that have not been provided to you, we will refund these amounts to you.
- 14.2 Where we have already started work on your order for goods and/or services, we will not charge you anything and you will not have to make any payment to us.
- 14.3 Once we have started making or have begun to provide the services to you, we may cancel the contract for the goods and/or services at any time by providing you with at least 30 calendar days' notice in writing. If you have made any payment in advance for services that have not been provided to you, we will refund these amounts to you.
- 14.4 We may cancel the contract for services at any time with immediate effect by giving you written notice if:
- (a) you do not pay us when you are supposed to as set out in clause 10.3. This does not affect our right to charge you interest under clause 10.6; or

(b) you break the contract in any other material way and you do not correct or fix the situation within 30 days of us asking you to in writing.

## 15. Information about us and how to contact us

- 15.1 We are a company registered in England and Wales. Our company registration number is 05405669 and our registered office is at Unit 1A and 1B Brunel Quay, Neyland, Pembrokeshire, SA73 1PY. Our registered VAT number is 862397983.
- 15.2 If you have any questions or if you have any complaints, please contact us. You can contact us by telephoning our customer service team at 01646 602152 or by e-mailing us at [info@audrey-johns.co.uk](mailto:info@audrey-johns.co.uk).
- 15.3 If you wish to contact us in writing, or if any clause in these terms requires you to give us notice in writing (for example, to cancel the contract for goods and/or services which we have started to provide), you can send this to us by e-mail, by hand, or by post to Audrey Johns Limited at [info@audrey-johns.co.uk](mailto:info@audrey-johns.co.uk). We will confirm receipt of this by contacting you in writing. If we have to contact you or give you notice in writing, we will do so by e-mail, by hand, or by post to the address you provide to us in the order.

## 16. How we may use your personal information

- 16.1 We will use the personal information you provide to us to:
- (a) provide the goods and/or services;
  - (b) process your payment for such goods and/or services; and
  - (c) inform you about similar products or services that we provide. Please contact us at any time to stop any such correspondence.
- 16.2 We will not give your personal data to any other third party.

## 17. Other important terms

- 17.1 We may transfer our rights and obligations under these terms to another organisation, and we will always notify you in writing if this happens, but this will not affect your rights or our obligations under these terms.
- 17.2 You may only transfer your rights or your obligations under these terms to another person if we agree in writing.
- 17.3 This contract is between you and us. No other person shall have any rights to enforce any of its terms.
- 17.4 Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 17.5 If we fail to insist that you perform any of your obligations under these terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

These terms are governed by English law. Both parties irrevocably agree 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, its subject matter or formation (including non-contractual disputes or claims).