

**ANDERSON SINCLAIR LTD - GENERAL CONDITIONS OF SALE**

Terms and Conditions of Business of Anderson Sinclair Limited of 13A Oakwood Hill Industrial Estate, Oakwood Hill, Loughton, Essex, IG10 3TZ.

It is the intention of the Company that all terms of the agreement (Agreement) between the Customer and the Company are contained in this Agreement and specifications provided in writing to the Customer.

**1 DEFINITIONS**

1.1 The following expressions shall have the following meanings:

1.2 "Supplier" means ANDERSON SINCLAIR LIMITED (Company No: 6821171) of 13A Oakwood Hill Industrial Estate, Loughton Essex IG10 3TZ.

1.3 "Customer" means any person who purchases Services and/or Products from the Supplier;

1.4 "Proposal" means a statement of work, quotation or other similar document describing the Services and/or the Products;

1.5 "Services" means the services as described in the Proposal and includes any materials required to complete the work;

1.6 "Products" means any products supplied by the Supplier to the Customer;

1.7 "Terms and Conditions" means the terms and conditions of supply of Services and/or Products set out in this document and any subsequent terms and conditions agreed in writing by the Supplier;

1.8 "Order" means the formal acceptance by the Customer of the Proposal;

1.9 "Agreement" means the contract between the Supplier and the Customer for the provision of the Services and/or Products incorporating these Terms and Conditions;

1.10 "Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, right to extract or exploit information from a database, database rights, know-how, confidential information or process, any application for any of the above, and any other Intellectual Property Right recognised in any part of the world whether or not presently existing or applied for;

1.11 "Adjudicator" is the party nominated to resolve a dispute between the Customer and the Supplier.

1.12 "The Parties" means the Supplier and the Customer

**2 GENERAL**

2.1 These Terms and Conditions shall apply to the Agreement for the supply of Services and/or Products by the Supplier to the Customer and shall supersede any other

documentation or communication between the Supplier and the Customer.

2.2 Any variation to these Terms and Conditions must be agreed in writing by the Supplier.

2.3 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Services and/or Products, by virtue of any statute, law or regulation.

2.4 Whilst the Representative will work closely with the Customer on a design/quotation that meets his/her needs it is the Customer's ultimate responsibility to ensure that ordered items are suitable in terms of colour, style, size and functionality for those needs. Once the Company has ordered goods and/or services as part of an order placed by the Customer under this Agreement the Company shall have the right to levy cancellation charges should the Customer subsequently cancel all or part of the order.

2.5 Although the Company may be prepared to agree to certain changes to the original terms of the contract, this will be on the understanding that it does not infringe the Company's full rights under the contract and that it does not prevent the Company from exercising those rights in the future.

2.6 We love to show off our work, so we reserve the right to display all aspects of our creative work, including sketches, work in progress designs, and completed projects on our portfolio and in articles on websites, in magazine articles and in books.

**3 PROPOSAL**

3.1 The Proposal for Services and/or Products is attached to these Terms and Conditions. By receiving the Terms and Conditions and not replying with questions, concerns, or changes you confirm your agreement to be bound by these terms and conditions.

3.2 The Proposal for Services and/or Products shall remain valid for a period of 28 days.

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3.3 The Proposal must be accepted by the Customer in its entirety.

3.4 The Customer shall be deemed to have accepted the proposal by placing an Order with the Supplier.

3.5 The Agreement between the Supplier and the Customer, incorporating these Terms and Conditions, shall only come into force when the Supplier confirms an Order in writing to the Customer. Prior to a confirmation the Supplier has the right to refuse any Order.

**4 SERVICES, PRODUCTS AND DELIVERY**

4.1 The Services and/or Products are as described in the Proposal.

4.2 Any variation to the Services and/or Products must be agreed by the Supplier in writing.

4.3 Any drawings, descriptions or specifications contained in advertising material, brochures or catalogues issued by the Supplier are for the sole purpose of giving an approximate idea of the Products and/or Services and will not form part of any Agreement unless otherwise agreed in writing by the Supplier.

4.4 The Services and/or Products will be delivered between the hours of 08:00 and 17:00 Monday to Friday. The Supplier may vary these times by intimating in writing details of the change to the Customer.

4.5 Dates given for the delivery of Services and/or Products are estimates only and not guaranteed. Time for delivery shall not be of the essence of the Agreement and the Supplier shall not be held liable for any loss, costs, damages, charges, or expenses caused directly or indirectly by any delay in the delivery.

4.6 If for any reason beyond the Company's reasonable control, the Company is unable to supply a particular item of furniture or a particular appliance the Company will notify the Customer. With the agreement of the Customer the Company will replace it with an item of equivalent standard and value.

4.7 The Company will do all that it reasonably can to meet the date given for delivery and/or installation. In the case of unforeseen circumstances beyond the reasonable control of the Company, the Company may not be able to do so. In such circumstances the Company will contact the Customer and agree an alternative date.

4.8 The Customer will also do all that he/she reasonably can enable delivery and/or installation to take place on the given date. In the case of unforeseen circumstances beyond the reasonable control of the Customer, the Customer may not be able to do so. In such circumstances the Customer will contact the Company at the earliest possible opportunity and agree an alternative date.

4.9 Where the Company has agreed to supply and install the furniture and/or appliances, the Company will ensure that the quality of the furniture and/or appliances supplied will be to a satisfactory standard and also that the kitchen will be installed in the Customer's home to a satisfactory standard.

4.10 Where the Company has agreed to only supply the furniture and/or appliances, the Company guarantees that the quality of the furniture and/or appliances will be to a satisfactory standard. The Company is not responsible for the installation of the furniture and/or appliances. Any installation of the furniture and/or appliances is the sole responsibility of the Customer further the Company assumes that the Customer will employ the services of a competent person to undertake the installation of said furniture and/or appliances and is not obliged to provide any additional information or support regarding the installation of the goods supplied. The Company shall not be responsible for any damage or loss in respect of the units supplied by the Company arising out of or associated with any such installation of the furniture and/or appliances by the Customer or the Customer's installer.

4.11 Where the Company has agreed to disconnect or turn off the Customer's gas appliance(s) as part of the installation process the Company's employees and/or sub-contractors will take all reasonable care in doing so. The Customer accepts that the Company bears no responsibility or liability whatsoever in the event that said appliances fail to re-ignite or operate correctly upon turning on and/or re-connection.

4.12 All tolerances on products supplied will be the manufacturers tolerances, if you wish to know the manufacturers tolerances prior to placing an order with us they are available upon request. Any defects or imperfections on manufacturers products need to be noticeable at arm's length which is the industry standard.

## 5 PRICE AND PAYMENT

5.1 The price for Services and/or Products is as specified in the Proposal and any other charges as outlined in the Proposal, unless stated to the contrary.

5.2 The price for any materials required to complete the Services is inclusive in the Proposal unless stated otherwise.

5.3 The terms for payment are as specified in the Proposal.

5.4 The Customer must settle all payments for Services and/or Products from the invoice date.

5.5 The Supplier is also entitled to recover all reasonable expenses incurred in obtaining payment from the Customer where any payment due to the Supplier is late.

5.6 The Customer is not entitled to withhold any monies due to the Supplier.

5.7 The Supplier is entitled to vary the price to take account of:

5.7.1 any additional Services and/or Products requested by the Customer which were not included in the original Proposal;

5.7.2 any increase in the cost of materials;

5.7.3 any additional work required to complete the Services which was not anticipated at the time of the Proposal; and any variation must be intimated to the Customer in writing by the Supplier.

5.8 Prices quoted by the Supplier to the Customer relate to the supply of materials and work to be undertaken by the Supplier in the Customer's premises or such other premises as may be agreed between the Parties (The Premises). Said prices are based upon information supplied to the Supplier by the Customer during preparation of the Proposal and through the survey. If, during execution of the works covered by this Agreement, the Supplier, their representative or assigned contractors identify additional work or materials essential to the successful completion of the project the Company will advise the Customer and agree with them the most practical solution giving due consideration to cost and timings.

5.9 The Company may make minor modifications to the specifications without notifying the Customer where such modifications are required as a result of the installation process provided that such modifications do not materially affect the appearance, design and quality of the Goods.

5.10 The Company does all it reasonably can to ensure the price quoted by the Representative at the time of the contract is correct. It is recognised that the kitchen is a made to measure product and that prices quoted are based upon information supplied to the Representative by the Customer and the Representative's reasonable observations if he or she visits the Customer's premises.

5.11 Where the need for additional materials and/or work is identified as detailed in Clause 5.8 of this agreement the Parties will attempt to agree on a revised price or other mutually acceptable solution. In the event that a new price or alternative solution cannot be agreed then either party is entitled to terminate the contract. In circumstances where the incorrect pricing has resulted from an error in information provided by the Customer to the Company with regard to the premises where the kitchen is to be installed, and in particular to the services and drainage available to those premises, and termination of the contract has occurred in accordance with the provisions of this Clause, then the Company will not make to the Customer any further payment for any loss the Customer may suffer.

## 6 CUSTOMER OBLIGATIONS

6.1 The Customer will provide access to the Supplier at the times specified in these Terms and Conditions and will co-operate with all reasonable requests by the Supplier.

6.2 The Customer will provide electricity, water gas where necessary and toilet facilities to the Supplier for the purpose of completing the Services.

6.3 The Customer will apply for, obtain, and meet the cost of all necessary approvals and permissions required to complete the Services prior to the commencement of the work.

6.4 The Customer will take all reasonable steps to ensure that the Supplier does not sustain any damage or loss to any equipment stored on site.

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6.5 The Customer shall be liable for any expenses incurred by the Supplier as a result of the Customers failure to comply with the obligations as defined by these Terms and Conditions.

6.6 The Customer agrees to give the Company's representatives and/or sub-contractors access to the premises for the purposes of delivery and/or installation or subsequent visits that may be necessary for completion of the installation.

6.7 The Customer is advised and accepts that the installation may cause damage to decoration. It is anticipated that the kitchen will require redecoration following completion of the installation. This will be the Customer's responsibility and is not included in the price unless specifically set out otherwise in the Company's written quotation. For the avoidance of doubt this provision does not exclude the Company's responsibility for any damages which are beyond what is reasonably commensurate with the fitting of the kitchen in the usual way (for example, damage to other areas of the premises where kitchen units/appliances are not being fitted).

**7 SUPPLIER OBLIGATIONS**

7.1 The Supplier shall supply the Services and/or Products as specified in the Proposal.

7.2 The Supplier shall perform the Services with reasonable skill and care and to a reasonable standard and in accordance with recognised codes of practice.

7.3 The Supplier shall comply with all relevant health and safety regulations.

7.4 The Supplier shall be registered with the appropriate organisation for the purpose of self-certification or notify building control to arrange for an inspection of the work carried out if so required to do so in terms of the relevant building regulations.

7.5 In addition to the undertakings specified in Clause 7.4 the Supplier shall ensure that all necessary licences and permissions required to provide the Services and/or Products are current.

7.6 The Supplier shall hold valid employer and public liability insurance policies.

7.7 Where included in the written quotation accepted by the Customer, the Company will clear away and dispose of any debris created by the installation or remedial work. In any event

the Company will leave the Customer's premises in a clean and tidy condition following completion of any installation or remedial works undertaken by its employees or sub-contractors.

**8 CANCELLATION**

8.1 The Customer may cancel an Order for Services and/or Products by notifying the Supplier in writing within 36 hours of placing the Order and any monies paid by the Customer will be refunded in full subject to the deduction of an administration charge of £1,500.00 or as determined by the Supplier.

8.2 If the Customer does not notify any cancellation within the time specified in Clause 8.1 any monies paid will not be refundable.

8.3 If at any time the installation is, for a structural or technical difficulty, impractical, the Company shall, on request, provide written reasons for the difficulty to the Customer and may terminate this Agreement. If the Company terminates this Agreement under these conditions then any deposit paid will be refunded however, if the difficulty in question could not reasonably have been expected to have been anticipated by the Representative, the Company will not make to the Customer any payment for any loss or damage the Customer may suffer as a result of that termination.

**9 INSPECTION OF PRODUCTS AND SERVICES**

The Customer shall inspect the Products and/or the Services on delivery and notify the Supplier of any damaged, missing, or defective items or work within 72 hours from the date of delivery.

**10 DEFECTIVE PRODUCTS AND SERVICES**

10.1 The Supplier guarantees that the Services and/or Products will be free from defects in materials and/or workmanship for a period of 12 months from the date that the Services and/or Products were supplied.

10.2 Clause 10.1 does not apply:

10.2.1 if a fault arises due to wilful damage, abnormal working conditions, failure to follow instructions, misuse, alteration

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or unauthorised repair, improper maintenance, or negligence on the part of the Customer or a third party.

- 10.2.2 If the Services and/or Products are found to be defective in accordance with these Terms and Conditions then the Supplier shall, at its sole discretion, either repair, re-perform or replace the Services and/or Products or refund any monies paid for the defective Services and/or Product
- 10.2.3 If the Customer has not paid for the Services and/or Products in full by the date the defect in Services and/or Products is notified to the Supplier then the Supplier has no obligation to remedy the defect in terms of this Clause 10.

**11 PROPERTY AND RISK**

- 11.1 Risk in the Products or in any property or materials used to provide the Services shall pass from the Supplier to the Customer when the Products or property or materials leave the premises of the Supplier or on delivery if the Supplier is transporting the items.
- 11.2 Adequate insurance should be held by both parties to protect the Products or any property or materials that are within their care.
- 11.3 Title or ownership of any property or materials belonging to the Supplier remains with the Supplier until payment is received from the Customer in full.
- 11.4 The Customer must store any property or materials belonging to the Supplier separately from any other property or materials belonging to the Customer or a third party.

**12 TERMINATION**

- 12.1 The Agreement shall continue until the Services and/or Products have been provided in terms of the Proposal or any subsequent date as mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions.
- 12.2 The Customer may terminate the Agreement if the Supplier fails to comply with any aspect of these Terms and Conditions and

this failure continues for a period of 7 days after notification of non-compliance is given.

- 12.3 The Supplier may terminate the Agreement if the Customer has failed to make over any payment due of the sum being requested.
- 12.4 Either party may terminate the Agreement by notice in writing to the other if:
- 12.4.1 the other party commits a material breach of these Terms and Conditions and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or
  - 12.4.2 the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or
  - 12.4.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or
  - 12.4.4 the other party ceases to carry on its business or substantially the whole of its business; or
  - 12.4.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

12.5 In the event of termination the Customer must make over to the Supplier any payment for work done and expenses incurred up to the date of termination.

12.6 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination. 5

### 13 WARRANTIES

13.1 The Supplier warrants that the Products will, at the time of delivery, correspond to the description given in the Proposal.

13.2 The Supplier warrants that the Services will be performed using all reasonable skill and care.

13.3 All appliances are supplied subject to any guarantees and after sales services that are offered by the manufacturers themselves, or where appropriate subject to the terms of any extended warranty scheme. Where the Customer has purchased the goods from the Company on a supply only basis it is the Customer's responsibility to ensure that their appointed installer installs the goods to the standards required by the manufacturer in order for their guarantee/warranty to be operative.

### 14 LIMITATION OF LIABILITY

14.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Supplier for death or personal injury, however the Supplier shall not be liable for any direct loss or damage suffered by the Customer howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the price of the Service and/or the Products.

14.2 The Supplier shall not be liable under any circumstances to the Customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the Customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise.

14.3 For the avoidance of doubt, time shall not be of the essence and the Supplier shall incur no liability to the Customer in respect of any failure to complete the Services or supply the Products by any agreed completion date.

### 15 INDEMNITY

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

### 16 SETTLEMENT OF DISPUTES

16.1 Any dispute arising under this Agreement will be referred to and decided by the Adjudicator.

16.2 The Adjudicator will be appointed by application to the Royal Institution of Chartered Surveyors.

16.3 A party wishing to refer a dispute to the Adjudicator shall advise the other party of this intention in writing at any time during the term of this Agreement. The dispute must then be referred to the Adjudicator within seven (7) days of this intention being intimated.

16.4 The Adjudicator shall act impartially and be free to take the initiative in ascertaining the facts and the law. The Adjudicator must reach a decision within twenty-eight (28) days of referral or such longer period as the parties may agree.

16.5 During the period of adjudication both parties must continue with their obligations as stated in this Agreement.

16.6 The decision of the Adjudicator is binding on both parties unless and until revised by legal proceedings, arbitration, or agreement.

16.7 The Adjudicator will decide which party is liable to meet the fees of the adjudication and in what proportion if both parties are held liable.

### 17 INTELLECTUAL PROPERTY RIGHTS

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

### 18 FORCE MAJEURE

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

**19 RELATIONSHIP OF PARTIES**

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

**20 ASSIGNMENT**

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

**21 SEVERANCE**

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

**22 WAIVERS**

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

**23 NOTICES**

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

**24 THIRD PARTY RIGHTS**

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

**25 ENTIRE AGREEMENT**

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

**26 GOVERNING LAW**

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

26.2 The Company and the Customer agree that these terms shall be governed by and construed in accordance with the Law of England.

I have read & accept the terms and conditions above.

Name (Print): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_