

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

Definitions and what these terms cover and why you should read them.

- 1.1 What these terms cover. These are the terms and conditions on which we supply, kitchen, bathroom or bedrooms ("Products") and they form the basis of the contractual relationship between us and you.
- 1.2 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 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.
- 1.3 In these Conditions the following words shall have the following meanings:
"Conditions" means the terms and conditions of sale set out below and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between us;
"Contract" means the contract for the purchase and sale of the Goods subject to these Conditions;
"Goods" means any and all goods (including any instalments or parts) and/or the services which we are to supply in accordance with these Conditions;
"Insolvency Event" means if you become insolvent, have a receiver appointed over the whole or any part of your assets, enter into any compound with creditors, or have an order made or resolution passed for you to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction) or if your ownership or control shall pass into the hands of any other legal person, or an event analogous occurs to you in any jurisdiction to which you are subject;
"Intellectual Property Rights" means any patent, know how, trade mark, service mark, trade name, registered design, copyright, moral right, design right, database right, semi-conductor topography right or any other industrial or commercial right including any application for registration or protection of any of the same anywhere in the world;
"Special Goods" means any of our standard products which we agree to modify to meet your specific requirements or products which are designed to your specification;
"We" "Us" means SWM Insulations Ltd) "You" means the customer whose order for the Goods is accepted by us.

Information about us and how to contact us

- 1.4 Who we are. We are (SWM Insulations Ltd) a [company registered] in England and Wales. Our company registration number is 07890811 and our registered office is at Town Station Hill Street Lydney Gloucestershire GL15 5HL Our registered VAT number is 126850511 [Our Kbsa Membership No.is 4/5010/R-FU]
- 1.5 How to contact us. You can contact us by telephoning our customer service team at [01594 842428] or by writing to us at escapologydesign.co.uk].
- 1.6 How we may contact you. If we have to contact you we will do so by email, telephone or by writing to you at the email address, number or postal address you provided to us in your order.
- 1.7 "Writing" includes emails. When we use the words "writing" or "written" in these terms, this includes emails.

BASIS OF THE SALE

- 2.1 We shall sell and you shall buy the Goods subject to these Conditions, which supersede any other terms and which govern the Contract to the exclusion of any terms and conditions which you may ask us to sign or supply or which are implied by trade, custom or course of dealing.
- 2.2 No terms or conditions endorsed upon, delivered with or contained in your order or other document will form part of the Contract simply as a result of such document being delivered to us or referred to in the Contract.
- 2.3 Any variation to these Conditions is of no effect unless agreed in writing by our authorised representative.
- 2.4 These Conditions constitute the entire agreement between you and us for the supply of the Goods.
- 2.5 Our employees or agents are not authorised to make any representation

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

concerning the Goods unless confirmed by us in writing, and you acknowledge that you do not rely on, and waive any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).

- 2.6 Any advice or recommendation we or our employees or agents may give to you as to the storage, application or use of the Goods which is not confirmed in writing by us is followed or acted upon entirely at your own risk.
- 2.7 Any typographical, clerical or minor/other error or omission in any document or information issued by us shall be subject to correction without any liability on our part.
- 2.8 We shall supply Special Goods subject to these terms and conditions and our Terms and Conditions of Sale of Special Goods which you will be required to sign before we will accept your order for Special Goods.

How our contract with you is formed

- 3.1 First Survey. If there is then an agreement in principle to visit the site where you intend the products to be installed to conduct a first survey and produce Perspective Images ("Perspectives").
- 3.3 Perspectives. Following the First Survey, you will be given a copy of the Perspectives for you to retain. The Perspectives forms part of the contract.
- 3.4 Quotation. We will issue you with a formal quotation including the Perspectives and costings which may include an initial payment. [This would also include any Draft Plans] and these terms and conditions (the "Quotation"). Our quotation is not an offer. Quotations shall be valid for 28 days from the date of quotation subject to withdrawal or revision by us at any time before we accept your order.
- 3.4.1 Prices included in quotations are applicable only if an order is placed for all Goods referred to in the quotation, if an order is placed for only some of the Goods referred to in the quotation, we reserve the right to re-quote.

3.4.2 Each order for Goods issued by you is an offer by you to purchase the Goods subject to these Conditions.

3.4.3 No order submitted by you by whatever means is accepted by us until we confirm our acceptance or (if earlier) we deliver the Goods to you.

3.4.5 You must ensure that the terms of any order (including any specification) are complete and accurate and that you give us any necessary information within a sufficient time to enable us to complete the order.

3.5 Our Terms Prevail. These terms and conditions shall apply to all contracts for the design, sale and supply of the products by us to you to the exclusion of all other terms and conditions, including any terms or conditions which you may purport to apply under any purchase order, confirmation of order or similar document subject to your statutory rights.

3.6 Signature evidence of Acceptance. All orders that you place with us for the products shall be deemed to be an offer by you to purchase these items pursuant to these terms and conditions. Your signature on the Customer Confirmation Sheet shall be deemed conclusive evidence of your acceptance of these terms and conditions.

3.7 Variations. Any variation to these terms and conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless we agree to the changes in writing.

3.8 Note. For clarity the drawing and specification sheet included in the [Quotation] forms part of the contract. You will be deemed to understand and accept all the details contained in the Specification.

3.9 When is the contract formed? Our acceptance of your order will take place when we write to you to confirm receipt of your initial payment and confirm the specifications for what you have ordered, at which point a contract will come into existence between you and us.

3.10.1 If we cannot accept your order. If we are unable to accept your order, we will inform you of this [in writing] and will not charge you for the service. This might be because the items are out of stock, because of unexpected

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

limits on our resources which we could not reasonably plan for, because we have identified an error in the price or description of the products, because we are unable to meet a delivery deadline you have specified, or due to an adverse survey, inability to secure planning permission, the site being a listed building or other restrictions.

- 3.10.2 Your order number. We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.

Price increases

- 4.1 Our Quotation is based on our prices at the time of the contract. If there is a price increase to us before delivery of the Products then we reserve the right to increase our contract price to you if delivery of the products is more than 6 weeks from date of contract.
- 4.2 We will advise you of this increase and you will have the right to cancel the contract and be entitled to a refund of any prepayments less our reasonable costs to produce the Specification.
- 4.3 [All Quotations are based on the fact that all surfaces, walls, floors, structural, electrical, gas, water and other services where the products are to be installed are or will be made fit for the purpose designated in the contract unless otherwise specified. Should such surfaces or services be found to be unsuitable, you will be advised in writing by us of the reasons for any additional cost to the contract price].

Our Draft Plans and Specification designs

- 5.1 The Draft Plan used to prepare Quotations belong to us until such time as you pay the final balance for the contract.
- 5.2 The Draft Plans are for guidance purposes only. If computer aided design is used then this is subject to additional visual differences or additional colour variations.
- 5.3 We own all intellectual property rights arising in or out of the Draft Plans

and the Specification and therefore you may not reproduce, either totally or in part, any of our Draft Plans or Specifications without our written consent.

Risk in and ownership of the products

- 6.1 When you become responsible for the products. The products will be your responsibility from the time we deliver the products to the address you gave us.
- 6.2 When you own the products. You own the products once we have received payment in full.
- 6.3 Our right to repossess the products. Until you become the owner of the products you shall (i) hold the products and each item of them on trust for us and for our benefit (ii) store the products (at no cost to us) separately from all other products in your possession and marked in such a way that they are clearly identified as our property and (iii) upon request, deliver up such of the products as we may require (and if you fail to do so, then we may enter upon any premises, owned, occupied or controlled by you where the products are situated and repossess the products).

Product specification variation

- 7.1 We rely on the information supplied in the manufacturer's literature and where there is a variation to the specification of products featured, we will advise you of this at the point of purchase.
- 7.2 Due to the naturally sourced products used, variations in colour and grain may occur which are beyond our control; such variations will not entitle you to terminate the contract, refuse to pay the full contract price, or claim compensation.

Payment

- 8.1.1 Initial Payment. [We may require you to pay an Initial Payment as a 50% of the total price for the products when you place an order for the products with us. Due to the nature of our work, the initial Quotation may change as

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

part of the design process, but we will inform you of any changes and provide an amended Quotation to reflect this.]

The Balance

We will invoice you for:

- 8.2.2 the balance of the price for the products which shall be due and payable and received in cleared funds no later than 7 days prior to delivery ("Pre Delivery Balance").
- 8.2.5 When payment is due if you delay delivery. It is your responsibility to make sure payment of the Pre Delivery Balance is made on or before its original due date. If you delay the delivery date or do not accept the products for any reason on or before the delivery date, then the due date for payment of the Pre Delivery Balance will remain no later than 7 days prior to the original delivery date.
- 8.2.6 VAT. VAT is chargeable at the prevailing rate applicable at the time of the supply of the products and invoice. Should the law at any time change in relation to VAT or in the event of HM Customs and Excise ruling that VAT is chargeable on items we zero rated on your order, we reserve the right to collect the VAT due from you at any subsequent date.
- 8.3 We can charge interest if you pay late. If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate of Lloyds Bank from time to time. This interest shall accrue daily 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.
- 8.4 What payment methods you can use. Our preferred methods of payment are by Debit Card or BACS to Lloyds Bank Sort Code 30-66-77 A/C 34513860.
- 8.5 Your liability for payment. You will, by your signature on the Contract, accept liability for payment for the products Any third party whom we on your instructions invoice for the products will be deemed to be acting as your agent and you should draw their attention to this Contract.

- 8.6 Promotional Offers and Discounts. Any promotional offers or discounts that we negotiate with you are to be treated as settlement discounts and are conditional on the balance of the price being paid on time and within the terms of the Contract.]

Delivery

- 9.1 Delivery of the Goods shall be made by you collecting the Goods from us after we have notified you that the Goods are ready for collection, or if delivery is to be made by us, by us delivering the Goods.
- 9.2 What happens if there are delays beyond our control? We will make every effort to ensure that delivery dates are adhered to but if there are delays beyond our reasonable control, then we will advise you and agree revised dates. We will not be liable for any damages, loss, costs or expenses arising as a result of any delays occasioned by the nonarrival of any item comprised within the products, including without limitation any parts or replacement parts. 9.3 What happens if items are damaged? If any items are damaged then we will replace them free of charge as long as we are advised of the damage within 1 day of the delivery and the damage is caused by our act or omission. Some replacement items may be subject to delay if they have been specially ordered or commissioned for the contract. If you give reasonable notice that you are unable to commit to the agreed delivery schedule for the replacement items then we may store the replacement items at our premises and charge you for storage.
- 9.4 What must I do to make the site suitable for delivery of the products? It is your responsibility to make fit, available and safe for work and use (i) all means of access to and from the work area; and (iii) all services and utilities to the work area, in order to enable us to carry out the delivery of the products both safely and efficiently and in a timely fashion. If you fail or delay to do so, then we in our discretion are entitled to defer such delivery date until that state is achieved in and around the work area. For the avoidance of doubt this shall include: (c) Insurance Cover against fire/flood/theft/malicious damage etc. for materials on site during installation; (d) Parking, on or in the immediate vicinity of site, for at least

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

one tradesman's van must be available at all times throughout the duration of the delivery Where parking permits are required you must ensure that permits are obtained and prepaid if necessary.

9.4.1 Our Access Rights. You authorise and permit all our representatives to have full and free access to your work area at mutually agreed times so that we/they can carry out or arrange to be carried out such surveys and/or works as we/they consider reasonably necessary.

9.5 We may also suspend delivery of the products if you do not pay. If you do not pay us for the products when you are supposed to and you still do not make payment within 10 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts.

What happens if you suspend delivery of the products

9.6.1 If you suspend delivery of the products we will have the right to charge for any of the additional storage costs etc. that we incur as a result.

9.6.2 If the delay in accepting delivery of the products continues for more than 1 month, the full payment for the products will become due immediately.

Warranties

10.1 Manufacturer's Warranty. Warranties will depend on the products supplied under the contract and will be advised to you at the time of contract. Particularly any electrical or gas appliances will be covered by the manufacturer's warranty. Any guarantees confirmed by us will be dependent on your full payment of the purchase price for the product to which the guarantee relates; and compliance with any notification or registration requirements required by the manufacturer of the relevant product.

10.1.1 You agree to immediately notify us of any claim made by any consumer under the consumer Protection Act 1987 or any other consumer protection legislation relating to a manufacturing defect in the goods ("Consumer Claim").

10.1.2 You shall pass immediate and complete control to us of any Consumer Claims should we request. You will not prejudice any defence we or our supplier's may have to such Consumer Claim and will give to us all reasonable assistance with such Consumer Claim as we request.

10.2 Our Product Guarantee. If we make any of the products they are guaranteed against manufacturing defects for a period of [10] years from purchase/delivery This excludes normal wear and tear and also excludes the natural variation in pattern and colour of timber and veneers. During this period we will make good, replace or repair any defective of faulty items free of charge. If we do this we shall have no further liability for a claim under this guarantee in respect of such products. However, we reserve the right to offer a partial or full refund in circumstances where, in our opinion, the repair or replacement of the item(s) is not possible or impractical].

10.3 Our product guarantee shall not apply unless you give written notice of the defect(s) to us, and (if the defect is as a result of damage in transit) within 7 days of the time when you discover or you ought to have discovered the defect and we are given reasonable opportunity after receiving notice to examine such products. This guarantee shall not apply unless our invoice is fully paid, or if you make any further use of such products after giving such notice, or the defect arises because you have misused the products, or failed to follow our oral or written instructions as to the installation, commissioning, use or maintenance of the products, or you alter or repair such products without our written consent.

10.5 Your Statutory Rights. Nothing in these conditions will reduce your statutory rights relating to faulty or misdescribed goods or workmanship. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens Advice Bureau.

Bespoke Nature of Our Products

11.1 Subject to your statutory rights you have no contractual right to cancel or suspend the whole or any part of the Contract. In the event that you do (or purport to) cancel or suspend the whole or part of the contract ("Cancellation") we shall not be obliged to accept such Cancellation and

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

reserve all our rights and remedies. You acknowledge that certain elements of the products are made-to-measure, or made to your specifications or clearly personalised or by their nature cannot be returned and so cannot therefore be readily resold by us as there is no available market and they cannot be returned by us to the manufacturers and that therefore we would suffer loss, damages, costs and expenses arising from such Cancellation (together "Losses").

11.2 Each design is classified as a bespoke designed product. It is not possible to return for refund any product that has formed part of the design i.e. Excess End Panels, plinth etc.

11.2 If we accept Cancellation, we shall be entitled to levy and you shall meet the following charges as a reasonable pre estimate of the losses which would be suffered by us arising from such. We shall be entitled to:
if the products are not under manufacture at the time the Cancellation is accepted then, we shall charge for Cancellation of [£1.500]; and
if the products are already under manufacture when the Cancellation is accepted, then we shall charge for Cancellation of a sum which is equal to 80% of the price for the products.

Our rights to end the contract.

12.1 We may end the contract if you break it. We may end the contract at any time by writing to you if:
(a) you do not make any payment to us when it is due and you still do not make payment within 14 days of us reminding you that payment is due;
(b) you do not, within a reasonable time, allow us to deliver the products to you; or
(c) you do not, within a reasonable time, allow our representatives access to your premises to deliver the products;
(d) there is an adverse survey of where you wish to install the products.

12.2 You must compensate us if you break the contract. If we end the contract in the situations set out above we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

12.3 We may withdraw the products. We may write to you to let you know that we are going to stop providing the products. We will let you know at least three months in advance of us stopping the supply of the products and will refund any sums you have paid in advance for products which will not be provided.

12.4 We may end the contract if something occurs that affects our ability to supply the products which is outside of our control. This could include the manufacturer of the products becoming bankrupt affecting the supply of the products including adverse import costs or any other reason that is acting in good faith outside of our reasonable control concerning the supply of the products.

What to do if there is a problem with the products

13.1 How to tell us about problems. If you have any questions or complaints about the products, please contact us. You can telephone our customer service team at 01594 846222 or email us at info@escapologydesign.co.uk Alternatively, please speak to one of our staff in-store.

Our responsibility and liabilities

14.1 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 this 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 us and you knew it might happen, for example, if you discussed it with us during the sales process.

14.2 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

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

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 for defective products under the Consumer Protection Act 1987.

14.3 When we are liable for damage to your property. If we are providing services in your property, we will make good any damage to your property caused by us while doing so.

14.4 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.

How we may use your personal information

15.1 We will use the personal information you provide to us:
(a) to supply the products to you;
(b) to process your payment for the products;
(c) to provide third party installers or delivery couriers with information about your order; and if you agreed to this during the order process, to inform you about similar products that we provide, but you may stop receiving these at any time by contacting us.
(d) We will only give your personal information to third parties where the law either requires or allows us to do so or you have given your permission.
Other important terms

16.1 We may transfer this agreement 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.

16.2 You need our consent to transfer your rights to someone else (except that you can always transfer our guarantee). You may only transfer your rights or your obligations under these terms to another with our express prior written agreement. However, you do not need our agreement to transfer the benefit of our guarantee in clause

16.3 Nobody else has any rights under this contract (except someone you pass your guarantee on to). This contract is between you and us. No other person shall have any rights to enforce any of its terms.

16.4 If a court finds part of this contract illegal, the rest will continue in force. 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.

16.5 Even if we delay in enforcing this 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 this 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.

16.6 Which laws apply to this contract and where you may bring legal proceedings? These terms are governed by English law 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.

16.7 Alternative dispute resolution. Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use at the Kbsa. You can submit a complaint to the Kbsa via their website at www.kbsa.org.uk. The Kbsa will not charge you for making a complaint and if you are not satisfied with the outcome you can still bring legal proceedings.

16.8 Kbsa consent. You acknowledge that it is a condition of membership of

SWM Insulations Ltd (Escapology Design) Customer Terms & Conditions

the Kbsa that each member must make available to the Kbsa a full list of its customers together with their contact details for the various purposes of the Kbsa (including without limitation, accreditation, re-accreditation, applications for membership and membership upgrades and periodic customer service reviews). Accordingly, you give all consents required by law (including without limitation under the Data Protection Acts and superseding data protection legislation) for us to supply the Kbsa with your name and all such contact details whenever required by Kbsa. For the avoidance of doubt this information will not be used by the Kbsa for marketing purposes.

15 ENGLISH LAW

These Conditions and the contract between us are subject to English law and the exclusive jurisdiction of the English courts.

DATA PROTECTION ACT 1998 NOTICE

Where I/we provide you with personal data ("data"), I/we understand that the data will be held securely in confidence and processed for the purposes of carrying out your business and associated activities ("Activities"). In considering my/our application, I/we accept that you may consult with and disclose the data to credit reference agencies, banks, credit insurers and other responsible organisations outside your business that you have nominated ("third parties"), and that such third parties may process the data. I/we understand that under the Act I/we have the right to know what data you hold on me/us if I/we apply to you in writing and pay the applicable fee. I/we agree that you may use the data to contact me/us with details of other products and services. Unless I/we have written to you objecting to ou using the data for such purpose I/we agree that you may contact me/us by post, telephone, fax, e-mail, via the Internet, or other communication means.