



OUR TERMS

1. DEFINITIONS

- 1.1 When the following words with capital letters are used in these Terms, this is what they will mean:
- 1.1.1 **Contract Price:** the price of the Box and/or Services set out on the Order together with the costs of any extras, modifications or changes to the Specification agreed between you and us after agreement of the Order and, if applicable, Value Added Tax;
 - 1.1.2 **Completion Date:** the estimated completion date (as may be extended pursuant to the provisions of these Terms) for your Box such that the same is ready for delivery to your premises;
 - 1.1.3 **Delivery Date:** the estimated delivery date (as may be extended pursuant to the provisions of these Terms) for the delivery of the Box to your premises where we have agreed in the Order to deliver and/or install the Box as part of the Services and/or the completion of any other Services or the requisite part of such Services detailed in the Order;
 - 1.1.4 **Event Outside Our Control:** is defined in clause 13.2;
 - 1.1.5 **Order:** your order for the Box and/or Services a copy of which is attached to these Terms;
 - 1.1.6 **Box:** the Box(es) that we have agreed to supply to you pursuant to the Order;
 - 1.1.7 **Services:** the planning consultancy and/or delivery and/or groundwork and/or installation services that we have agreed to supply to you as set out in the Order;
 - 1.1.8 **Stage Payments:** the installments for payment of the Contract Price as set out on the Order;
 - 1.1.9 **Specification:** the specification, drawings and plans for any Box and/or the nature of the Services that we have agreed with you (a copy of which is attached to the Order) and which shall form part of the Order;
 - 1.1.10 **Terms:** the terms and conditions set out in this document; and
 - 1.1.11 **We/Our/Us** Berts Boxes (Box 9 Design Ltd) whose registered Office is at 134a High St, Lewes, BN71XS, UK
- 1.2 When we use the words "writing" or "written" in these Terms, this will include e-mail unless we say otherwise.
- 1.3 Notwithstanding that any Order may provide for the construction of a Box and Services, the Order shall be deemed to create two separate and independent contracts, one being for the construction of a Box and the other being for the provision of Services.
- 1.4 Notwithstanding that any Order may provide for the construction of more than one



Box, the Order shall be deemed to create separate and independent contracts for each Box.

2. OUR CONTRACT WITH YOU

- 2.1 These are the terms and conditions on which we will supply the Box, or Services, or both the Box and Services, to you.
- 2.2 Please ensure that you read these Terms carefully, and check that the details on the Order and (if applicable) in the Specification and in these Terms are complete and accurate, before you sign the Order and any Specification. If you think that there is a mistake or require any changes, please contact us to discuss. Any changes are only accepted by us if we confirm acceptance of such changes in writing.
- 2.3 Your order for a Box is only accepted by us (at which point there shall be a binding contract between you and us) once both you and we have signed the Order and the Specification and a deposit payment is received.
- 2.4 Your order for any Services is only accepted by us (at which point there shall be a binding contract between you and us) once both you and we have signed the Order and (if applicable) the Specification and agreed in writing the details of the relevant services to be provided.
- 2.5 If any of these Terms conflict with any term of the Order, the Order will take priority.
- 2.6 The images of Boxes on our website or in any of our brochures are for illustrative purposes only and are published for the sole purpose of giving an approximate idea of the type of Boxes and services that we provide.
- 2.7 Any copyright or similar intellectual property rights in any manuals, plans, drawings or specifications prepared by us or our employees, agents or sub-contractors shall remain our property.

3. CHANGES TO ORDER OR SPECIFICATION

- 3.1 Notwithstanding clause 9.2 no modifications or changes to the Order, the Specification, any agreed Delivery Date or the Contract Price shall be binding on you and us unless and until such changes have been set out in writing and signed by you and us.
- 3.2 Where any change is agreed pursuant to clause 3.1 or arises under clause 3.3 as a result of any change to any applicable legislation or regulation then the Contract Price shall be amended to reflect any additional costs to be incurred by us or savings made.
- 3.3 Notwithstanding clause 3.1 we shall be entitled to make minor changes to the Specification without your consent where the same does not affect the size, layout, appearance or finish or adversely affect the quality or functionality of the relevant Box or where such change arises from any change to any applicable legislation or



regulation.

- 3.4 For the avoidance of doubt, we shall have the right to decline any modification or change to the Specification proposed by you after the date of Order.
- 3.5 Save as provided in clauses 10.3 and 14, unfortunately, because your Box is designed and manufactured to your specific requirements, you will not be able to cancel an Order for a Box once the Order is made.

4. COMPLETION AND DELIVERY OF BOX

- 4.1 Unless otherwise indicated in the Order, the Contract Price is “ex works”. In the circumstances, unless we agree that we will deliver the Box as part of the Services, you will be responsible for the additional cost for delivery and siting.
- 4.2 Please note that timescales for the Completion Date and/or the Delivery Date are reasonable estimates only and we shall keep you regularly updated on progress. We may from time to time need information or instructions from you in order to keep the build progressing. We will contact you about this. If you do not, after being asked by us, provide us with this information or instructions, or you provide us with incomplete or incorrect information or instructions, we may make an additional charge of a reasonable sum to cover any extra work that is required, or we may suspend the build pending receipt of such information or instructions.
- 4.3 Where we are arranging delivery to your premises as part of the Services you are responsible for ensuring that access to the site is available on the due date for delivery and that all necessary groundworks have been completed to the appropriate standard prior to the Box being delivered. You will be responsible for any additional costs that we have to incur where installation has to be delayed or further site visits are required because we were unable to obtain access to the relevant site and/or groundworks were not completed to a sufficient stage and/or standard. Where we are to deliver the Box to your premises this will only be to the site shown on the Order unless otherwise agreed by us.
- 4.4 If you are arranging your own delivery and installation then the Box must be collected from our premises within 7 days of us informing you that the Box has been completed and is available for collection. Boxes must be collected by prior appointment so that we can make sure that the Box is in a position at our premises to facilitate easy collection. Unless the delay in collection arises from our inability to make the Box readily available for collection, you will be responsible for reasonable storage charges for any period in excess of the said 7 day period. Such reasonable storage charges (which shall not be less than £300 per week plus VAT) will have to be discharged in full prior to us agreeing to release the Box for collection.
- 4.5 If we are installing the Box and/or providing Services at your premises, we will make good any damage to such premises caused by our negligence in the course of installation or performance. However, for the avoidance of doubt, we will not be



responsible where such damage cannot reasonably be avoided given, by way of example and without limitation, the nature of either the Box and/or the installation or access requirements and/or the ground conditions.

5. ACCESS, INSPECTION AND STAGE PAYMENTS

- 5.1 Where we have agreed Stage Payments we will give you 7 days' notice of the anticipated date for completion of each stage of construction. On expiry of that notice you are required to verify and certify that the relevant stage has been satisfactorily completed (such certification not to be unreasonably withheld or delayed). The relevant Stage Payment will then be immediately due and payable.
- 5.2 If you fail to pay the full amount of any Stage Payment or other sum due to us on the due date without good reason then we reserve the right to stop construction on your Box until all sums properly due have been discharged. Where construction is stopped pursuant to this clause 5.2, you will be responsible for reasonable storage charges during such stoppage (which shall not be less than £300 per week plus VAT) and such storage charges will have to be discharged in full prior to us agreeing to recommence construction work.
- 5.3 Where clause 5.2 applies any estimated Completion Date or Delivery Date shall be extended by the period of any delay in payment.
- 5.4 Where any delay in payment continues for more than 28 days then we may, without affecting any of our contractual rights against you:-
 - 5.4.1 require immediate payment of the full balance of the Contract Price following receipt of which we shall complete the construction and provide the Services; or
 - 5.4.2 terminate the contract between us and sell the Box in accordance with clause 15

6. OUR QUALITY GUARANTEE OF BOXES

- 6.1 In addition to and without limiting any statutory rights that you may have we provide the following warranties in respect of our Boxes:
 - 6.1.1 that the Box will be of satisfactory quality and reasonably fit for the purposes for which buildings of this type are commonly used or (where you have indicated a specific proposed purpose) the specific purpose made known by you to us prior to the date of the Order; and
 - 6.1.2 correspond with the Specification and any variations, additions or modifications made in accordance with these Terms; and
 - 6.1.3 be free from defects in materials and workmanship for a period of 12 months from the date upon which we notified you that the Box was completed and ready for collection from our premises; and
 - 6.1.4 the exterior materials, if maintained correctly, are guaranteed a period of 30



- years; and
- 6.1.5 the roofing material is guaranteed for 25 years; and
- 6.1.6 the under skin, if undisturbed, is guaranteed for a lifetime; and
- 6.1.7 comply with any applicable legislative requirements or regulations in the UK
- 6.2 In addition to the provisions of clause 6.1, we shall endeavour to transfer to you the benefit of any additional warranties (subject to the terms of such warranties) that may be supplied by any third party in respect of any components or equipment used in the Box.
- 6.3 The guarantee in clause 6.2 does not apply to any defect in the Box arising from:
 - 6.3.1 fair wear and tear;
 - 6.3.2 wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party;
 - 6.3.3 any alteration or repair by you or by a third party who is not authorised by us to undertake the relevant repair; and
 - 6.3.4 our adherence to any specification provided by you or your agents.
- 6.4 Clause 6.1 is subject to you providing to us:
 - 6.4.1 notice in writing as soon as reasonably practicable on discovery of any alleged defect or deficiency; and
 - 6.4.2 reasonable access to inspect the alleged defect or deficiency; and
 - 6.4.3 the opportunity to repair or replace (at our cost) any defect or deficiency in workmanship, materials or equipment or any failure to conform to the Specification.

7. PROVIDING SERVICES

- 7.1 We will supply the Services to you from or on such dates as are agreed between you and us.
- 7.2 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 13 for our responsibilities when an Event Outside Our Control happens.
- 7.3 We will need certain information from you that is necessary for us to provide the Services. We will contact you about this. If you do not, after being asked by us, provide us with this information, 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.
- 7.4 If you do not pay us for the Services when you are supposed to as provided in the Order, we may suspend the Services with immediate effect until you have paid us the outstanding amounts. This does not affect our right to charge you interest under clause 9.4.



8. IF THERE IS A PROBLEM WITH THE SERVICES

8.1 In the unlikely event that there is any defect with the Services or any part of them:

- 8.1.1 please contact us and tell us as soon as reasonably possible;
- 8.1.2 please give us a reasonable opportunity to repair or fix any defect; and
- 8.1.3 we will use every effort to repair or fix the defect as soon as reasonably practicable.
- 8.1.4 And you will not have to pay for us to repair or fix a defect with the Services under this clause 8.

9. PRICE AND PAYMENT

- 9.1 The price of the Box and/or the Services will be set out in the Order.
- 9.2 Based on our understanding of the relevant legislation we believe that the Box is supplied at zero-rate VAT. We reserve the right change the VAT rating in the event of any new guidance or advice.
- 9.3 We reserve the right to require a deposit or other security prior to undertaking construction of the Box or providing the Services. Deposits and/or further security may be required after each Stage Payment in respect of further work or materials that will have to be undertaken or purchased by us prior to the next Stage Payment. In addition where we agree to operate a joint account or an escrow account in respect of the Box both you and we agree to operate such account in accordance with the terms of the Order and not to unreasonably withhold or delay any instructions in respect of the release of funds. Where there is any delay or withholding of any instructions then we reserve the right to suspend further construction on the Box and/or the provision of Services
- 9.4 Invoices are payable within 7 days of the date of issue. If you do not make any payment due to us by the due date for payment, we may charge interest to you on the overdue amount at the rate of 5% a year above the base lending rate of Barclays 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. INSURANCE OF BOX AND RISK

- 10.1 We shall insure the Box during its construction (together with all equipment and materials installed or intended for it and within our premises) until the date of actual completion. Following notification that the Box has been completed and is ready to be delivered, risk of loss in respect of the Box becomes yours and you should arrange for it to be separately insured by you.
- 10.2 Documentary evidence of such insurance effected by us, its terms and conditions and proof of payment of the premium shall be provided to you on request. ^[1]_[SEP]
- 10.3 In the event that the Box, equipment or materials sustain damage at any time before



the same is completed and available for collection from our premises we will use our reasonable endeavours to make good such damage in a reasonable and workmanlike manner and the Completion Date and Delivery Date shall be extended by such period as shall be reasonably necessary to effect the necessary repairs. You shall not be entitled to reject the Box, equipment or materials on account of such damage or repairs or to make any claim in respect of any resultant depreciation save that where the Box is declared an actual or constructive total loss, in which case you shall have the option, to be exercised within 28 days of the loss, of cancelling the Order, in which event any monies previously paid by you to us in respect of the Box and in respect of any related Services not yet rendered shall be returned to you. The contract created by the Order will then terminate and you shall have no further right to claim against us.

11. OWNERSHIP OF THE BOX

11.1 The Box and/or all the materials and equipment contained within it passes to you upon full and final payment of all monies owed in accordance with the Contract Price.

12. OUR LIABILITY TO YOU

12.1 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 or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into the contract between us.

12.2 Under no circumstances shall we be liable to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

12.3 Where you are purchasing a Box and/or Services as a private individual for non-business purposes, nothing in these Terms is intended to limit your statutory rights.

12.4 We do not exclude or limit in any way our liability for:

12.4.1 death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors;

12.4.2 fraud or fraudulent misrepresentation;

12.4.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 and by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

12.4.4 breach of the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 (description, satisfactory quality, fitness for purpose and samples); and

12.4.5 defective products under the Consumer Protection Act 1987 where you are purchasing as a private individual for non-business purposes.



13. EVENTS OUTSIDE OUR CONTROL

- 13.1 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.
- 13.2 “An Event Outside Our Control” means any act or event beyond our reasonable control, including without 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.
- 13.3 If an Event Outside Our Control takes place that affects the performance of our obligations under these Terms:
 - 13.3.1 we will contact you as soon as reasonably possible to notify you; and
 - 13.3.2 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 collection or delivery of the Box, we will arrange a new collection or delivery date with you after the Event Outside Our Control is over. 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.

14. YOUR RIGHTS TO CANCEL AND APPLICABLE REFUNDS

- 14.1 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:
 - 14.1.1 You may cancel any Order for Services at any time before the start date for the Services by contacting us. We will confirm your cancellation in writing to you.
 - 14.1.2 If you cancel an Order under clause 14.1.1 (and you have made any payment in advance for Services that have not been provided to you) we will refund these amounts to you.
 - 14.1.3 However, if you cancel an Order for Services under clause 14.1.1 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.
- 14.2 Once we have begun to provide 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 Services that have not been provided will be refunded to you.



- 14.3 Once we have begun to provide the Services to you, you may cancel the contract for Services with immediate effect by giving us written notice if:
- 14.3.1 we break this contract for the supply of the Services in any material way and we do not correct or fix the situation within 28 days of you asking us to in writing;
 - 14.3.2 we go into liquidation or a receiver or an administrator is appointed over our assets;
 - 14.3.3 we are affected by an Event Outside Our Control for a period in excess of 6 months.
- 14.4 Save as provided in clause 14.5, unfortunately, as our Boxes are bespoke and made to customers' individual requirements, you will not be able to cancel your Order for a Box once we have commenced the construction of the Box (and commencement of construction shall be deemed to have commenced once we have placed an order with any third parties for the supply of requisite materials).
- 14.5 You may cancel the contract for the Box with immediate effect by giving us written notice if:
- 14.5.1 we break this contract for the supply of the Box in any material way and we do not correct or fix the situation within 28 days of you asking us to in writing;
 - 14.5.2 we go into liquidation or a receiver or an administrator is appointed over our assets;
 - 14.5.3 we are affected by an Event Outside Our Control for a period in excess of 6 months.
- 14.6 If you terminate the contract for the Box under clause 14.5 then, subject to the prior receipt by us of all monies due from you to us (which shall include the value of any work and materials not yet invoiced) the Box will be released to you for collection from our premises.

15. OUR RIGHTS TO CANCEL AND APPLICABLE REFUND/SALE ETC

- 15.1 We may have to cancel an Order for a Box and/or Services before the Services start or the Box is completed in the following circumstances:
- 15.1.1 we may have to cancel an Order before the start date for the Services or before the Box is completed, due to an Event Outside Our Control or the unavailability of materials or equipment or (in the case of Services) key personnel without which we cannot provide the Services. We will promptly contact you if this happens.
 - 15.1.2 If we have to cancel an Order under clause 15.1.1 and you have made any payment in advance for Services that have not been provided to you, or the Box has not been completed, we will refund these amounts to you but in such circumstances title to the Box and any materials or equipment purchased or appropriated in respect of the same shall immediately pass back to us.
- 15.2 Once we have begun to provide the Services to you, we may cancel the contract for



the 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.

15.3 We may cancel the contract for Services and/or the Box at any time with immediate effect by giving you written notice if:

15.3.1 You do not pay us within 28 days of the date when you are supposed to. This does not affect our right to charge you interest under clause 9.4; or

15.3.2 you break the contract in any other material way and you do not correct or fix the situation within 28 days of us asking you to in writing.

15.4 We may cancel the contract for the Box and/or the Services with immediate effect by giving you written notice if you (being a corporate entity) go into liquidation or a receiver or an administrator is appointed over your assets or if you (being an individual) become bankrupt.

15.5 If we exercise our right to terminate the contract for the Box under clauses 15.3 or 15.4 we shall be entitled to sell the Box, the materials and the equipment and/or any other property of yours in our possession for the purpose of the construction of the Box. We shall give you 28 days written notice of our intention to sell the Box, and/or any sums due and payable to us together with details of the proposed method of sale. Following the sale of the Box and/or other property we shall repay to you the balance of the proceeds of sale after deduction of all sums owing to us and all reasonable legal or other expenses including, but not limited to, the costs of sale and maintenance and storage charges incurred by us.

15.6 In addition to any other rights contained in these Terms the provisions of the Torts (Interference with Goods) Act 1977 ("the Act") shall apply in relation to an uncollected Box and/or other property. This Act confers a Right of Sale on us in circumstances where you fail to collect or accept delivery of goods (which includes the Box and any other property). Such sale will not take place until we have given notice to you in accordance with the Act. For the purpose of the Act it is recorded that:

15.6.1 Our obligation to you as custodian of the Box and other property ends on the expiry or termination of contract for the Box;

15.6.2 The place for delivery and collection of the contract for the Box shall be at our premises.

16. INFORMATION ABOUT US AND HOW TO CONTACT US

16.1 We are a company registered in England and Wales. Our company registration number is 07427725 and our registered office is at 134a High St, Lewes, BN71XS. Our registered VAT number is GB102788616

16.2 If you have any questions or if you have any complaints, please contact us. You can contact us by e-mailing us at info@bertsbox.co.uk.



16.3 If you wish to contact us in writing, or if any clause in these Terms requires you to give us notice in writing you can send this to us by e-mail, by hand, or by pre-paid post to Berts Box, 134a High st, Lewes, BN71XS or info@bertsbox.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 pre-paid post to the address you provide to us in the Order.

17. HOW WE MAY USE YOUR PERSONAL INFORMATION

- 17.1 We will use the personal information you provide to us to:
- 17.1.1 provide the Box and/or Services;
 - 17.1.2 process your payment for such Box and/or Services; and
 - 17.1.3 inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us.
- 17.2 You agree that we may pass your personal information to credit reference agencies and that they may keep a record of any search that they do.
- 17.3 We will not give your personal data to any other third party save to our contractors or agents and then only on the basis that such information is limited to such only as is reasonably necessary in order for us to provide the Box and/or Services.

18. OTHER IMPORTANT TERMS

- 18.1 We may transfer our rights and obligations under the Order (including 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 the Order and these Terms.
- 18.2 You may transfer the benefit of the guarantee in clause 6.1 to any purchaser of the property upon which the Box was originally first sited. You may only transfer your other rights or your obligations under the Order (including these Terms) to another person if we agree in writing.
- 18.3 This contract is between you and us. No other person shall have any rights to enforce any of its terms. However, the purchaser of your property will have the benefit of the guarantee at clause 6.1 if you transfer it to them, but we and you will not need their consent to cancel or make any changes to these Terms.
- 18.4 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.
- 18.5 If either you or we fail to insist on the other party performing any of its obligations under these Terms, or if you or we do not enforce our rights against the other, or if you or we delay in doing so, that will not mean that such rights have been waived and will not mean that the defaulting party need not comply with those obligations. If a default is to be expressly waived, then such waiver must be in writing and will not mean that any later default will be automatically waived.



18.6 These Terms are governed by English law. You and we both agree to submit to the non-exclusive jurisdiction of the English courts. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.