

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND/OR SERVICES

These are the terms and conditions on which we supply products to you, whether these are goods (or where we have specifically agreed to provide them, services). Please read them carefully before you submit your order to us. If you are acting as a consumer under the Consumer Rights Act 2015 (that is, you are entering into the Contract not in the course of your business, trade or profession) your attention is particularly drawn to the provisions of clause 3.

The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of Liability).

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

"BDA Certification": the current BDA Agrément issued to the Supplier as manufacturer of BrickPlus™ and StonePlus™ from time to time, a copy of which is available at www.monolith.build or on request.

"Business Day": a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Commencement Date": has the meaning set out in clause 2.2.

"Conditions": these terms and conditions as amended from time to time in accordance with clause 16.7.

"Consumer": a Customer acting as a consumer under the Consumer Rights Act 2015, entering into the Contract not in the course of their business, trade or profession;

"Contract": the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

"Customer": the person or firm who purchases the Goods and/or Services from the Supplier.

"Deliverables": the deliverables set out in the Order.

"Delivery Location": in the case of Goods, the location or locations set out in the Order or such other location as the parties may agree, to which Goods are to be delivered by the Supplier or, where the Customer is to collect the Goods from the Supplier, means the Supplier's premises (as the case may be), and in the case of Services means the location at which Services are to be performed.

"Force Majeure Event": has the meaning given to it in clause 15.1.

"Goods": the goods (or any part of them) set out in the Order.

"Goods Specification": the specification contained in the BDA Certification together with and any additional specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier.

"Incoterms": the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date of commencement of the Contract.

“Intellectual Property Rights”: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“LABC Warranty”: the local authority building control warranty, details of which shall be provided on request by the Customer if not already provided with the Order.

“Loading”: loading of the Goods onto a transportation vehicle at the Delivery Location (where the Customer is collecting the Goods from the Supplier at the Supplier’s premises).

“Order”: the Customer’s order for the supply of Goods and/or Services, as set out in the Customer’s written acceptance of the Supplier’s quotation.

“Services”: the advice, consultancy and design services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification below.

“Service Specification”: the description or specification for the Services as set out in the Order or provided in writing by the Supplier to the Customer.

“Supplier”: Monolith Brick and Stone Limited registered in England and Wales with company number 09876675.

“Supplier Materials”: has the meaning set out in clause 9.1(f).

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **“person”** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **“including”**, **“include”**, **“in particular”** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) a reference to **“writing”** or **“written”** includes faxes and e-mails; and
- (f) the Conditions shall apply to the Goods and Services except where application to one or the other is specified.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions. The Supplier will only provide Services where it has specifically agreed to do so in writing.

- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order or (if earlier) delivering the Goods and/or Services at which point and on which date the Contract shall come into existence (“**Commencement Date**”).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter, designs or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's promotional materials are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 The Customer acknowledges and agrees that the colour reproduction in any brochure or catalogue may be different from the final product and indeed, due to production techniques, the colouration and appearance of samples may be different from the Goods.
- 2.6 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.7 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.
- 2.8 Our employees or agents are not authorised to make any representations concerning the Goods unless confirmed in writing and any advice or recommendation given by us to you as to the storage, application or use of the Goods which is not confirmed in writing is followed or acted upon entirely at your own risk. **IF YOU ARE A CONSUMER THIS CLAUSE 2.8 SHALL HAVE NO FORCE OR EFFECT.**
- 2.9 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 2.10 Any advice or recommendation given by the Supplier, its employees or agents to the Customer or the Customer's employees or agents shall be (or later confirmed) is given in good faith by the Supplier. Insofar as any such advice or recommendation is not confirmed in writing by the Supplier, it is followed or acted upon entirely at the Customer's own risk. The Supplier shall not be liable for any advice or recommendation which is not confirmed in writing

3. WHERE YOU ARE DEALING AS A CONSUMER

- 3.1 **PLEASE NOTE THAT THIS SECTION ONLY APPLIES WHEN YOU ARE ENTERING THE CONTRACT AS A CONSUMER AND WHERE THE CONTRACT IS NOT ENTERED INTO AT OUR PREMISES.**
- 3.2 A Consumer has a legal right to change their mind and receive a refund:
- (a) in relation to Goods, within 14 days of delivery of the Goods; or
 - (b) in relation to Services, 14 days after the Commencement Date.
- 3.3 A Consumer does not have the legal right to change their mind and receive a refund in respect of Goods, to the extent the Goods are ordered to be (or are) manufactured in accordance with the Customer's personalised Goods Specification. A personalised

Goods Specification shall include a request to manufacture the Goods in a colour and/or finish different to any standard colour and/or finishes available at that time.

- 3.4 The Supplier will not start providing Services until 14 days after the Commencement Date unless the Consumer asks them to by completing and returning the acceptance form set out in Schedule 2 to this Agreement to confirm their instructions. If the Consumer does ask the Supplier to start providing the Services the Consumer agrees and acknowledges that they will be liable to pay for the Services that have been provided prior to any cancellation (see 3.8(c) below) and once the Supplier has completed the Services the Consumer will have no right to cancel the Services.
- 3.5 A Consumer can end the Contract with the Supplier, by doing one of the following:
- (a) **Email.** Email the Supplier at info@monolith.build and provide their name, home address, details of the order and, where available, their phone number and email address.
 - (b) **By post.** Print off the cancellation form attached at Schedule 1 to these terms and conditions and post it to the Supplier at the address on the form. Or simply write to the Supplier at that address, including details of what they bought, when they ordered or received it and their name and address.
- 3.6 If a Consumer ends the Contract for any reason after Goods have been dispatched to them or they have received them, they must return them to the Supplier as follows:
- (a) The Consumer must either return the goods in person to where they bought them or allow the Supplier to collect them from the Consumer.
 - (b) The Consumer must send off the Goods within 14 days of telling the Supplier that they wish to end the Contract.
 - (c) The Consumer must pay the costs of return. If the Supplier is collecting the Goods from the Consumer, the Supplier will charge the Consumer the direct cost to the Supplier of collection.
- 3.7 If the Consumer ends the Contract prior to delivery, the Supplier will refund the price the Consumer paid for the products including delivery costs, by the method the Consumer used for payment. However, the Supplier may make deductions from the price, as described below.
- 3.8 If the Consumer is exercising their right to change their mind:
- (a) The Supplier may reduce the Consumer's refund of the price (excluding delivery costs) to reflect any reduction in the value of the Goods, if this has been caused by the Consumer's handling them in a way which would not be permitted in accordance with the BDA Certification. If the Supplier refunds the Consumer the price paid before the Supplier is able to inspect the Goods and later discovers the Consumer has handled them in an unacceptable way, the Consumer must pay the Supplier an appropriate amount.
 - (b) The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method the Supplier offers.
 - (c) In relation to Services, the Supplier may deduct from any refund an amount for the supply of the Service for the period for which it was supplied, ending with the time when the Consumer told the Supplier they had changed their mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the Contract.

- 3.9 The Supplier will make any refunds due to the Consumer as soon as possible and if the Consumer is exercising their right to change their mind then:
- (a) In relation to Goods where the Supplier is not collecting them, the Consumer's refund will be made within 14 days from the day on which the Supplier receives the Goods or, if earlier, the day on which the Consumer provides the Supplier with evidence that the Consumer has sent the Goods back to the Supplier.
 - (b) In all other cases, the refund will be made within 14 days of the Consumer telling the Supplier that they have changed their mind.
- 3.10 The Supplier is under a legal duty to supply the Goods in conformity with this Contract.

4. GOODS

- 4.1 The Goods are described in the Goods Specification.
- 4.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 4.2 shall survive termination of the Contract. **IF YOU ARE A CONSUMER THIS CLAUSE 4.2 SHALL HAVE NO FORCE OR EFFECT.**
- 4.3 BrickPlus™ and StonePlus™ products are manufactured from a formulated composite mortar coated onto a flame retardant EPS core. This resembles brick or natural stone but differs in its properties. Due to the natural coating, variation between profiles can occur. BrickPlus™ and StonePlus™ will weather naturally and may effloresce. Full details regarding BrickPlus™ and StonePlus™ durability and their being fit for purpose are defined in the BDA Certification. Please ensure you are familiar with the BDA Certification before purchasing BrickPlus™ and StonePlus™.
- 4.4 The Customer shall be responsible to the Supplier for ensuring the completeness and accuracy of the terms of the Order and the Goods Specification (to the extent in addition to the BDA Certification) and for providing the Supplier with any relevant information it might require in order to supply the Goods and/or Services in accordance with the terms and conditions of the Contract.
- 4.5 The Supplier reserves the right to amend the Goods Specification if required by any applicable standards, statutory or regulatory requirements, without the Customer's written consent. Where the Supplier wishes to make any amendments to the Customer's Specification that will constitute technical improvements or will not materially affect the quality of the Goods and/or Services supplied, it shall obtain the Customer's written consent prior to making such amendments but the Customer shall not unreasonably refuse its consent thereto.
- 4.6 For the avoidance of doubt, all information from the Customer, including the Goods Specification and the Order, shall be subject to the approval in writing of the Supplier. All further specifications and other information required from the Customer by the Supplier, must be received by the time stipulated by the Supplier and, if not so received, the Supplier shall be entitled either to extend the time for delivery of the Goods or the provision of the Services, for a reasonable period, or to terminate any deliveries not made by giving notice to the Customer.

4.7 No part of the Contract may be cancelled by the Customer except with the written agreement of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation. **IF YOU ARE A CONSUMER THIS CLAUSE 4.7 SHALL HAVE NO FORCE OR EFFECT.**

4.8 Without affecting a Consumer's rights under Clause 3, if the Customer wishes to amend its Order following the Commencement Date (including in relation to colour or other specification), it will only be entitled to do so with the written consent of the Supplier and if the Customer agrees to pay any additional charges that the Supplier notifies the Customer of arising from such variation.

5. DELIVERY OF GOODS

5.1 Where the Customer has agreed to collect the Goods from the Supplier:

- (a) the Customer shall collect the Goods within five days of the Supplier notifying the Customer that the Goods are ready for collection from the Delivery Location;
- (b) delivery of the Goods shall be completed on commencement of Loading in accordance with clause 5.1(c);
- (c) the Supplier shall load the Goods onto the Customer's vehicle at the Delivery Location. The Customer agrees to observe the loading of the Goods onto the Customer's vehicle and the Customer shall be solely responsible for securing the Goods to the Customer's vehicle and ensuring that the Goods are safely and properly secured. The Supplier is not liable for a failure by the Customer to properly observe the loading of the Goods or the Customer's failure to properly and safely secure the Goods to the Customer's vehicle.

5.2 Where the Supplier agrees to deliver the Goods to the Customer, it shall deliver the Goods to the Delivery Location at any time after the Supplier notifies the Customer that the Goods are ready, and delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. Unless otherwise agreed in writing between the Customer and the Supplier, risk in the Goods shall pass from the Supplier to the Customer at the point the Goods physically pass from the Supplier and/or its agent to the Customer.

5.3 The Supplier shall ensure that:

- (a) each delivery of the Goods is accompanied by a delivery note which shows, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments; and
- (b) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

5.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 5.5 If the Supplier fails to deliver (rather than being late in delivering) the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 5.6 If the Customer fails to accept or take delivery of the Goods within five Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the sixth Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.7 If ten Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and will have no liability to the Customer.
- 5.8 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including five per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 5.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for on a consolidated basis. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment. **IF YOU ARE A CONSUMER THIS CLAUSE 5.9 SHALL HAVE NO FORCE OR EFFECT.**
- 5.10 Where the Supplier is delivering to the Customer, no claims respecting loss or damage to the Goods while in transit shall be recognised unless notice is given by the Customer to the Supplier as follows:
- (a) in the case of non delivery of all the Goods, if the Customer gives written notice to the Supplier at its address and/or the Supplier's agent at the place where the loss is discovered within three days after the date on which the Goods should have been delivered; and
 - (b) if the Supplier fails to deliver the Goods, its liability shall be limited to the reasonable costs and expenses incurred by the Customer in obtaining replacement Goods of a similar description and quality in the cheapest market available, less the price of the Goods.
- 5.11 Where the Goods are supplied for export outside mainland United Kingdom, the provisions of this clause 5.11 shall apply (subject to any special terms agreed in writing between the Customer and the Supplier) notwithstanding any other provision of these Conditions:
- (a) the Customer shall be responsible for complying with any legislation or regulations governing the exportation of the Goods into the country of destination, as well as the importation of the Goods into that country, and for the payment of any taxes or duties associated with such exportation and

importation. For the avoidance of doubt, the Customer must present to the Supplier all necessary permits, approvals or other such documentation required in connection with the importation and exportation of the Goods;

- (b) in the event that the Supplier is responsible for complying with any legislation or regulations for the importation and exportation of the Goods to the country of destination, the Supplier will not be liable to the Customer for any costs, expenses or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's inability, for any reason whatsoever, to obtain any necessary certificate, permits, approvals or other such documentation associated with the importation and exportation of the Goods;
- (c) unless otherwise agreed in writing between the Customer and the Supplier, risk in the Goods shall pass in accordance with the relevant Incoterm set out in the Order, or if none is set out in the Order, the relevant Incoterm shall be FCA (Free Carrier); and
- (d) where there is any conflict between the Incoterm specified in the Order and these Conditions in relation to the passing of risk, the relevant Incoterm will take precedence (but otherwise, these Conditions shall take precedence over the Incoterms).

5.12 The Customer shall be responsible for arranging for the testing and inspection of the Goods (and notifying of any issue) including in respect of, but not limited to, completeness of Goods, loss of Goods, quality and defects within 24 hours of the date on which risk in the Goods passes to the Supplier (save that when the Goods are delivered at the Supplier's premises such inspection, testing and notification shall take place prior to loading). That inspection shall be final. The Supplier shall have no liability for any claim in respect of any defect in the Goods, which should have been apparent on such inspection or testing but which is discovered or reported after such time limit. **IF YOU ARE A CONSUMER THIS CLAUSE 5.12 SHALL HAVE NO FORCE OR EFFECT.**

5.13 Any and all inspections by the Customer shall be at the Customer's sole cost and expense.

5.14 The Customer shall not return any of the Goods to the Supplier nor shall the Customer withhold payment or deduct the cost of any alleged defective Goods or any part thereof without the Supplier's express written consent. **IF YOU ARE A CONSUMER THIS CLAUSE 5.14 SHALL HAVE NO FORCE OR EFFECT.**

5.15 The Customer's failure to inspect and/or notify the Supplier as provided above shall be deemed to be a waiver of any and all rights and remedies that the Customer may have with regard to any defect or non-conformity regarding the Goods except for any latent defect which would not have been discoverable upon reasonable inspection. **IF YOU ARE A CONSUMER THIS CLAUSE 5.15 SHALL HAVE NO FORCE OR EFFECT.**

6. LABC WARRANTY

6.1 The Customer shall have the right to apply for cover under the LABC Warranty arranged by the Supplier in respect of the Goods. **It is the Customer's responsibility to register for the LABC Warranty.** The Supplier shall have no liability to the Customer in relation to the LABC Warranty and the making available of the LABC Warranty by the Supplier (to the extent permitted by law) is in lieu of any other warranty implied by law or otherwise.

6.2 **IF YOU ARE A CONSUMER THIS CLAUSE Error! Reference source not found. SHALL NOT AFFECT YOUR LEGAL RIGHTS, INCLUDING THOSE IN CLAUSE 3.10.**

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
 - (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(m); and
 - (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time,

but (unless payment for the Goods or for any other goods supplied by the Supplier to the Customer is overdue) the Customer shall be entitled to resell or use the Goods in the ordinary course of its business.

- 7.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(m), then, without limiting any other right or remedy the Supplier may have the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
- 7.5 The Supplier may at any time:
- (a) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product;
 - (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them; and
 - (c) by written notice transfer title in all or any Goods to the Customer,

8. SUPPLY OF SERVICES

- 8.1 The Supplier shall provide the Services (if any) to the Customer in accordance with the Service Specification in all material respects.
- 8.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 8.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

- 8.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 8.5 The Customer acknowledges and accepts that:
- (a) the Customer and/or its employees, agents, consultants or sub-contractors shall be fully responsible for ensuring that all necessary permits and approvals are obtained in relation to the Services;
 - (b) the Supplier shall not be responsible for the contents of any design documents, specifications or other documents provided by the Customer (including, but without any limitation, any previously issued design documents), or for verifying the accuracy of any designs contained in them; and
 - (c) subject to clause 8.6(b) below, all Intellectual Property Rights in or arising out or in connection with the Services performed by the Supplier (or on the Supplier's behalf) shall be owned by the Supplier. All drawings, specifications and other documents provided by the Supplier remain the Supplier's property and shall not be copied, disclosed to any third party, or otherwise used without the Supplier's prior written consent and shall be returned to the Supplier without undue delay upon request.
- 8.6 Where the Supplier provides Services:
- (a) the Supplier shall not be responsible for any incorrect information provided by the Customer or advice due to error or lack of knowledge or information in any materials provided by the Customer to the Supplier or for the contents of any design documents, specifications or other documents provided by or on behalf of the Customer or for verifying the accuracy of any designs contained within them;
 - (b) subject always to payment in full for the Services provided pursuant to this Contract and subject to clause 10, the Supplier grants to the Customer a non-exclusive licence to use the drawings, specifications and other documents provided as part of those services for any purpose related to the project to which those services relate, but excluding any extension of the project, or other works not comprised in that project. The Supplier shall not be liable for any use by the Customer, or the Customer's nominees, of any such documents for any purposes other than those for which they were originally prepared by the Supplier;
 - (c) the Supplier shall exercise all of the reasonable skill and care in the provision thereof as would be expected of an architect or other professional designer experienced in carrying out services similar to the Services. All warranties, conditions and other terms express or implied by statute or common law without limitation, including but not limited to implied warranties of fitness for a particular purpose and all warranties otherwise arising by operation of law, course or dealing, custom of trade or otherwise, are to the fullest extent permitted by law, excluded;
 - (d) the performance by the Supplier of any Services in connection with the project is personal to the Supplier and may not be relied upon by any other person; and
 - (e) if the Supplier would (but for this clause) become liable to the Customer hereunder for any amount in respect of any breach of this Contract in respect of the Services and the Supplier is prevented from recovering from any person any contribution towards that amount by reason of the Customer not

having obtained from such person contractual commitments similar to those contained in this Contract (mutatis mutandis) or by reason of such person having ceased to exist or ceased to be able to meet his obligations, the Supplier shall be liable hereunder for such amount less the contribution which the Supplier would otherwise have been entitled to seek to recover from such person. For the purposes of this clause 8.6(e) the word "person" means any person engaged by or on behalf of the Customer for any purpose connected with the design and/or construction of the project.

9. CUSTOMER'S OBLIGATIONS

9.1 The Customer shall:

- (a) ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Goods and the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (f) keep and maintain all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (g) review and comply with the BDA Certification when storing, using or installing the Goods;
- (h) comply with the terms of the LABC Warranty (if applicable);
- (i) comply, or procure the compliance of any installer, with the current installation guide as available from time to time at www.monolithuk.co.uk and
- (j) other than where the Delivery Location is the Supplier's premises, prepare the Delivery Location for the supply of the Goods and/or the Services.

9.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

10. CHARGES AND PAYMENT

10.1 The price for Goods shall be the price set out in the Order. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.

10.2 The charges for Services shall be on a time and materials basis:

- (a) the charges shall be as set out in the Order;
- (b) the Supplier's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- (c) the Supplier shall be entitled to charge an overtime rate of 200 per cent of the standard daily fee rate (double time rate) on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 10.2(b); and
- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

10.3 The Supplier reserves the right to:

- (a) increase the price of the Goods or increase its standard daily fee rates for the charges for the Services, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
 - (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s); or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods;
- (b) carry out a credit check on the Customer and the Customer and you authorise us to carry out such checks with third party providers of such services.

10.4 (Subject to clause 10.5) In respect of Goods, the Supplier shall be entitled to invoice the Customer:

- (a) in relation to an Order value of £3,000 or less, the full value of the Order on or following the Commencement Date;
 - (b) in relation to an Order value of more than £3,000 (and where the Supplier does not require payment in full on the Commencement Date):
 - (i) 35% of the full value of the Order on or following the Commencement Date;
 - (ii) 30% of the full value of the Order on or following completion of the production of the Goods;
 - (iii) 35% of the full value of the Order prior to delivery; or
 - (c) such other amounts, at such times as agreed between the Supplier and the Customer in the Order.
- 10.5 Notwithstanding Clause 10.4, the Supplier shall be entitled at its sole discretion, to invoice the Customer for the full value of any Order on or following the Commencement Date.
- 10.6 In respect of Services, the Supplier shall normally invoice the Customer in arrears following delivery (but reserves the right to invoice prior to delivery)
- 10.7 The Customer shall pay each invoice submitted by the Supplier as detailed on the Order, or where not stated on the Order:
- (a) in respect of Goods, on receipt of the invoice issued in accordance with clauses 10.4 or 10.5;
 - (b) in respect of Services, within 30 days of the date of the invoice; and
 - (c) in full and in cleared funds to a bank account nominated in writing by the Supplier.
- 10.8 Time for payment shall be of the essence of the Contract.
- 10.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (“VAT”). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 10.10 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above National Westminster Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. **IF YOU ARE A CONSUMER THIS CLAUSE 10.10 SHALL HAVE NO FORCE OR EFFECT.**
- 10.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer. **IF YOU ARE A CONSUMER THIS CLAUSE 10.11 SHALL HAVE NO FORCE OR EFFECT.**

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 11.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 11.3 All Supplier Materials are the exclusive property of the Supplier.

12. CONFIDENTIALITY

- 12.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 12.2 Notwithstanding clause 12.1, the Supplier shall be entitled to make, or permit any person to make, any public announcement concerning the Goods or Service supplied pursuant to this Contract including in any advertising or publicity releases.
- 12.3 This clause 12 shall survive termination of the Contract.

13. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 13.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - (e) defective products under the Consumer Protection Act 1987.
- 13.2 Subject to clause 13.1, the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

- 13.3 Subject to clause 13.1, the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lower of:
- (a) the total price of the Goods and/or Services;
 - (b) the maximum amount of £40,000; or
 - (c) such lower amount (if any) set out in the Order.
- 13.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.5 **IF YOU ARE A CONSUMER CLAUSES 13.2, 13.3 and 13.4 SHALL HAVE NO FORCE OR EFFECT – BUT THE SUPPLIER WILL NOT HAVE ANY LIABILITY FOR ANY LOSS THEY COULD NOT REASONABLY FORESEE OR ANY BUSINESS LOSS.**
- 13.6 This clause 13 shall survive termination of the Contract.

14. TERMINATION

- 14.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
 - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
 - (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or

enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1(b) to clause 14.1(i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- (l) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

14.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

14.3 Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(m), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

14.4 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

15. FORCE MAJEURE

- 15.1 For the purposes of this Contract, “**Force Majeure Event**” means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 15.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 15.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than four weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

16. GENERAL

16.1 Assignment and other dealings

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) Subject to clause **Error! Reference source not found.**, the Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

16.2 Notices

- (a) Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The Supplier's email address for the purposes of this clause is info@monolith.build or such other address as may be notified to the Customer from time to time.
- (d) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

16.3 **Severance**

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

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

16.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

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

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

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

16.9 **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims). **IF YOU ARE A CONSUMER THIS CLAUSE 16.9 SHALL HAVE NO FORCE OR EFFECT.**

SCHEDULE 1

CANCELLATION FORM

(Complete and return this form only if you wish to withdraw from the contract)

PLEASE NOTE THAT THIS FORM IS ONLY TO BE USED BY CONSUMERS.

To:
Monolith Brick and Stone Limited
Unit 34
Llys Edmund Prys
St Asaph Business Park
Denbighshire
LL17 0JA

Tel: 01745 535 855

Email: info@monolith.build

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract of sale of the following goods [*]/for the supply of the following service [*],

Ordered on [*/received on [*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[*] Delete as appropriate

SCHEDULE 2

INSTRUCTION TO COMMENCE SERVICES WITHIN THE 14 DAY CANCELLATION PERIOD

IMPORTANT- READ THIS CAREFULLY TO FIND OUT ABOUT YOUR CANCELLATION RIGHTS

EXPRESS Consent FORM

- Under the Consumer Contracts Regulations 2013, you have the right to cancel any provision of services by us without giving any reason for a period of 14 days. This period commences on the date of the agreement with us and ends on the expiry of the 14th day thereafter (the “**Cancellation Period**”).
- If you would like us to provide services to you during the Cancellation Period, you must sign the consent form below and return it to us by post or by email as indicated below.

If you require us to provide services to you during the Cancellation Period and you cancel the provision of the services prior to completion of the services:

- you shall provide us with our reasonable costs, being an amount which is in proportion to the services which have been performed (until such time as you communicate to us your cancellation of this agreement) in comparison with the full coverage of the agreement for services.
- you are required to pay any reasonable expenses or disbursements incurred up to the time when you communicate to us the cancellation of this agreement. Reasonable expenses and disbursements include and are not limited to: court fees, expert’s fees, costs draftsman’s fees, barrister’s fees, travel, accommodation, application fees, search fees, photocopying fees, courier fees and postage costs (excluding first or second class mail).

Postal address: Monolith Brick and Stone Limited, Unit 34, Llys Edmund Prys, St Asaph Business Park Denbighshire LL17 0JA

Email address: info@monolith.build

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INSTRUCTION TO COMMENCE SERVICES WITHIN THE 14 DAY CANCELLATION PERIOD

CONSENT FORM

FILE REFERENCE NUMBER: [●]

CLIENT ADDRESS:

[●]

CLIENT TELEPHONE NUMBER:

I notify Monolith Brick and Stone Limited that I request the provision of services from Monolith Brick and Stone Limited prior to the end of the Cancellation Period and that I acknowledge that once Monolith Brick and Stone Limited completes the provision of the services, I will lose the right to cancel detailed above.

Signature

Date(s) of signature