

CELLAR MAISON LIMITED

Terms and Conditions

1. These terms and conditions

- 1.1 These terms will apply to all wine storage design and installation services (“the Services”) provided by Cellar Maison Limited (“we”, “us” or “CM”) to the client (“you” or “the Client”). These terms and conditions along with the Contract Summary and Quotation will together form the agreement between you and us (“the Agreement”).
- 1.2 Any defined terms used in these terms and conditions shall have the meaning as set out in the Contract Summary unless expressly stated otherwise.
- 1.3 These terms and conditions may not be released discharged supplemented interpreted varied or modified in any manner except as agreed and put in writing signed by both parties.
- 1.4 To the extent any terms in the Contract Summary are contrary to any express provisions in these terms and conditions, the relevant provisions in the Contract Summary shall apply.

2. The Services

- 2.1 We will provide the Services to you as set out in the Contract Summary or as otherwise agreed in writing and subject to the terms of this Agreement.
- 2.2 We will carry out the Services with reasonable care and skill.
- 2.3 We 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 we shall notify you in any such event.
- 2.4 You may request a change in the Services at any time but we will only provide such different services if we believe we are qualified to do so. If such changes to the Services constitute a material change to those in the Contract Summary we reserve the right to revise our fees as previously agreed with you. We will not perform any alternative Services until such time as you have agreed to pay any such additional fees.
- 2.5 You may request services *in addition* to the Services in the Contract Summary. Such additional services shall be charged at our standard hourly rates at the time (details of such rates can be provided on request). We will not perform any additional Services until such time as you have agreed to pay any such additional fees.
- 2.6 We may provide some of the Services through third parties. Whether or not we sub-contract out any of the Services to third parties is at our absolute discretion and you shall not have the right to object to any third party providing the Services.
- 2.7 You agree to supply us with all necessary information which we will reasonably require for us to be able to perform the Services. If you do not provide us with such information we will not be liable to you for any failure to carry out the Services as a result including any failure to complete the Services within the Completion Period.
- 2.8 We offer continuing assistance to our customers after completion of the Services. If you wish to take advantage of these further services please contact us at any time using the contact details in the Contract Summary or at the Cellar Maison website (<http://www.cellarmaison.com/contact/>).

3. Guarantee

3.1 Subject to clause 8.2 and the limitations on our liability in clause 12, CM guarantees the work carried out through the Services and any goods and materials used in the Services for a period of [2] years from the Start Date. In the event that we have not carried out the Services with reasonable care and skill or that any goods or materials are defective or not fit for purpose then we shall carry out such further work as is necessary to remedy such unsatisfactory services or repair or replace any such defective goods or materials. We reserve the right to assess any work or goods and materials complained of before carrying out any additional work under the guarantee in clause 3. If in our reasonable opinion the Services have been performed satisfactorily or the goods and materials are not defective then we may not carry out any such additional work or may charge you additional fees if we do so.

4. Project Manager

4.1 We will appoint the individual stated in the Contract Summary as the Project Manager in respect of the Services.

4.2 The Project Manager will present plans and proposals to you for your approval when necessary. We may not carry out certain parts of the Services until both you and the Project Manager have signed off their approval.

4.3 You agree to direct any queries you may have in relation to the Services through the Project Manager. You should discuss any change in the Services or additional Services with the Project Manager and we shall not be bound if anybody other than the Project Manager, including any third party contractors, agrees to provide alternative or additional services.

5. Time commitment

5.1 We will endeavour to complete the Services in the time period set out in the Contract Summary ("Completion Period"). We cannot however guarantee to complete the Services within this period and time is not of the essence.

5.2 The Completion Period stated in the Contract Summary is based on your cooperation with us and the cooperation of any other contractors or professionals we may need to work with including without limitation architects, project managers (where we not providing project management as part of the Services), builders and other interior designers.

5.3 We reserve the right to suspend provision of the Services if they cannot be carried out due to any of the following reasons:

5.3.1 You fail to provide us with access to the Property when required by us or anybody engaged by us to provide the Services;

5.3.2 You fail to provide us with any information about the Property that we may require in order for us to be able to carry out the Services properly;

5.3.3 You or any third party whose cooperation we require fail to cooperate with us;

5.3.4 We are unable to carry out the Services to the required standard for any other reason beyond our reasonable control.

For the purposes of this clause 5.3, 'us' shall include any third parties sub-contracted by CM.

5.4 If we incur additional costs as a result of us being unable to carry out the Services due to any of the reasons described in clause 5.3 (including, without limitation, any storage costs for products and materials that we have been unable to install) then we reserve the right to pass any such costs on to you and these shall be payable in addition to our other fees.

5.5 We shall not be liable to you or subject to any reduction in our fees should you suffer any loss as a result of us not completing the Services by the end of the Completion Period due to any of the reasons given in clause 5.3 above.

6. The Property

6.1 Our fees estimate, the Completion Period and any recommendation as to the services we believe you require has been provided on the basis of inspecting the Property and information, scope of work and specification provided by or agreed with you. We shall not be liable if we cannot carry out the Services in the manner originally envisaged due to any facts or circumstances which were not apparent from our visit to the Property or which were not disclosed to us.

6.2 We reserve the right to amend the Contract Summary or charge you for any additional Services that are required in the event that facts or circumstances become apparent (which were not disclosed to us and were not immediately apparent from our visit to the Property) which are likely to impact on our provision of the Services by requiring additional work by us.

6.3 You must provide all information that we may reasonably require for the purposes of carrying out the Services including any information about the Property that would not have been apparent from our Property visit.

6.4 It is your responsibility to move or remove any personal property or effects at the Property before we start carrying out the Services in order to ensure that they are not damaged in any way as a result of us carrying out the Services.

7. Additional client obligations

7.1 You agree that you shall:

7.1.1 Co-operate fully with CM and the Project Manager in all matters relating to the Services;

7.1.2 Obtain all necessary licences, permissions and consents which may be required for the Services before the Start Date and maintain such licences, permissions and consents throughout the Completion Period (including planning permission or the consent of any third party with an interest in the Property).

8. Goods and materials

8.1 We warrant that all goods and materials used in the provision of the Services shall for a period of [2] years from the end of the Completion Period:

8.1.1 conform with their description;

8.1.2 be free from material defects in design, material and workmanship;

8.1.3 be of satisfactory quality (within the meaning of the Supply of Goods and Services Act 1982); and

8.1.4 be fit for any purpose held out by CM.

8.2 We shall not be liable for any goods and materials used in the provision of the Services failing to comply with the warranty in clause 8.1 if:

8.2.1 the defect arises because you failed to follow our instructions as to the storage, installation, commissioning, use or maintenance of the goods or materials;

- 8.2.2 the defect arises as a result of us following any drawing, design or specification supplied by you;
- 8.2.3 you alter or repair such goods and materials without first consulting with us;
- 8.2.4 the defect arises as a result of fair wear and tear;
- 8.2.5 the defect arises as a result of wilful damage, negligence, or abnormal working conditions caused by you or any third party;
- 8.2.6 the goods and materials differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

9. Fees and payment

- 9.1 The fees payable by you to us in respect of the Services will be those set out in the Contract Summary.
- 9.2 You must make payment of our fees in accordance with the payment terms in the Contract Summary. If a deposit or initial payment is required then we reserve the right to not start providing the Services until we have received such deposit or initial payment. In the absence of any contrary terms in the Contract Summary, all invoices must be settled within 14 days.
- 9.3 If any sums are outstanding and due for payment to us we reserve the right to immediately suspend the provision of any further Services without further recourse to you.
- 9.4 You will be liable to pay additional fees to us in such circumstances where we are required to provide alternative or additional Services or required to repeat the performance of Services already provided as a result of your actions or the actions of a third party who has also contracted to provide services in connection with the Project.
- 9.5 We shall be entitled to charge interest on any overdue sum at the rate of 3% over the base rate of the Bank of England from time to time (such interest to accrue and to compound with the principle sum on a weekly basis).
- 9.6 Payment shall be made without any set-off, deduction or counter-claim.

10. Cancellation

- 10.1 Under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have the right to cancel this Agreement without giving any reason.
- 10.2 If you wish to cancel this Agreement you should do so in accordance with CM's Instructions for Cancellation attached to these terms and complete and return CM's Cancellation Form in accordance with those instructions. The Instructions for Cancellation and Cancellation Form shall form part of this Agreement.
- 10.3 Please note that if we have started providing the Services during the cancellation period at your written request and you then cancel the contract you will be liable to pay a proportionate amount in respect of those Services already performed.

11. Term and Termination

- 11.1 This Agreement shall come into force on the date you sign the Contract Summary.
- 11.2 Provision of the Services shall start on the Start Date and shall, subject to prior termination provided for under this Agreement, continue until the end of the Completion Period or the date on which all the Services have been carried out, if later.
- 11.3 We will be entitled to terminate the Agreement (and any Services then being provided to you) on notice to you in the event that:

11.3.1 you fail to pay any invoice when due; or

11.3.2 you fail to co-operate with us in the performance of the Services; or

11.3.3 you are in material breach of any other provision of the Agreement and, if the breach is capable of remedy, have failed to remedy that breach within 30 days.

11.4 All terms of this Agreement which are capable of surviving termination will continue in full force and effect following termination of this Agreement.

12. Liability

12.1 You agree that our liability in respect of any loss under the Agreement with you shall be limited in accordance with these terms and conditions.

12.2 Nothing in this Agreement shall limit or exclude Cellar Maison Limited's liability for:

12.2.1 death or personal injury, fraud or fraudulent misrepresentation arising as a result of our negligence or the negligence of our employees, agents or sub-contractors;

12.2.2 fraud or fraudulent misrepresentation;

12.2.3 breach of the warranties given in clause 8.1, subject always to clause 8.2;

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

12.2.5 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

12.2.6 defective products under the Consumer Protection Act 1987.

12.3 Subject to clause 12.2, Cellar Maison Limited will not be liable to you for any loss of profit, indirect or consequential loss (including any loss arising from damage caused to wine) or damage such as loss of anticipated savings, data loss, lost opportunity, lost bargain, lost reputation or otherwise whether such loss or damage arises from breach of contract, our negligence, the negligence of our employees, agents, sub-contractors or otherwise, any tort other than negligence, breach of statutory duty or otherwise.

12.4 The aggregate liability of Cellar Maison Limited, including the liability of our employees, agents, sub-contractors in relation to the Services will (except in relation to liability as set out in clause 12.2) be limited to the higher of (i) the amount paid to us by you under this Agreement and (ii) £10,000. which includes legal fees incurred by the company.

12.5 No claim may be brought against Cellar Maison Limited in relation to any Services more than 3 years following the end of the Completion Period.

12.6 You accept that the limitations of our liability set out above are reasonable in all the circumstances.

13. Intellectual Property and Confidential Information

13.1 We shall own all intellectual property rights (including copyright) in drawings, photographs and plans and all other work produced in the performance of the Services and generally assert our moral rights and all other rights to be identified as the author of such work.

13.2 You shall have a licence to copy and use and allow others providing services in connection with the Project to copy and use drawings, documents and all other such work produced by CM in performing the Services (the

“Material”) but strictly for purposes relating to the Project only. Such licence shall terminate with immediate effect if any fees or other amounts payable by you under this Agreement are overdue and remain outstanding.

13.3 We shall not be liable if the Material is modified other than with our consent or used for any purpose other than for the purposes for which it was prepared.

13.4 Each party agrees with the other not to divulge or allow to be divulged any confidential information relating to the other’s business or affairs other than to its employees, associates or contractors who are subject to appropriate non-disclosure undertakings (if required), or where the other party has consented to such disclosure or where required by law to make such disclosure. Either party may upon termination of this Agreement require by notice in writing to the other party the destruction or return of any confidential material in that party’s possession.

13.5 We shall be entitled to refer to the provision of Services to you for any purpose in connection with our business including for the purposes of marketing materials and use on our website.

14. General

14.1 No term of the Agreement will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person that is not a party to it.

14.2 Each of the parties warrants its power to enter into the Agreement and has obtained all necessary approvals to do so.

14.3 Both parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties or either of them renders the performance of the Agreement impossible, whereupon all money accrued due under the Agreement shall be paid.

14.4 Each party acknowledges that these terms and conditions (including the Instructions for Cancellation and Cancellation Form) and the Contract Summary contain the whole agreement between the parties and that it has not relied upon any oral or written representations made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.

14.5 Any notice to be served on either of the parties by the other shall be sent by pre-paid recorded delivery, registered post, fax or email to the address of the relevant party shown in the Contract Summary at the start of this Agreement or such other physical or electronic address as may be notified by one party to the other.

14.6 This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which will be an original and all of which together shall constitute one instrument. This Agreement shall not be effective until each of the parties has executed at least one counterpart.

14.7 If any provision of this Agreement is, or is found to be, illegal, invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall not be affected by such illegality, invalidity or unenforceability.

14.8 Failure by us to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver by us of them or the right at any time subsequently to enforce all terms and conditions of this Agreement.

14.9 This Agreement shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England.

14.10 Any proceedings arising out of or in connection with this Agreement may be brought in any court of competent jurisdiction in England or Wales.