



## Terms and conditions

In accepting a quote from Whitley Builders Limited (WBL) you are agreeing to the terms and conditions set out below. Please read them and do not hesitate to contact us if you have any queries, prior to the contract signing/works commencing.

**Contractor:** Contractor is Whitley Builders Limited and any of their allocated sub-contractors used on the project. James Whitley is the Construction Manager

**Client:** The Owner of the property where works are being conducted.

**Contractor** - means any Person furnishing labour, material, equipment or supplying Goods for the Project that has an agreement, whether oral or written, directly with the Construction Manager or Owner; or (2) a Supplier. Subcontractors for example

**Subcontractor**- means a subcontractor, material supplier or labourer of the Contractor or any subcontractor, material supplier or labourer of any lower tier (i.e. sub-subcontractors), and includes all their officers, employees, agents, and representatives.

**Supplier** - Any Person providing Goods or other material for the Project that has an agreement, whether oral or written, directly with the Construction Manager or Owner.

The client must not (unless asked to do so by the contractor) contact a supplier directly to request details of orders placed, their expected delivery time or anything else. All communication with suppliers is to be undertaken by the contractor only. Failure to do this causes unnecessary complications and confusion, which has the potential to cause delays on site.

**Work** - All construction and services required to be performed by the Contractor to fully and completely construct the Contractor's portion of the project described within the attached Construction Agreement in strict compliance with the Contract Documents, and includes all labour, materials, equipment, temporary facilities, tools, supplies, transportation, loading, unloading, hoisting, measurements, supervision, cutting, patching, cleaning protection, insurance, taxes.

**Scope of work** the more detailed the scope of work, the more certainty there can be on the price. Whitley builders Limited has priced the job on the scope of work that is either supplied by the client or their agent acting on their behalf. Tender costs are based on drawings provided to us at the time of requesting us to quote. A letter of intent created and submitted to you for your approval (This is in addition to a JTC contract where applicable). Any changes to any drawings after agreement of the contract sum require a written confirmation to the contractor informing them of the drawing affected and details of the variation/changes that has been made, along with a copy of the modified drawing. Failure to inform us of changes in design or changes to a drawing that affect the build will be deemed as uninformed variations and will as such be charged to the client accordingly.

## Provisional Sums

In the absence of exact specifications (for example) for sanitary ware, tiling, flooring or any other element of the build at the point of tender, provisional sums are provided to allow a visibility of potential costs that will be incurred. They are unknowns- we may be awaiting quotes from other contractors, which may not have arrived at the point of tender.

Provisional sums are based on our experience of past costs incurred and are estimates. Final cost may be higher or lower depending on the final specification/selections chosen by the client. At the point of invoicing, the provisional sum will be removed, and an actual cost will be itemized.

Provisional sums do not include profit and attendance (i.e. if you source an item yourself but require us to fit it, or to check its suitability for use on site a profit and attendance figure added to that element.) Any line item on the tender document listed as a provisional sum is subject to a cost of profit and attendance on top. You should anticipate 20% of the value of the provisional sum to be applied for as Profit and Attendance.

### **Contingency sums**

A contingency sum can be included in the contract sum usually 5%-10% of the contract sum. This is shown as a separate line item if included. We strongly recommend this to allow for unforeseen costs generated by the client or contract administrator.

**Contracts** – A JCT homeowners works contract or similar format contract will be issued to all new clients prior to work commencement. Alternatively, an exchange of letters of acceptance or works order.

Where an architect is appointed, it is assumed that the architect will deal with all contract administration unless stated otherwise.

**Contract Sum** - is the total amount to complete or provide the work including, but not limited to all, labour, material, equipment, permits, fees, sales, use and other taxes and charges applicable to the work or goods. All costs are excl. VAT at the prevailing rate. In some instances, a 5% retention sum will be held back by the client where specified in a valid JTC contract. Upon Practical completion 2.5% of the retention amount is payable. Upon the end of the defect's liability period (usually 6 months) the remaining 2.5% is payable to the contractor.

Where an Architect is not retained for the project, a retention amount cannot be applied.

Please note that due to current material availability issues within the industry, we are seeing above average increases in prices. Tender and estimates provided will be based on costs at the time of quoting. It should be noted that where a start date is in the future, material prices will likely have risen. This eventuality and the cost implications will be discussed with you as start date approaches. We will always try to mitigate such increases, but we are subject to the market conditions and availability of materials.

**Notice to Proceed** – An email will be provided to the client from the contractor to commence all or portions of the Work.

**Contractor Commencement Date** - means the date the Contractor shall commence work on the Project; whether on site or off site, and shall include mobilization/site set up, but not be limited to, any pre-construction services, ordering material or equipment, or other items the Contractor needs to complete in order to perform the Work or provide the Goods in accordance with the Project Schedule or revised Project Schedule.

**Effective Date** - means the date as per the Agreement, and is the date that this Agreement commences, and the terms and conditions become enforceable.

**Cooling off period** - As long as works have not begun, a client can cancel the contract within 14 days of accepting the contract sum. If the purchaser requested for the works to begin during the cooling off period then part of the agreed price will have to be paid, depending on how much has been completed at the time of the request to cancel.

**Payment terms** Invoices will be issued by Whitley Builders Limited on a fortnightly basis (referred to as Valuation invoices) These will cover off the work done in the week/month and there may be an advance payment to cover cost of ordering materials etc. Payment should be made within 7 days of receipt of the invoice to the bank account detailed on the invoice.

A detailed breakdown of the valuation can be requested to the contractor by the client. Invoices are sent via email unless otherwise requested.

**Client duties** Whitley Builders Limited and any sub- contractors that are assigned to the project will require access to the site during normal working hours (Mon-Friday 7.30-4.30) and on occasions at weekends (with prior agreement). In order to comply with our Welfare Policy, we ask that where possible access to a dry area in adverse weather be permitted (garage etc). There should also be access to clean drinking water either via an outside tap or inside the building. It is the client's duty to ensure that all relevant planning permission and other consents are applied for and approved before works can commence.

Client is responsible for paying all fees in relation to building control and to give the council 48 hrs notice before works commence. Following that Whitley builders Limited will then ensure follow up inspections and appointments are scheduled and take place.

**Party wall agreements** - Where a wall is shared between the client and a neighbouring house, a party wall agreement must be sourced and produced by the client at least 8 weeks before the commencement date. If your project requires building within a 3m distance from a neighbouring boundary you will require a party wall agreement. Any work associated with this agreement is the responsibility of the client.

**Covid- 19** – During times of uncertainty related to the Covid - 19 pandemic, we ask that clients respect the guidelines applicable at the time of the project taking place (For example, ventilate areas where trades person is working, wear mask where applicable, provide a place for thorough hand washing to take place.

**Timing** A proposed date for start of work on site and for completion will be communicated. A procedure for adjusting these to deal with any delay caused by the client or other external events is also in place. We will aim to communicate an expected duration on site (weeks). A project plan will be issued at the start of the project and will be adjusted accordingly. We cannot take responsibility for delays caused beyond our control. Including, but not limited to:

- Natural occurrences – flooding, Inclement weather, weather related etc
- Service provider delays eg Gas or Water/Electric suppliers.
- Additional works added to the initial scope, or changes that effect the duration will be communicated at the point of Bespoke ordering.
- Supplier shortages due to industry demand or linked to Covid-19 cannot always be foreseen.

**Completion-** Practical completion will be classed as when the job is physically finished, and contractor clears site. Upon practical completion 2.5% of the retention amount is payable to Whitley Builders where a JCT contract is in operation.

At practical completion a walk around site with client contractor and Architect will take place in order to generate an agreed snagging list. This will detail what repairs are required to deal with any defects post job completion. The snagging list cannot contain items that require repair that were not within the original scope of works- i.e. a crack in a wall that was present prior to works commencing.

Upon the completion of items on the Snagging List to a satisfactory level to the client, an invoice will be issued for the release of 2.5% of the retention amount where applicable. Client will be asked to complete a snagging sign off form.

At the end of the defect's liability period a Defects Liability List will be generated in collaboration with the client/Architect. Once agreed by the contractor, works will be conducted. Upon completion you will be asked to sign a Defects Liability sign off. At this point any remaining amounts of retention are due within 7 days of invoice creation date.

A project will be deemed as finally completed once all snagging lists are fully complete and usable by the Owner and that all corrective action required in connection with any final inspection has been completed. Final release can be made, and the remaining retention amount is payable to Whitley Builders (usually 2.5%)

**Handover & Defects Where** a JCT contract is not in place any defects appearing in a 3-to-6-month period after completion, will be rectified by the contractor and that will be the limit on the contractor's overall liability.

**Provision of goods** – As a general rule, we do not allow the purchase of materials by clients directly. Any products that are supplied to Whitley builders Limited by the client, for use on site, must be with pre agreement only (before being purchased) If you have WBL pre-approval to purchase, they remain the responsibility of the Client. It is the client's responsibility to identify if they are suitable for the job. Whitley builders Limited cannot take any responsibility for incorrect measurements or errors made by a client. If the products that a client supplies are not suitable for the job it will be at the clients cost to find a suitable alternative. Please note that items provided by the client directly will not carry the same warranty or guarantee as those sourced by us.

**Health and safety** - Health and safety on site is the responsibility of Whitley builders Limited and the client. If you see something that poses a potential risk, please flag it up to the site manager or remove it, if it is safe to do so.

Please note that clients should not enter the building site outside of business hours under our staff supervision. Children must be kept away from ladders and scaffolding at all times. We are not responsible if you enter the site without our attendance.

**Extra over costs** – Where a cost is associated to an item that then ends up costing more due to reasons outside of our control, the additional cost is called an Extra over.

Example : Scope of works calls for bi-fold aluminium doors in anthracite grey. We put a line item in the tender doc of £2500 for those doors. Client, is unable to confirm they are happy with the proposed doors for 4 weeks. So, for reasons outside of our control, the quote is no longer valid from the supplier and requote puts the doors at £3000.

Where an item has been predicted to cost X, but actually costs Y, an extra over cost is created.

**Variations:** Please note that the client **must not** instruct any subcontractor or WBL employee directly of a change that you require.

Fully detailed specifications are not always possible, there are often variations to the planned scope of works. Maybe a change of specification, a change to the number of items required, or the positioning of an item. Such requests must be issued and approved using a Change request form (created and provided by the architect if using one) or must be made via the Variation/extras form/process (where an architect is not retained) and emailed to [james@whitleybuildersltd.co.uk](mailto:james@whitleybuildersltd.co.uk). Onsite requests to a subcontractor or a member of our staff cannot be approved by or costed by anyone other than the office. This is to avoid any misunderstandings related to costs but also to ensure that the request made does not have a knock on effect to the overall planned works.

Variation works must not/will not be carried out until you have received and authorised the additional cost (if applicable) Failure to provide in triplicate, a request for change may delay works on site. No one should be contacted directly on site and asked to change something from the original scope of works. We will not conduct any changes the client requests until we have received written confirmation that the work falls outside of scope and that it will incur an extra cost that is approved by relevant parties.

Variations that result in extra costs will be noted in a separate tab on the cost summary file sent with the relevant invoice.

A variation is where something different to that specified in the tender document is requested by the client.

Example: Scope of works calls for 4 LED spotlights with chrome surround. As works progress client decides they want 10 LED lights not 4. All other elements remain the same. A request to deviate from the specified 4, needs to be completed by the client- handed to Whitley builders Limited, costed by Whitley builders Limited and approved by all parties before works can proceed. Please note this must happen In advance of the work being required to be carried out.

**Regulated Materials** - means any substance, material or waste: (1) that is or becomes regulated under any Laws; (2) that is or becomes defined as a solid waste, hazardous waste, hazardous substance, hazardous material, toxic waste, toxic substance, pollutant, or contaminate under any Laws; (3) the presence of which causes or threatens to cause a nuisance or poses or threatens to pose a hazard to the health or safety of persons; (4) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic or otherwise hazardous or dangerous; (5) without limitation, that contains petroleum, including crude oil or any fraction thereof; or (6) without limitation, that contains polychlorinated biphenyls, asbestos or urea formaldehyde.

If regulated materials discovered on site, it will be managed accordingly. Please note that if you are aware of any regulated materials on site, you must declare this as soon as possible and ideally at tender stage.

In the event of regulated materials being discovered, any costs associated with their management/removal will be classed as additional cost to the contract sum. Example Asbestos removal

**Plans and Specifications** - Plans and Specifications for the Project prepared by the Architect or Designer. A listing of the Plans and Specifications is attached to the Construction Agreement. The Plans and Specifications are final Plans and Specifications, subject to change only by appropriate Change Order. Contractor represents that the Contractor has reviewed the Plans and Specifications and that they are sufficient to complete the Work.

Design work with an un-retained architect is not the responsibility of WBL. For example, if you had anticipated a window in position X, but it is not in the drawings provided to WBL, the cost associated with putting in said window will be and Extra over cost. It is assumed that the drawings provided to WBL by the client have been fully checked for completeness, i.e that what you wanted included in the design is shown on the drawings.

Prior to a job starting we require a FULL set of FINAL architect drawings in A1 format. If your architect is not able to provide these, we can provide them but the associated costs will be passed on to the client. Please note that accurate scaling cannot be done from A3 drawings unless it is specified as possible. A1 drawings cost £9 each

Additional charges for changes are also chargeable.

**Incoming Services Drawings** – to start works on site a set of services drawings are required. This should include the following details

Gas Supply (mains supply and supply from mains to the Gas meter- details of provider to be given to WBL at point of tender acceptance

Water supply (mains and water supply to water meter/house/outbuildings etc - details of provider to be given to WBL at point of tender acceptance.

Electric Supply (mains and supply to electric meter/house/outbuildings etc- details of provider to be given to WBL at point of tender acceptance. Electric provided free of charge.

With Regards to Electrical drawings it is imperative that the final Power, Lighting designs are issued to whitley builders at the Start of the Project, If you require help and suggestions with the layouts we can arrange for you to meet the Electrical contractor to complete the design Please note this Must happen 6 weeks prior to the 1<sup>st</sup> fix stage as detailed in our Draft works program. The 6 week period is required, so the design can be confirmed, costs provided, and work carried out potentially prior to the date on the “Draft works Program” if the program is running ahead of schedule.

If drawings are available from an architect, they should be provided at earliest convenience. If they are not provided, we will use [linesearchbeforeyoudig.co.uk](http://linesearchbeforeyoudig.co.uk) (LSBUD). However, in the event of any damage to an incoming supply that was not evident on the searches we carry out, it will not be our responsibility to rectify the issue. Please therefore ensure that every effort is made to provide a comprehensive set of services drawings in a timely manner.

**Project Schedule** - The schedule attached to the Construction Agreement, which may be updated and revised by the Construction Manager from time to time and shall be considered to be as effective as if attached hereto, unless written Notice is provided by the Contractor within 10 days of such issuance of objection.

**Project Site** - The address of the Project as identified on the Agreement.

**Contractor’s Warranty** - Contractor warrants that: (1) the Work shall be performed in a good, complete, workmanlike and professional manner, and in accordance with all applicable laws and regulations and the Plans and Specifications; (2) all Goods, materials, and equipment furnished under the Contract Documents will be of the quality required by the Contract Documents and new; (3) the Work and Goods will be free from defects, including defects in material and workmanship, and will conform to the requirements of the Contract Documents. For new build houses a 10 year NHBC/ or other provider, warranty is offered subject to a separate quotation full building regulation drawings are required 6 weeks prior to commencement on site to establish a quote.

**3<sup>rd</sup> Party Design** if you procure a Design from a Kitchen supplier, or a Bathroom designer it is expected you will have checked all designs and made any alterations before issuing the proposed design to us. This Eliminates confusion and Multiple versions.

Limited to the client are covered within the warranty. Works carried out by other suppliers are not covered by our warranties.

**Contractor’s Indemnity** - Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, and their respective officers, members, managers, agents and employees from and against any and all injuries, claims, damages, liabilities, losses, fines, penalties, demands, causes of action, suits, costs or expenses, including, but not limited to, attorneys’ and professional fees and court costs, arising out of, relating to or resulting from (1) the performance of the Work by, or any act or omission of, the Contractor, a Subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable; (2) any breach of the terms of this Agreement, (3) the Contractor, any Subcontractor or anyone directly or indirectly employed by either of them or anyone for whose acts they may be liable, bringing Regulated Materials onto or near the Project Site or adjacent sites (that are not specified or required to be utilized to complete the Work) or mishandling the Regulated Material.

I have read and understood the terms and conditions document from Whitley Builders Limited.

Client Name: .....

Date: .....

Signature: .....

Client Name .....

Date: .....

Signature: .....

Date received to WBL office:.....