



# **MALLWOOD ROOFING LTD**

## Terms & Conditons

Updated 23<sup>rd</sup> May 2018

MALLWOOD OFFICE TEAM

## TERMS AND CONDITIONS

### **DEFINITIONS**

The '**Contractor**' means MALLWOOD ROOFING LTD

The '**Client**' means the person, party or company accepting the quotation

The '**Works**' means the work described as per any quotation provided by MALLWOOD ROOFING LTD

The '**Site**' means the location of the works

The '**Contract**' means the contract concluded in accordance with these terms and conditions (including any agreed amendments in writing)

### **APPLICATION AND ENTIRE AGREEMENT**

1. These Terms and Conditions apply to the provision of the services detailed in our quotation (**Services**) by

Mallwood Roofing Ltd a company registered in England and Wales under number 6838952 whose registered office is

at Unit 15b, Stanley Green Crescent, Poole, Dorset, BH15 3TH (**we** or **us**) to the person buying the services (**client**).

2. You are deemed to have accepted these Terms and Conditions when you accept our quotation (in writing) or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (**the Contract**) are the entire agreement between us.

3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### **INTERPRETATION**

4. A "business day" means any day other than a Saturday, Sunday or bank holiday.

5. The headings in these Terms and Conditions are for convenience only and do not affect their interpretation.

6. Words imparting the singular number shall include the plural and vice - versa.

## **SERVICES**

7. We warrant that we will use reasonable care and skill in our performance of the Services which will comply with the quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary. (in writing also.)
8. We will use our reasonable endeavors to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations. (Weather Dependent)
9. All these Terms and Conditions apply to the supply of any goods as well as Services unless we specify otherwise.

## **GENERAL**

The quotation is open for acceptance for 60 days;

## **WORKS**

Will be agreed once confirmation of the quotation to the **Contractor** has been received in writing.

The quotation is open for acceptance for 60 days; all the materials will be subject to price variations at the time of purchase. The **Client** is responsible for supplying electricity, water and utilities unless otherwise agreed. The **Client** should be aware that after completion of a new roof covering sometimes it is possible that roof tiles or slates may move due to unnoticed fractures when fitting. The **Contractor** will only make good these defects in line with the original quotation or agreed contract. For Example: If safe access/scaffolding has been supplied by the **Client** then this would remain the case for any remedial works and vice - versa if we the **Contractor** supplied the same.

Any of the above defects will be made good for up to a period of 3months from date of full payment received. This does not include any damage relating to circumstances beyond the **Contractors** control; see section 57 and 28.

**We** do not take responsibility for the loss of Sky/TV/Digital receptions while work is being carried out, or once work has been completed.

## **MATERIAL**

10. All materials supplied by the **Contractor** and delivered on site, shall remain the property of the **Contractor** until payment of the quoted sum including any variations and/or extra works agreed have been paid in full. This does not include any agreed retention.

11. Any existing structures or materials stripped and/or removed during the **Works** shall become the property of the **Contractor** unless agreed otherwise in writing.

12. The **Client** will provide safe and adequate storage for all materials delivered for the **Works** where possible.

13. All unfixed trade specific materials onsite are the responsibility of the

## **CONTRACTOR**

14. All fixed trade specific materials are the responsibility of the **Client**.

15. When fitting salvaged materials, due to lack of history known, the **Contractor** accepts no responsibility for the integrity of the material.

16. The **Contractor** shall only purchase, and fit material certified to meet all regulations / industry standards at the time of fitting.

a. The **Contractor** shall not accept any responsibility for any defective, faulty or substandard material that has been fitted in line with industry standards / regulations.

This would be the suppliers / manufacturers responsibility for such material.

## **BUILDING LICENSES**

17. The Client will be responsible for complying with every by-law or other lawful requirement or instruction relevant to the **Works** in particular, shall obtain, before commencement of the Works, every necessary planning approval, license, permit, consent or authority that may be required in connection with the Works, goods, or materials. We shall be reimbursed by the **Client** in full for all losses arising from non-completion of **Works** and/or any expense arising out of the need to expand additional money as a result of any failure by the **Client**.

## **YOUR OBLIGATIONS**

18. You the **Client** must obtain any permissions, consents, licenses or otherwise that we need and must give us with access to all relevant information, materials, properties and any other matters which we need to provide the Services.

19. If you do not comply with clause 18 we can terminate the Services.

20. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (**Your obligations**).

## **INSURANCE**

21. The **Client** will insure all fixed work against any loss and/or damage howsoever caused.

## **ROOF STRUCTURE**

22. Unless otherwise stated in the description of the **Works** we have made no allowances in the quotation for;

23. Replacement, alterations, treatment or strengthening of any structural elements.

24. Alteration of the existing substance or structure, improvement of drainage, water runoff or other improvements to the **Clients** premises.

## **ANCILLARY WORKS**

25. The quotation is for the specified **Works** only and does not include the following;

Removal and subsequent replacement of furniture, (Balcony/Garden Furniture also), effects, floor covering, and other obstructions. Any fixings other than those specified. Removal of dust or the like from roof space or the protection of water tanks or personal effects from dust and debris and the like. Removal/protection of any items in the roof space.

The **Client** is to notify adjoining properties if shared Works are to be carried out on the chimney stacks, party parapet walls, bay roofs and back additions. When working on shared chimney stacks dust and debris can fall into the adjoining properties while every care will be taken to avoid this.

## **CIRCUMSTANCES OUTSIDE THE CONTRACTORS CONTROL**

26. The **Contractor** shall not be responsible for any loss or damage to the Employer due to circumstances outside his control including such as, but without limitation, lack of access, illness, breakdown in machinery, strikes, lock-outs, bad weather, failure to obtain materials as and when required, or any disorganization industry (or any industry) affecting the **Contract**, and work may be partially or wholly suspended by the **Contractor** until the dislocation is ended. Any loss or expenses arising there shall be borne by the Employer and paid to the **Contractor** by way of an additional sum added to the Quotation.

27. We the **Contractor** will not be responsible for loss or damage by fire, flood, excessive damp or heat or other causes occurring before or after completion of the work.

## **CONSEQUENTIAL DAMAGE**

28. While every care will be taken whilst carrying out the **Works**, we shall not be responsible for any damage or consequential damage to the property or contents where such damage is the result of:

- a. Weak or defective existing structures
- b. Soot or other falls
- c. Ceilings that are fixed directly to the rafters or joists.
- d. Where the **Contractors** recommendations have not been followed.
- e. Delays outside of the **Contractors** control.
- f. Extreme or unusual weather conditions, such as mentioned in section 57.

29. Any claims relating to consequential damage must be made to the **Contractor** in writing within 14 days of practical completion.

30. Though every effort will be made to reduce this possibility, the **Contractor** will accept no responsibility for any damage occurring as a result of any water ingress unless it is a result of poor workmanship.

- a. In the first instance of water ingress once works is complete, the **Client** shall pay for the **Contractors** time and any related costs in investigating the cause of water ingress. These costs will be refunded in full if the cause due to a result of poor workmanship.

## **FEES**

31. The **Fees** for the Services are set out in the quotation and are on a time and materials basis.

32. In addition to the Fees, we can recover from you a) reasonable incidental expenses including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, b) the cost of services provided by third parties and required by us for the performance of the Services, and c) the cost of any materials required for the provision of the Services.

- a. The terms set out in 32 are only applicable once expenses have been agreed by the client.

33. You, the **Client** must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable daily rate in effect at the time of performance or such other rate as may be agreed between us.

This will include but not be limited to time wasted onsite as a result of the **Clients** poor scheduling or if the **Contractor** cannot commence or carry out works on an agreed date through no fault of the **Contractor**.

The Fees are exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

- a. The terms set out in 33 are only applicable once expenses have been agreed by the client.

## **CANCELLATION AND AMENDMENT**

34. The **Contractor** can withdraw, cancel or amend a quotation if it has not been accepted by you, or if the Services have not started, within a period of 90 days from the date of the quotation, (unless the quotation has been withdrawn).

35. Either we the **Contractor** or you the **Client** can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.

36. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavors to make any required changes and additional costs will be included in the Fees and invoiced to you.

37. If, due to circumstances beyond our control, including those set out in the clause below (**Circumstances beyond a party's control—Section 57**), we have to

make any change in the Services or how they are provided, we will notify you immediately. We will use reasonable endeavors to keep any such changes to a minimum.

## **PAYMENT**

38. We will invoice you for payment of the Fees either:

- a. When we have completed the Services; or
- b. In accordance with our agreed payment terms or the invoice dates set out in the quotation.

39. You must pay the Fees due upon presentation of our invoice or otherwise in accordance with any credit terms agreed between us.

40. Time for payment shall be of the essence of the Contract.

41. Without limiting any other right or remedy we have for statutory interest, if you do not pay within the period set out above, we will charge you interest at the rate of 8% per annum above the base lending rate of the Bank of England from time to time on the amount outstanding until payment is received in full. If we need to engage the services of a third party to recover monies owed, then you will be liable for any costs incurred in so doing.

42. All payments due under these Terms and Conditions must be made in full without any deduction or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other to justify withholding payment of any such amount in whole or in part. 43. If you do not pay within the period set out above, we can suspend any further provision of the Services and cancel any future services which have been ordered by, or otherwise arranged with you, the

## **CLIENT**

44. Receipts for payment will be issued by us only at your request.

45. All payments must be made in British Pounds and in line with the above unless otherwise agreed in writing between us, the **Client** and **Contractor**.

## **JOINT CLIENTS AND COMPANIES**

46. If we are acting for a Company the Directors thereof will be jointly and severally liable for all invoices delivered to the Company and any other liability



pursuant to our agreement. Such liability arising by guarantee hereunder and/or by contractual indemnity in consideration of us dealing with the matter at their personal request.

47. These Terms and Conditions supersede all previous terms and conditions in force between Mallwood Roofing Limited and its Clients and prospective Clients unless otherwise agreed in writing by Mallwood Roofing Limited.

## **SUB-CONTRACTING AND ASSINGMENT**

48. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all our obligations to any third party.

49. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms and Conditions.

## **TERMINATION**

50. We can terminate the provision of the Services immediately if you:

- a. commit a material breach of your obligations under these Terms and Conditions; or
- b. fail to pay any amount due under the Contract on the due date for payment; or
- c. are or become or about to become, in our reasonable opinion, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
- d. enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or
- e. convenes any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed, or petition presented to any court for your winding up or for the granting

of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency.

f. The **Client** cannot agree with us the **Contractor** with regards to any issues and extra costings relating to section 32 and 33.

## **INTELLUCTUAL PROPERTY**

51. We reserve all copyright and any other intellectual property rights which may subsist in any goods supplied in connection with the provision of the Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.

## **LIABILITY AND INDEMNITY**

52. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this clause.

53. The total amount of our liability is limited to the total amount of Fees payable by you under the Contract.

54. We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:

g. any indirect, special or consequential loss, damage, costs, or expenses or;

h. any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third-party claims; or

i. any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or

j. any losses caused directly or indirectly by any failure or your breach in relation to your obligations; or

k. any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.

55.

You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.

56. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

### **CIRCUMSTANCES BEYOND A THIRD PARTY'S CONTROL**

57. Neither the **Contractor** or **Client** is liable for any failure or delay in performing our obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

### **COMMUNICATIONS**

58. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

59. Notices shall be deemed to have been duly given:

- l. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
- m. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
- n. on the fifth business day following mailing, if mailed by national ordinary mail; or
- o. on the tenth business day following mailing, if mailed by airmail.

60. All notices under these Terms and Conditions must be addressed to the most recent address, email address notified to the other party.

### **NO WAIVER**

61. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

## **SEVERANCE**

62. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

## **LAW AND JURISDICTION**

63. These Terms and Conditions are governed by and interpreted according to English law. All disputes arising under these Terms and Conditions are subject to the exclusive jurisdiction of the English courts.

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