

## TERMS & CONDITIONS

### Interpretation

1.1. References to any statutory provision, authority, rule or code of practice shall be deemed to include the amended versions, replacements or successors of such.

### Relationship Between The Parties:

2.1. The Client engages Acorn Damp Proofing to provide the services specified in these terms and conditions and attached schedules.

2.2. No term of this agreement or course of dealings between the parties shall operate to make Acorn Damp Proofing an employee or agent of the Client.

2.2. Neither party shall assign or transfer any of their rights, liabilities or obligations arising under this agreement without the prior written consent of the other party.

### The Quotation:

3.1. Acorn Damp Proofing shall provide to the Client a proposal for the services to be provided ("the Quotation") which shall set out:

The services which Acorn Damp Proofing will undertake for the Client.

The date or time period within which the service will be performed.

The prices which the Client shall be charged for the performance of the services including:

Any fees which Acorn Damp Proofing shall charge.

Any disbursements or expenses which Acorn Damp Proofing will require the Client to meet (including but not limited to the prices of materials).

Any VAT or tax element which will be payable by the Client.

3.2. The Quotation shall be attached to these terms and conditions as a schedule and where a contract is entered into between Acorn Damp Proofing and the Client, the Client will be deemed to have accepted the content of the Quotation in full.

3.3. The Quotation is valid from the date of issue after which we reserve the right of withdrawal or modification.

3.4. Any Reports by Acorn are prepared on the visible evidence and use of electronic moisture meters' subject to the restrictions and limitations of the survey. When further investigations is required this will only be carried out at the clients' instruction.

3.5. Whilst every effort is made to ensure that the specification in the Quotation is correct, we reserve the right to make modifications to this on sight when unforeseen circumstances arise. Whenever the client gives instructions involving changes in the work this may constitute additional costs for which an extra fee will be charged.

3.6 The advice and recommendations given in our reports are intended for the exclusive use of our own company and personnel. We will not accept liability for any claims arising out of the use by other parties of the information contained therein.

3.7 A COSHH Risk Assessment will be carried out prior to the contract commencing. Information from, and cooperation with the client will be necessary to produce a valid assessment. The client will responsible for compliance with the COSHH Risk Assessment and safety signs.

The Services And The Time And Manner Of Their Delivery:

4.1. Acorn Damp Proofing will provide such services to the Client as are set out in the Quotation.

4.2. The services will be provided to the Client within the timeframe specified in the Quotation.

4.3. Time frames and dates of delivery are provided for guidance only and Acorn Damp Proofing makes no guarantee that the services will be performed within the specified period. For the purposes of this agreement, time shall not be of the essence and Acorn Damp Proofing shall not be liable for any loss or damage suffered by the Client as a result of the delivery of services being delayed or postponed for any reason.

Payments:

5.1. The contract price is set out in the Quotation, which includes details of the charges which Acorn Damp Proofing will make for labour, materials and plant as well as any taxes or additional costs or expenses or disbursements which Acorn Damp Proofing may charge to the Client.

5.2. The intervals at which Acorn Damp Proofing may invoice the Client in respect of the whole or an instalment of the contract price are set out in the Quotation.

5.3. Notwithstanding 5.1 and 5.2 above, Acorn Damp Proofing may vary the contract price from the amount set out in the Quotation where he has provided services which are different or in addition to those set out in the Quotation either at the specific request of the Client or because he has been required to complete additional work which was not anticipated at the time the Quotation was made, or because of market fluctuations in the price of materials.

5.4. The Client agrees:

Not to withhold any sums due to Acorn Damp Proofing.

To settle all invoices raised by Acorn Damp Proofing within 7 days.

To pay to Acorn Damp Proofing interest at a rate of 5 percentage points per annum above the Bank of England base rate on any payments which are not settled in accordance with section 5.4(b).

To pay to Acorn Damp Proofing such costs and expenses as he may incur in recovering payment from the Client where the Client fails to make payment in accordance with these terms and conditions.

Any complaint relating to work invoiced should be forwarded in writing within 14 days of the original invoice date.

A guarantee will not be issued until full and final payment has been received. Where stage payments have been agreed in advance these will be paid at the completion of each stage.

Cancellation:

In accordance with the Cancellation of Contracts Made in a Consumer's Home or Place of Work etc. Regulations (2008) the Client may cancel this contract within 7 calendar days of signing this agreement (or within whatever extended period Acorn Damp Proofing may specify in the Quotation) and shall be entitled to a full refund of any monies paid to Acorn Damp Proofing, less an amount representing any reasonable administration costs which Acorn Damp Proofing has incurred. Any cancellation outside this period will not entitle the Client to a refund of any monies paid.

Client's Obligations:

7.1. The Client shall be responsible for the correctness of all measurements for products or materials which he gives to Acorn Damp Proofing. Where these measurements are not correct and accordingly materials or products which are ordered or provided by Acorn Damp Proofing are the wrong size, the Client shall bear the expense of rectifying this.

7.2. The Client shall co-operate with Acorn Damp Proofing as may be necessary to facilitate this agreement, including but not limited to:

Permitting Acorn Damp Proofing access to the property or location in which the services are to be supplied ("the Site") and assuring that such access is appropriate and adequate.

Where the Site is indoors, ensuring that there is adequate ventilation.

Providing for Acorn Damp Proofing such facilities as may be necessary in order to allow him to complete the services including electricity suppliers at normal voltage.

Following Acorn Damp Proofing's reasonable Instructions relating to safety and the state of work which has recently been completed by Acorn Damp Proofing or is in the process of being completed or to the state of the Site in general, including directions and restrictions on appropriate usage, care and maintenance.

7.3. Unless the Quotation specifies otherwise, the Client will be responsible for any cleaning and redecorating which is necessary to the Site after Acorn Damp Proofing has completed the agreed services (with the exception of the removal of waste materials or building rubble, which shall be the responsibility of Acorn Damp Proofing as set out in 8.4, below).

7.4. Where Acorn Damp Proofing stores or keeps any materials or equipment on Site, the Client shall be responsible for the security and safety of such and shall account to Acorn Damp Proofing for any loss or damage.

7.5. The Client shall be responsible for any permissions, licences or consents which are necessary in order for the services to be provided. The Client warrants that he has applied for and obtained all such necessary permissions, licence or consents prior to contracting Acorn Damp Proofing.

#### Supplier's Obligations:

8.1. Acorn Damp Proofing shall perform all duties, services and obligations under this contract with reasonable care and skill and to a reasonable standard. He shall comply with all relevant codes of practice and statutory or regulatory requirements.

8.2. Acorn Damp Proofing shall take all reasonable care with the Client's property, including taking reasonable steps to protect the Client's furnishings, fittings, wall, ceiling and floor coverings during the provision of the services.

8.3. Acorn Damp Proofing shall at all times be registered and remain in good standing with such organisations as may be relevant for the purposes of permitting him to self-certify the compliance of the services provided with the relevant building regulations or alternatively if he is not so accredited then he shall make arrangements for a building inspector to certify the compliance of the services provided with the relevant building regulations.

8.4. Acorn Damp Proofing shall be responsible for managing and arranging the safe and lawful disposal of any waste materials which are generated or removed from the Client's property as a result of the provision of the services.

8.5. Acorn Damp Proofing shall at all times hold valid employer and public liability insurance policies.

Property Rights And Assumption Of Risk:

9.1. Any property rights, title or ownership in any property or materials which are used by Acorn Damp Proofing in providing or delivering the service shall remain with Acorn Damp Proofing until the Client has made payment in full in accordance with these Terms and Conditions.

9.2. Risk in and responsibility for any products or materials which are used in the supply, performance or delivery of the services shall pass from Acorn Damp Proofing to the consumer:

Where Acorn Damp Proofing is responsible for delivering the products or materials to the Client, upon delivery; or

Where Acorn Damp Proofing is not responsible for delivery, at the moment the products or materials leave Acorn Damp Proofing's storage premises.

9.3. Except where occasioned by the negligence of the Company or its servants the Company accepts no liability for accidental loss, damage or injury to the premises to be treated or any adjoining premises, the contents of any such premises, or to any persons, or to any animal or plant life therein, or for any nuisance caused to the Owners or Occupiers of any such premises and the Client shall release and indemnify the Company from and against all claims arising from such loss, damage or injury as aforesaid. In no circumstances does the Company accept liability for the following:

The Company will take every precaution to prevent the staining and surrounding paths and pathing's, walls, etc but should such stains arise during treatment no liability is implied or accepted by the Company • Any damage to the structure, in which the Company's staff is to work, where it is structurally in a weakened condition or for any other cause.

Damage to electrical wiring which has become apparent, or has been sustained in the building, or buildings, in the course of treatment.

Damage to floor boarding in treatment areas, although every reasonable care will be taken.

Collapse of insecure brickwork, during the Company's work, if due to the collapse of insecure brick work or irregular bonding of the brickwork, or any other cause, the additional unforeseen work found to be necessary will be charged extra.

The Client is advised to remove from the premises any liquids or foodstuffs liable to contamination during the course of this treatment, not to replace carpets or floor coverings until the solvent has evaporated, not to lay "vinyl" floor coverings on floors that have been treated without first obtaining the floor covering manufacturers recommendations.

Defects which are found in plumbing. If during the course of our work any unforeseen defects are noted to the plumbing, the Client will be advised and any repairs charged extra.

The Guarantee:

10.1. Acorn Damp Proofing provides to the Client, in addition to any statutory rights which the Client may have, a guarantee that the services provided under this contract shall be free from defective or flawed materials or workmanship for a period of 3 years from the completion of the services, notwithstanding that this guarantee shall not apply to:

Defects or flaws which are as a result of any misuse, failure to adequately and properly maintain, neglect or failure to follow Instructions or recommendations on the part of the Client.

Any defect or flaw which is caused by mechanical or chemical damage (which is not in itself a result of some defect in the workmanship or materials) and which arises after risk in the property has passed to the Client.

10.2. Acorn Damp Proofing shall, at his sole discretion, determine the manner in which he will satisfy this guarantee, whether by repairing, re-performing or replacing the services or by refunding to the Client all or part of the monies which have been paid.

10.3. Where the Client considers that the services are defective upon delivery or performance then he shall notify Acorn Damp Proofing of this within 30 days, failing which he shall not be entitled to claim the benefit of this guarantee.

10.4. This guarantee shall not become effective until the Client has paid Acorn Damp Proofing in full, failing which the Client shall not be entitled to claim the benefit of this guarantee.

10.5. The guarantee remains valid regardless of ownership. If re-assignment is required a fee will be charged.

10.6. The client agrees the property is to be kept in a reasonable state of maintenance and repair and the damp proof course is not bridged in any way.

10.7. Guarantees may be invalidated if recommendations in conjunction with the original, or subsequent reports, have not been complied with.

10.8. Copies of guarantees and searches for guarantees are available subject to an administration fee.

10.9. For any claims against the Guarantee(s) issued, the Company reserve the right to charge a call-out fee. This amount would be reimbursed if a breakdown of the chemical damp proof course has occurred.

#### Termination:

11.1. This agreement shall continue until the services (or any mutually agreed addition, extension or variation thereof) have been provided, or until terminated in accordance with the below.

11.2. Without prejudice to the above the employment of Acorn Damp Proofing under this Agreement may be terminated immediately where any of the following circumstances arise:

Either party commits a serious breach or persistent breaches of this agreement including but not limited to the non-performance, neglect or default of any of his duties as outlined herein (including a failure on the part of the Client to make payment within agreed timescales) and after notice of this breach has been given to the defaulting party it remains un-remedied and unrectified 7 days after such notice.

Either party commits a breach of this agreement which cannot be remedied.

Either party becomes insolvent or enters into a CVA or IVA or ceases to carry on the whole or substantially the whole of its business.

11.3. Upon termination of the employment of Acorn Damp Proofing under this agreement the Client shall pay to Acorn Damp Proofing such sums as may represent work done and expenses incurred up to and including the date of the termination.

11.4. Any right to terminate the employment of Acorn Damp Proofing under this agreement shall be without prejudice to any accrued rights or liabilities arising out of this agreement which are in existence at the date of termination.

#### Disclaimers And Exclusions:

12.1. Acorn Damp Proofing shall not be responsible in any circumstances to the Client or any third party for any loss of profit or indirect or consequential economic damage or loss, howsoever caused, whether as a result of negligence, misrepresentation, breach of contract or otherwise.

12.2. Nothing in the foregoing shall be read as restricting or limiting in any way Acorn Damp Proofing's liability for death or personal injury.

#### Indemnity:

The Client shall indemnify Acorn Damp Proofing against any loss or damage which results from the Client's breach of this agreement or failure to abide by any of its terms.

#### Force Majeure:

Neither party shall be liable for any delay or failure in performing its obligations or duties under this agreement which results from circumstances outside his reasonable control including but not limited to acts of God, industrial action, war, fire, threat of terrorism, civil disturbance or rioting, government or regulatory action, breakdown in plant or machinery or shortage of raw materials or supplies.

#### Warranty Of Contractual Capacity:

Both parties and the signatories to this agreement warrant that they are authorised and permitted to enter into this agreement, and have obtained all necessary permissions and approvals.

#### Whole Agreement, Governing Law, Severability And Miscellaneous Provisions:

16.1. This document constitutes the entirety of the agreement between the parties. It supersedes any prior representations which may have been made, whether orally or in writing. Any modification to this agreement must be made in writing and signed by both parties.

16.2. This Agreement shall be governed by the Law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.

16.3. All clauses, sub clauses and parts thereof shall be severable and shall be read and construed independently. Should any part of this Agreement be found invalid this will not affect the validity or enforceability of any other provision or of this agreement as a whole.

16.4. All terms, conditions and covenants contained in this agreement shall bind the parties and their heirs, legal representatives, successors to title and permitted assignees.

16.5. Nothing in these terms and conditions shall incur any rights on a third party and no third party may enforce any provision of this contract under the Contracts (Rights of Third Parties) Act.

16.6. The failure by either party to enforce any provision of this agreement shall not be deemed a waiver or limitation of that party's right to subsequently compel and require strict compliance with every provision of this agreement.