

## **TERMS & CONDITIONS**

### **1. DEFINITIONS**

The following expressions have the following means.

- 1.1) The 'Company' refers to Biocraft South West, servants, agents and subcontractors. The 'Client' refers to any person/s entering into an agreement with the Company.
- 1.2) The 'Treatment' refers to all works that the Company agrees to undertake as specified within the Company's report or quotation of which is accepted by the Client.
- 1.3) 'Associated and/or Preparatory Works' refer to the works which shall be carried out either by the Client or the Company (if specified within the Company's quotation).
- 1.4) The 'Guarantee' refers to the Company's Guarantee (if offered and where applicable) in the standard form of which is in use by the Company at the time of Client's acceptance of the Company's offer to carry out Treatment.

### **2. THE COMPANY'S OBLIGATIONS**

The Company agrees to the following;

- 2.1) To carry out the Treatment as specified within the written report or quotation
- 2.2) To locate and identify the extent of the Treatment necessary (where possible given the confines and parameters of our survey)
- 2.3) Specify any Associated and/or Preparatory works that are necessary for the effectiveness of the Treatment (where possible given the confines and parameters of our survey)
- 2.4) Upon completion of the Treatment and all monies owed are paid in full including any accrued interest, to provide an honour the Guarantee in the form issued by the Company at the date of the Client's acceptance of the Company's quotation.

### **3. THE COMPANY'S OBLIGATIONS**

The Company does not agree to;

- 3.1) Supervise, inspect and/or accept and liability or responsibility for any Treatment, Preparatory and/or Associated works specified within our report or quotation that is carried out by others. In the event such works are carried out ineffectively, it is likely to render the Guarantee null and void.

### **4. LIMITATIONS OF LIABILITY**

- 4.1) The Company accepts liability as specified within the Guarantee for failure of the Treatment
- 4.2) The Company accepts no liability under any circumstances for:
  - (a) Damage to any part of the fabric of the building in which the Treatment is carried out where any part of the structure is weakened, incomplete and/or in damaged condition prior to the completion of Treatment
  - (b) The consequences (direct or indirect) of the failure on the Clients part to comply with the advice and recommendations specified within the Company's report or quotation.
  - (c) Infestation of wood boring insects, wood rotting fungi and/or dampness which appears or is found outside the area treated or scheduled for Treatment by the Company.
  - (d) Any loss and/or damage not foreseen by the Company and Client at the point at which the agreement was made.
  - (e) Any loss and/or damage to goods and chattels left in the area where Treatment is being carried out and where such loss is not due to its negligence or breach of contract.
  - (f) Any loss of rent, income and/or reduction in profit
  - (g) Any damage caused to pipes or services set into and/or concealed beneath wall and floor surfaces, unless the precise location thereof was made known to the Company prior to Treatment commencing

- (h) Any defects due to faulty material and/or workmanship of any third parties not approved by the Company in completion of the Treatment and/or engaged in redecoration and/or alterations to any areas treated by the Company.
- (i) Any loss and/or damage which arises that the Company was unable to avoid or prevent through the exercise of reasonable care.

## 5. TIME LIMIT ON CLAIMS AND ACTIONS

- 5.1) Any claim under the terms of the Company Guarantee shall be made in writing within 28 days from the time the defect was first identified by the Client.
- 5.2) The Company cannot be held liable for any additional deterioration, associated costs and/or failing to take action, in the event that the Client fails to permit the Company access within 3 months from the time in which the defect was first identified, to carry out the necessary Treatment and/or reasonable measures to prevent further deterioration.

## 6. QUOTATION AND ACCEPTANCE

- 6.1) The Company's quotations accepted by the Client in writing and/or additional quotation agreed verbally and confirmed to the Client by the Company in writing (only) will be legally binding and shall proceed to form a contract between the Company and Client.
- 6.2) Written quotations provided by the Company shall be valid and open for acceptance by the Client for 3 months and subject to revision thereafter.
- 6.3) Written quotations provided by the Company shall be construed as an offer by the Company to undertake the Treatment outlined within the quotation at the price quoted therein on these conditions.
- 6.4) In some circumstances the Company may need to substitute alternative materials or alternative methods of treatment. Agreement from the client will be sought in this instance and works may be subject to a price revision in the circumstances where item 9, clause 9.1 applies.
- 6.5) Due to ongoing fluctuating nature of the availability and cost of materials, as such there may be an increase in the costs of materials which is beyond the reasonable control of the Company. As such, in the event that any costs are subject to change, the Company shall notify the Client of all changes and provide a revised quotation.

## 7. DELAY

- 7.1) The Company's quotation is constructed upon the cost of labour and materials at the date of issue and on the assumption that the Client's acceptance shall be made within 3 months of issue and that the Treatment shall be completed within a reasonable time thereafter. Should completion be delayed on the part of the Client in respect of the following:
  - (a) Completing any Associated and/or Preparatory Works necessary to enable Treatment to commence and/or be completed.
  - (b) Providing access to the premises at which the Treatment is to be carried out
  - (c) Causing and/or permitting any interruption in carrying out the Treatment other than such that may be caused by the Company's own default.
- 7.2) The Company will complete the Treatment within a reasonable time of acceptance of its quotation by the Client.
- 7.3) The Company shall endeavour to adhere with dates specified by the Company and/or requested by the Client prior to Treatment commencing. In the event of unforeseen circumstances that are deemed beyond the reasonable control of the Company, the Company shall notify the Client of any consequential delays and provide a revised estimated time of completion as soon as possible.
- 7.4) Due to the nature of specialist Treatment and Associated Works undertaken by the Company, delays may arise as specified above in item 7 clause 7.3, however the Treatment may take longer than first anticipated and consequently time shall not be essential to the contract.
- 7.5) Delays may occur due to the ongoing fluctuation in the supply and demand of materials necessary to complete the Treatment, and will be dealt with as specified in item 7 clause 7.3 above.
- 7.6) The Client shall not be entitled to terminate the contract on the grounds of delay in performance by the Company without first providing the Company 28 days notice in writing of his/her/their intention to do so and thereafter allow a reasonable period for the Company to complete the Treatment.



## 8. PAYMENT

- 8.1) The Company is entitled to raise interim invoices to cover works that have been carried out and completed to date, of which the Client is expected to settle on or before the payment date (unless special payment terms have been agreed in writing prior to entering into an agreement).
- 8.2) In the event of the Client's bankruptcy, liquidation or the appointment of a Receiver or Administrator, or the Client making any composition with his/her/their/its creditors:
  - (a) The full cost of Treatment shall become immediately due and payable for the release of any Guarantees
  - (b) The Company shall be entitled to suspend further work until payment has been made in full by or on behalf of the Client.
- 8.3) The Company reserves the right to suspend any work and/or terminate the contract in the event that the Client fails to meet his/her/their obligations without a justified reason under the terms of the agreement and such action by the Company shall not constitute as a breach of contract.
- 8.4) Interest shall be payable by the Client on all outstanding payments after the due date at the rate of 1.5% per month of part thereof.
- 8.5) In the event the Client fails to undertake any of the obligations as specified within the Company's report or quotation, the Company reserves the right to make charges for any reasonable costs which are incurred by the Company.

## 9. ADDITIONAL COSTS

- 9.1) The Company's quotation is provided in good faith and is based on the Company's opinion of the likely extent of Treatment necessary at the time of our inspection. However due to the parameters of our investigation on the given day it is not always possible to foresee the precise extent of the necessary Treatment until the affected areas are fully exposed. The Company reserves the right to submit an additional report and/or quotation in respect of any additional Treatment and/or Associated Works that would be required and/or necessary. If in doubt we advise that the Client instructs their own independent surveyor/specialist to consult prior to accepting the Company's report and/or quotation.
- 9.2) In the event that an additional report or quotation is submitted under item 9 clause (9.1) and not accepted for good reason, by the Client, subsequent Guarantees will not apply to the reoccurrence of wood boring insects, wood rotting fungi and/or dampness, arising (directly or indirectly) of the Client's failure to proceed with the Associated Works as specified within the additional report or quotation
- 9.3) Any works required by the District Surveyor, Local Authority and/or any third party that is not specifically outlined within the Company's report or quotation, may be charged by the Company in addition to quoted prices for Treatment Works.
- 9.4) The Company shall be entitled to charge in respect of additional visits to the premises during which the Company's workforce are for any reason (other than due to the Company's own negligence or wilful default), unable to gain access to the premises and/or otherwise prevented from or delayed in the execution of the Treatment intended to be carried out during such visit.
- 9.5) The Company is entitled to raise charges where additional works are undertaken and completed or part thereof by the Company.

## 10. RETENTION OF TITLE

- 10.1) Any Goods and/or materials delivered by the Company to the Client shall remain the sole and absolute property of the Company until such time as the Client shall have paid the Company in full of all monies owed including accrued interest.
- 10.2) The Company's ownership of such goods and/or materials shall not be affected by partial or complete use of such goods or materials.
- 10.3) The Company shall proceed with legal action against the Client in the event that the Client does not allow the Company to access the premises to enable removal of any items, goods and/or materials which have not been purchased by the Client or paid in full.
- 10.4) The Client is not entitled to sell or pass goods to any other party whilst the same remain the property of the Company.



## **11. PARAMOUNTCY OF THESE CONDITIONS**

- 11.1) The agreement between the Client and the Company shall be bound by these conditions, the Company's report and quotation, the Client's acceptance, the Guarantee and the Company's general advisories. If any changes to these terms are required terms must be made in writing prior to the agreement being made and/or Treatment being carried out. Please note that once the terms have been specified and agreed upon, neither party can change/update and/or alter them without the expressed consent of the other party.
- 11.2) Once the Company has fulfilled its obligations in full and/or as specified with the Company's report or quotation the contract will be deemed concluded. Any previous Guarantees and/or agreements for the same service shall be superseded by this agreement.
- 11.3) Any amendments to the agreement will only be valid upon written confirmation by the Company and, in the case of any amendments to these conditions, only if confirmed in writing by the Company Director.

## **12. NOTICE OF RIGHT TO CANCEL (EXCLUDING BUSINESSES)**

- 12.1) If you wish to cancel the contract you must do so in writing within 7 days from the date of accepting the Company's quotation. The Company reserves the right to charge a reasonable administration fee together with any other costs incurred by the Company, charges shall be confirmed in writing by the Company within 7 days of cancellation and monies owed shall be retained from the Client's deposit, any remaining sum of money shall be paid in full directly to the Client.
- 12.2) Under any circumstances whatsoever, in the event that a Business or Partnership wish to cancel the contract at any time, the Business or Partnership will be liable to pay the Company loss of profit together with any and all Company costs incurred by the Company.

## **13. CHOICE OF LAW/CONDITIONS TO BE READ SUBJECT TO ANY APPLICABLE LEGISLATION**

- 13.1) This agreement is subject to the Law of England and Wales
- 13.2) If any part of these conditions are found invalid or unlawfully by reason of legislation or rule of law or otherwise, that part, and that part only, of these conditions shall be rendered void/unenforceable.

