

# Our Terms and Conditions

Proffixing LTD

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## 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 Proffixing LTD (“the Contractor”) 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 Proffixing LTD an employee or agent of the Client.

2.3. 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. Proffixing LTD shall provide to the Client a proposal for the services to be provided (“the Quotation”) which shall set out:

- a) The services which Proffixing LTD will undertake for the Client.
- b) The date or time period within which the service will be performed.
- c) The prices which the Client shall be charged for the performance of the services including:

- i. Any fees which Proffixing LTD shall charge.
- ii. Any disbursements or expenses which Proffixing LTD will require the Client to meet (including but not limited to the prices of materials).
- iii. 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 Proffixing LTD and the Client, the Client will be deemed to have accepted the content of the Quotation in full.

3.3. If a formal contract is signed between the Client and Proffixing LTD the clauses of the contract will have the power to supersede these Terms and Conditions. For matters not discussed or specified these Terms and Conditions still apply.

3.4 If no formal contract is signed between the Client and Proffixing LTD this document is still in power. The Terms and Conditions document is publicly available on Proffixing LTD’s website and

provided as an electronic and hard copy upon request. It is Client's responsibility to read and accept the document in full and ask any questions before beginning to trade with Proffixing LTD.

### **The Services and the Time and Manner of their Delivery**

- 4.1. Proffixing LTD 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 Proffixing LTD 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 Proffixing LTD 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, if relevant, will include details of the charges which Proffixing LTD will make for labour, materials and plant as well as any taxes or additional costs or expenses or disbursements which Proffixing LTD may charge to the Client.
- 5.2. The intervals at which Proffixing LTD may invoice the Client in respect of the whole or an instalment of the contract price are set out in the Quotation or Payment Schedule document.
- 5.3. Notwithstanding 5.1 and 5.2 above, Proffixing LTD may vary the contract price from the amount set out in the Quotation where Proffixing LTD 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 Proffixing LTD has been required to complete additional work which was not anticipated at the time the Quotation was made, or in rare situations of unexpected market fluctuations in the price of materials.
- 5.4. The Client agrees:
  - a) Not to withhold any sums due to Proffixing LTD.
  - b) To settle all invoices raised by Proffixing LTD within 5 days. If an extension is required due to a technical reason the Client must agree this in writing with Proffixing LTD first.
  - c) If requested by Proffixing LTD the Client will be liable to pay to Proffixing LTD 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).
  - d) To pay to Proffixing LTD such costs and expenses as Proffixing LTD may incur in recovering payment from the Client where the Client fails to make payment in accordance with these terms and conditions.

## **Cancellation**

6.1 In accordance with the Cancellation of Contracts Made in a Consumer's Home or Place of Work Regulations (2008) the Client may cancel this contract within 7 calendar days of signing this agreement or in case no formal agreement has been signed from the moment a payment has been made (or within whatever extended period Proffixing LTD may specify in the Quotation) and shall be entitled to a full refund of any monies paid to Proffixing LTD, less an amount representing any reasonable administration costs and any additional expenses including but not limited to restocking fees, subcontractor fees and callout charges, parking and other travelling expenses which Proffixing LTD has incurred in direct relation to the ("the Work"). 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 given to Proffixing LTD. Where these measurements are not correct and accordingly materials or products which are ordered or provided by Proffixing LTD are the wrong size, the Client shall bear the expense of rectifying this.

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

- a) Permitting Proffixing LTD 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.
- b) Where the Site is indoors, ensuring that there is adequate ventilation.
- c) Providing for Proffixing LTD such facilities as may be necessary in order to allow Proffixing LTD to complete the services.
- d) Following Proffixing LTD's reasonable Instructions relating to safety and the state of work which has recently been completed by Proffixing LTD 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 arisen from services conduct by Proffixing LTD which is necessary to the Site after Proffixing LTD has completed the agreed services (with the exception of the removal of waste materials or building rubble, which shall be the responsibility of Proffixing LTD as set out in 8.4, below).

7.4. Where Proffixing LTD 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 Proffixing LTD 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 they have applied for and obtained all such necessary permissions, licence or consents prior to contracting Proffixing LTD.

7.6 The Client is responsible for notifying Proffixing LTD of any rules, restrictions and regulations affecting the Work conduct. Any such limitations and requirements imposed by a leaseholder, managing body, local authority in relation but not limited to working hours, use of equipment, noise levels, required certifications or equipment, access and parking restrictions and others should be reported to Proffixing LTD as early as possible as they may affect the price and timeframe of the project. Proffixing LTD reserves the right to amend the price and completion date of a project if such

limitations and requirements have not been reported to Proffixing LTD prior to issuing the final Quotation.

7.7 Client to allow Proffixing LTD to use Electricity, Toilet facilities, Telephone, Water free of charge.

7.8 The Client shall provide continuous access during the hours of 8 a.m. and 5 p.m. Monday to Saturday. The Client must allow Proffixing LTD access to the working areas to enable them to complete the Works on time. If access is obstructed Proffixing LTD may move stored items or furniture in order to facilitate the conduct of Work. Proffixing LTD reserves the right to charge the Client for moving or temporary relocating items that obstruct the conduct of Work.

7.9 The Client must keep the working areas clear of obstructions to allow the Contractor to carry out the works and let the Contractor carry out the Works in the order decided by the Contractor.

7.10 The Client must carefully inspect all products and services provided or delivered on site by Proffixing LTD and notify Proffixing LTD within 14 days of completion of any flaws or imperfections to workmanship. Proffixing LTD will assume the Client is completely happy and satisfied with the provision of goods and services after the 14 days cool off period regardless of whether a work completion form has or has not been signed by the Client. Any further disputes on craftsmanship and quality may or may not be considered entirely on Proffixing LTD's own discretion.

7.11 The Client must take notice of Health & Safety warnings given by the Contractor during the course of the Works and not knowingly permit children, animals or persons visiting the Site to be exposed to potential hazards while the Works are carried out.

### **Supplier's Obligations**

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

8.2. Proffixing LTD 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. Proffixing LTD shall at all times attempt to be registered and remain in good standing with such organisations as may be relevant for the purposes of permitting Proffixing LTD to self-certify the compliance of the services provided with the relevant building regulations or alternatively if Proffixing LTD is not so accredited then Proffixing LTD shall make arrangements for an external contractor to certify the compliance of the services provided with the relevant building regulations.

8.4. Proffixing LTD 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. In rare situations where Proffixing LTD may uncover dangerous substances that require specialist disposal e.g. Asbestos, Chemicals, Radio Active material or others Proffixing LTD shall assume no responsibility for disposal of such materials and Client agrees to hold Proffixing LTD harmless against any costs and liabilities arising or associated with such discovery. Proffixing LTD will continue to assist any specialist waste removal third parties in good faith all times.

8.5. Proffixing LTD shall at all times hold a valid public liability insurance policy.

## **Property Rights and Assumption of Risk**

9.1. Any property rights, title or ownership in any property or materials which are used by Proffixing LTD in providing or delivering the service shall remain with Proffixing LTD 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 Proffixing LTD to the consumer:

- a) Where Proffixing LTD is responsible for delivering the products or materials to the Client, upon delivery; or
- b) Where Proffixing LTD is not responsible for delivery, at the moment the products or materials leave Proffixing LTD.'s storage premises.

9.3. Proffixing LTD reserves the right to photograph all Works for record keeping, in case of disputes and for all marketing purposes. Proffixing LTD will not disclose the exact location or Client's identity on any residential projects without obtaining permission from the Client or an Agent of the client prior to doing so.

## **Design, Photographs and Use of Context**

10.1 If technical drawings and computer-generated visualisations are provided, the Client acknowledges the possibility of slight deviation or variation from the original design proposal. In certain cases, due to technical limitations, inconsistent dimensions, poor foundation, discontinued supply or others it may be necessary to carry alterations mid-project. The Client accepts that both parties will operate in good will to mitigate such situations and Proffixing LTD will provide the closest possible viable solution.

10.2 The Client acknowledges and takes into consideration that computer generated visualisations are only used as design simulations and guidelines and may not accurately represent the final look and feel, small details, light qualities and other parameters of the supplied products and services to a photo realistic level.

10.3 The Client and all agents of the Client such as end users, designers, consultants and contractors, grant Proffixing LTD the right to take and use photographs of all completed Works and agree to hold Proffixing LTD harmless against copyright. The Client and all agents of the Client agree for Proffixing LTD to obtain and use all photographs of their Works available in the public domain (such as in marketing materials and websites of the Client or any Client agents). All photographs taken or obtained by Proffixing LTD are to be used for record keeping, in case of disputes and for all marketing purposes. Proffixing LTD agrees to credit all designers, photographers and other interested parties in their marketing materials and use all photographs reasonably.

10.4 The Client acknowledges the use of context in computer generated design visualisations. Context is used for better understanding of the final design outcome and may be in the form of people using a space or an object, or in the form of related objects such as books on a bookshelf, paintings on a wall or a car in a garage etc. The Client acknowledges that unless specifically specified in the Quotation document, context objects will not be supplied with the products and services offered by Proffixing LTD.

## **The Guarantee**

11.1. Proffixing LTD 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 2 years from the completion of the services, notwithstanding that this guarantee shall not apply to: a) 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. b) 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.

11.2. Proffixing LTD shall, at their sole discretion, determine the manner in which they 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.

11.3. Where the Client considers that the services are defective upon delivery or performance then the Client shall notify Proffixing LTD of this within 7 days unless specified otherwise in the Quotation document or any contract signed between the Client and Proffixing LTD, failing which he shall not be entitled to claim the benefit of this guarantee.

11.4. This guarantee shall not become effective until the Client has paid Proffixing LTD in full, failing which the Client shall not be entitled to claim the benefit of this guarantee.

11.5 All guarantees will be void and terminated with immediate effect if the Client or any other third party has attempted an independent alteration or repair to the supplied products or services.

## **Termination**

12.1. 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.

12.2. Without prejudice to the above the employment of Proffixing LTD under this Agreement may be terminated immediately where any of the following circumstances arise:

- a) Either party commits a serious breach or persistent breaches of this agreement including but not limited to the nonperformance, 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 unremedied and unrectified 7 days after such notice.
- b) Either party commits a breach of this agreement which cannot be remedied.
- c) 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.

12.3. Upon termination of the employment of Proffixing LTD under this agreement the Client shall pay to Proffixing LTD such sums as may represent work done and expenses incurred up to and including the date of the termination.

12.4. Any right to terminate the employment of Proffixing LTD 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**

13.1. Proffixing LTD 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.

13.2. Nothing in the foregoing shall be read as restricting or limiting in any way Proffixing LTD.'s liability for death or personal injury.

### **Indemnity**

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

14.2 Proffixing LTD will not accept any client liability arising from the provision of our services including but not limited to loss of income, reputation risk, disruption of lifestyle and others.

14.3 Proffixing LTD shall be held harmless against any third-party liabilities passed onto the client arising or partially connected with the provision of our services.

14.4 Proffixing LTD shall not take any responsibility for the damage to products and services provided or delivered on site caused by the Client or third party. Proffixing LTD keeps the right to charge the Client for the repairs of all damaged products when the damage is caused by the client, an agent of the client, a client contractor or any other relevant third party regardless of whether the damage was accidental or due to negligence.

### **Disputes**

15.1 The parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior executives of the parties, who have authority to settle the same.

15.2 If agreement is not reached both parties agree that an adjudicator can be appointed to help resolving the dispute. In such cases the adjudicator must be approved by both parties prior to being appointed. Any such person should be appointed solely on Client's expense.

15.3 Failure to reach an agreement after mediation has been attempted will result in the matter being taken to the court of law.

15.4 During a dispute, under no circumstances will Proffixing LTD be held liable for reimbursing any Client's expenses including third party involvement or consultant fees arising or indirectly related to the provided products and services.

### **Force Majeure**

16.1 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, theft, death, civil disturbance or rioting, government or regulatory action, breakdown in plant or machinery or shortage of raw materials or supplies.

### **Warranty of Contractual Capacity**

17.1 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**

18.1. 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. 18.2 Proffixing LTD reserves the right to change and update this document and any such changes will be made immediately available on Proffixing LTD's website or available upon request.

18.2. 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.

18.3. 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.

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

18.5. 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.

18.6. 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.

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