

Terms & Conditions

1. What is the purpose of this contract?

- 1.1 This contract sets out the terms and conditions that apply when you (“you” and “your”) decide to purchase **services** from **SJ Waterproofing Ltd** (“we”, “us” and “our”).

2. What are our services?

- 2.1 In these terms and conditions “**services**” means and includes, without limitation, all commercial and residential waterproofing and related services, including the supply and application of associated materials.

3. What is the price of our services?

- 3.1 The **price** is the cost of the **services** as agreed in writing between you and us.
- 3.2 If no price is agreed in writing then the **services** will be treated as supplied at the current amount that we supply those **services** at the time of our contract with you.

4. What and when must you pay us?

- 4.1 You agree as follows:

- to pay us on or before the 7th day following the date of our invoice (“the due date”);
- we may invoice you by way of one or more “payment claims” made under the Construction Contracts Act 2002 (“the Act”) and if we do then you agree to pay us on or before the due date set out in the payment claim (“the due date”);
- if you fail to pay us by the due date of any invoice or payment claim, then we may charge interest on any amount you owe us after the due date at the rate of 2.5% per month or part month; and
- you agree to pay any costs, including debt collection and legal costs, that we may incur as a consequence of having to enforce any of our rights contained in our contract with you; and
- you further agree that invoices and “payment claims” may be served on you by email.
- **Please note** – if you instruct us to send our invoice to a third party such as an “owner” or “end user” and we are not paid by the due date, then you remain liable to pay our invoice as per the above payment terms.

5. What happens when we give you an estimate?

- 5.1 When we give you an estimate for **services**, unless otherwise agreed the estimate shall be valid for thirty (30) days from the date of issue.
- 5.2 If **services** are required by you in addition to the **services** referred to in the estimate, you agree to pay for the additional cost of such **services** at the rate we would normally charge when we supply those additional **services**.

6. What is the limitation on our liability?

- 6.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, the Building Act 2004 (including the Building Code) and other statutes may imply guarantees, warranties or conditions or impose obligations upon us that cannot by law be excluded.
- 6.2 However subject to clause 6.1, we are not liable for damage caused by:
- 6.2.1 environmental interference or any other cause beyond our reasonable control; and/or
 - 6.2.2 other parties accessing the waterproofing area or the flooding test undertaken before the waterproofing membrane is fully cured; and/or
 - 6.2.3 the workmanship, act, omission, default or representation of any other party, in particular the workmanship of any other tradesman; and/or
 - 6.2.4 persons not authorised by us to have access to the waterproofing area; and/or
 - 6.2.5 persons employed or contracted to repair, maintain or alter the waterproofing area; and/or
 - 6.2.6 the materials we provided or due to the materials we provided being disturbed by any person other than us.

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6.3 Further, subject to clause 6.1, if we are deemed to be liable to you for any loss or damage of any kind whatsoever, arising from the supply of **services** by us to you and whether suffered or incurred by you or another person or entity and whether in contract or tort (including loss or damage caused by our negligence) or otherwise, then it is agreed by you, that our liability is limited in its aggregate to the **price** charged to you by us for our **services**.

7. What rights do we have to cancel our contract with you?

7.1 It is agreed that we have the right by notice to suspend or cancel any part of our contract for the supply of **services** to you, if you fail to pay any sum owing to us after the due date.

7.2 Any cancellation or suspension will not affect our entitlement to claim for any money due at the time of cancellation or suspension or any other legal rights we have.

8. Is there a warranty?

8.1 Any written warranty that we provide also forms part of these terms and conditions.

9. What also are you agreeing to?

9.1 We are not liable for delay or failure to perform our **services** if the cause of the delay or failure is beyond our control.

9.2 If we fail to enforce any of the terms and conditions contained in this contract it shall not be deemed to be a waiver of any of the rights or obligations we have under this contract.

9.3 If any of these terms and conditions shall be invalid, void or illegal or unenforceable, the validity existence, legality and enforceability of the remaining terms and conditions shall not be affected, prejudiced or impaired.

9.4 If you fail to pay us for **services**, then you agree that such failure gives rise to a legal or equitable estate or interest ("the interest") in your land upon which the **services** were affixed and/or performed and that the interest entitles us to enter a caveat against your land pursuant to the Land Transfer Act 1952 and its amendments or any legislation in substitution thereof. A caveat is a notice that is registered against the title of your land, which informs anyone who searches that title that we have a right or interest in that land.