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The Mould & Damp Specialist Ltd

Terms & Conditions

Definitions

'Acceptance' means verbal order or agreement, email, or online order of products or services as supplied by The Mould & Damp Specialist Ltd and the above trading names;

'Agreed date' means the date agreed for fulfilment of verbal order or agreement, email, or online order of the Service;

'Consent' means any consent that may be required to obtain from any Person but not exclusively regarding the Service, lifting floorboards, lifting floor coverings, opening up inspection hatches in ceilings and floor, and wall voids, drilling holes to obtain samples;

'Customer' means the Person on whose behalf the Company visited for, and prepared any inspection report and any suggested actions;

'Force Majeure' means act of God, war, civil disturbance, government action, strike, difficulties in obtaining materials including fuel or batteries, breakdown in machinery, fire or accident, or any other causes whatsoever beyond the control of the Company;

'Inspection report' means the document prepared or the oral brief given by the Company and provided to the Customer for its sole benefit detailing the recommendations;

'Payment' means the payment for any of the services or goods supplied to the Customer by the Company;

'Person' means any individual, firm, partnership, association, company, incorporated/unincorporated body, organisation, local authority and/or any other person or body;

'Price' means the price as quoted by the Company in writing or by electronic means, to be paid by the Customer to the Company for the goods or services received, including any additional sums that, in the Company's sole discretion are required as a result of modification to the order or request for further services, the Customers instruction or lack of instruction, the inaccuracy of or any cause attributable to the Customer;

'the Company' means The Mould & Damp Specialist Ltd registered in England and Wales under Company number 10793516 and whose registered office is 93 Bohemia Road TN37 6RJ it includes

the Trading Names of Mould Tutor®, Mould Less® and Tanya Eldridge.

'these Terms & Conditions' means the terms and conditions set out below in this document incorporated into each and every agreement between the Company and the Customer in their entirety of the services or goods and Terms mean any one of them;

'the Service' shall mean any service, inspection report, product, or goods provided to the Customer by the Company;

'Working Days' means Monday to Friday, excluding Saturdays, Sundays, bank holidays, and public holidays in England and Wales. Upon request, the Company at its sole unfettered discretion may work other days but will not be deemed a Working Day for the purpose of these Terms & Conditions;

1 Creation Of Contract

- 1.1 A quotation by the Company shall not constitute an offer and no contract shall be taken as formed except by the customer agreeing to the service by the Company whether in writing by the Company, by oral agreement or otherwise in accordance with these terms and conditions.
- 1.2 Any quotation is valid for a period of three months only from its date, provided the company has not previously withdrawn it.

2 These are the Terms and Conditions

- 2.1 By agreement to the service by the company whether in writing, by the Company, oral agreement or otherwise the customer shall be deemed to have unconditionally accepted these terms and conditions to the exclusion of all other terms and conditions (including any terms and conditions which the customer purports to apply whether orally or in writing).
- 2.2 These Terms and conditions constitute the entire agreement between the company, the customer and both hereby acknowledge that they supersede, override and oust all previous negotiations, representations, agreements or understanding between the parties, any variation to the terms and conditions and any representations about the service, shall have no effect unless expressly agreed in writing between the parties. All other terms and conditions express or implied by the statute or otherwise are excluded to the fullest extent permitted in law.
- 2.3 The parties hereby confirm that no term is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to these Terms and conditions.
- 2.4 The construction, validity and performance of the Terms and conditions shall be governed by the laws of England and any claim or dispute arising therefrom shall be subject to the exclusive jurisdiction of the English courts.
- 2.5 In the event that the Company has a further course of dealings with the Customer, in the absence of a new contract these Terms and Conditions shall apply, subject to any modifications as agreed by the parties including but not exclusively the price for the Service.

3 Payment

The Customer shall pay the price for the service. Including payment for all time spent by the company to the relevant date as shall be calculated by the company. If the Customer fails to make payment in full in accordance with this clause 4 then, without prejudice to any other rights to the company, any sums will be deemed immediately due and payable to The Company.

4 Supply of the service

- 4.1.1 the Company shall use its reasonable endeavours to;
- 4.1.2 provide the service using reasonable care and skill;
- 4.1.3 aim for the service Agreed on the Date agreed;
- 4.1.4 aim for the service to be undertaken within any specified duration or time (if any) but the Customer acknowledges that all dates and times for the Commencement of the said service, and the duration of the said service are mere estimates and are given in good faith but without any warranty or responsibility on the part of the Company and such time estimates shall not be of the essence, the company shall have no liability to the Customer if it fails to commence on the agreed date, or to undertake the service within the specified duration or time frame;
- 4.1.5 if the Commencement of the agreed service is delayed beyond the Agreed Date as a result of the Customer not fulfilling it's obligations under Clause 4 the Company shall be entitled, without prejudice to any other rights it may have;
- 4.1.6 if the Customer wishes to vary the Agreed Commencement Date, he shall notify the company in writing and a new commencement date shall be arranged in accordance with the availability of the Company and subject to and not exclusively to condition 4.

5 Customer Obligations

it shall be the responsibility of the Customer to;

- 5.1 ensure that Preparatory work has been undertaken and that the Property is otherwise ready and accessible to the Company and/or Agents;
- 5.2 take all reasonable precautions to ensure the safety of any Agent on the Property;
- 5.3 fulfil all the obligations required of the Customer in accordance with the inspection report, Acceptance of Estimate and these Terms and Conditions;
- 5.4 obtain any relevant Consent prior to the Commencement of the Remedial work and/or during if so required;
- 5.5 maintain the property in a good and proper state of repair and to comply with any instructions given by the Company (whether oral or in writing) to include, but not limited to, the prevention of the recurrence of rising damp, infestation or damage to timber and clause 9 (that restricts the liability of the company), shall apply; and
- 5.6 ensure that outside of the room, loft, lobby, landing or such other area in the Property identified in the Inspection Report where the Company intends to undertake the Remedial Work that there is a supply of mains electric and mains water available (at the Customers cost) to enable the Company to undertake the Remedial Work and that such mains electric and mains water is in a safe and good order complying with any applicable safety standards in force;

6 Limitations

- 6.1 The Customer hereby acknowledges that;
- 6.2 the specifications and recommendation contained in the Inspection Report is based upon what appears reasonable in light of the available and examinable evidence at the property and will not be totally indicative of the presence of rising damp, infestation or damage to timbers or conclusive of all rising damp, infestation or damage to timbers present in the property;
- 6.3 the inspection carried out by the Company is by it's very nature limited due to the impracticality of the inspecting all or parts of timbers and surfaces of the property or the inaccessibility of certain areas because of their locality with the Property or because of, but not by limitation, the presence of furniture, fittings or other coverings;

- 6.4 that the inspection Report will only give an indication of the rising damp, infestation or damage to timbers present in the Property and is not to be read of conclusive of all rising damp, infestations or damage to timbers present in the Property or fully informative about the extent of the rising damp, infestation and timber damage present in the property, and the Customer acknowledges that due to the limitation of the Inspection Report, that further Remedial Work may be necessary following Commencement of the Remedial Work and possibly following Completion of the Remedial Work.

7 Additional Work/Charges

- The price stated does not include the costs (whether for labour, materials or otherwise) of, and therefore not included in the Remedial Work, the following;
- 7.1 the removal of rubble, defective timber and other rubbish that has been deposited by the Company outside of the Property;
- 7.2 the replacement of defective, damaged decaying or weakened timbers where the full extent of the defect, damaged decaying or weakened timbers where the full extent of the defect, damage decay or weakening was not evident at the time when the Inspection Report was compiled and/or only became evident following Commencement of the inspection simply was not identified in the Inspection Report;
- 7.3 replacement floorboards, skirting or other fittings or carpet, lino, wallpaper or other coverings which are damaged as a result of the removal by the company in order to undertake Inspection Work;
- 7.4 redecoration of the Property;
- 7.5 providing a generator where there is no mains electricity supply;
- 7.6 removal furniture, floor coverings and fittings;
- 7.7 any additional cost arising from plaster/render of the walls of the Property being more than 25.4 millimetres thick; or
- 7.8 any further Remedial Work and any other additional work Collectively known as 'the Additional Work'

If the Customer requests the company to undertake any Additional work or provide a service not included the Company may do so at it's absolute discretion and only upon the Customer agreeing a revision to the Acceptance and the price by Acceptance or otherwise. Each Acceptance of Estimate by the Customer shall be a Separate agreement and no cancellation of any one Acceptance shall entitle the Customer to repudiate or cancel any other Acceptance.

8 Liability and Indemnity

- 8.1 except in the case of death or personal injury caused by the Company negligence, the Company's liability under or in connection with the Remedial Work, whether arising under these Terms and Conditions, tort, negligence, breach of statutory duty or otherwise, shall not exceed the price;
- 8.2 except in respect of death or personal injury caused by the Company The Mould and Damp Specialist Ltd negligence, the Company shall not be liable to the Customer for any financial loss;
- 8.3 loss of profit, damage, costs, expenses, indirect, special or consequential loss, or any other aims, whether caused by the negligence of the Company or the Company's Agent, which arise out of or in connection with the provision of the reasons of;
- 8.4 any description, specification or other particulars whether in the Inspection Report or otherwise, relating to the Remedial Work or their suitability of any particular purpose or for use under specific conditions unless they form part of these Terms and Conditions;

- 8.5 the Remedial work not being in every way similar to the recommendations and specifications as contained in the Inspection Report;
 - 8.6 technical information, recommendations, statements or advice given by or on behalf of the Company relating to methods of providing the Remedial Works;
 - 8.7 any instructions supplied by the Customer which are incomplete, incorrect, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer;
 - 8.8 a failure to perform or a delay in performing any of the Company's obligations in relation to the Remedial Work, if the failure or the delay was due to any cause beyond the Company's reasonable control, including but not exclusively, force Majeure incidents;
 - 8.9 any representation (unless fraudulent), implied warranty, other term, duty at common law or under the express terms of these Terms and Conditions;
 - 8.10 damage to ceiling which are below floors or roof voids that are to be inspected by the Company as part of the service;
 - 8.11 damage to the furniture, other fixtures or fittings which are left in the property by the Customer after the Commencement of the service or installation of the service;
 - 8.12 damage caused by the Customers failure to keep the Property in good and proper state of maintenance including, by way of example only, maintenance of rain water goods and disposal systems, soil and waste disposals, hot and cold water systems, internal and external ground levels relative to damp proofing courses and internal floor levels, adequate ventilation and general structure of the Property;
 - 8.13 damage caused by any other building works that prior to, at the time, or subsequent to the completion of the Remedial Work that were not carried out effectively with good and proper materials and in a workmanlike manner by the Customer or the Customer's Agents, Officers or employees;
 - 8.14 damage to decorations or plaster applied by the Customer after Completion of The Remedial Work;
 - 8.15 damage to any electro-osmotic circuits after their installation; or the Customer allowing children, animals, or vulnerable persons to come into contact with the tools, goods, or materials.
- 9 The Customer shall indemnify the Company in respect of any claims, proceedings, liabilities, damages costs and expenses of whatsoever nature made against or incurred by the company by reason of damage caused to person or property and arising out of a failure by the Customer to comply with the provisions of these terms & conditions or to observe the Company's instructions (whether oral or in writing) relating in any way whatsoever to the Remedial Work;
- 9.1 the inspection report is for the sole use of the Customer and may not be relied upon by any third parties and the Customer shall indemnify the Company in respect of any claims, proceedings, liabilities, damages, costs and expenses of whatsoever nature against or incurred by the Company by reason of the Inspection Report being disclosed to third parties;
 - 9.2 subject as expressly provided in these Terms and Conditions and except where the Remedial Work are provided to a person dealing as a consumer (within the meaning of the unfair Contract Times Act 1977), all warranties, conditions or other terms implied by statute of common law are excluded to the fullest extent permitted by law. The statutory rights of consumers are not affected by these Terms and Conditions.

- 10 Termination and Cancellation
- 10.1 the Company may by notice in writing to the Customer terminate these Terms and Conditions forthwith if;
- 10.2 the Customer commits any breach of these Terms and Conditions on its part to be observed and performed, including without limitation terms concerning the time for payment of the Price or any part thereof;
- 10.3 the Customer compounds with or negotiates for any composition with its creditors generally;
- 10.4 being an individual the Customer shall die or have a receiving order made against him/her or commits an act of bankruptcy or enters into a voluntary arrangement; or
- 10.5 being a Company the Customer shall call any meeting of its creditors or have a Receiver or Administrator appointed or enter into any liquidation.

The Customer may cancel these Terms and Conditions prior to the Commencement of the service or the Agreed Commencement Date subject to given written notice to the Company and upon making payment to the Company of the Cancellation charges as set out in the table below;

| Property inspection and Training only | Cancellation Charge |
|---|---------------------|
| 90 days or more | Nil |
| 60 days to 89 days | 5% |
| 30 to 59 days | 10% |
| 15 to 29 days | 15% |
| 5 to 14 days | 20% |
| Before Commencement of Remedial Works to 4 days | 25% |

Gadgets, goods or materials nil or at the discretion of the Company

The percentages shown are of the Price and the periods relate to the number of days before the agreed Commencement Date or the new Commencement date in its place.

11 Arbitration

- 11.1 All disputes or differences which at any time arise between the parties touching and concerning these Terms and Conditions or its construction or effect or the rights duties and liabilities of the parties under or by virtue of it or out of the subject matter of these Terms and Conditions shall be referred to the Property Care Association.