

TERMS AND CONDITIONS

1. Definitions

In these conditions "the Company" means the incorporated company or unincorporated association named overleaf, "the customer" or "you" means the person or persons or Company to whom this document is addressed and whose details are set out overleaf. The "Works" means the work, goods and services which the Company has agreed to provide to you subject to these terms and conditions, brief details of which, subject to any agreed variations or additions, are set out overleaf and shall include any such agreed variations, additions or remedies. The "premises" means the address overleaf unless otherwise agreed. The "contract price" means the price for the Works set out overleaf, subject to any variations provided for by these terms and conditions.

2. Conditions

The contract between the Company and the customer is subject to these terms and conditions. These terms and conditions may only be varied by an agreement in writing separately made and approved and signed by you and by a director, partner or proprietor of the Company. No other persons have any authority to bind the Company. No employee, servant, agent or director of the Company has any power or authority to vary these conditions orally. The Company has agreed to carry out the following Works for you, subject to these terms and conditions.

3. Work Content

3.1 The Works at the address set out overleaf shall consist of:-

For Conservatory Installation (if appropriate):

- the preparation of a base ("the basework") for the conservatory unit you require, brief details of which are set out overleaf and which may alter depending on "final survey" and any resulting agreed variations.
- the subsequent construction of the conservatory unit as described overleaf.
- the removal of spoil, waste, unused and other construction materials and equipment after completion of the Works.

For Windows/Doors and other installations (if appropriate):

- the removal of presently installed window(s), door(s) and, if agreed, the removal of roofline and other products, as set out overleaf.

w.ii. if agreed, the formation of door and window openings as set out overleaf.

w.iii. the preparation for and installation of the window(s), door(s) and, if agreed, the roofline products as described and set out overleaf.

w.iv. the removal of spoil, waste, unused and other construction materials and equipment after completion of the Works.

3.2 Any additional work (for example and not limited to the replacement of existing fascias, soffit boards, guttering, downspouts and windows) must be agreed in writing and approved by both parties and shall be subject to these conditions.

3.3 The Company is not required to decorate or redecorate any room in your house following completion of the Works described in this contract and will not be responsible for such provided the work has been executed in a competent, workman-like fashion.

3.4 If there is any dispute about the requirement for additional work or whether such work constitutes additional work or about the application of clause 3.3 above the Ombudsman shall have an unfettered discretion to determine such issues including but not limited to the right to award compensation.

4. Planning Permissions/Restrictive Covenants

Where applicable the Company might, without any liability on its part, offer an informal opinion, to the best of its ability, but is not able to give the customer expert advice in respect of legal matters such as the need for planning permission, the effect of planning conditions or other regulatory constraints, etc, which might affect the premises or the proposed Works. Please note that the Company is not and does not employ chartered surveyors, engineers or architects and does not have detailed knowledge of local by-laws which may apply to or affect the carrying out of the Works. It is entirely the responsibility of the customer to check before entering into this contract whether any approvals, plan submissions, freeholder's, head lessee's or mortgagees' consents may be required or whether there are restrictive covenants which may affect the premises and the Works. The Company cannot be responsible for any delay, disruption, claim, expense or other consequence caused by the customer's failure to obtain appropriate planning permission or other such approvals and consents or by breach of a restrictive covenant or lease obligation.

5. Insurers

It is the customer's responsibility to notify the customer's household buildings or contents insurers, should such be required, of any changes to the property brought about by the Works and in so far as the same is insurable to ensure appropriate insurance cover is effected. The customer is strongly recommended to check the insurance policy, schedule and terms and conditions to see if such notification is required and if there is any doubt the customer should notify the insurers in writing of the proposed Works before such Works commence.

6. Payment Terms

6.1 The quotations and estimates given by the Company to you may be expressed to be either exclusive or inclusive of Value Added Tax, which will be charged at the rate applicable at the relevant tax point in any event.

6.2 When installing a conservatory for you the Company may deliver an invoice to the customer for an agreed proportion of the total contract price at any time after the commencement of the Works, which invoice shall be payable by the customer immediately upon completion by the Company of the basework.

6.3 The Company may refuse to carry out any further work for the customer until any invoice sent out in accordance with clause 6.2 above has been paid in full.

6.4 The Company is entitled to charge the customer interest on any unpaid invoice at the rate of 5% above the Bank of England base rate from time to time, accruing daily, from the date payment becomes due.

6.5 A deposit as set out overleaf is payable by the customer upon entering into the Contract. Save as otherwise provided by law the deposit is not returnable to the customer in the event that the customer should terminate or purport to terminate the Contract for whatever reason unless so ordered by the Ombudsman.

7. Price, Specification, Survey and Execution of the Works.

7.1 The contract price and the details of the Works set out overleaf have been determined by an initial survey only. When installing a Conservatory in order to maintain our high standards of quality, the Company will arrange for a "Final Survey" to take place, in which an authorised employee of the Company will visit the customer's address and make a thorough assessment of the proposed Works. It is important that the customer is present whilst this final survey is carried out. It may be that as a result of this "Final Survey", the Company recommends variations to the Works set out overleaf and/or to the price set out overleaf, such as the requirement for lintels or additional support for bay windows. The customer will be invited to agree to any such proposed variation and in the event that such variation is refused by the customer, then the contract shall, at the Company's election be terminated and (save as provided by law) neither party shall have any further liability to the other. In the event of such cancellation, any deposit paid shall be returned to the customer.

7.2 In order to carry out the Works and the final survey, the Company requires full access to the premises at all reasonable times. The Company shall not be responsible for any financial loss howsoever incurred by the customer if he or she takes any time off work to allow the Company access to the premises or to be present during the arranging or carrying out of the Works or the final survey save as ordered by the Ombudsman.

7.3 The Company will complete the Works within a reasonable time, although the customer should be aware that the time required may be subject to delays caused by bad weather, staff illness or injury, by difficulties in obtaining products from third parties, by structural difficulties or by difficulties caused by any existing defects in the premises or any additional work required as a result of the final survey or revealed during the execution of the Works.

7.4 The Company is not expert in structural surveying. The Works set out and the contract price are agreed on the basis of the Company not encountering any structural difficulties during the course of the work. Structural difficulties shall include but not be limited to the discovery of gas, water, sewerage or electricity mains or inherent subsidence or existing defects in the Premises such as and not limited to the existence of rot, woodworm or wasp nests. The Company reserves the right to vary the Contract Price in the event that structural difficulties are encountered in the course of the work. The Company cannot be held liable for any delay occasioned by such unforeseen structural difficulties coming to light during the work and shall not be obliged to correct and/or overcome the structural difficulties, including but not limited to the requirement for lintels to be installed.

7.5 If unforeseen structural difficulties or defects in the Premises come to light during the work and they are such that they would, in the opinion of the Company, prevent completion of the Works then the Company shall be entitled not to undertake any further work other than to secure the premises against entry and restore them to a weathertight condition. Further, in addition to any other rights, the Company shall be entitled to the following:-

(i) payment of the price of all parts and materials ordered or acquired by the customer which have been manufactured by the Company or its Suppliers; and

(ii) a fair price for all work undertaken pursuant to the Contract.

7.6 All alterations or variations to the contract must be confirmed in writing by you and are accepted by the Company only subject to these terms and conditions and, where applicable, to your accepting that any such variations or alterations so accepted may result in extra charges being made to the customer. In the event that alterations or variations cannot be agreed either party shall be entitled to bring this agreement to an end without any further liability to each other save that the customer must pay any outstanding sums due to the Company at the time the contract is brought to any end howsoever caused.

7.7 All materials and products supplied under this contract are purpose made for the customer's particular requirements and the customer must acknowledge that such materials and products cannot be readily re-sold by the Company to anyone else.

7.8 It is the customer's responsibility to make sure that any conservatory installed is adequately ventilated at all times in accordance with the Building Regulations and/or any other statutory requirement(s) current at the date and during the currency of this contract. It is important that the customer heats the conservatory like any other room in the house.

7.9 The Company will use reasonable endeavours to obtain brick, stone or other materials, including brass, (as appropriate) which reasonably match the existing brickwork, stonework or other materials of the customer's house. However, in the event that the Company cannot obtain the precise materials requested by the customer, the Company reserves the right to offer to the customer alternative materials under this contract without variation to price and the customer shall not unreasonably refuse to accept these alternative materials. The Company will not be held liable in the event that materials supplied by the Company fail exactly to match the customer's existing brickwork, stonework or other materials where the failure is due only to minor alterations in size, colour, shape, texture or quality.

8. Completion of the Works

The Company shall be entitled to issue an invoice to the customer in respect of all sums outstanding to the Company at any time after the completion of the main conservatory structure (not including internal finishings), or windows/doors which invoice shall become due and payable in full immediately upon completion of the Works, notwithstanding that items of a minor or trivial nature may require attention, that window/door furniture may remain to be delivered or fixed or that other items such as replacement fascia and soffit boards, guttering and downspouts may remain to be completed. The Company shall provide the customer and the customer may provide the Company with a list of any items to be completed and the Company shall use its best endeavours to complete the items on the list within 28 days of handing the list to the customer or vice versa. In the case of items not manufactured by the Company, the Company shall use reasonable endeavours to obtain these items as soon as possible but cannot guarantee that they will be supplied within 28 days of completion of the Works.

9. Minimum Guarantee

Once all sums due and owing to the Company have been paid by the customer, the customer shall take the benefit of the following minimum guarantee:-

9.1 The Company shall, free of charge, either repair and/or at its option replace any defective profile, polycarbonate, glass, hinges, handles, locks or doors where defects have appeared and are not the result of misuse-use or damage caused by the customer or normal wear and tear for periods as follows:

Hardwood and UPVC extrusions and vacuum formed panels are guaranteed not to discolour or degenerate for a period of 10 years after installation.

Sealed Double Glazed units are guaranteed not to form condensation within the cavity for a period of 5 years after installation. All mechanical parts such as locks, hinges, handles, etc., are guaranteed not to malfunction during normal use for a period of two years after installation.

In addition in the case of profile, polycarbonate, doors and glass the customer will receive the benefit of any additional guarantee granted by the original Supplier provided that notice is given in accordance with this guarantee.

This guarantee is given provided that:

- notice in writing of the defects complained of is given to the Company immediately upon their appearance; and
- any such defects have arisen solely as a result of faulty design, workmanship or materials; and
- any defective fixtures, fittings, components or materials replaced by the Company may be taken away and retained by the Company at its discretion.

9.2 Alternatively, and where it is more reasonable to do so, the Company shall be entitled to refund the price of the defective materials.

9.3 The remedies contained in this guarantee are in addition to any warranties, indemnities, remedies or other rights provided by law and/or statute, for the benefit of the customer.

9.4 A charge may be made for all additional work not covered by the above guarantee or not resulting from a fault of the Company for example and not limited to work relating to locks damaged by misuse, the unblocking of gutters and downspouts and the replacement of lost or broken keys.

9.5 This guarantee is Insurance Backed by DGCOS Insurance Guarantee Providers (see separate leaflet enclosed within 'Peace of Mind' for more detailed information)

9.6 The guarantee is conditional on the Works being adequately and properly maintained and does not cover any physical damage caused by misuse, impact, abrasion, or cleaning with an unsuitable or non-proprietary chemical.

Please refer to the Company's own separate guarantee for any additional benefits.

10. To Be Noted

10.1 Although double-glazed units normally reduce condensation on glass, the extent to which condensation is reduced varies from property to property according to environmental conditions and the Company cannot therefore warrant that double-glazed units will definitely reduce condensation. Non-conservatory windows shall be white as standard, unless otherwise agreed in writing.

10.2 All glass supplied by the Company to the customer will be of satisfactory quality but due to the nature of the manufacturing process, the Company cannot accept any liability for minor blemishes and imperfections which are inherent in the manufacturing process. The Company draws to the customer's attention the fact that the glass used has a soft surface and reasonable care should therefore be taken when cleaning it so as to avoid damaging it.

10.3 Whilst the Company has taken all reasonable steps to ensure that any lead products supplied under the contract are in satisfactory condition, the Company cannot warrant that lead products will not tarnish as lead will, by its nature, tarnish when exposed to the atmosphere.

10.4 Any window or door furniture fitted to conservatory doors and conservatory windows (other than locking mechanisms) supplied shall, unless agreed otherwise in writing, be made from such materials as the Company shall deem suitable. Whilst the Company will take all reasonable steps to ensure that the appearance of any brassware supplied by the Company is satisfactory, the Company cannot warrant such brassware against tarnishing as brassware by its nature will tarnish when exposed to the atmosphere.

10.5 The customer should be aware that minor settlement of the conservatory or the area surrounding it may take place and is normal. The Company cannot be responsible for any subsidence unconnected with any fault on its part.

10.6 Please make sure that any guttering installed under this contract is regularly cleaned and kept free of leaves and debris. The Company cannot be responsible for blocked guttering (save where blockages result from a fault of the Company).

11. Damages

If the customer rescinds or terminates the contract where they are not legally entitled to do so or where the Company becomes entitled to terminate the Contract because of default on the part of the customer then, in addition to any other rights which the Company may have, the following shall be due to the Company as damages:-

11.1 The price of all parts ordered by the customer which have been manufactured by the Company and which are unique to this contract; and

11.2 The price of all parts and materials ordered by the customer which are unique to this contract and which have already been acquired by the Company from third parties; and

11.3 A fair price for any work undertaken pursuant to the contract; and

11.4 A sum equal to the loss of profit on the contract.

12. Complaints Handling Procedure

To the extent to which details of the Company's complaints handling procedure have not already been provided to the customer prior to or at the time of the contract, the Company will provide the same in writing as soon as is reasonably practicable upon request from the customer from time to time.

13. Ombudsman Scheme - Handling of Disputes.

13.1 All disputes, differences and questions which at any time arise between the parties to this agreement and guarantee or their representatives or assigns attaching to or arising out of or in respect of this agreement and guarantee or its subject matter shall be and are hereby submitted via The Double Glazing and Conservatory Quality Assurance Ombudsman Scheme (DGCOS) (unless there is good reason to send the matter directly to the Ombudsman) for conciliation, mediation or determination/arbitration by the Ombudsman or his nominee.

13.2 Where a matter referred for conciliation or mediation has not been resolved within one month or such later time as the parties may agree in writing either of the parties shall have the right to request that the matter(s) in dispute be resolved by arbitration and/or determined by the Ombudsman pursuant to the rules of The Quality Assurance Ombudsman Scheme, 1996, or any subsequent modification thereof.

13.3 Where the complainant party is a consumer as defined in the Unfair Terms in Consumer Contracts Regulations, 1999 and in the Arbitration Act, 1996, or any re-enactment or statutory modification of either, this clause shall only apply where the complainant, in writing, requests a resolution by conciliation, mediation or determination/arbitration after the arising of the dispute, difference or complaint or question.

13.4 In the event of any dispute arising during the course of or subsequent to completion of the contract the customer will not be entitled to withhold payment in excess of an amount representing the reasonable cost of the work required to rectify or replace any allegedly defective Works which are the subject of the dispute.

14. Rights of Cancellation by the Company and Customer

14.1 The Company may cancel the contract in the circumstances set out in 7.1 above.

14.2 If this contract is made at a location which is not the usual place of business of the Company, you may have rights to cancel the same under the Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008. Provided you have been supplied with the prescribed notice, such right to cancel will expire 7 days after receipt of the said notice

15. Miscellaneous

15.1 Each of these terms and conditions is separate and distinct from the others and if any of them is held by competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected.

15.2 The Company's employees or agents are not authorised to make any representation or give advice concerning the goods and/or services to be supplied under this contract unless such representation and/or advice is confirmed by the Company in writing. In entering into the contract you acknowledge that you do not rely on, and waive any claim for breach of any such representations or for the accuracy of any such advice which have not been so confirmed. Such waiver does not extend to (and nothing in these terms and conditions seeks to limit the liability of the Company for) fraudulent misrepresentation.

15.3 Any typographical clerical or other error or admission in any sales literature, quotation, price-list, acceptance of offer, invoice or other document or information issued or provided by the Company shall be subject to correction without any liability on its part.

15.4 The Company shall not be liable for any delay or failure to provide the service as a result of any act or circumstance beyond the reasonable control, including but not limited to Act of God, power failure, fire, legislation, lockout, strike, or war.

15.5 The Company shall be entitled to assign its rights under these terms and conditions in whole or in part at any time.

15.6 For the avoidance of doubt the parties do not intend any provision of these terms and conditions to be enforceable by a third party pursuant to the Contracts (Rights for Third Parties) Act 1999 or analogous legislation.

15.7 This contract shall be governed by English law and, save as to the dispute resolution process provided for herein, the Company and the customer shall submit to the exclusive jurisdiction of the English court.

Notice of the Right to Cancel

Trader details: (name / postal address / contact details / including email address if applicable)

Customer details: (name / address)

Contract details: (reference number / details etc sufficient to identify the contract or offer)

Date

You (the customer) have the right to cancel this contract if you wish. This right can be exercised by delivering, or sending notice to (trader) at any time within the period of 7 days starting with the date of receipt of this notice. The notice of cancellation is deemed to be served as soon as it is posted or sent or in the case of electronic communication from the day it is sent. If work on the above contract has begun, with your written agreement, before the end of the cancellation period, you may be required to pay for any goods or services supplied. You may use the cancellation form provided below only if you wish to do so.

If you wish to cancel the contract you MUST DO SO IN WRITING and deliver personally or send (which may be by electronic mail) this to the person named below. You may use this form if you want to but you do not have to.

(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT.)

To: _____ [trader to insert name and address of person to whom notice may be given.]

I / We (delete as appropriate) hereby give notice that I / We (delete as appropriate) wish to cancel my / our (delete as appropriate) contract

[Trader to insert reference number, code or other details to enable the contract or offer to be identified]. He may also insert the name and address of the consumer.]

Signed

Name and Address