

Chew Valley Roofing Ltd
Standard Terms and Conditions of Business

THIS AGREEMENT is made, on the **Effective Date**,

BETWEEN

- (1) Chew Valley Roofing Ltd, a private limited company incorporated in England and Wales with registration number 10965624, whose registered office is at 5 Health Cottages, Tarnwell, Stanton Drew, Bristol, BS39 4DZ (the "**Company**"); and
- (2) the person, firm, company, government entity, trust or partnership identified on an **Estimate** or **Change Proposal** (the "**Client**").
- (together, the "**Parties**" and singularly a "**Party**")

1. Interpretation

1.1. In this **Agreement**, before and after this section, unless specified to the contrary –

- "Agreement"** means this Agreement for the provision of **Services** including any **Estimates** and **Change Proposal**;
- "Confidential Information"** means in relation to either the **Company** or the **Client**, any information (whether or not stated to be confidential or marked as such) which the **Company** or the **Client** or the **Customer** discloses, or which the **Company** or the **Client** obtains from any information disclosed to it by the **Company** or the **Client** or the **Customer**, either orally or in writing or by any other means, under or in connection with this **Agreement**;
- "Change Control Protocol"** means the protocol set out in Clause 7 of this **Agreement**;
- "Change Proposal"** means a written proposal by the **Company**, issued under the **Change Control Protocol**, which sets out the variation that it reasonably considers necessary to the **Services**, the **Specification**, or the **Service Charges**, including the provision of any new **Services** it deems to be reasonably required;
- "Change Request"** means a request by the **Client** to increase or decrease in the volume of the **Services**, a change to the **Specification**, or the addition of new **Services**;
- "Customer"** means any person, firm, company, government entity, trust or partnership with whom the **Client** has entered into a **Main Contract** and whom is identified on an **Estimate** or **Change Proposal**;
- "Deliverables"** means all documents, items, plans, products, goods and materials supplied by the **Company**, including any methodologies, ideas, designs, computer programmes, data, disks, tapes or reports, in whatever form, which are developed, created, written, prepared, devised or discovered by the **Company** or its agents, sub-contractors, consultants or employees in relation to the **Services**;
- "Deposit"** means a prepayment of the **Service Charges**, in the amount specified on the **Estimate** or **Change Proposal**, required from the **Client** before the commencement of the **Services**, or the commencement of the **Services** as revised under the **Change Control Protocol**;
- "Estimate"** means document issued by the **Company** setting out the **Services**, the **Specification**, the **Service Charges**, the **Premises** and the **Payment Due Date**;
- "Effective Date"** means the date on which this **Agreement** becomes binding upon the **Parties** in accordance with Clause 2;
- "Equipment"** means any equipment, systems, tools, cabling, items, materials or facilities used directly or indirectly in the supply of the **Services**, by the **Company** or its agents, sub-contractors, consultants or employees in relation to the **Services**;
- "Force Majeure Event"** means any event or circumstance that is beyond the reasonable control of a **Party**, such as (but not limited to) –
- a) interruptions to the supply of electricity, water, gas, fuel, internet or telephony services (excluding where such interruption is caused by the **Party's** failure to pay the relevant supplier for such services);
 - b) acts of God;
 - c) epidemic or pandemic;
 - d) civil unrest;
 - e) explosion, fire, flood, drought, storms or earthquakes;
 - f) collapse of buildings;
 - g) acts of war or terrorism;
 - h) parliamentary, government or public authority action;
 - i) imposition of any import or export restriction, quota, prohibition or tariff.
- "Intellectual Property Rights"** means invention, patent, utility model right, copyright and related right, registered design, unregistered design right, trade mark, trade name, internet domain name, design right, design, service mark, database rights, typographical rights, rights in the get-up, rights in goodwill or to sue for passing off and to use any other rights of a similar nature or other industrial or intellectual property rights owned or used by the **Company** in any part of the world whether or not any of the same is registered (or capable of registration), including applications and the right to apply for and granted,

extensions or renewals of, and rights to claim priority from, such rights and all equivalent or similar rights or protections which subsist now or will subsist in the future;

- "Main Contract"** means any agreement entered into by the **Client** for the supply of goods, services or goods and services with a **Customer**;
- "Payment Due Date"** means the day upon which payment of the **Service Charges** or any **Deposit**, is due –
- a) as specified in the **Estimate** or **Change Proposal**, or
 - b) in the absence of a date set out in the **Estimate** or **Change Proposal**, the day five **Working Days** after the date on which any invoice for the **Service Charges**, or any **Deposit**, is issued to the **Client**;
- "Premises"** means the premises set out in the **Estimate**;
- "Services"** means the services set out and described in the **Estimate**, or on a **Change Proposal**, which the **Company** provides or agrees to provide to the **Client** through the **Change Control Protocol**;
- "Service Charges"** means the charges for the **Services**, which set out in the **Estimate**, or a **Change Proposal**;
- "Specification"** means the description or specification of **Services** as set out in the **Estimate**, a **Change Proposal** or as otherwise agreed between the **Company** and **Client** through the **Change Control Protocol**;
- "Working Day"** means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in England determined in accordance with the Banking and Financial Dealings Act 1971.

1.2. In this **Agreement**, unless the context requires a different interpretation –

- 1.2.1. the singular includes the plural and vice versa;
- 1.2.2. references to clauses are to clauses of this **Agreement**;
- 1.2.3. references to a person includes firms, companies, government entities, trusts and partnerships;
- 1.2.4. "including" is understood to mean "including without limitation";
- 1.2.5. reference to any statutory provision includes any modification or amendment to it;
- 1.2.6. the headings and sub-headings do not form part of this **Agreement**; and
- 1.2.7. "writing" or "written" includes email unless otherwise stated.

2. Effective Date

2.1. This **Agreement** shall become binding upon the **Parties** upon –

- 2.1.1. the **Company** receiving notice from the **Client** in which they accept an **Estimate**; or
- 2.1.2. the **Company** receiving payment of any **Deposit** from the **Client**.

3. Provision of Services

- 3.1. The **Company** shall provide the **Services** to the **Client** on the terms and conditions of this **Agreement** from the **Effective Date**.
- 3.2. The **Company** shall provide the **Services** (including any **Deliverables**) at the **Premises** and in accordance with the **Specification**, as set out in the **Estimate** in all material respects.
- 3.3. No amendments shall be made to the **Specification** as set out on the **Estimate**, under this **Agreement**, unless agreed between the **Company** and **Client** through the **Change Control Protocol**.
- 3.4. Time is of the essence for any dates of delivery of the **Services** under this **Agreement**, unless specifically stated otherwise in **Estimate** or as otherwise agreed between the **Company** and **Client** through the **Change Control Protocol**.
- 3.5. The **Company** shall perform the **Services** with reasonable care and skill, in accordance with –
- 3.5.1. generally recognised commercial practices and standards in the applicable industry; and
 - 3.5.2. all laws and regulations applicable to the **Services**, including all laws and regulations relating to –
 - 3.5.2.1. health and safety;
 - 3.5.2.2. anti-bribery and corruption; and
 - 3.5.2.3. data protection.
- 3.6. The **Company** shall endeavour to observe all health and safety rules or regulations and any other security requirements that apply at the **Premises** and that have been communicated to the **Company**, whether by the **Client** or the **Customer**.
- 3.7. Where any defect in the provision of the **Services** is reported to the **Company** by the **Client** or otherwise comes to the attention of the **Company**, the **Company** shall use its reasonable endeavours to provide such further services as are necessary in order to rectify the default as soon as reasonably practicable.

4. Client's obligations

4.1. The **Client** must –

- 4.1.1. co-operate with the **Company** in all matters relating to the provision of the **Services**;

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- 4.1.2. promptly report to the **Company** any defects in the **Company's** performance of the **Services** as soon as reasonably practicable after any such defect comes to the attention of the **Client**;
- 4.1.3. provide, in a timely manner, any information as the **Company** may reasonably require in the provision of the **Services** and ensure, so far as is reasonably practicable, that the information is accurate;
- 4.1.4. provide, in a timely manner, any **Equipment** specified by the **Company** on the **Estimate** or **Change Proposal**, or as otherwise notified in writing, as required by the **Company** for the provision of the **Services** and ensure that such **Equipment** is in good working order and suitable for the purposes for which it is to be used;
- 4.1.5. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the **Services** before the date on which the **Services** are to start.
- 5. Mutual Obligations**
- 5.1. The **Company** shall promptly notify the **Client** or, as the case may be, the **Client** shall notify the **Company**, of –
- 5.1.1. any delays or problems from time to time in the provision of the **Services**;
- 5.1.2. any circumstances from time to time which may prevent the **Company** from providing the **Services** in accordance with this **Agreement** together with (where reasonably practicable) recommendations as to how such circumstances can be avoided;
- 5.1.3. any complaint (whether written or not) or other matter which comes to its attention and which it reasonably believes may give rise to loss by or claim against either **Party** or which may result in adverse publicity for either **Party**.
- 6. Charges and Payment**
- 6.1. In consideration of the provision of the **Services** by the **Company**, the **Client** shall pay the **Service Charges** as set out in the **Estimate** and any **Change Proposal** upon invoice by the **Company**.
- 6.2. Expenses incurred by the **Company** in the performance of the **Services** must be pre-approved by the **Client**. For the avoidance of doubt, where the **Company** incurs expenses in the provision of the **Services**, which have not been pre-approved by the **Client**, no additional payment will be made.
- 6.3. The **Client** shall pay each invoice submitted to it by the **Company**, in full and in cleared funds, on or before the **Payment Due Date**, to the **Company's** bank account identified on the invoice.
- 6.4. Where the **Company** does not receive payment from the **Client** for the **Service Charges** or **Deposit** before the **Payment Due Date**, the **Company** may (at its absolute discretion) –
- 6.4.1. suspend provision of the **Services** until the payment is received; and/or
- 6.4.2. further invoice the **Client** –
- 6.4.2.1. where the **Client** is acting in the course of a business, for any statutory interest and compensation, or both, due under the Late Payment of Commercial Debts (Interest) Act 1998; or
- 6.4.2.2. where the **Client** is not acting in the course of a business, for simple interest at the Bank of England base rate plus 4%, calculated daily from the **Payment Due Date** to the date cleared funds are received in the **Company's** bank account.
- 6.5. The **Client** shall pay all amounts due under this **Agreement** to the **Company** in full without any deduction except as required by law or in set-off against monies owed to the **Company** by the **Client**.
- 7. Change Control Protocol**
- 7.1. The **Client** may at any time during the term of this **Agreement** make a **Change Request** by notifying the **Company** in writing of the revised requirements.
- 7.2. The **Company** shall give due consideration to the **Change Request** from the **Client** and shall as soon as reasonably practicable –
- 7.2.1. confirm its acceptance of the **Change Request**, without further variation, in which case the **Company** will issue confirmation to the **Client** of acceptance of the **Change Request**;
- 7.2.2. provide a **Change Proposal**; or
- 7.2.3. where the **Company** believes it is not reasonably practicable to accept the **Change Request** with or without any such variation, provide the **Client** with a written statement of its reasons for believing so.
- 7.3. The **Company** may at any time during the term of this **Agreement** serve a **Change Proposal** upon the **Client** where, after the commencement of this **Agreement**, a material change in the **Services** is identified by the **Company** as essential for the completion of the **Services** already set out in the **Estimate** or, in a case where a variation to the **Services** has previously been agreed between the **Company** and the **Client** under the **Change Control Protocol**, **Change Proposal**.
- 7.4. Any **Change Proposal** provided by the **Company** shall be based upon the **Service Charges** or, if this is not appropriate, shall be a fair and reasonable quotation for the **Services** as revised.
- 7.5. The **Client** shall give due consideration to any **Change Proposal** provided by the **Company** as soon as reasonably practicable and either (subject to or without further negotiation) –
- 7.5.1. confirm its acceptance of the **Change Proposal**, without further variation; or
- 7.5.2. reject the **Change Proposal**.
- 7.6. The **Company** shall have the right to make any changes to the **Services** which are necessary to comply with any applicable law or safety requirement, provided that –
- 7.6.1. the **Company** gives the **Client** notice of the change as soon as reasonably practicable; and
- 7.6.2. the changes do not materially affect the nature and scope of the **Services** and the **Service Charges**.
- 8. Indemnity**
- 8.1. The **Client** shall indemnify the **Company** against all losses, claims, demands, costs and expenses incurred or suffered by the **Company** including all claims for liquidated damages by the **Customer** against the **Company** arising out of the **Specification**, including and infringement of any **Intellectual Property Rights** of another person.
- 9. Liability and Insurance**
- 9.1. If the **Company's** performance of its obligations under this **Agreement** is prevented or delayed by any act or omission of
- 9.1.1. the **Client**, its agents, other sub-contractors, consultants or employees,
- 9.1.2. the **Customer**, its agents, other sub-contractors, consultants or employees,
- the **Company** shall not be liable for any costs, charges or losses sustained or incurred by the **Client** that arise directly or indirectly from such prevention or delay.
- 9.2. Nothing in this **Agreement** limits or excludes either the **Company's** or the **Client's** liability for –
- 9.2.1. death or personal injury caused by its negligence;
- 9.2.2. fraud or fraudulent misrepresentation;
- 9.2.3. breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- 9.2.4. any other liability which cannot be limited or excluded by applicable law.
- 9.3. Subject to Clauses 8 and 9.2, neither the **Company** or the **Client** shall have any liability to the other, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this **Agreement** for –
- 9.3.1. loss of profits;
- 9.3.2. loss of sales or business;
- 9.3.3. loss of agreements or contracts;
- 9.3.4. loss of anticipated savings;
- 9.3.5. loss of or damage to goodwill;
- 9.3.6. loss of use or corruption of software, data or information; or
- 9.3.7. any indirect consequential loss;
- 9.4. Subject to Clauses 8, 9.2 and 9.3, the total liability in respect of any one event or of any series of events shall not exceed the **Service Charges** as set out in the **Estimate** and, where applicable, any **Change Proposal** accepted by the **Client** under the **Change Control Protocol**;
- 9.5. The terms implied by Sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this **Agreement**.
- 9.6. During this **Agreement**, the **Company** will maintain in force with a reputable insurance company, insurance sufficient to indemnify risks for which they may be responsible, including for their respective sub-contractors, agents, consultants and employees, in connection with the **Services** and shall, on the **Client's** request, produce –
- 9.6.1. the applicable certificates of insurance giving details of the cover; and
- 9.6.2. all receipts showing that the premiums for that insurance have been paid.
- 10. Confidentiality & Data Protection**
- 10.1. The **Company** and the **Client** will only use **Confidential Information** to perform its obligations under this **Agreement** and will not cause or allow the information to be disclosed except –
- 10.1.1. where required by law or court order;
- 10.1.2. where requested by any governmental or regulatory body which has lawful authority to require the provision of the information requested;
- 10.1.3. to any of its employees, officers, sub-contractors, representatives or advisers who need to know the information in order to discharge its obligations under this **Agreement** and who agree only to use the information for that purpose and not to cause or allow disclosure of that information;
- 10.1.4. where the information has become generally available to the public (other than as a result of disclosure in breach of this **Agreement** by the **Company**, the **Client** or the **Customer**, or by any employee, officer, sub-contractor, representative or adviser of the **Company**, the **Client** or the **Customer**;
- 10.1.5. where the information was available or known to be held on a non-confidential basis before being disclosed under this **Agreement**; or
- 10.1.6. where the information was developed by or for it independently of the **Agreement** and is received by persons who are not the disclosing party.
- 10.2. The **Company** and the **Client** –
- 10.2.1. warrants and represents that it has made, and undertakes that at all times during the term of this **Agreement** it will maintain, any notifications and registrations required under the Data Protection Act 1998 that relate to the performance of its obligations under this **Agreement**; and
- 10.2.2. undertakes that in the performance of its obligations under this **Agreement** it will comply with the Data Protection Act 1998, and in particular the Data Protection Principles set out in that Act, and with any guidance issued from time to time by the Information Commissioner.
- 11. Intellectual Property**
- 11.1. Subject to Clause 11.2, the **Company** reserves all Intellectual Property Rights (if any) which may subsist in any **Deliverables** or in connection with the provision of the **Services**.
- 11.2. The **Company** licences all such rights to the **Client** free of charge and on a non-exclusive worldwide basis to such an extent as is necessary to enable the **Client** or the **Customer** to make reasonable use of the **Deliverables** and the **Services**.

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- 11.3. If this **Agreement** is terminated, the licence granted in Clause 11.2 will automatically terminate with immediate effect.
- 12. Non-Solicitation**
- 12.1. The **Client** shall not, without the prior written consent of the **Company**, at any time from the date of this **Agreement** to the expiry of 12 months after the last day of supply of the **Services** or the termination of this **Agreement** (whichever is the latest), solicit or entice away from the **Company**, or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or sub-contractor of the **Company** in the provision of the **Services**.
- 13. Circumstances beyond the control of either party (Force Majeure)**
- 13.1. Neither **Party** shall be liable for the failure or delay in performing their obligations under this **Agreement** where such failure or delay results from any **Force Majeure Event**.
- 13.2. The **Party** affected by a **Force Majeure Event** shall use all reasonable endeavours to mitigate the effect of the **Force Majeure Event** upon the performance of its obligations under this **Agreement**.
- 13.3. The corresponding obligations of the other **Party** are suspended to the same extent as those of the **Party** affected by the **Force Majeure Event**.
- 14. Termination**
- 14.1. Subject to 14.2, this **Agreement** shall terminate immediately upon the completion of the **Services** or by notice from a **Party** to the other if that other **Party** –
- 14.1.1. does not pay any sum due under this **Agreement** by the **Payment Due Date**;
 - 14.1.2. commits a material breach of this **Agreement** which, if capable of remedy, it fails to remedy within 30 days after being given notice specifying the particulars of the breach and requiring it to be remedied;
 - 14.1.3. persistently breaches any term of this **Agreement**;
 - 14.1.4. is dissolved, ceases to conduct substantially all of its business or becomes unable to pay its debts as they fall due;
 - 14.1.5. is a company over whose assets or property a receiver is appointed;
 - 14.1.6. in the case of a company –
 - 14.1.6.1. makes a voluntary agreement with its creditors or becomes subject to an administration order (within the meaning of the Insolvency Act 1986), or
 - 14.1.6.2. goes into liquidation;
 - 14.1.7. in the case of an individual or firm –
 - 14.1.7.1. makes a voluntary agreement with its creditors,
 - 14.1.7.2. has a bankruptcy order made against it, or
 - 14.1.7.3. dies or, as a result of a critical illness or incapacity, becomes incapable of managing their own affairs;
 - 14.1.8. undergoes a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 14.2. Notwithstanding termination of this **Agreement** –
- 14.2.1. Clause 11.2 and Clause 12 will continue to have effect until the expiry of 12 months after the last day of supply of the **Services** or the termination of this **Agreement** (whichever is the latest); and
 - 14.2.2. any other provisions, which by their intent or terms are meant to survive the termination of this **Agreement** will do so.
- 14.3. On the termination of this **Agreement** –
- 14.3.1. the **Client** shall immediately pay to the **Company** all of the **Company's** outstanding unpaid invoices and interest, and in respect of **Services** supplied but for which no invoice has been submitted, the **Company** may submit an invoice which shall be payable immediately upon receipt.
 - 14.3.2. the **Client**, or as the case may be, the **Company**, shall within a reasonable time, return to the **Company**, or the **Client**, any **Equipment** and any **Deliverables** which are to remain the property of the other.
- 14.4. Termination or expiry of this **Agreement** shall not affect any rights, remedies, obligations or liabilities of the **Parties** that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this **Agreement**, which existed at or before the date of its termination or expiry.
- 15. Notices**
- 15.1. Any notice (other than in legal proceedings) to be delivered under this **Agreement** must be sent either –
- 15.1.1. in writing and delivered by pre-paid first-class post to, or left by hand delivery at, the registered address or place of business or, in the case of an individual, residence;
 - 15.1.2. by email to the **Party's** main email address.
- 15.2. Notices shall be deemed served –
- 15.2.1. in the case of email, immediately upon delivery; or
 - 15.2.2. in any other case, two working days following posting or, as the case may be, delivering by hand.
- 16. General**
- 16.1. This **Agreement**, together with the **Estimate** and any **Change Proposal**, contains the whole agreement between the parties relating to its subject matter and supersedes all prior discussions, arrangements or agreements that might have taken place in relation to it. Nothing in this clause limits or excludes any liability for fraud or fraudulent misrepresentation.
- 16.2. No **Party** may assign, transfer or wholly sub-contract to any third party the benefit or the burden (or both) of this **Agreement** without the prior written consent (not to be unreasonably withheld) of the other **Party**.
- 16.3. No variation to this **Agreement** will be valid or binding unless it is recorded in writing by both **Parties**.
- 16.4. The Contracts (Rights of Third Parties) Act 1999 does not apply to this **Agreement** and no third party has any right to enforce or rely on any provision of this **Agreement**.
- 16.5. A delay, act or omission by a **Party** in exercising any right or remedy will not be deemed a waiver of that, or any other, right or remedy.
- 16.6. If any court or other competent authority finds that any provision (or part-provision) of this **Agreement** is invalid, illegal or unenforceable that provision (or part-provision) will, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions will be not be effected.
- 16.7. Nothing in this **Agreement** establishes any employment relationship, partnership or joint venture between the **Parties**, or mean that one **Party** becomes the agent of the other **Party**, nor does this **Agreement** authorise either **Party** to enter into any commitments on behalf of the other **Party**.
- 16.8. This **Agreement** shall be governed by and interpreted according to the laws of England and all disputes arising under this **Agreement** (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English courts.