

## **TEXAS COOL ROOFING INC. TERMS AND CONDITIONS**

THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE AS FOLLOWS:



### **1. PARTIES AND SCOPE OF WORK**

Texas Cool Roofing, Inc. (hereafter called “Contractor”), shall mean the company performing the Work. “Work” means that specific services to be performed by the Contractor as set forth on the front of this agreement or in any agreement between the Contractor and client. “Client” refers to the person(s) or business entity ordering the work to be done by Contractor and shall be responsible for the payment thereof. If the Client is ordering the work on behalf of another, the Client represents and warrants that the Client is the duly authorized agent of said party for the purpose of ordering and directing said work. Unless otherwise stated in writing, the Client assumes sole responsibility for determining whether the nature of the work ordered by the Client is adequate and sufficient for the Client’s intended purpose. In performing its Work, the Contractor shall be entitled to rely on the work of third parties, the representations of Client and the public record and shall be under no obligation to verify any of the foregoing. The ordering of additional service and/or materials from Contractor beyond the scope of the Work shall constitute acceptance of the terms of these General Conditions as to such additional services and/or materials.

### **2. RIGHT OF ENTRY**

The client shall provide rights of entry for Contractor and/or their representatives and necessary permissions in order for Contractor and/or their representative to complete its services.

### **3. CHANGES**

3.1 Unless otherwise specified in writing, the price for the work is based on the understanding that all structural members and other components are in fact in sound condition. If any conditions are encountered that are not currently visible, Client agrees to pay Contractor additional compensation that may be necessary based upon Contractor’s normal rates and as agreed to in writing by both parties.

3.2 Any alteration or deviation from the scope of work involving extra costs will be executed only upon written agreement signed by both parties, and will become an extra charge over and above the estimate.

3.3 Client agrees that Contractor has the right to substitute materials with equal or superior quality materials should the materials listed in the description of the work become

unavailable for any reason. Contractor has the right to make such substitution without notice to or permission from the Client.

#### **4. SCHEDULING OF WORK**

If the Contractor is required to delay commencement of the Work or if, upon embarking upon its Work, Contractor is required to stop or interrupt the progress of the Work as a result in changes in the scope of Work requested by the Client, to fulfill the requirements of third parties, strikes, accidents or other interruptions in the progress of construction, or other causes beyond the direct control of Contractor, additional charges may be applicable and payable by the Client and the approximate completion date of the Work shall be extended to take into account the period of delay. Contractor shall not be liable for any delay damages. Any delays caused by any event or events beyond the control of the contractor do NOT constitute abandonment and are not included in calculating timeframes for payment or performance.

#### **5. HOMEOWNER / CLIENT ADVISORY**

Most roofing, siding & exterior renovation jobs may involve major demolition of materials and minor disturbances may occur. Contractor will NOT be responsible for any interior damages and advises the client to remove all wall hangings, glass light fixtures, and other fragile items prior to start of work. Any items in attic should be covered for protection from falling debris and dust. Contractor shall not be responsible for interior drywall cracks, nail pops or any damage to any items on the interior or the exterior of the home or work site including damage to shrubbery, outside plants, landscaping, yard furniture, decking, sprinkler systems, or driveways during the process of the work. Upon request from the client, the contractor will assist in covering or removing these items. Upon completion of the work the property will be swept with a metal magnet and all debris associated with the work will be removed. Contractor will re-install any roof mounted antennas or satellite dishes unless otherwise directed by client. Contractor will not be responsible for proper alignment or reception of same.

#### **6. TERMINATION**

6.1 If either party fails to fulfill in a timely and proper manner their obligations under the agreement, the non-breaching party shall have the right to terminate this agreement by written notice of termination, specifying the effective date thereof, at least two (2) business days before effective date, in which event the Client shall be obligated to immediately pay the Contractor compensation based on the Contractor's normal rates for any work completed prior to the effective date of termination, including charges for both labor performed and materials purchased by Contractor prior to such date, in addition to the

Contractors overhead and profit on the portion of the work which remains uncompleted as of the cancellation date.

6.2 In the event Client cancels this agreement more than three (3) business days after the date of the agreement, for any reason not related to Contractor's failure to fulfill in a timely and proper manner its obligations under this agreement, Client shall be obligated to pay to Contractor, as liquidated damages and not as a penalty, a sum of money equal to twenty-five percent (25%) of the contract price, or Contractor's charges for labor and materials provided prior to cancellation, whichever amount is greater.

## **7. WARRANTY**

**7.1 THE WORK WILL BE PERFORMED IN ACCORDANCE WITH THIS AGREEMENT, ALL REQUIRED BUILDING CODES, INSPECTIONS, THESE TERMS AND CONDITIONS, AND GENERALLY ACCEPTED PRACTICES. ALL BUILDING & ZONING PERMITS, INSPECTIONS AND COSTS IF REQUIRED ARE THE RESPONSIBILITY OF THE CLIENT UNLESS SPECIFICALLY NOTED OTHERWISE IN THIS AGREEMENT.**

**7.2 WORKMANSHIP IS GUARANTEED AS INDICATED IN THE CONTRACT BETWEEN CONTRACTOR & CLIENT. THE MANUFACTURER'S PRODUCT WARRANTY IS THE ONLY WARRANTY ON THE PRODUCT USED IN ASSOCIATION WITH THIS CONTRACT, THERE IS NO OTHER PRODUCT WARRANTY. THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, GUARANTIES, AND LIABILITIES, EXPRESSED OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDED, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY EXCLUDED. ALL WARRANTIES ARE VOID IF SUMS DUE TO THE CONTRACTOR ARE NOT PAID IN FULL, OR IF UNAUTHORIZED SERVICE, ALTERATIONS OR ADJUSTMENTS HAVE BEEN MADE TO ANY OF THE WORK.**

## **8. PAYMENTS**

8.1 All payments are due in full within 30 days of substantial completion / invoice date unless other arrangements are made in writing, agreed to, and signed by both the contractor and client. If payments due under this agreement are not paid in full within thirty (30) days of the date such payments are due, Contractor reserves the right to pursue all appropriate remedies, including stopping work with two (2) days prior written notice.

8.2 If at any time an invoice remains unpaid for a period in excess of thirty (30) days, a service charge of one and on half percent (1-1/2%) per month from the date of original invoice, an effective maximum rate of eighteen percent (18%) per annum, will be charged on past due accounts.

8.3 Timely payment of amounts due under this agreement is a condition of this agreement. Failure to make payments in full within the time limits stated above will be considered substantial non-compliance with the terms of this agreement and will be cause for termination of this agreement if Contractor so chooses.

8.4 In the event a lien or suit is filed by Contractor to collect any amounts owed under this agreement, Client agrees to pay Contractor reasonable attorney's fees, plus all costs and other expenses incurred by Contractor in connection with such lien or suit.

8.5 All parties agree to waiver of trial by jury.

## **9. LIMITATION OF LIABILITY**

9.1 CONTRACTOR SHALL NOT BE LIABLE FOR DAMAGES OF ANY KIND WHICH RESULT FROM FIRE, FLOOD, STRIKE, THIRD PARTIES, ACTS OF GOD, ACTS OF TERRORISM, OR BY ANY OTHER CIRCUMSTANCES WHICH ARE BEYOND THE CONTROL OF THE CONTRACTOR INCLUDING BUT NOT LIMITED TO SEVERE WEATHER.

9.2 CONTRACTOR'S LIABILITY FOR DAMAGES OF ANY KIND DUE TO BREACH OF WARRANTY, CONTRACT, ERROR, OMISSION OR NEGLIGENCE OR ANY TORT SHALL BE LIMITED TO A MAXIMUM OF THE TOTAL AMOUNT PAID TO CONTRACTOR UNDER THIS CONTRACT. UNDER NO CIRCUMSTANCES SHALL CONTRACTOR BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

9.3 IN THE EVENT CLIENT DESIRES TO MAKE ANY CLAIM AGAINST CONTRACTOR, CLIENT SHALL PROVIDE CONTRACTOR WITH WRITTEN NOTICE OF THE CLAIM WITHIN SEVEN DAYS FROM THE DATE CLIENT, OR ITS AGENTS, FIRST DISCOVERS THE CLAIMS OR THE SAME SHALL BE BARRED. ANY CLAIMS AGAINST CONTRACTOR BROUGHT ON THIS CONTRACT OR IN ANY WAY ARISING OUT OF THIS CONTRACT MUST BE FILED WITHIN ONE YEAR FROM THE TIME THE CAUSE OF ACTION ACCRUED OR IT SHALL BE TIME BARRED.

9.4 UNDER NO CIRCUMSTANCES SHALL ANY EMPLOYEE, STOCKHOLDER, OFFICER OR AGENT OF CONTRACTOR HAVE ANY INDIVIDUAL LIABILITY TO THE CLIENT, NOTWITHSTANDING THE AFORESAID, IN THE EVENT ANY JUDGMENT IS ENTERED AGAINST ANY SUCH INDIVIDUAL, CLIENT AGREES TO LOOK EXCLUSIVELY TO THE ASSETS OF CONTRACTOR FOR SATISFACTION OF SAID JUDGMENT.

## **10. INSURANCE**

Contractor to carry General Liability Insurance on above work. Client to carry fire, builder's risk and other necessary insurance

## **11. SEVERABILITY**

In the event that any provisions herein shall be deemed invalid or unenforceable, the other provisions hereof shall remain in full force and effect and binding upon the parties hereto.

## **12. ENTIRE AGREEMENT**

This contract constitutes the entire understanding of the parties and no other understanding, collateral or otherwise, shall be binding unless in writing and signed by all parties hereto.

## **13. APPLICABLE LAW**

If the Client is not a consumer, as defined in the Fair Debt Collection Practices Act, any claim arising out of or related to the Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to conflict of law rules. This contract shall be interpreted, administered, and enforced in accordance with the Laws of the State of Texas.

## **14. MOLD DISCLAIMER**

This contract does not include, unless explicitly specified, any mold abatement, removal, or cleaning. If mold is found existing on the premises, any cost to abate, remove, or clean shall be paid by client as an extra. In addition, any warranty given to you under this contract does NOT include the cost to abate, remove, or clean mold that may be found on the premises in the future.

## **15. NOTICE OF CANCELLATION**

You may cancel this transaction without any penalty or obligation, within three business days from the original signature date. Any deposits will be refunded in full unless special order materials are involved. Special order costs will be refunded ONLY if the materials are returnable for full credit to contractor.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice prior to midnight of the third business days from the original signature date to:

Texas Cool Roofing, Inc.  
2209 Donley Dr  
Austin, TX 78758  
(512) 617-7335

Notice of intent to cancel contract:

Date:

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Property Owner/Client Name:

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Property Owner/Client Address:

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