

TERMS & CONDITIONS

The terms and conditions set out below (the Terms) shall apply to all products and services supplied by Atkins Roofing Pty Ltd (the Contractor) to the Owner (the Owner).

The Contractor is not bound by any variation to its Terms unless expressly agreed upon in writing and signed by an authorised representative of the Contractor and the Owner. The Contractor may at any time alter these Terms and such altered Terms shall apply after notification by the Contractor and the Owner.

1. GENERAL

1.1 No quotation given by the Contractor shall be valid unless signed by a representative of the Contractor and the Owner.

1.2 A quotation shall be valid for a period of sixty (60) days from the date of issue. If an Owner cancels or alters a valid quotation after the Contractor has received the quotation, then the Contractor reserves the right to charge the Owner any costs incurred in cancelling or altering any order or part order together with the costs of an labour and handling incurred as at the date of cancellation.

2. QUALITY OF CONSTRUCTION

2.1 All work done under this contract is to comply with:

- (a) the Building Code of Australia to the extent required under the Environmental Planning and Assessment Act 1979 (including and instrument made under that Act) and
- (b) all other relevant codes, standards and specifications that the work is required to comply with under any law, and
- (c) the conditions of any relevant development consent or complying development certificate and any construction certificate.

2.2 This Contract may limit the liability of the Contractor for a failure to comply with (2.1) if the failure relates solely to:

- (a) a design or specification prepared by or on behalf of the Owner (but not by or on behalf of the Contractor); or
- (b) a design or specification required by the Owner, if the Contractor has advised the Owner in writing that the design or specification contravenes (2.1).

3. PRICES AND PAYMENT

3.1 Unless otherwise stated the prices quoted are inclusive of GST.

3.2 The Owner shall make all payments to the Contractor in accordance with the payments schedule. The sum total of all payments made by the Owner, shall be the Contract Price which includes all variations.

3.3 If the Owner fails to make payments in accordance with the payment schedule, the contractor reserves the right to charge default interest at the rate on one and a half percent (1.5%) per month on a cumulative basis on all sums outstanding calculated on a day to day basis.

3.4 The Contractor may at its discretion claim from the Owner all costs relating to any action taken by the Contractor to recover monies due from the Owner including legal costs and disbursements on a solicitor client basis.

3.5 The Contractor may at its discretion suspend works until such time as the Owner makes all payments in accordance with clause 3.2 above.

4. VARIATIONS TO WORK

4.1 The work including materials may be varied by written agreement between the Owner and the Contractor. A notice describing the variation, the cost of the additional or omitted work and any change to the Completion Period must be provided to the Owner, and the notice must then be signed and dated by both parties to constitute acceptance. The price of extra work, which includes GST, will be added to the Contract Price. The cost of omitted work will be deducted from the Contract Price.

5. PRODUCTS SOLD BY SAMPLE

5.1 All products selected by the Owner, shall correspond to the sample, however, the Contractor shall not accept any responsibility for any variation from the sample due to the manufacturing process. Where the material supplied varies from the sample significantly the Contractor shall assist the Owner to select other suitable products where appropriate.

5.2 Where the Owner selects materials which contain natural colours, textures and grains, such as in roof tiles, the owner acknowledges such materials vary in colour, texture and grain. The Contractor will make every effort to match up the colour, texture and grain to the sample, but will not accept any liability if they are different.

6. RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

6.1 Prior to the installation the Contractor will notify the Owner of the anticipated installation date.

6.2 The Owner shall upon being notified by the Contractor grant access to the Contractor to install the roof tiles.

6.3 It is the Owner's responsibility to ensure that the work site has electricity and water for use by the Contractor, at the Owner's own expense.

6.4 The Contractor shall at all times perform work for the Owner in a proper workmanlike manner using skill and care expected in the usual course of making, supplying and installation of the tiles.

6.5 Where at any time the Owner claims that the materials used are defective or the Contractor has performed poor quality work, the Owner shall notify the Contractor and allow it the opportunity to rectify the defects or works.

6.6 The Contractor shall not be responsible for any damage caused by, misuse, abuse, wear and tear, shrinkage or movement. Further, the Contractor shall not be liable in any way for materials and goods supplied by others or the Owner.

6.7 The Contractor will at all times ensure that the work is completed by the due date, however, will not accept any responsibility for delays caused by circumstances beyond the Contractor's control. In such circumstances, the Contractor shall be entitled to seek an extension of time to complete the work.

6.8 The Contractor acknowledges that it has undertaken an inspection of the work site and its suitability, however, the Owner acknowledges that certain problems may arise at the fixing stage, due to circumstances beyond the control of the Contractor.

7. THE OWNER'S RIGHTS AND OBLIGATIONS

7.1 Any variations requested by the Owner, shall be quoted for by the Contractor. Where the Owner accepts the quotation, the Contractor shall be entitled to claim payment for the variation upon completion.

8. WARRANTIES BY THE CONTRACTOR

8.1 In accordance with its Statutory Obligations under the Home Building Act, the Contractor warrants the following:

- (a) All work performed by the Contractor shall be undertaken in a proper workmanlike manner and in accordance with approved plans and specification.
- (b) All materials supplied shall be of good quality and fit for the purposes of intended use.
- (c) All work performed shall be within the time stipulated, if no time is specified, within a reasonable time.

8.2 The warranties in 8.1 above shall expire twelve (12) months after:

- (a) the completion of the work; or
- (b) If there is no such date, the date of the Contract.

9. TITLE TO THE GOODS

9.1 Property in the goods shall not pass to the customer until payment is made in full to the Contractor.

9.2 The Contractor reserves the right to enter the site for the purpose of repossessing goods. The right to repossess is without prejudice to any other rights of recovery otherwise available.

10. DISPUTES

10.1 If the Owner or Contractor considers a dispute has arisen in relation to any matter covered by this Contract, that party must promptly give the other party written notice of the items of dispute. The parties may confer with a mutually agreed third party to assist to resolve the dispute by mediation. If the dispute cannot be resolved the Owner may notify the Commissioner for Fair Trading that a building dispute exists and seek the Office of Fair Trading's assistance to resolve the dispute. The private Home Owner's Warranty Insurer should be notified of any dispute which may be a prospective claim on the Insurer.

11. TERMINATION

11.1 The Contractor and the Owner may terminate this agreement upon the giving of 14 days written notice, of its intention to terminate for failure to remedy a serious breach of the Terms.

12. OCCUPATIONAL HEALTH AND SAFETY

12.1 The Owner acknowledges the Contractor's obligations under the Occupational Health and Safety Act and Regulations. The Contractor reserves the right to refuse fixing roof tiles where in its opinion the appropriate safety measures have been compromised.

13. BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 1999

13.1 To the extent that it is applicable, this agreement is subject to the Contractor's rights under the Building and Construction Industry Security of Payment Act 1999 (Act).

13.2 Any applicable invoices issued by the Contractor under this agreement is a claim made under the Act.

14. INTERPRETATION

14.1 For the purpose of this Agreement references to the Owner includes references to a head contractor.

15. ENTIRE AGREEMENT

15.1 These Terms, the plans and specification and variations constitute the entire agreement between the Contractor and the Owner.