

# TERMS & CONDITIONS

Under these terms and conditions The Contractor ("us ") agree to supply to the Employer ("you") with the Goods and Services set out in the Quotation within this Agreement.

## 1. OUR CONTRACT AND ORDER DETAILS

- 1.1. These terms set out all the terms of the Contract between the Contractor and the Employer, if you want to change any terms you should ask for the changes to be agreed by our Managing Director in writing.
- 1.2. You are responsible for ensuring that any information that you give to us is accurate so please check the goods and services detailed overleaf carefully before signing this agreement, in particular check that the order value and details of the order are both accurate.

## 2. CONTRACT FORMATION

- 2.1. Acceptance of the Contractor's Quotation by the Employer constitutes a Contract for the Contractor to carry out the Works in accordance with these Conditions and all terms and conditions inconsistent with these Conditions are excluded.

## 3. CONTRACTOR OBLIGATIONS

- 3.1. The Contractor will exercise reasonable skill and care in the performance of the Works.
- 3.2. The Contractor will take every reasonable precaution to minimise damage to the ground whilst working with vehicles and plant machinery. The Employer must accept that if there is minor damage under these circumstances that it is not the responsibility of the Contractor to finance the repairs.
- 3.3. The Contractor will be responsible for any damage they cause to the Employers premises and its contents or to neighbouring properties.

## 4. EMPLOYER OBLIGATIONS

- 4.1. Any agreed means of access to and from the area of work is uninhibited and safe. I.e. clear routes, safe and secure scaffolding, uncluttered loading decks etc.
- 4.2. The Employer will give the Contractor access to its premises (and where required mains water and electricity) as reasonably required by the Contractor to enable it to carry out and complete the Works without interference by the Employer or by other contractors of the Employer.

## 5. SUBCONTRACTING

- 5.1. The Contractor may Sub-Contract or assign at its discretion all or any part of its obligations under this Contract but will remain responsible for the Works.

## 6. DELAYS TO THE WORK

- 6.1. If work is delayed or interrupted due to the fault of the Employer then the Contractor will be entitled to be paid for any direct losses incurred.
- 6.2. The Employer must ensure that the working area is occupied exclusively by the contractor as other trades working in the same area may cause chargeable delays.
- 6.3. All agreed preparation works must be complete and to a satisfactory standard in readiness for us to start the agreed tasks. Failure to do so may cause delay/extra work and may incur extra charges.

## 7. CONSEQUENTIAL LOSS

- 7.1. The Contractor will not be liable for any loss or consequential liability or damage sustained by the Employer by reason of Act of God, War, Riot, Fire, Government Control, Abnormal Weather, Altered, Late or Incomplete Instructions from the Employer, Delays in obtaining any materials supplied or specifically specified by the Employer, by misuse from the Employer or any Persons not connected in any way to the Contractor or any other circumstances beyond the Contractor's control.

## 8. COMPLETION DATE

- 8.1. The Contractor will make every reasonable effort to complete the Works within the timeframe specified.
  - 8.1.1. This date will be extended to take account of:-
  - 8.1.2. Any delays or absence in receiving instructions from the Employer regarding the Works or any changes to the Works.
  - 8.1.3. Adverse weather conditions.
  - 8.1.4. The Contractor having due cause to suspend the Contract.
  - 8.1.5. Extra work being carried out at the request of the Employer.
  - 8.1.6. Any other delay not under the control of the Contractor.

## 9. PRICE AND PAYMENT

- 9.1. The price we will charge you for the goods and services will normally be as stated on the quotation. In some circumstances where the Survey Report reveals more work than anticipated we will need to increase that price. In these circumstances, we will tell you what the cost of the extra work will be and you can then choose to continue with the Contract or cancel it without penalty. If the problems revealed by the Survey are so serious that we deem that we cannot comply with our obligations to you, we can without penalty cancel the Contract and your deposit will be refunded.
- 9.2. We accept payments by Cheque, Internet Transfer. Ownership of the goods supplied will not pass to you until we have been paid in full for all amounts due to us by one of the above methods.
- 9.3. Please note we do not accept cash payments above the UK equivalent of €15,000 in line with money laundering regulations.
- 9.4. No receipt other than your final invoice will be issued unless a written request is received.
- 9.5. Outstanding payments which are overdue will incur interest at an annual rate of 8% plus the current base rate and will be charged daily until payment is made in full. This condition also applies to dishonoured cheques in which an additional fee of £25.00 will be charged per cheque.
- 9.6. Invoices will be issued by the Contractor on completion of Contract/Stage whichever comes first. If paying in stages the following will apply:
  - 9.6.1. Stage 1 payment (Commencement of Works) will be due the day of starting the work.

9.6.2. All other stage payments become due within seven (7) days of receipt of correct invoice.

9.6.3. The final balancing payment (5% of contract price) will be due within fourteen (14) days of correct invoice and satisfactory completion.

9.7. If an invoice is queried in accordance with this article and the Employer for whatever reason refuses to pay, they must give advance notice of the reasons in writing prior to the payment becoming due.

9.8. The Contractor shall be entitled to bring an action against the Employer for the price of any goods and/or materials supplied under this agreement even if title in them has not passed.

9.9. In the event of the Employer failing to make any payment due under the terms of this agreement or otherwise defaulting in any of their obligations hereunder or becoming insolvent or having winding up proceedings (whether compulsory or voluntary) commenced against him then the Contractor may at its discretion suspend or terminate the supply of any goods and/or services or terminate this agreement and recover any reasonable losses from the Employer.

9.10. Where the Employer consists of two or more people, then liability on the part of the Employer under this agreement shall be deemed to be joint and several.

## 10. STOPPING WORK

10.1. If an Employers cheque is unpaid by the bank the Contractor reserves the right to cease further works for up to 10 days until cleared funds are received. If after 10 days payment has still not been received the Contractor reserves the right to end the Works immediately. If the job is ended in this manner the Contractor will be entitled to be paid for any costs incurred in ending the Works including any loss of profit which would have been expected had the Works been completed in full.

## 11. ARBITRATION

11.1. Without prejudice to the legal rights of either party, any dispute or difference arising out of or in connection with this Contract shall be determined by the arbitration of a single arbitrator who failing agreement shall be appointed by the Institute of Arbitrators or a similar body.

## 12. CANCELLATION

12.1. You and we have a right to cancel this Agreement in writing within fourteen (14) days of the date of you accepting this Agreement without obligation and any money paid to us will be returned to you. Should you want to cancel your order you must do so by sending a written notice to DW-Construction, Unit 3, North yard, Pennybridge Lane, Mayfield, East Sussex. TN20 6QB. Please outline why you wish to cancel and include relevant details such as quotation number and order date. We strongly advise that you send any request to cancel by recorded delivery.

12.2. If you wish to cancel your order after fourteen days (other than in accordance with the above terms because of a price change after survey) we may apply a charge to cover costs we have incurred at the time of cancellation. For guidance purposes only, if:-

12.2.1. We have not ordered any custom made components. You will lose your booking deposit as this will cover our cumulative costs. This is usually between 5-10% of the value of the Contract. These costs cover marketing, sales, administration and surveying costs.

12.2.2. We have ordered non-returnable components. We will charge you what the suppliers have charged us. Generally this can range between 20-50% of the Contract price.

12.2.3. The goods have been supplied and installed; costs will be 100% of the Contract price.

12.2.4. In the instance where you have requested work to start before the fourteen day period is fulfilled then you will be liable to pay for any work already performed.

## 13. BUILDING REGULATION APPROVAL OR PLANNING PERMISSION

13.1. Unless otherwise agreed the Employer is responsible for obtaining all necessary Building Regulations approval and to apply for and secure the grant of Planning Permission if required. The Employer will be liable to pay the Contractor for any losses and additional costs incurred if the Employer fails to do this.

13.2. The Contractor will be responsible for contacting Building Control to organise inspections of the work.

13.3. Any plans or specifications that form part of the description of the Works are attached and have been signed by or on behalf of the parties and form part of this Agreement. It is the Employers responsibility to ensure that the specifications in their drawings comply with planning and building regulations and any other legal requirements, and that they are of sufficient quality to enable the Contractor to complete the Works. The Contractor's responsibility is purely to build to the specifications provided. It is the Contractor's responsibility to ensure that any documents they produce are fit for the intended purposes.

13.4. If the property where we are to install is within a Conservation Area you may require Planning Permission to install our products and you are strongly advised to contact your Local Authority for clarification.

13.5. If you are a tenant/leaseholder, you will be responsible for obtaining any required permissions from the owner/freeholder of the property.

## 14. INSTALLATION

14.1. We will use our best endeavours to install the goods on or as close to the date on this Agreement or otherwise agreed with you, but we cannot be responsible if there is a delay due to matters beyond our reasonable control such as adverse weather.

14.2. We will endeavour to install your goods within twelve weeks of signing this agreement, unless you have specifically requested a fitting date of over twelve weeks from the date of signing this agreement and we have agreed to this. In the event we have not installed your goods within the specified time you may serve notice on us in writing requiring that the works be completed within such a reasonable period as you specify (in general we would accept six weeks as being reasonable). If the work is not completed within such a notice period, you may without penalty cancel the uncompleted work covered by this agreement by service of a written notice to that effect. Notwithstanding the above we shall not be liable for any delay in the completion of

# TERMS & CONDITIONS continued...

the works which arises from causes beyond the reasonable control of this company or where a customer has acted so as to prevent completion of the works.

- 14.3. You are responsible for removing and reinstating all objects on or adjacent to the areas where we are to install goods.
- 14.4. Whilst we will take great care to cause minimum disruption to your home, it is inevitable that during installation, there may be some localised damage to the external building fabric of your property, unfortunately, we cannot be held responsible for this damage so far as it is reasonable.

## 15. VARIATION

- 15.1. If the Employer wishes to vary any of the Works it will inform the Contractor who will, as soon as practicable, notify the Employer of the estimated cost of the variation and the effect on the Contract period.
- 15.2. Unless the Employer withdraws his request for a variation when he receives the Contractor's estimate, the Contract Price will be adjusted in accordance with the Contractor's estimate (or as otherwise agreed between the Employer and the Contractor) and an appropriate extension of time for completion of the Works shall be agreed.
- 15.3. If a variation is made orally, either the Contractor or the Employer will confirm it in writing within 3 working days.
- 15.4. The Contractor will notify the Employer if it encounters any difficulties which it could not have reasonably foreseen when submitting the Quotation and in those circumstances, a fair and reasonable adjustment to the Contract Price and/or Contract period will be made. Unforeseen encounters include the following:
  - 15.4.1. Discovery of damaged sub structure which needs repair or replacement.
  - 15.4.2. Changing weather conditions preventing or restricting working hours.
  - 15.4.3. Delays caused by theft or damage to plant machinery or materials.
  - 15.4.4. Delays caused by the Employer or by other contractors on the Employers premises that prevent the Contractor from completing the work will be subject to a charge of £25 per tradesman for every hour of delay.
  - 15.4.5. Excavations and drainage trenches may need to be changed due to discovery of different underground services.
- 15.5. The Contractor reserves the right not to comply with any requests for a variation which would increase the value of the Works by more than 25% of the original Contract Price.

## 16. MATERIALS AND SERVICE WARRANTY

- 16.1. We always endeavour to provide the best quality materials. However, if within 12 months of installation (or longer if an extended product warranty is available) you notify us in writing of a material defect, we will replace or repair any defective part at our expense so long as you produce a valid warranty certificate (if applicable) and the installed goods have been reasonably cared for as outlined in the warranty documents. This guarantee does not extend to;
  - 16.1.1. The general maintenance of timber products
  - 16.1.2. Damage due to misuse, neglect, or from causes beyond our control (for example, fire, flooding, civil disturbance, criminal damage or acts of war).
  - 16.1.3. Nothing in these conditions will reduce your Statutory Rights relating to faulty or mis-described goods. For further information about your Statutory Rights

contact your local authority Trading Standards department or Citizens Advice Bureau.

- 16.2. If you wish to transfer any material warranty (if manufacturer allows this) to a new purchaser of your home, we are content to do this subject to the goods having been kept in good condition. We reserve the right to inspect any installation prior to agreeing transfer.
- 16.3. For a period of 6 years following installation the Contractor will remain responsible for any faults in the workmanship (other than fair wear and tear) which are caused by them.

## 17. HEALTH & SAFETY

- 17.1. The Contractor will be responsible for the Health & Safety issues relating to the Works.

## 18. DATA PROTECTION

- 18.1. We will use your personal data so that we can process your order and fulfil our obligations to you under this agreement, and consequently we may pass your details to our agents and sub-contractors in our role as Data Controller.
- 18.2. In order to protect your interest, we require all customers to verify their identity when dealing with us so we may ask you to provide the Contract number or other unique information before we discuss your order with you.
- 18.3. We may carry out enquires about you with the licensed credit reference agency before we proceed with your order. You agree that we may make such enquiries as are necessary in relation to this agreement or any future agreement you enter into with us.
- 18.4. We may use your personal details to contact you about other products and services we offer. We may also pass your name and address to other companies within our Group who we believe offer products that you may be interested in. Other than as set out in this agreement or as permitted by law, we will not pass on your details to any business or company outside our Group of Companies without first seeking your consent.

## 19. MISCELLANEOUS

- 19.1. Please note that for quality and training purposes, calls to the company may be recorded.
- 19.2. If you break this Agreement and we do not take action against you in connection with that breach at the time, this does not prevent us from taking action against you in the future.
- 19.3. If any one or part of these terms and conditions is held to be unenforceable, this will not affect the validity of the remaining terms and conditions.
- 19.4. This Agreement is formed under and governed by English law and any disputes in relation to this Agreement will be dealt with in the English Courts.

This Contract is for the benefit of the Employer and the Contractor and no one else.  
This Contract is governed by the law of England and Wales.

I accept these Terms and Conditions of Contract and agree to abide by its terms.

Signed:                      Name:

Signed by or on the behalf of the Contractor

I accept these Terms and Conditions of Contract and agree to abide by its terms.

Signed:                      Name:

Signed by the Employer

Signed:                      Name:

Signed by the 2<sup>nd</sup> Employer

THIS AGREEMENT is made on

(Write long date)

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