

1) Parties, Definitions and Interpretation

In these terms and conditions (which are referred to in this document as "these terms"):

- 1.1 "Client" means the individual or business for whom the Works are to be carried out by the Contractor.
- 1.2 "Completion" means the stage at which the Works have been completed to the Contractor's satisfaction.
- 1.3 "Contractor" means Arc Interior Solutions Limited and any representative of Arc Interior Solutions Limited.
- 1.4 "Contract of Works" means the agreement between the Client, The Trade Partner (DD Group) and the Contractor (Arc) to carry out the Works as per Contract of Works, of which these terms form a part along with the Service Contract Agreement between the Trade Partner (DD Group) and the Contractor (Arc) and Contract of Works agreement upon acceptance of the Quotation, letter or email between the Parties that defines the structure of the Works and terms on which they are to be undertaken.
- 1.5 "Estimate" means a suggested price for undertaking the Works provided to the Client by the Contractor verbally.
- 1.6 "Period" means the estimated duration of time for full Completion of the Works.
- 1.7 "Quotation" means a suggested price for undertaking the Works provided to the Client or Trade Partner by the Contractor in writing.
- 1.8 "Trade Partner" means the business DD Group for whom takes on responsibility of the Client in terms of payment of the Contract of Works to the Contractor on behalf of the Client as per the Service Contract Agreement between the Trade Partner (DD Group) and the Contractor (Arc).
- 1.9 "Parties" means the Client, Trade Partner (DD Group) and the Contractor (Arc).

2) General

- 2.1 All Quotations and Estimates given by the Contractor, all orders and instructions given by the Client, and all work authorisations, are governed by these terms and the Service Contract Agreement.
- 2.3 The Client acknowledges that the Contractor has not made any representations other than those expressly stated in the Estimate/Quotation which have induced the Client to enter into the Contract, and the Contract shall constitute the entire understanding between the Client and the Contractor for the performance of the Works.
- 2.4 No modification to the Contract of Work shall be effective unless made by an express written agreement (including email exchange) between all Parties. The signing on behalf of the Contractor of any documentation of the Client shall not imply any modification of the Contract of Works
- 2.5 Nothing in the Contract of Works is intended to confer on any person any right to enforce any term which that person would not have but for The Contracts (Rights of Third Parties) Act 1999. Accordingly, a person who is not a party to this Contract shall have no rights under that Act to enforce any of its terms, but this does not affect any right or remedy of such person which exists or is available apart from that Act.
- 2.6 The Client is prohibited from assigning, delegating or transferring their rights and obligations under the Contract of Works to any other entity.
- 2.7 The Contractor reserves the right to assign, delegate or transfer their full or partial rights and obligations under the Contract. For the avoidance of doubt, this allows the Contractor to sub-contract any or all elements of the Works.
- 2.8 The Contractor shall not be required to issue or deliver any certificates, guarantees or other similar documents regarding the Works and Services carried out until payment as per the Contract of Works or any modification to the Quotation as agreed in writing until payment has been made in full by the Trade Partner (DD Group) to the Contractor (Arc).

3) Quotations/Estimates and variations to the price

- 3.1 Any Quotation or Estimate by the Contractor is subject to withdrawal by the Contractor at any time before receipt of an unqualified acceptance from the Client or Trade Partner and shall be deemed to be withdrawn unless so accepted within 90 days from the date it is given.
- 3.2 A Quotation or Estimate will be deemed to have been accepted in full by the Client once the Trade Partner (DD Group) confirms the Contract of Works to all Parties and instructs the Contractor to begin preparation for the Works.
- 3.3 No suggested variation to any Quotation or Estimate by the Client is accepted by the Contractor unless agreed in writing and agreed by all Parties.
- 3.4 Unless otherwise stated a Quotation or Estimate provided by the Contractor will be shown exclusive of Value Added Tax, which will be payable in addition where properly chargeable.

4) Workmanship and materials supplied

- 4.1 All descriptions, illustrations etc. contained in any catalogues, price lists or advertisements, or otherwise communicated to the Client, are intended merely to present a general idea of the Works and nothing contained in any of them shall form a part of the Contract of Works.
- 4.2 The Contractor shall carry out the agreed Works in a proper and workmanlike manner.
- 4.3 All materials supplied by the Contractor will also be of satisfactory quality and suitable for their intended purpose. Materials must be new unless otherwise agreed with the Client.
- 4.4 Manufacturer's recommendations will be followed and the Client must adhere to any necessary recommendations.
- 4.5 Any materials supplied by the Client must be delivered to the premises at which the Works are to be undertaken and checked by the Contractor prior to their incorporation into the Works. Any delay caused by the Client's lack of supply of materials may be charged for.
- 4.6 The Contractor will undertake all reasonable endeavours to ensure that the Works reach Completion within the Period. If the Contractor cannot complete the Works on time the Contractor will provide to the Client an estimated extension to the Period.

4.7 No concrete work, brickwork or plastering and/or external works such as rendering, slab laying or decoration will be carried out if temperature are 2°C or below.

5) Payment

5.1 Payment to the Contractor of Works and Services provided to the Client and as per agreed Contract of Works is governed under the "Service Contract Agreement" between the Trade Partner (DD Group) and the Contractor (Arc) and the Client Terms and Conditions.

5.2 Any agreed extras or modifications to the Contract of Works must be agreed in writing by all Parties and the Client must ensure adequate provisions are made for payment to The Trade Partner (DD Group).

6) Commencement and Completion Dates

6.1 Dates specified for the commencement and Completion of the Works are estimates only. The Contractor shall use all reasonable endeavours to ensure that it will attend on the date and time agreed. However, it accepts no liability for matters outside its control in respect of non-attendance or late attendance on site or for the late or non-delivery of materials, or if such events are substantially caused by a fault of the Client or the Trade Partner.

7.2 Time shall not be of the essence in the Contract.

7) Inspection of Works

7.1 The Client shall inspect the Works as far as it is reasonably possible to do so immediately upon their Completion. In any event, if the Client considers that the Works or any part thereof are not in accordance with the Contract of Works, it shall within 14 days from the date of Completion give detailed notice in writing thereof to all Parties. In the absence of any such notice, the Works shall be conclusively presumed to be complete and free from any defect which would be apparent on reasonable examination.

7.2 Upon the receipt of such notice as described in clause 8.1 above, The Contractor will re-attend the site of the Works as soon as practicably possible. A list of agreed and disagreed defects will be presented to the Client and Trade Partner within 7 days of such attendance ("the List"). The Contractor will attend on site within 28 days of providing the List to remedy all the agreed defects, subject to the agreement of a potential additional cost.

7.3 The Client must at all times, for the purposes of all activities detailed within clauses 8.1 and 8.2, provide reasonable access on site to the Contractor. The Client agrees that refusal at any time for reasonable access will have the effect of withdrawing the original notice of complaint.

8) Indemnity

8.1 The Client shall indemnify the Contractor against all actions, suits, claims, demands, losses, charges, costs and expenses which the Contractor may suffer or incur in connection with a claim by any third party resulting from a breach of the Client's obligations, undertakings, representations and warranties in connection with this Contract.

8.2 No failure or delay by the Contractor in exercising any right, power or privilege under the Contract shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.

9) Whole agreement and Exclusion of liability

9.1 These terms along with the terms of the Service Contract Agreement set out the Contractor's entire liability in respect of the Works and the Contractor's liability under them shall be to the exclusion of all other warranties, conditions, terms and liabilities, expressed or implied, in respect of the Works and the quality thereof.

9.2 The Contractor shall not in any event be liable for any consequential loss.

10) Limitation of Liability, and Liability of the Contractor

The Contractor's liability shall be limited to:

10.1 the repair or making good of any defect pursuant to its undertaking in clause 13 below and subject always to paragraph 8 above;

10.2 liability for death or personal injury resulting from negligence in the course of carrying out the Contractor's duties, and;

10.3 the reasonable costs of repair or reinstatement of any loss or damage to the Client's property if such loss or damage results from the Contractor's negligence or that of its employees, agents or sub-contractors and the Client incurs such costs.

11) Client's Obligations and Warranties

11.1 The Client shall provide suitable access to enable the Contractor to undertake the Works.

11.2 The client will supply all necessary water and electricity for the carrying out of the agreed work without charge to the Contractor.

11.3 Unless otherwise agreed, any necessary local authority approvals will be sought and gained by the Client prior to commencement of the agreed work. Copies of all relevant permissions and approvals are also to be forwarded to the Contractor prior to commencement of the agreed work. Any fees for such approval will be paid by the Client to the Trade Partner.

11.4 Unless otherwise agreed the Client assumes full responsibility for following any pertinent procedures required under The Party Wall etc. Act 1996.

11.5 It is the Client's responsibility to comply with any pertinent rules under the most recent Construction (Design and Management) Regulation.

11.6 Unless otherwise agreed it is the Client's sole responsibility to ensure that it has obtained the relevant permissions for the Contractor to undertake the Works, including but not limited to permission from any landlord, neighbour and utility company.

11.7 Unless otherwise agreed it is the Client's sole responsibility to obtain and produce a relevant asbestos report.

11.8 The Contractor will not accept any liability for any direct or consequential loss as a result of the Client's failure to comply with any of the requirements at Clause 12.

11.9 In the event of a breach of any of the requirements at Clause 12 the Contractor may elect, at its sole discretion, to halt Works until such time as the relevant requirements are met, and charge abortive costs as appropriate. The Contractor may also elect to terminate the agreement as per clause 18.

12) Defects

12.1 Subject to clause 8 above and the exclusions listed below, the Contractor undertakes to repair or make good any defect in completed Works which is a genuine defect (not general wear and tear) arising from a breach of the Contractor's obligations under this Contract. This undertaking shall only apply to Works carried out, Completed and invoiced by the Trade Partner has been paid by the Client by the due date for payment.

12.2 If the Contractor returns to the site at the Client's request to review a claim under this undertaking and it transpires that the defect had not arisen as a result of a breach of this Contract or the Service Contract Agreement on the part of the Contractor, the Contractor reserves the right to charge the Trade Partner / Client for the visit at its standard rate.

12.3 The Contractor reserves the right not to carry out any work under this clause 13 where the Client cannot evidence that the defect is a result of the Works originally carried out and completed by the Contractor or where payment has not been made in full for such work.

Exclusions are:

- 12.3.1 parts and materials will be provided only with the benefit of the manufacturer's/suppliers' guarantee, and are not guaranteed by the Contractor;
- 12.3.2 systems or structures not installed by the Contractor;
- 12.3.3 any recall arising from circumstances or factors known to the Client but not notified or disclosed to the Contractor prior to the work having been undertaken;
- 12.3.4 defects resulting from misuse, wilful act, or faulty workmanship by the Client or anyone working for or under the direction of the Client (other than the Contractor);
- 12.3.5 structural defects encompassing but not limited to subsidence and its resultant effect;
- 12.3.6 damage to drainage systems caused by root penetration or any other outside force;
- 12.3.7 any roofing work where the Contractor advises that the overall condition of the roof is poor and is in need of more extensive work and the work to be undertaken involves less than 20% of the area of the roof.

13) Force Majeure

13.1 The Contractor will use all reasonable effort to carry out the Works on the agreed dates but shall not be under any liability to the Trade Partner or Client if it should be either impossible or impracticable to carry out the works on the agreed dates or at all, by reason of strike, lock out, industrial dispute, severe weather, act of god or any other event or occurrence beyond the Contractor's control.

14) Client's Liability

14.1 The Client shall be liable for:

- 14.1.1 any loss, damage or injury, whether direct or indirect or consequential, resulting from failure or delay in the performance of the Client's obligations under these terms.
- 14.1.2 providing all necessary power and a clean water supply for the Contractor's use in the execution of the contracted works.

15) Insurance

15.1 The Client is to notify their insurance company of the work to be carried out before commencement of the agreed work.

15.2 The Contractor will have public liability insurance of £10,000,000

15.3 The Contractor will have employer's liability insurance of £10,000,000

15.4 The Contractor will insure the Client against theft of any materials or products taken from the premises that are for the agreed work, save where the theft was primarily occasioned by the negligence or fault of the Client.

16) Cancellation

If the Client cancels the Contract of Works without the Trade Partners or Contractor's consent (other than through expiry pursuant to Clause 3.1 or as a result of a substantial breach of a material term of the Contract on the part of the Contractor):

16.1 the Client shall indemnify the Trade Partner / Contractor against all loss, damage, claims or actions arising out of such cancellation unless otherwise agreed in writing; and;

16.3 the Contractor reserves the right to issue a final invoice for all services undertaken to the Trade Partner / Client since the most recent invoice, calculated on a pro-rata basis with regard to the Contract of Works and;

16.4 the Contractor will keep any deposit paid.

17) Termination

If the Client substantially breaches a term of the Contract the Contractor shall reserve the right to terminate the Contract in its entirety. If this right is exercised:

17.1 The Client shall indemnify the Contractor against all loss, damage, claims or actions arising out of such cancellation;

17.2 The Contractor will not be liable for any specific or consequential loss arising from such Termination;

17.3 the Client must make immediate payment in full of any and all outstanding invoices;

17.4 the Contractor reserves the right to issue a final invoice for all Services undertaken since the most recent invoice, calculated on a pro-rata basis with regard to the Price of the Works;

17.5 the Contractor will keep any deposit paid.

18) Waiver, Variation etc.

18.1 No waiver by the Contractor of any breach by the Client or Trade Partner shall operate as a waiver of any preceding or subsequent breach by the Client. No variation shall be effective against the Contractor unless sanctioned in writing by the Contractor. No forbearance or delay on the Contractor's part shall prejudice the Contractor's rights and remedies under this Contract.

19) Further Terms

19.1 If any provision of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Contract and rendered ineffective as far as possible without modifying the remaining provisions of the Contract, and shall not in any way affect any other circumstances of or the validity or enforcement of the Contract.

19.3 In the Contract unless the context otherwise requires:

19.3.1 words importing any gender include every gender;

19.3.2 words importing the singular number include the plural number and vice versa;

19.3.3 words importing persons include firms, companies and corporations and vice versa;

19.3.4 the headings to the clauses and paragraphs of the Contract are not to affect the interpretation;

19.3.5 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.

20) Law and Jurisdiction

The Contract and any dispute arising thereunder shall be governed by English law and shall be subject to the jurisdiction of the English courts alone.