

# **TERMS AND CONDITIONS OF CONTRACT**

## **1. OFFER AND ACCEPTANCE**

1.1 All quotations are made and orders accepted strictly subject to these terms and conditions. All other terms and conditions are excluded from any agreement unless expressly accepted in writing by Howells Glazing Systems Limited, Clock House, Forge Lane, Cradley Heath, Warley, West Midlands, B64 5AL (the company).

1.2 Quotations will remain open for a period of 6 weeks from the date of their submission.

## **2. PRICES**

2.1 Unless expressly stated elsewhere in the quotation, all prices etc. quoted are based upon the cost of labour, materials etc. prevailing at the date of the quotation. The company reserves the right to the recovery of all increases in costs incurred there from.

2.2 Prices quoted are exclusive of Value Added Tax. Value Added Tax will be added to each invoice at the rate current at the date of invoice.

2.3 The company reserves the right to re-measure its work irrespective of whether it's basis is "drawings and specification" or "bills of quantities" provided by the customer.

2.4 The company reserves the right to adjust quoted prices in the event of significant variation in quantities.

## **3. INFORMATION**

3.1 The company shall not be liable for the accuracy of any information provided by the customer, nor for any defects arising out of incorrect drawings, specifications, calculations, dimensions or instructions etc. so provided.

3.2 All drawings, specifications and any other information supplied by the company are supplied on the express understanding that copyright is reserved by the company. Such information shall not be used by the customer in any way except in connection with the contract for which it was issued.

3.3 The customer shall indemnify the company from and against all actions which may arise due to the provision of the works in accordance with information provided by the customer where it is alleged that such information infringes a patent, registered design, copyright or other exclusive right.

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#### **4. GENERAL AND SPECIAL ATTENDANCE**

The following shall be provided by the customer free of charge to the company:-

- 4.1 Suitable clear access to site and working areas from the agreed commencement date.
- 4.2 Adequate space for the safe and secure storage of materials and plant.
- 4.3 Use of welfare facilities and sanitary accommodation.
- 4.4 Labour and plant for unloading, placing in storage and distribution of materials to working areas, including hoisting where necessary, at times to suit the company.
- 4.5 All scaffolding and other equipment necessary for access and safety purposes to comply with the current Health and Safety Legislation.
- 4.6 Supply of electricity for lighting and power to the required voltage with socket outlets adjacent to working areas.
- 4.7 Clearance from site of all rubbish arising from the contract works.
- 4.8 Protection of all completed and uncompleted works from damage by preceding and /or following trades or any other occurrence.

#### **5. STATUTORY NOTICES**

- 5.1 The customer shall ensure that all notices are given and all permissions sought and granted to satisfy the requirements of Statutory Bodies or Local Authorities and the like.
- 5.2 The customer shall indemnify the company from and against all actions arising out of failure to comply with such requirements and shall be liable for any costs incurred by the company.

#### **6. PROGRAMME**

- 6.1 Work is to be carried out during normal working hours in a single continuous visit. The customer will be charged with any costs incurred where for reasons beyond the control of the company, overtime or extra visits prove necessary.
- 6.2 If the commencement, progress or completion of the works is materially affected by any act, omission or default of the customer, his servants, agents, other sub-contractors, or his client then any costs so incurred by the company will be charged to the customer.

#### **7. PRACTICE COMPLETION**

- 7.1 Upon practical completion of the contract works the company shall confirm in writing to the customer the date of practical completion which will apply so far as any warranties, liability for defects and payments are concerned.

## **8. VARIATIONS**

8.1 "Variations" shall generally be defined in Clause 1.3 of the Domestic Subcontract Conditions of DOM1.(DOM 1)

8.2 No work shall be omitted from the contract by the customer following acceptance of a quotation if that omission is with the intention of placing the work with others.

8.3 All variations shall be issued in writing by the customer. If the customer issues verbal instructions, the company will confirm receipt of them in writing, whereupon they shall be deemed to constitute accepted variations to the contract.

8.4 Variations will be priced generally in the manner set out in clause 17.3 "Variation Rules" of DOM1.

8.5 Variations, as defined above, will entitle the company to adjust any period for commitment accordingly.

## **9. PAYMENT**

9.1 The company shall make written applications for payment at intervals not exceeding one month. The first application for payment will be no later than one month following commencement on site or, if so agreed, after commencement of off-site works. Payments shall be made not later than 28 days from the date of submission of each application for payment.

9.2 Applications for payment shall comprise the total value of all works executed in accordance with this contract (including all variations as described), increased costs and all other sums payable under other provision of the contract, all goods and/or materials delivered to site for use in the works.

9.3 Where goods and/or materials have been purchased or produced specifically for the contract by cannot be delivered to the site for reasons beyond control of the company, the value of such goods and/or materials shall be included in interim applications for payment as described in Clause 9.1.

9.4 The company shall submit the final account upon practical completion of the contract works as described in Clause 7. Payment shall be made no later than 28 days from the date of submission of the final account.

9.5 If the customer fails to make any payment by the latest due date, the company reserves the right, subject to giving 7 days written notice, to suspend work on the contract and shall be entitled to interest from the date of notice. on the balance of all outstanding monies at the rate of 4% per month (or part of a month) above the base rate of the companies bank, current at the date(s) when payments became due.

## **10. TITLE TO GOODS AND MATERIALS**

10.1 All goods and materials shall remain the property of the company until the company shall have received payment in full in accordance with its application(s) for payment. Not with standing that the materials have been incorporated in the works, the company shall have the absolute right to recover such payments where payment has not been received in full.

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## **11. DEFECTS LIABILITY**

11.1 In the event of any defects in the contract works, proven to the satisfaction of the company to be due to the faulty material, equipment supplied or workmanship on the part of the company, such defects will be rectified by the company without charge, provided that the customer shall have given the company written notice of the defect within 6 months (or any other agreed period) after practical completion of the works.

11.2 The company gives no warranty of fitness of/for purpose in respect of goods, equipment or materials which have been specified by persons other than the company.

## **12. LOSS, DAMAGE OR INJURY**

12.1 The customer shall be liable for the replacement costs of any materials, whether or not properly incorporated in the works, or that have been damaged, stolen, lost or destroyed by any person(s) or cause whatsoever than by the company.

12.2 Save where the company is proved to have failed to have exercised reasonable care in the performance of the contract and such failure results in death or injury, the company shall not be held liable in respect of claims arising by reason of death or personnel injury in connection with the contract.

12.3 Any liability for negligence or breach of statutory or other legal duties by the company will only be accepted by the company where such negligence or breach of duty is directly connected to performance of the contract.

12.4 The company shall not be liable, under any circumstances, for consequential loss, loss of profit or damage to property.

## **13. BANKRUPTCY, INSOLVENCY ETC...**

13.1 If the company shall become bankrupt, insolvent, compound with creditors or in the event of a resolution being passed or proceedings commenced for the liquidation of the customer (other than a voluntary winding up for the purpose of reconstruction or amalgamation) or if a receiver or manager is appointed for all or part of its assets or undertaking, the company shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accruing to the company.

## **14. ARBITRATION**

14.1 In the event of any dispute or difference between the customer and the company whether arising during the execution, after the completion, abandonment or cancellation of the works in regard to any matter or thing of whatsoever nature arising out of the contract or in connection therewith, then either party shall give to the other, notice in writing of such dispute or difference. All such disputes or differences shall be referred to Arbitration and the final decision of a person to be agreed between parties or failing such agreement, within 14 days of either party giving the other a written request to concur in the appointment of an Arbitrator, a person to be appointed on the request of either party by the president for the time being of the Royal Institution of Chartered Surveyors

**Howells Patent Glazing Ltd, Woods Lane, Cradley Heath, West Midlands, B64 7AN**