

# Dane Architectural Systems Limited

## Standard Terms and Conditions of Contract

### (Sub Contractors)



Established 1968

#### 1. Definitions

'The Company' means the company which issues the Order to the Seller.

'Seller' means the person, firm or company to which the order is issued.

'Order' means the purchase order (including all specifications, drawings, timetables, conditions of contract and any documents attached thereto or incorporated by reference therein) issued by the Company for the provision of services including the supply of materials (where appropriate) by the Seller.

'Specification' means the specification(s) contained or identified in or referred to attached to or issued with the Order.

'Work' means, as the context shall require, the provision of services (including any materials to be supplied by the seller in connection therewith) and any part or item or component thereof to be supplied by the Seller in accordance with the terms of the Order and/or the end product arising from the provision of the said services by the seller.

#### 2. General

- All work carried out by the seller shall be subject to these standard terms and conditions
- Any variation of the Standard Terms and Conditions shall become binding only if confirmed by the Company and the Seller.
- Where the Company is acting as a Sub Contractor under a Main Contract Agreement. The Company's obligations under such Main Contract shall apply to the seller who will be deemed by virtue of this agreement to have knowledge of the terms and conditions imposed by such contract.

#### 3. Sellers Obligations

- The Seller shall provide the work in accordance with the Order and the terms and conditions herein.
- Without prejudice to sub-clause (a) above the work provided shall be of the specified quality and workmanship and shall in all aspects comply with the Specification and shall be suitable for the purpose stipulated in or indicated by or to be reasonably inferred from the Order.
- The Time stated in the Order for completion and delivery of the work shall be of the essence, and adhered to at all times (unless agreed otherwise).
- Where the company supplied any materials and/or equipment to the Seller in connection within the work (whether they are to be incorporated into the work or otherwise) the Seller shall:
  - be responsible for checking the quantity and quality so delivered and that any discrepancies or rejections are notified to the Company within five working days after the delivery date.
  - not mix or switch materials and/or equipment that has been delivered against specific lot, Works, batch or advice note numbers.
  - not to make any alteration, modification or rectification to the materials and/or equipment so delivered without the prior written consent of the Company save where such alteration, modification or rectification is expressly permitted by the Order.
  - promptly return upon completion of the Order, or earlier if requested, and such materials and/or equipment not incorporated into the Work.
- The Seller shall satisfy itself that it understands the Company's requirements in all respects so as to enable it to comply with the obligations contained in the Order and these Standard Terms and Conditions.
- The sub-contractor shall at his own expense supply and erect all scaffolding required for the construction completion and maintenance of the works specified in the sub-contract and maintain the same in good order until dismantled. On completion of the works the sub-contractor shall at his own expense dismantle and remove from the site the said scaffolding. The sub-contractor shall be solely liable for and shall indemnify the Company in respect of any liability loss claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person whomsoever or in respect of any injury or damage whatsoever to any property real or personal insofar as such personal injury death injury damage arises out of or in the course of or by reason of the provision erection use maintenance and dismantling of the said scaffolding or any part thereof of the fitness condition and stability thereof.
  - Where the sub-contractor employees or workmen use the scaffolding belonging to or provided by the Company whether with or without the express permission of the Company or otherwise the individual using the same shall satisfy himself as to the fitness of such scaffolding for the purpose for which it is to be used and such use shall be on the express condition that no warranty or other liability on the part of the Company or other of the sub-contractor of the Company shall be created or implied in regard to the fitness condition and stability of the said scaffolding.
- Where the sub-contractor makes provision for the supply of equipment and/or materials by the sub-contractor, the sub-contract price shall be deemed to include the provision by the sub-contractor of all services, gear and labour to deal with such equipment and/or materials including the transport on-loading and off-loading of such equipment and/or materials where necessary.
- The sub-contractor shall diligently comply with such Statutory Regulations or instruments for the time being in force affecting the safety welfare and working conditions of workmen or employees generally and shall in particular ascertain what regulations affect the particular site upon which work is in progress and shall by adequate and effective personal supervision ensure that all employees are fully aware of such requirements and from time to time personally inspect the site and equipment with a view to affecting continued compliance with such requirements.
- The plant tools or equipment or other property of the sub-contractor his servants or agents (other than materials properly on the site for use in the sub-contract works) shall be at the sole risk of the sub-contractor and any loss or damage to the same shall be the sole liability of the sub-contractor who shall indemnify the Company against any loss claims or proceedings in respect thereof.

#### 4. Price

The price stated in the Order unless otherwise stipulated in the Order, shall be a fixed price and exclusive of Value Added Tax and subject to any retentions, discounts as stated on the order or special conditions.

#### 5. Inspection and Testing

The Company's authorised representative shall have the right to inspect and test the Work subject to the Order at all reasonable times at the place where the Work is taking place and to reject all such Work and any part thereof that does not comply with the Terms of the Order. Any such inspection and testing and any failure so to inspect and rest shall not release the Seller from any obligations or liabilities in accordance with the terms of the Order.

#### 6. Delivery

The Seller shall deliver the Work in specified condition and, if required, suitably packed, protected and transported at the Seller's expense to the place specified by the Company in the Order. Deliveries in instalments or in part shall be permitted only with the prior written consent of the Company. Where applicable all work shall be executed in compliance with the relevant British Standards.

#### 7. Risks and Insurance

- All materials and/or equipment supplied by the Company to the Seller for and in connection with the provision of the Work (whether they are to be incorporated into the Work or otherwise) shall be at the absolute risk of the Seller while in the possession of the Seller or its agents.
- The Seller shall at his own cost insure all materials and/or equipment supplied to him by the Company in connection with the Work (whether they are to be incorporated into the Work or otherwise) and keep them insured (if required in the joint names of the Seller and the Company) against all risks of physical loss or damage. The Seller hereby acknowledges his responsibility in respect of all design and public liability.
- The Seller shall on request produce to the Company evidence of such insurance and of the payment of the premium.

#### 8. Payment and Terms

- Unless otherwise stated in the Order, payment shall be made against invoice on the last day of the calendar month following the date of invoice or completion of all work subject to this order whichever is the later. For the above terms to apply all valuations, where applicable, must be submitted prior to notified dates in accordance with the Companies contractual valuation obligations.
- Each invoice shall quote the Order and contract number and shall be submitted as or with a value added tax invoice (if appropriate) together with full supporting documentation and any other information required by the Company. Each invoice should be addressed to the correct titled company and invoices not meeting this condition will be rejected automatically.
- The Company shall have the right to set off any liability it has to the Seller in respect of any indebtedness or default the Seller may have to the Company or any associated Group Company whether or not in connection with the work.

#### 9. Companies Right to Reject

At any time during or within six months after completion of the Order and notwithstanding any acceptance of the Work, the Company shall be entitled to reject all or any part of the Work which does not conform to specification or otherwise to the Order or is otherwise defective.

#### 10. Defective Work

- If the Work provided by the Seller is defective, then the Company may at its absolute discretion:-
  - itself remedy it, or
  - require the Seller to remedy it without undue delay, or
  - procure it to be remedied by a third party, or
  - reject the work in whole or in part, in all cases at the cost and risk of the Seller.
- The above rights of the Company are in addition to and without prejudice to any other rights which the Company may have against the Seller in respect of any breach of the terms of the Order.

#### 11. Delay in Delivery

Should the Seller fail to deliver all of any of the Work by the date specified in the Order the Company shall be entitled to cancel the Order without incurring any liability to the Seller in respect of cost, damages, loss of profit, or on any other account whatsoever.

#### 12. Company's Right to Terminate Order

- Without prejudice to any other rights otherwise available to it, the Company shall have the right to terminate the Order by written notice to the Seller without incurring any liability to the Seller in respect of costs, damages, loss of profit or any other account whatsoever if the Seller:-
  - fails within three days after notice by the Company to rectify any breach of any of the terms or conditions of the Order, or
  - makes any agreement with a creditor for the composition of debts, or
  - goes into liquidation whether compulsory or voluntary, or
  - becomes insolvent, or
  - suffers a receiver to be appointed, or
  - has an administrator appointed, or is the subject of an Administration Order, or
  - being an individual, commits an act of bankruptcy.
- If notice of termination is given by the Company whether pursuant to Clauses 11, 12(a) or otherwise, the Seller shall forthwith deliver to the Company at the Seller's cost and risk, the whole of the Work whether or not completed, together with any other material and/or equipment delivered to the Seller by the Company. Notwithstanding the aforesaid, the Company shall in addition, have an irrevocable licence to enter upon any of the Seller's premises where the Work, materials and or equipment may be located with such transport as may be necessary to enable the Company to recover the same.

#### 13. Companies Drawings and Confidentiality

- All drawings, samples, patterns, dies, moulds, jigs, fixtures, formulas, designs, written data and information supplied by the Company shall:-
  - remain the copyright and property of the Company, and
  - be used only for the purpose of fulfilment of the Order, and
  - not be reproduced in whole or in part for any other purpose, without prior agreement from the Company, and
  - be returned to the Company (together with any copies thereof) on demand.
- The Seller shall treat as confidential all information supplied by the Company under or in connection with the Order and shall ensure that such information is not divulged to any third party without the prior written consent of the Company.

#### 14. Alterations and Variations

The Seller shall use its best endeavours to comply with any alteration(s) to the Order requested by the Company subject to any agreed adjustment to the price as may be appropriate.

#### 15. Non-Assignment and Sub-Contract

- The Seller shall not assign the benefit of all or any part of its rights, nor sub-contract the performance of all or any part of his obligations without the prior written consent of the Company.
- Any such consent if given shall not relieve the Seller from any liability or obligation under the Order.

#### 16. Seller Indemnities

The Seller undertakes to save harmless and indemnify the Company in full from all claims, proceedings, actions, demands, costs and charges arising out of or in connection with any infringement of any patent, registered design, trade mark, trade name, copyright or other protected rights arising out of or in connection with the execution of the work

#### 17. Publicity

The seller shall not without the prior written consent of the Company publish or otherwise make public the fact that the Seller does or has in the past supplied services to the company

#### 18. Law

The order shall be governed and construed in all respects in accordance with English law or such law as applicable to the relevant contract.