

## 1. DEFINITIONS

In these Conditions the following shall have the meaning set out:

- (a) "The Owner" shall mean Artel Scaffolding Ltd and "The Hirer" shall mean any individual, firm, company or other party with whom The Owner contracts.
- (b) Scaffolding shall mean any Scaffolding, structure, tube, boards, fittings, ladders, gin wheels, hoists, sheets and the like and any other materials whatsoever supplied by The Owner to The Hirer under the Contract.
- (c) "Services" shall mean any work and labour supplied by The Owner pursuant to The Contract up to the issue of the Handing-over Certificate together with any other work and labour supplied thereafter.
- (d) "Handing-over Certificate" shall mean the certificate issued by The Owner to The Hirer upon completion of erection of the Scaffolding by The Owner.

## 2. GENERAL

- (a) This Quotation constitutes an offer capable of acceptance and will remain open for acceptance for a period of 60 days from the date thereof. Any oral acceptance by The Hirer shall be deemed to be upon these Conditions.
- (b) Any contract whatsoever made between The Owner and The Hirer shall incorporate and be subject to these Conditions to the exclusion of all terms, conditions or warranties express or implied (insofar as those imported by law may lawfully be excluded) and whether or not contained in or referred to in or by any document of The Hirers. Any document of The Hirer containing or referring to terms, conditions or warranties shall constitute a counter-offer and will only be capable of acceptance by a director of The Owner signifying his acceptance in writing.
- (c) Where The Hirer does not accept The Quotation within 3 calendar months as the aforesaid the offer shall lapse. The Owner may in its absolute discretion decide whether to renew the offer upon the same or any other terms.
- (d) The period of hire shall be as set out in The Quotation.
- (e) All scaffolding supplied under the contract shall be on hire and shall remain the property of The Owner
- (f) The copyright to any documents produced by or on behalf of The Owner shall belong to the owner. The hirer shall have licence to copy and use the documents for the purposes of contract works for which they were produced. In the event that the hirer and/or its servants and/or its agents use, or allow to be used, the documents for any other purpose, The Owner shall not be liable for any loss whatsoever or however arising from such use.

## 3. PRICE

- (a) The contract price is set out in The Quotation and is exclusive of VAT (which will be added at the relevant rate at the appropriate tax point)
- (b) Any variation or alteration will be the subject of a separate quotation and these Conditions shall apply mutatis mutandis to any contract based on such separate quotation. Such quotations will be deemed to be accepted by the Hirers unless queried or rejected in writing within 28 days from the date of quotation. The Hirers undertake not to carry out or cause or permit to be carried out any alteration, adaptation, variation or addition to the structure or to interfere with it in any way except as provided for in this quotation.
- (c) The Owner requires that the Client ensures that this quotation correctly interprets the contract requirements.
- (d) Prices are based on condition that each site visit constitutes a full days work and is economically viable for The Owner to undertake the works.

## 4. PAYMENT

- (a) Payment terms are as per the following options, option (A) always applies unless option (B) is agreed in writing:

**Option A** – For valuation purposes 100% of the contract sum will be charged on erection. Payment terms will be 14 days net from date of invoice or prior to dismantle, whichever is sooner. Scaffold will only be fully dismantled once all outstanding payments are made and written confirmation to dismantle the scaffold has been received by The Owner. Where consumable costs are included within the contract sum, these will be charged in full upon hand over of the scaffold

**Option B** – For valuation purposes the following percentages apply

- (i) For 70% of the contract price upon the issue of the Handing-over Certificate; and
- (ii) For 30% of the contract price after dismantling of the scaffolding is complete.

These Provisions relating to the issue of invoices may be varied by the written agreement of the parties. Any error in any invoice rendered may be corrected in any subsequent invoice or invoices.

- (b) Where the service performed under The Contract include the supply of labour on site at the specific request of The Hirer, The Hirer shall be charged , at the hourly rates set out on the quotation, for the man hours worked as shown on The Owner's time sheets, which shall be conclusive proof of the time worked. Invoices may be rendered weekly in respect of such Services and shall be accompanied by supporting Time Sheets. Any error in any invoice rendered may be corrected on any subsequent invoice or invoices.

- (c) Where men employed by The Owner remain on site at the request of The Hirer The Owner shall be entitled to charge for a full day work for each of the men irrespective of whether the men or any of them are actually engaged in working throughout the entire day that they so remain.
- (d) Time for payment shall be of the essence and failure to pay within the time specified shall entitle The Owner upon notice to The Hirer to suspend further performance of The Contract pending payment, to repossess any Scaffolding in the possession or control of The Hirer and to cancel the contract or any other contract between parties without prejudice to any other remedy of The Owner. For the purposes of exercising the right of repossession here in The Owner may enter on any premises where Scaffolding is situated with such men, vehicles, machinery or plant as it deems necessary and The Hirer shall render all lawful assistance to The Owner.
- (e) The Hirer may not set-off against any monies due to The Owner under The Contract any amount claimed by or due to The Hirer from The Owner whether under this contract or on any other account whatsoever.
- (f) The Owner shall be entitled to interest both before and after judgement on any part of the contract price not paid by its due date until actual payment at the rate of 5% per annum above the base lending rate of Barclays bank PLC prevailing at the date of the relevant invoice or invoices.

## 5. HIRE PERIOD

- (a) Hire Period commences at the date of the first Handover certificate.
- (b) Chargeable Hire Period will run from commencement hire period until total dismantle has been achieved. The Owner must be notified in writing by the Hirers to commence the dismantle of the scaffold.
- (c) Additional hire charges will be charged per week as per the rate stated in the quotation. If the hire period finishes mid week the charges will be rounded up to the nearest week.
- (d) Additional Hire rates are to be calculated on the whole rate and not just the material element of the works.

## 6. DELIVERY AND RISK

- (a) Delivery of the scaffolding shall be made to The Hirer at the place specified in the quotation or as subsequently agreed between the parties and the risk in respect of all Scaffolding shall pass to The Hirer at the date of the Handing-over Certificate and shall remain with The Hirer until either The Owner enters upon the site for the purpose of dismantling the Scaffolding or until two normal working days after The Owner receives an instruction from The Hirer to dismantle the Scaffolding whichever shall be earlier.
- (b) The Owner shall be entitled to make delivery of the Scaffolding in instalments and may invoice The Hirer for each instalment despatched.

## 7. PERFORMANCE

- (a) The Owner will use its reasonable endeavours to comply with any date or dates from despatch or delivery of the Scaffolding and for the supply or completion of The Service but such date or dates shall not be binding and only constitute statements of expectations. Failure to comply with such dates shall not constitute a breach of contract nor shall The Owner be liable in respect any claims, actions, proceedings, loss, damage, costs or expenses whether direct, indirect, economic or consequential.
- (b) If The Owner is prevented or hindered from performing the contract or any part of thereof by any circumstances beyond its reasonable control including (but without limiting the generality of the foregoing) strikes, lock-outs or other industrial action, inability to obtain materials or labour, power or machinery breakdown or failure, fire, flood, civil, commotion, or any other cause of whatever kind and whenever occurring further performance of The Contract shall be suspended for so long as The Owner is so prevented or hindered provided that if the performance of The Contract is suspended for more than 3 consecutive calendar months The Hirer shall be entitled by notice in writing to The Owner forthwith to terminate The Contract or to cancel any outstanding part therefore and in such circumstances The Hirer shall pay at the contract rate for all Scaffolding and Services supplied to the actual date of termination. The Owner shall not have any liability to The Hirer for any direct, indirect, economic or consequential loss or damage suffered by The Hirer as a result of The Owner's inability to perform its obligations hereunder.
- (c) Where Scaffolding is delivered or Services are supplied by instalments each such instalment shall be deemed to be supplied under a separate contract to which these Conditions shall apply mutatis mutandis and save provided in Clause 4(d) no default in respect of any one instalment shall affect or prejudice due performance of The Contract as regards any other instalment.
- (d) If performance of The Contract is suspended at the request of or delayed through default of The Hirer included (without prejudice to the generality hereof) lack of, incomplete or incorrect instructions or refusal to accept delivery of the Scaffolding or services for a period of 7 days, The Owner shall be entitled to payment at the contract rate for Services already performed, Scaffolding ordered and any other additional costs thereby incurred.
- (e) The Owner shall be entitled without the prior approval of The Hirer to assign, subcontract or sublet The Contract or any part thereof, but The Hirer shall not be so entitled without the prior approval of the company.

## 8. OWNER'S OBLIGATION AND SAFETY

- (a) The Owner will exercise all proper care to ensure that the Scaffolding is soundly and adequately constructed for the purpose for which and the loads The Hirer has notified to The Owner and that when constructed it complies with the requirements of The Work at Height Regulations 2005 or any legislation replacing or from time to time in force relating to safety of Scaffolding.
- (b) The Owner will inspect the scaffolding and will then give to The Hirer a Handing-over Certificate which shall be prima facie proof that at the date of the certificate the Scaffolding was properly erected and structurally sound.

- (c) Under legislation in force it is the responsibility of The Hirer to comply with statutory requirements relating to the Scaffolding and its employees and to inspect the Scaffolding and record the said inspections at least once a week ensuring the Scaffolding's continuing compliance with the law. The Owner will undertake the statutory inspections and keeping of records referring thereto only at the specific request and at the expense of The Hirer.
- (d) While The Owner will exercise all proper care in constructing and erecting the Scaffolding, safety requires that Scaffolding must be tied in properly and it may be necessary to pierce the fabric or break windows in or remove roof tiles from or otherwise cause damage to the building on or around which the Scaffolding is placed. No responsibility whatsoever is accepted by The Owner in relation to damage so caused, nor in respect of any claims, action, proceeding costs or expenses arising there from whether directly, indirectly, consequently or as a result of economic loss whether arising in contract or tort (which shall without prejudice to the generality thereof include negligence) or breach of statutory duty. All such damage, loss and claims actions proceedings and expenses arising there from shall be the sole liability of The Hirer.

## 9. OBLIGATIONS OF THE HIRER

- (a) The Owner shall be obliged only to carry out Services during normal working hours (0800 – 1600 Hrs). Any overtime worked by agreement shall be paid for by The Hirer in addition to the contract price at The Owner's overtime rates.
- (b) The Hirer undertakes to provide or procure free of charge of:
  - (i) Proper and safe storage and protection of all scaffolding, tools, plant, and equipment and materials on site;
  - (ii) Free and safe access to the site and to the point at which the Services are to be performed and the procurement of all necessary passes to ensure the same;
  - (iii) All facilities, services and preparatory work necessary to enable such Services to be performed safely and expeditiously.
  - (iv) All statutory and local authority consent and permissions necessary to permit the erection of the Scaffolding and its remaining in place throughout the contract period which shall include without prejudice to the generality thereof permission for Scaffolding to encroach on the highway.
- (c) The Hirer shall be responsible for fixing and maintaining all lights and other warnings, notices and guards whatsoever necessary to ensure the safety of all passers-by, workers and other third parties whatsoever both during the hours of darkness and at all other times.
- (d) At no time and under no circumstances may The Hirer modify, cut or remove the Scaffolding or any part thereof. Where damage is or may have been caused to any Scaffolding by inclement weather or by the actions of third parties or by any other cause whatsoever The Hirer shall notify The Owner who will, at expense of The Hirer, check the Scaffolding and remedy all defects therein.
- (e) Scaffolding and Services shall at all times be at the sole risk of The Hirer and if any part or parts thereof is lost, damaged and destroyed through any cause whatsoever other than negligence of The Owner, its servants or agents, The Owner without prejudice to any other rights it may have shall be entitled to charge separately for the restoration of any Scaffolding or Service, so lost, damaged or destroyed, in the case of destruction at full current catalogue price less 10% and in the case of repair the full cost thereof save that where the Scaffolding or any part thereof belongs to any third party then The Hirer shall pay to The Owner the full cost of replacement or repair of the Scaffolding or the said part.
- (f) The Hirer shall indemnify and keep indemnified The Owner against all claims, actions, proceedings, cost, damage or expenses whatsoever whether direct, indirect, consequential or economic arising from any breach of Contract, breach of statutory duty, negligence or other tortious act of itself, its servants, agents or workmen whether acting inside or outside the scope of their employment or authority.
- (g) The Hirer shall effect and maintain with insurers of repute insurance in respect of all employer's liability, third party, and all risks liability.
- (h) Without prejudice to the foregoing nothing in these Conditions shall operate so as to limit or exclude:
  - (1) The liability of The Owner in respect of death or personal injury resulting from the negligence of The Owner, its servants or agents;
  - (2) The liability of The Owner in respect of direct loss or damage caused by the negligence of The Owner, its servants or agents, PROVIDED THAT The Hirer forthwith give notice to The Owner of the said loss or damage and that The Hirer confirms the same in writing within a period of 7 days of the incident causing the aforesaid loss or damage;
  - (3) The liability of The Owner in respect of indirect or consequential loss arising from a breach of this Contract by The Owner, its servants or agents where The Hirer expressly notified The Owner in writing at the start of the Contract of:
  - (4) The existence of a penalty clause in any agreement between The Hirer and a third party; or
  - (5) Some other specific circumstance which could result in economic loss to The Hirer in the event of a breach of Contract on the part of The Owner and loss results attributable to any of the above items.
- (j) The Hirer is to ensure the existing structure will safely support the additional vertical and horizontal loading by scaffold structure.
- (k) No warranty is given that The Owners temporary roof is waterproof. The Hirer is to provide and fix all necessary protection to the existing roof, during erection and dismantling.

## 10. INSOLVENCY AND BREACH OF CONTRACT

If any of the following events occur, are threatened or in the opinion of The Owner are reasonably likely to occur:

- (a) The Hirer shall commit any breach of the Contract which fails to remedy (where capable of remedy) within a period of thirty days from receipt of notice in writing from The Owner requesting such breach to be remedied; or
- (b) Any distress or execution is levied against any of the goods or property of The Hirer; or
- (c) The Hirer (or where The Hirer is a partnership, any partner thereof) offers to make any arrangement with or for the benefit of his or its creditors or commits any act of bankruptcy; or
- (d) The Hirer (being a limited company) has a Receiver appointed to the whole or any part of its undertaking, property or assets or any order made or resolution passed for the winding up of The Hirer.  
The Owner shall thereupon be entitled without prejudice to any other rights hereunder forthwith to suspend performance of the Contract and any other contract between the parties until the default has been made good or to determine the Contract or any other contract between the parties or any unfulfilled part thereof. Notwithstanding such termination The Hirer shall pay The Owner at the contract rate for all scaffolding and Services provided up to and including the date of termination.

## 11. SEVERANCE

If at any time one or more of these Conditions or any part thereof is held to be or become void or otherwise unenforceable for any reason the same shall be deemed omitted herefrom and the validity of the remainder of the Contract shall not in any way be affected.

## 12. WAIVER

The rights and remedies of the parties of the hereunder shall not be diminished, waived or extinguished by granting any indulgence, forbearance or extension of time or by any failure of or delay in asserting or exercising any such rights or remedies.

## 13. HEADINGS

The headings in these Conditions are for ease of reference only and shall in no way affect the interpretation of the Contract.

## 14. LAW

This Contract shall be governed by English law and parties irrevocably submit themselves to the jurisdiction of the English Courts.

## 15. DESIGN OF SCAFFOLD

- (a) The Construction (Design and Management) Regulations 2007, Regulation 11 and 13, require that we make customers aware of THEIR duties imposed by the Regulations. Guidance on YOUR duties is published by the HSE in the form of an approved code of practice.
- (b) Where a design has been produced at tender stage as requested by the Hirer, the owner is entitled to recover all costs associated with the design works undertaken.

## 16. INSURANCE

- (a) The Owner has effected and undertakes to keep in force at all material times policies of insurance in respect of their liabilities under this clause. The Owners Insurance cover is £10m Public and Employers Liability. Should the insurance cover need to be increased, the Owner will charge the Hirer the premium at net cost.
- (b) Unless otherwise provided in these conditions The Owner will indemnify the Hirers against all sums for which the Hirers shall become liable as and for compensation for bodily injury or death of any person or damage to any property caused by the negligence of The Owner in erecting or dismantling the structure or by the use of defective equipment by The Owner. Provided The Owner shall be entitled to conduct in the name of the Hirer and control all claims or proceedings relating to such injury, death or damage and the Hirer shall notify The Owner as soon as is reasonably practicable after the Hirer become aware of same happening but in any event no later than 36 hours after becoming aware.