

Terms and Conditions for Service Works of DOVISTA UK LIMITED ("DOVISTA UK")

Clause 1 - General

All quotations given, and contracts entered into, by DOVISTA UK with customers ("Customer") for the performance of service works ("Services") are subject to these Terms and Conditions for Service Works ("Conditions"). All other terms and conditions are excluded. Unless otherwise specified, "Services" shall include any products ("Products") supplied as part of the Services.

Clause 2 - Quotations and Formation of Contract

2.1. Unless agreed otherwise in writing, DOVISTA UK quotations for Services are capable of acceptance within three (3) months from their date.

2.2. A contract ("Contract") is formed by the Customer's written confirmation of acceptance of a DOVISTA UK quotation.

Clause 3 - DOVISTA UK's obligations

3.1. DOVISTA UK shall perform the Services in accordance with the Contract with reasonable skill and care.

3.2. DOVISTA UK may sub-contract all of or any part of its Contract obligations.

3.3. Services performed which are other than as originally agreed in the Contract shall be deemed to be a Variation as defined in clause 5.3.

Clause 4 - Customer's obligations

4.1. The Customer must supply reliable information about the site and location where the Services are to be performed, including any factors that might limit or restrict the performance of the Services and shall be responsible for providing DOVISTA UK access to the site and location. Unless agreed otherwise in the Contract, the Customer shall be responsible for providing and shall pay the costs of necessary access equipment, including, without limitation, scaffolding and cranes.

4.2. The Customer shall be diligent in supplying or procuring decisions, approvals and consents (statutory or otherwise) and relevant and accurate information and such assistance as reasonably necessary for the performance of the Services.

Clause 5 - Commencement and Completion - Passing of risk

5.1. The Services shall be performed and completed at a time and date agreed between DOVISTA UK and the Customer. Any agreed times or dates for commencement or completion of the Services given by DOVISTA UK shall be regarded; whether expressed in the Contract or otherwise, as estimates only and DOVISTA UK shall not be liable to make good any expense or loss to the Customer arising directly or indirectly out of any delay. Time shall not be made of the essence by notice.

5.2. DOVISTA UK will be entitled to a reasonable extension of time for the commencement or completion of the Services as appropriate, and to be compensated for any reasonable additional cost (including for storage (whether in DOVISTA UK premises or otherwise) and insurance of any products) upon (i) any act or omission on the part of the Customer or other person for whom the Customer is responsible, (ii) on agreement by DOVISTA UK to a Variation; or (iii) of any matter beyond the control of DOVISTA UK or its suppliers; which will have or has had a material effect on the performance of the Services.

5.3. "Variation" means an addition to, omission, alteration or substitution of, the Services. The Customer shall be entitled to instruct a Variation, which DOVISTA UK shall comply with subject to agreement in advance on the adjustment of the Contract Price (as defined in clause 9) and the time for performance of the Services.

5.4. The risk of damage to or loss of the Products (if any) shall pass to the Customer upon arrival at the site.

Clause 6 - Complaints and Warranty

6.1. DOVISTA UK warrants that the Services will be free from material defects for a period of twelve (12) months of completion of the Services. If any part of the Services is found to be faulty in design, workmanship or materials, the Customer shall act promptly in notifying DOVISTA UK within the twelve (12) months period. DOVISTA UK may then at its discretion re-perform or repair the Services or refund an appropriate part of the Contract Price PROVIDED THAT (i) the Contract Price has been paid in full, (ii) the Services shall have been treated properly at all times and maintained in accordance with DOVISTA UK instructions and (iii) no alternation, modification, repair or addition has been made by others than DOVISTA UK. DOVISTA UK shall not be responsible for any claim in respect of the Services after twelve (12) months from their completion.

6.2. Except to the extent that liability may not by statute lawfully be excluded by DOVISTA UK, any statements, conditions, guarantee, representation, or warranty, express or implied, statutory or otherwise as to the performance, description, quality, merchantability, suitability or fitness for any particular purpose of the Services are excluded.

6.3. The maximum liability of DOVISTA UK howsoever arising from or in connection with the Services (whether for breach of contract, negligence, misrepresentation or otherwise) arising in connection with the Contract shall be limited to the Contract Price.

6.4. Except as provided for in this clause 6, DOVISTA UK shall not be liable for other damage, costs, expenses or other claims for compensation whatsoever (howsoever caused), which arises out of or in connection with this Contract including (but not limited to) loss of profit, loss or depletion of goodwill, loss of business or time, damage to property and all other financial loss or damage.

Clause 7 - Retention of Title

7.1. Notwithstanding the passing of risk in the Products (if any) DOVISTA UK shall retain title and ownership of such Products until DOVISTA UK has received cleared payment in full in respect of (i) all sums due to DOVISTA UK for the Services under the Contract and (ii) all other sums which may become due to DOVISTA UK from the Customer under any other contract or on any account.

7.2. Until title in the Products has passed to the Customer, the Customer shall be in possession of them as DOVISTA UK's bailee and shall store the Products, properly insured and protected, separately from any others, clearly marked and identifiable as DOVISTA UK's. DOVISTA UK may enter any premises upon reasonable notice to verify compliance with this clause.

7.3. If the Customer fails to make any payments to DOVISTA UK when due, or if DOVISTA UK is entitled to terminate the Contract, then DOVISTA UK will have the right, without prejudice to any other remedies, to enter, without prior notice, any premises where Products may be to repossess and dispose of any such Products, and/or to require the Customer not to resell or part with such Products until paid for in full.

7.4. The Customer shall not be entitled to pledge or charge any Products and if the Customer does so all monies owing by the Customer to DOVISTA UK, shall (without prejudice to any other right or remedy of DOVISTA UK) forthwith become due and payable.

Clause 8 - Termination

8.1. DOVISTA UK may, without prejudice to any other right or remedy available to DOVISTA UK, immediately terminate the Contract, suspend contractual performance or require any payment in advance or satisfactory security for further performance under the Contract by written notice to the Customer in the event that (i) the Customer defaults in any payment or is otherwise in breach of its obligations to DOVISTA UK under the Contract or under any other contract with DOVISTA UK, or (ii) the Customer is insolvent within the meaning of Section 123 of the Insolvency Act 1986 or if any petition is presented for the appointment of an administrator or receiver or trustee in bankruptcy in respect of the Customer or any part of its undertaking or assets or if the Customer makes or attempts to make any arrangement with or for the benefit of its creditors or if the Customer ceases or threatens to cease to carry on business.

8.2. All payments payable to DOVISTA UK under the Contract shall become due immediately upon termination of the Contract.

Clause 9 - Contract Price and Terms of Payment

9.1. The amount payable under the Contract is referred to as the "Contract Price" which unless otherwise stated in the Contract is exclusive of Value Added Tax and other duties, charges or expenses payable.

9.2. At DOVISTA UK's discretion, DOVISTA UK will invoice the full Contract Price on completion of the Services or, alternatively, DOVISTA UK will invoice a proportional part of the Contract Price by the end of any calendar month for the Services performed by DOVISTA UK until then at which time the invoice will become due for payment.

9.3. The final date for payment of any such invoice is thirty (30) days from the date of the invoice unless otherwise agreed in writing. Time shall be of the essence and until the Customer pays in full DOVISTA UK may, without prejudice to any other remedy, (i) charge the Customer compound interest on all overdue sums from the date such sum became due at the rate of 4% per annum above the Barclays Bank Plc base rate from time to time or (ii) suspend or cancel further performance of the Contract or (iii) declare payment for Services or delivery of products under any other contract with the Customer immediately payable.

9.4. DOVISTA UK reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 as an alternative to Clause 9.3.

9.5. The Customer may not (i) set off or withhold any payment due to DOVISTA UK without having given notice in writing not later than fifteen (15) days before the final date for payment stating the amount proposed to be withheld and the ground/s for doing so or (ii) assign the Contract or any of its part.

Clause 10 - Force Majeure

Without prejudice to any other provision herein, DOVISTA UK shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performance or any failure to perform any of DOVISTA UK's obligations under the Contract due to circumstances beyond its reasonable control, including, without limitation, war, terror, governmental restrictions, fire, flood or storm, explosion, accident, civil disturbance, shortage or unavailability of stock or manpower, industrial action and transportation delays.

Clause 11 - Governing Law and Disputes

11.1. The construction, validity and performance of the Contract shall be governed by English law and the English courts shall have jurisdiction to hear and determine any disputes, which may arise out of or in connection with the Contract or these Conditions.

11.2. Disputes or differences arising under or in relation to the Contract or the Conditions may be referred at any time to adjudication by serving on the other a written notice setting out the nature and a brief description of the dispute and the nature of the redress or the remedy sought. Any adjudication shall be carried out pursuant to the Model Adjudication Procedures published by the Construction Industry Council current at the time of the reference. The Adjudicator shall be nominated at the request of either party by the Royal Institute of Chartered Surveyors.

Clause 12 - General

12.1. The Conditions are individually independent of each other, and the invalidity of any provision or portion shall not affect the validity or enforceability of any other provision. If any part of these Conditions is held by any court or tribunal of competent jurisdiction to be void, illegal or unenforceable then it shall be deemed to be severed from these Conditions, the remaining provisions of which shall continue in full force and effect.

12.2. The parties hereby confirm that the Contract and these Conditions shall not and shall not purport to confer on any third party any right or benefit and the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded in full.