

GROVE MECHANICAL SERVICES LIMITED
STANDARD TERMS & CONDITIONS
VENDOR WORKS



1 Grove Lane, Brough Road, Castledawson, BT45 8EN

Definitions

1. "Contract Purchase Order": the Order to which these Standard Terms & Conditions are appended
2. "Contract Documents": the Order documents listed in the Contract Purchase Order
3. "Conditions": these Standard Terms & Conditions clauses 1 to 67
4. "Vendor": the person or company engaged by Grove Mechanical Services Limited
5. "Vendor Works": the works referred to in the Contract Purchase Order
6. "Company" or "Grove": Grove Mechanical Services Limited
7. "Vendor Contract Sum": the fixed lump sum price stated in the Order
8. "Vendor Contract": the whole of the Contract Purchase Order including these Standard Terms & Conditions
9. "Subcontract": the contract between Grove and the primary subcontractor or the main contractor
10. "Valuation Date": the date confirmed in writing by Grove to the Vendor or the date contained on the payment schedule issued under the main contract

Contract Purchase Order etc. to be read as a whole

11. The Contract Purchase Order and these Conditions are to be read as a whole. Nothing contained in any other Contract Documents, nor anything in any other Agreement or quotation, shall override or modify the Contract Purchase Order or these Conditions.

Headings, references to persons, legislation etc.

12. A reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

13. Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

14. Nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Giving or service of notices and other documents

15. A notice or other document may be served by any effective means.
16. A notice or other document shall be treated as effectively served if it is addressed, pre-paid and delivered by post:
 1. to the addressee's last known principal residence, or, if he is or has been carrying on a trade or business, his last known principal business address; or
 2. where the addressee is a body corporate, to the body's registered or principal office.

Vendors obligations

17. The Vendor shall carry out and complete the Vendor Works with due diligence, in a proper and workmanlike manner and in compliance with the Contract Documents and the Construction Phase Plan.
18. The Vendor shall provide goods and materials of the standard stated in the Contract Documents or, where no standard is so stated, of a satisfactory quality.
19. The Vendor shall take all reasonable steps to encourage employees and agents of the Vendor and those engaged by him in the execution of the Vendor Works to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.
20. The Vendor shall provide everything required to carry out and complete the Vendor Works except for the attendances set out in the Contract Documents which others shall provide free of charge to the Vendor.
21. The Vendor shall not make any assignment of the benefit of this Contract Purchase Order nor sub-let any of the Vendor Works, without the Company's written consent.
22. The Vendor shall comply with, and give all notices required by, any statute, any statutory instrument, rule or order or any regulation or bye-law applicable to the Contract Works and to the extent required by the Contract Documents, pay any fees and charges payable in respect of the Vendor Works.

Main and Subcontract

23. The Vendor shall be deemed to know the provisions of the Subcontract insofar as they apply to the Vendor Works (other than details of Grove's pricing). Grove shall, if so requested by the Vendor, provide to the Vendor a copy of the Subcontract (omitting details of Grove's pricing).
24. The Vendor shall carry out and complete the Vendor Works so that no act or omission of the Vendor shall result in any breach of contract by Grove.
25. The Vendor shall perform the obligations and assume the liabilities of Grove under the Subcontract to the extent that such obligations and liabilities relate to the Vendor Works.

Commencement and completion

26. The Vendor shall, upon the expiry of the period stated in the Contract Purchase Order from Grove's written direction to commence the Vendor Works, commence the Vendor Works on Site.
27. Subject to receipt by the Vendor of Grove's written direction to commence the Vendor Works in accordance with clause 26 and subject to the provisions of clauses 40 and 41, the Vendor shall:
 1. proceed with the Vendor Works regularly and diligently and reasonably in accordance with the progress of the Subcontract Works and the Main Contract Works; and
 2. achieve practical completion of the Vendor Works within the Period for Completion.
28. Grove shall comply with the CDM Regulations, shall provide sufficient access to the Site for the Vendor to perform his obligations under this Contract and shall in no way hinder or prevent the Vendor, whether by act or omission, from performing such obligations.
29. Grove shall determine and notify the Vendor in writing of the date when the Vendor Works are practically complete.

30. Grove shall, if he is so notified, notify the Vendor in writing as soon as reasonably practicable of the date of practical completion and of the date of the expiry of the rectification period under the main contract.
31. Grove shall notify the Vendor of any defects that appear in the Vendor Works during the rectification period of the main contract works and the Vendor shall, at his own expense, make good such defects within a reasonable time from notification.

Grove directions

32. Grove may issue any written directions which the Vendor shall forthwith carry out.
33. If directions are given orally, they shall, within 2 working days, be confirmed in writing by Grove.
34. Except as provided in clauses 32 to 35, the Vendor shall not be entitled to any additional payment in respect of Grove's directions.
35. If within 5 days after receipt of a written notice from Grove requiring compliance with a direction, the Vendor does not comply, then Grove may employ and pay other persons to carry out the work and all additional costs incurred shall be due to Grove from the Vendor as a debt.

Variations

36. The Vendor shall carry out any reasonable Variation ('Variation') of the Vendor Works or changes in the order or manner in which they are to be carried out that is or may be directed in writing by Grove.
37. Grove and the Vendor shall endeavour to agree a price prior to the Vendor carrying out any Variation direction.
38. Failing agreement under clause 37, Variations shall be valued by Grove on a fair and reasonable basis, with reference, where available and relevant, to rates and prices in the Vendor's Pricing Documents, and such valuation may also include any direct loss and/or expense incurred by the Vendor due to the regular progress of the Vendor Works being affected by compliance with any Variation, provided that the Vendor shall notify Grove as soon as reasonably practicable after it has been incurred.
39. The Vendor shall not make any alteration to the Vendor Works, other than as directed pursuant to clause 36 hereof.

Extension of time

40. If the Vendor is delayed in completing the Contract Works within the Programme Period by the ordering of any Variation of the Contract Works or for other reasons beyond the control of the Vendor, the Vendor shall notify Grove in writing and Grove shall make such extension of time (if any) as is fair and reasonable.
41. The Vendor shall constantly use his best endeavours to prevent or minimise any delay in the progress of the whole or any part of the Vendor Works.

Payments - due dates and amounts

42. The due dates for payments to the Vendor shall in each case be the date 8 days after the relevant Valuation Date, commencing with the Valuation Date next following the commencement of the Vendor Works on Site.
43. The amount of each payment due shall be the value of work properly carried out by the Vendor calculated as at the Valuation Date, plus the whole of any amounts payable under clause 38 or 53 and less the total amount due in previous payments. The value of work shall be determined in accordance with the rates and prices specified in the Vendor's Pricing Documents or, where there are no applicable rates or prices, by reference to the Vendor Contract Sum.

Payment- final date and notices

44. Subject to clause 47, the final date for each payment shall be 45 days after the due date.
45. Not later than 5 days after each due date Grove shall give a payment notice to the Vendor which shall state the sum that he considers to be or have been due to the Vendor in accordance with clauses 42 and 43 at the due date and the basis on which that sum has been calculated and, subject to any notice given under clause 48, the sum to be paid by Grove shall be the sum specified in the payment notice.
46. If Grove fails to give a payment notice in accordance with clause 45, the Vendor may at any time after the 5 day period referred to in clause 45 make a payment application to Grove stating the sum that he considers to be or have been due at the due date and the basis on which that sum has been calculated. In that event the sum to be paid by Grove shall, subject to a notice given under clause 48, be the sum stated as due in the Vendor's payment application.
47. Where the Vendor makes a payment application under clause 46 the final date for payment of the sum specified in it shall be regarded as postponed by the same number of days as the number of days after expiry of the 5 day period referred to in clause 45 that the Vendor's payment application is made.
48. If Grove intends to pay less than the sum stated as due from him in his payment notice or, where applicable, in the Vendor's payment application, he shall not later than 4 days before the final date for payment give the Vendor notice of that intention stating the sum that he considers to be due to the Vendor at the date he gives notice under this clause 48 and the basis on which that sum has been calculated. Where such notice has been given, the sum to be paid on or before the final date for payment shall not be less than the amount stated as due in the notice.
49. In relation to the requirements for the giving of notices under clauses 44 to 51, it is immaterial that the amount then considered to be due may be zero.
50. If Grove fails to pay a sum, or any part of it, due to the Vendor by the final date for payment, Grove shall, in addition to any unpaid amount that should properly have been paid, including the amount of any VAT properly chargeable, pay the Vendor interest on that amount at the rate of 5% per annum above the official bank rate of the Bank of England for the period from the final date for payment until such payment is made.
51. If in the case of the final payment a balance is due to Grove from the Vendor, it shall be shown as such in Grove's payment notice under clause 45. If the Vendor intends to pay less than the amount so shown, he shall not later than 4 days before the final date for payment give Grove notice of that intention, stating the sum, if any, that he considers due to Grove at the date he gives notice and the basis on which that sum has been calculated. If the Vendor gives such notice, the sum to be paid on or before the final date for payment shall not be less than the amount stated as due in the notice. Failing payment of any amount properly due to Grove by the final date for payment, interest shall be payable on that amount at the rate specified in clause 50.

Suspension

52. If Grove fails to pay the sum payable to the Vendor in accordance with clauses 44 to 51 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the Vendor gives a written notice of his intention to suspend the performance of his obligations under this Contract and the grounds for doing so, then, if Grove's failure to make payment continues for 7 days after the giving of that notice, the Vendor may suspend performance of any or all of those obligations until payment is made in full.
53. Where the Vendor exercises his right of suspension under clause 52, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as result of exercising the right.
54. Applications in respect of any such costs and expenses shall be made to Grove and the Vendor shall with his application or on request submit such details of them as are reasonably necessary for ascertaining the amount in question.

Termination- breach or insolvency

55. Each Party ('the terminating Party') shall be entitled by written notice to the other Party to terminate the Vendor's employment under this Contract forthwith if the other Party at any time:
- .1 is in material breach of his obligations under this Contract which he fails to rectify within 7 days of a written warning from the terminating Party specifying the breach and requiring that it be remedied within that period; or
 - .2 is insolvent. For the purposes of this clause 55.2, a person becomes insolvent on:
 - .1 the making of an administration, bankruptcy or winding-up order against him, appointment of an administrative receiver, receiver or manager of his property, his passing of a resolution for voluntary winding-up without declaration of solvency or any other event referred to in section 113, sub-sections (2) to (5), of the Housing Grants, Construction and Regeneration Act 1996;
 - .2 otherwise entering administration within the meaning of Schedule 81 to the Insolvency Act 1986;
 - .3 entering into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - .4 (in the case of a partnership) each partner being the subject of an individual arrangement or any other event or proceedings referred to in this clause 55.2
56. In the event of such termination the Vendor shall immediately leave the Site and the terminating Party shall be entitled to recover from the other Party the amount of any resultant loss, damage and/or expense incurred by the terminating Party which he would not have incurred had this Contract been duly performed in full.

Termination of the Subcontract

57. If Grove's employment under the Subcontract is terminated, the Vendor's employment under this Contract shall thereupon terminate and Grove shall immediately notify the Vendor. The Vendor shall immediately leave the Site.
58. If Grove's employment under the Subcontract is terminated for any reason other than in consequence of any breach of this Contract by the Vendor:
- .1 the Vendor shall be entitled to be paid the value of the Vendor Works properly carried out and the reasonable cost of removal from the Site, less sums already paid. Except as provided for in clause 58.2 the Vendor shall not be entitled to loss of profit;
 - .2 in addition to any sums payable under clause 58.1, the Vendor shall be entitled to be paid any direct loss and/or damage caused to the Vendor as a result of the termination of his employment under this Contract that arises because of the main contractor's, the primary subcontractor's or Grove's insolvency or any one of them having an administrator or administrative receiver appointed or having a winding-up order or the like made against him or because of any one of them being in default (other than in consequence of any breach of this Vendor Contract by the Vendor).

Settlement of disputes

59. Subject to clause 60, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.
60. Either Party may at any time refer any dispute or difference arising under this Vendor Contract to adjudication in accordance with the provisions of Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998 except that the adjudicator nominating body shall be:
- Royal Institute of British Architects;
The Royal Institution of Chartered Surveyors; or
Chartered Institute of Arbitrators,
- as selected by the referring Party.
61. Where under the main contract disputes or differences are to be referred to arbitration, then arbitration shall apply as follows:
- .1 a Party referring a dispute or difference to arbitration shall serve on the other Party a notice of arbitration to such effect;
 - .2 the date on which the notice of arbitration is served shall be regarded as the date on which the arbitral proceedings are commenced;
 - .3 the arbitrator shall be an individual agreed by the Parties within 14 days of the date of service of the notice of arbitration or, in the absence of agreement within that period, appointed by the President or a Vice-President of the Chartered Institute of Arbitrators;
 - .4 the arbitration shall be conducted in accordance with the JCT edition of the Construction Industry Model Arbitration Rules (CIMAR) applicable to the Main Contract.

Health and safety

62. Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Vendor Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
63. In addition to the specific health and safety requirements of this Vendor Contract, the Vendor undertakes to:
- .1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive;
 - .2 ensure that all personnel engaged by the Vendor and members of the Vendor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - .3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - .4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Sustainable development and environmental considerations

64. The Vendor is encouraged to suggest economically viable amendments to the Vendor Works which, if directed as a Variation, may result in an improvement in environmental performance in the carrying out of the works or of the completed works.
65. The Vendor shall provide to Grove all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Vendor selects.

Notification and negotiation of disputes

66. With a view to avoidance or early resolution of disputes or differences (subject to clauses 59 to 61), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Sixth Recital (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.

Legal proceedings

67. Subject to clause 60, and where it applies clause 61, the English courts shall have jurisdiction over any dispute between the Parties which arises out of or in connection with the contract between the Vendor and Grove.