

CLEARWAY DOORS AND WINDOWS LIMITED
QUOTATION AND CUSTOMER ACCEPTANCE FORM



NAME OF CUSTOMER:	TELEPHONE NUMBER:		
ADDRESS:	EMAIL:		
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;"><u>Customer's Requirements</u></td> <td style="width: 40%; border: none;"><u>Charges</u></td> </tr> </table>		<u>Customer's Requirements</u>	<u>Charges</u>
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Deposit: Delivery Installment: MCD: Retention: Principal Contractor: Principal Designer: <u>Site Address</u>			
<u>RATES FOR VARIATIONS/INSTRUCTIONS</u>			
Hourly Rate for services: Manager or Director: £65 per hour plus vat Tradesman: £45 per hour plus vat Goods to be costed by reference to this Order as at the date of performance. Mileage: 45p per mile Abortive Visit Fee: £500.00 per day This quotation is open to acceptance for a period of 30 days after which we reserve the right to re-calculate the charges. Notes: (i) Work will be carried out between the hours of 8.00am to 5.00pm on Mondays to Fridays excluding public and bank holidays. (ii) The charges specified above include all administration and certificates which will be issued after the Services have been performed. (iii) Any additional work beyond what is set out above or variations or changes will be charged on a time and materials basis and the charges will be calculated on the Hourly Rate per hour and the cost of materials will be based on manufacturer's prices plus our usual mark up. Unless specifically stated the contract does not include CAD or technical drawings.			
PROGRAMME			
NOTICE TO PROCEED: NO EARLIER THAN			
ESTIMATED COMMENCEMENT DATE: [WHICH SHALL BE NO EARLIER THAN _____ WEEKS AFTER THE NTP]			
ESTIMATED DATE OF DELIVERY:			
ESTIMATED TIME TO COMPLETE:			
CUSTOMER'S SIGNATURE:	CLEARWAY DOORS AND WINDOWS LIMITED'S SIGNATURE:		
DATE:	DATE:		

* CLEARWAY DOORS AND WINDOWS LIMITED'S TERMS AND CONDITIONS APPLY – SEE OVER LEAF, AVAILABLE ON REQUEST OR AT [<http://www.clearwaydoorsandwindows.co.uk>]

TERMS AND CONDITIONS FOR THE PROVISION OF GOODS AND SERVICES

These are the terms on which Clearway Doors and Windows Limited (Company Number 01740064) whose registered address is at Unit 5 Mackenzie Way, Swindon Village, Cheltenham, Gloucestershire GL51 9TX ('Company') do business ("the Conditions").

1. DEFINITIONS

1.1 In these Conditions, unless the context requires otherwise, the following expressions have the following meanings:

"Abortive Visit Fee" means the amount specified in the Order being the genuine pre-estimate by the Company of the losses caused by an abortive visit to the Site where the Site and the installation position for the Goods or part thereof is not ready and available for the installation and Services in accordance with these Conditions and the schedule of attendances.

"CDM Regulations" means the Construction (Design and Management) Regulations 2015

"Charges" means the price payable for the Goods and/or Services as specified in the Order and as calculated in accordance with and as varied by these conditions.

"Company" means Clearway Doors and Windows Limited which expression shall include its successors in business and assigns.

"Contract" means any contract made between the Company and the Customer for the sale and purchase of Goods and/or performance of Services which arises from acceptance by the Company of an Order.

"Customer" means the customer specified in an Order.

"Delivery Installment" means the amount payable to the Company before the Company shall be obliged to make delivery of the Goods to the Site.

"Estimated Commencement Date" means the estimated date of when the Company envisages that it will perform the Services.

"Estimated Delivery Date" means the estimated date of when the Company envisages that it will deliver the Goods and/or commence the Installation

"Goods" means any products, articles or items which the Company sells to the Customer as specified in the Order.

"Installation" means the installation of the Goods at the Site.

"Notice to Proceed" means the notice in writing from the Customer to the Contractor to commence the Services.

"Order" means an order for Goods and/or Services made on the Company's order form.

"Schedule of Attendances" means the schedule of attendances attached hereto

"Services" means any services which are requested by the Customer under the Order.

"Work" means all those Goods and Services to be supplied by the Company to the Customer at the Site including any variation agreed in writing by the Company.

2. BASIS OF CONTRACT

These Conditions shall apply to, and shall be part of the Contract to the exclusion of any terms and conditions of the Customer. No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Customer and the Company.

3. CHARGES

3.1. Unless otherwise agreed in writing, payment will be due upon receipt of an invoice (**Due Date for Payment**). The Company shall have no obligation to commence the Services or enter into supply contracts for the Goods until the Deposit has been paid by the Customer (if any) and the Notice to Proceed delivered to the Company. Within 7 days of the Due Date for Payment the Customer shall issue a notice specifying an amount that the Customer considers is due to be paid and the basis on which sum has been calculated ("**Payment Notice**"). If a Payment Notice is not issued the amount due to be paid shall be (subject to any Payless Notice, as defined below) the amount specified in the relevant invoice. The Customer shall pay the amount set out in the Payment Notice or invoice (as the case may be) within 21 days of the invoice or the Payment Notice as the case may be ("**Final Date for Payment**"). If the Customer intends to pay less than the amount specified in the invoice or the Payment Notice, then, not later than 5 days before the Final Date for Payment, the Customer shall give the Company written notice of the intention to payless which shall specify the amount that the Customer considers due and the basis on which that amount has been calculated ("**Payless Notice**"). If a Payless Notice is not given in accordance with this Clause 3.1 then the amount to be paid by the Customer shall be the amount stated in the Payment Notice, or if none, the invoice.

3.2. Where the Work is completed by sections we may render invoices on account of such sections save that the Company shall have the right to render invoices on a monthly basis from receipt of the Notice to Proceed for the full value of the Services supplied, Goods delivered to Site or which the Company has available for delivery to Site and the value of any goods ordered by the Company for the performance of the Services and supply of the Goods (together with any Abortive Visit Fee) in the period since the last invoice rendered by the Company notwithstanding completion or otherwise of a section or the whole of the Works.

3.3. The Customer shall pay interest (both before and after any judgment) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on any part of the charges not paid on the due date from that date until payment is made in full calculated on a daily basis from the due date and the Company shall be entitled to suspend further Work until all outstanding invoices have been paid in full.

3.4. No retention by the Customer may be deducted from any payment due in respect of any of the Work completed and the Customer shall not have any right of set off (whether at common law or in equity) against such payment. If any retention is agreed then the Customer shall hold any such retention on trust for the Company with the Customer's interest in such retention being fiduciary as trustee and the Customer shall account to the Company for any interest accrued thereon.

3.5. Unless otherwise expressly agreed in writing the Charges shall be an estimate only and subject to amendment and variation as hereinafter provided.

3.6. The Charges are based upon current costs of transport, labour and Goods unless otherwise stated and shall be inclusive of all labour, transport and Goods but exclusive of VAT.

3.7. The Charges are partly calculated by reference to the quantity of Goods which shall be estimated to be required but which can

only be accurately determined during performance of the Work. The amount of Goods actually consumed shall be monitored on performance of the Works and if the amount of Goods actually consumed exceeds the material estimate the Charges shall be revised accordingly PROVIDED ALWAYS that the quoted price shall not be revised by more than 20% without prior consultation with the Customer.

3.8. Any other additional costs above the quoted price arising from delays or interruptions including but not limited to suspension of manufacture or re-scheduling of deliveries of Goods or of the programme of Work as a result of the Customer's instructions or revisions or information or failure to comply with Clause 7 shall be borne entirely by the Customer and shall be added to the Charges.

3.9. The price payable by the Customer for the Work shall be the Charges as varied by clauses 3.7, 3.8, 4.3 and 10 or otherwise in accordance with these conditions.

4. DELIVERY AND SPECIFICATION

4.1. Upon receipt of the Notice to Proceed, the Company will use reasonable endeavours to commence the performance of the Services on the Estimated Commencement Date (or such other date as may be mutually agreed in writing) and complete its obligations to deliver and install the Goods at the Site under the Contract within the Estimated Time to Complete. The Company shall have no obligation to perform the delivery or to provide the Goods or Services until receipt of the Notice to Proceed by the Company and the Delivery Installment (if any) has been paid to the Company.

4.2. Subject to clause 3.7 the quantity, quality and description of and any specifications for the Goods or Services shall be those set out in the Company's quotation.

4.3. The Company reserves the right at all times and without notice to change its specifications for any of the Goods or the Services if any such change will not materially affect the quality or performance of the Goods or the Services and without prejudice to the generality of the foregoing, to make any changes in the specification of the Goods or the Services which are required to conform with any applicable safety or other legal requirements subject to any adjustment of the prices quoted which may result from any such change.

4.4. Subject to clauses 6.2, 6.4 and 6.5, the Company will not be liable for any loss or damage direct or indirect caused by any delay and in no case shall delay be a ground for rejecting the Work or otherwise rescinding the Contract. Time shall not be of the essence for performance of the Work or delivery of the Goods.

5. RISK AND PROPERTY

5.1. Risk of damage to or loss of the Goods shall pass to the Customer upon delivery of the Goods to the site of the Works but title in the Goods shall only pass upon full payment of the Charges.

5.2. Until such time as title in the Goods has passed to the Customer the Company shall be entitled to repossess at any time any of the Goods of which title remains vested in the Company and in this regard, the Company or any of its agents or authorised representatives shall be entitled at any time and without notice to enter upon any premises in which the Goods or any part thereof are installed, stored or kept, or are reasonably believed so to be to retrieve the Goods and the Company shall not be liable for any damage or loss caused to the Customer or the Customer's premises provided that the Company has taken reasonable care when retrieving such Goods.

6. WARRANTIES AND LIABILITY

6.1. Subject to Clause 8.5, the Company warrants to the Customer that:

6.1.1. any installations carried out by the Company as part of the Services will be substantially free from defects in workmanship for a period of 12 months after the Services have been performed and Installation completed ("Warranty Period") unless otherwise agreed in writing by the authorised representative of the Company;

6.1.2. the Services will be performed by appropriately qualified and trained personnel, with reasonable skill and care; and

6.1.3. the Company will use its reasonable endeavours to pass on any manufacturer's warranty to the Customer in respect of any Goods not manufactured by the Company.

The warranty described in this clause shall be defined as the 'Limited Warranty'. To the maximum extent permitted by law all other warranties and conditions are excluded.

6.2. The Company will be liable to the Customer in respect of (i) any claim arising from injury to or death of any person where and to the extent that the injury or death is caused by negligence on the part of the Company and (ii) fraudulent misrepresentation.

6.3. Subject to Clauses 6.2, 6.4 and 6.5, the Company's entire liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of a Contract shall be limited to no more than double the Charges; and in respect of the Goods the Company shall have no liability save that the Company shall pass on to the Customer by way of assignment or transfer (if and to the extent possible) the benefit of any manufacturer's or supplier's warranty that the Company has received. The Company is entitled to charge a fee for the provision of any collateral warranty of no less than £1000 (excl) per warranty plus payment on an indemnity basis of any fees and costs it may incur when obtaining advice upon and the negotiation of any such warranty provided always that the Company has no obligation to enter into any warranty.

6.4. Subject to Clause 6.2, in no event shall the Company be liable for any indirect, incidental or consequential loss, wasted or lost management time, lost profits, goodwill, savings and/or other indirect economic loss arising from or relating to any contract or the use of the Goods or performance or non-performance of the whole or part of the Services, or breach of statutory duty, or delay even if the Company has been advised of the possibility of such loss.

6.5. The Limited Warranty in Clause 6.1 does not cover failures of the Goods which result from accident, abuse, misuse, alterations (by persons other than the Company or its authorised repair agents), moisture, corrosive environments, high voltage surges, or abnormal working conditions. The Limited Warranty does not cover normal wear and tear.

7. CUSTOMER'S OBLIGATIONS

7.1. The Customer warrants that:

7.1.1. The Customer shall allow safe, asbestos free, full and free access to the Site of the Work and shall provide that all legal, statutory or other requirements and necessary consents, permissions, licences and notices (including but not limited to all necessary planning permissions and building regulation consents) have been obtained to enable the Work to be commenced on the Estimated Commencement Date at the Site and that all facilities necessary for carrying out the Work continuously during the working hours and outside normal working hours (if the Customer has notice of the Company's requirements to work outside normal working hours) are provided to the Company before the Estimated Commencement Date including those facilities, resources and requirements marked upon the Schedule of Attendances as being the Customer's obligation.

7.1.2. The Customer shall provide such information regarding the site of the Work and its use and environment as may reasonably be required by the Company to carry out the Work.

7.1.3. The Customer shall take all steps as may be necessary to ensure the safety of any of the Company's representatives who shall carry out the Work.

7.1.4. The Customer or its representatives shall be available for consultation at all times during the continuance of the Work.

7.1.5. The Customer shall make available at its cost and constantly maintain an adequate supply of electricity and such other mains services as shall be considered necessary by the Company for the Work to be carried out.

7.1.6. Whilst the Company will use reasonable endeavours to ensure that the site of the Work is left in a clean and tidy condition following completion of the Work the Customer hereby agrees that the reinstatement of the Site and all waste arising from the Work shall be the liability and responsibility of the Customer.

7.1.7 The Site is suitable and ready for the Work. The Customer is responsible for, inter alia, all and any site alterations, structural works, steel or timber works necessary to install frame work or glazing including intersections, establishing site datum levels or alignment of finished floors, protection and sheeting, associated architraves or pressings (for final aesthetics or otherwise).

And the Customer shall be liable for the Company's costs losses and expenses caused by the Customer's failure to comply with these warranties. If such failure prevents the progress of the Works or causes an abortive visit to Site by the Company, then the Customer shall immediately pay to the Company the Abortive Visit Fee for each day that the Company cannot undertake the Work or part thereof and which the parties agree is a genuine pre-estimate of the Company's losses incurred by such abortive visit(s) and delay caused by such failures provided always that the Company may charge any additional special losses caused by the abortive visit or delay so caused that exceed the Abortive Visit Fee .

7.1.8 The Customer shall indemnify and keep the Company indemnified against any liabilities which the Company may incur to any person whatsoever and against any claims, demands, costs and/or expenses sustained, incurred or payable by the Company (whether direct or indirect or consequential) to the extent that the same arises by reason of any act, negligence, error, omission or default of the Customer, its employees, agents and sub-contractors in connection with this Agreement including any third party contracts.

8. TERMINATION

8.1. The Company shall be entitled to terminate the Contract without liability by giving notice to the Customer at any time if the Customer:-

8.1.1. shall make or offer to make any arrangement or composition with its creditors or commit any act of bankruptcy or be the subject of any insolvency proceedings, or if a bankruptcy petition be presented against the Customer or (if the Customer is a company) if any resolution or petition to wind up the Customer shall be passed or presented, or if a receiver of the whole or any part of the Customer's undertakings, property or assets shall be appointed;

8.1.2. should the Customer fail to pay the Charges when they are due; or

8.1.3. should the Customer be in breach of any of its obligations hereunder.

8.2. Upon termination of the Contract by either party or at all, the Customer agrees to forthwith take a novation of any hire or lease agreement or sub contract that the Company has entered into at the Customer's request for the performance of the Contract and hereby agrees to indemnify the Company for any losses, damages etc including without limit for any liabilities or obligations that the Company may have or have had under any hire or lease agreements or subcontracts entered into in connection with the Contract.

9. GENERAL

9.1. Any notice required or permitted to be given by either party to the other under the Contract shall be in writing and delivered to that other party at its registered office or such address set out in the Order.

9.2. No waiver by the Company of any breach of a Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver by the Company shall only be effective if in writing expressly waiving the provision in question.

9.3. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

9.4. The Company shall be under no liability to the Customer in respect of anything which, apart from this provision, may constitute breach of any Contract arising by reason of force majeure, namely circumstances beyond the reasonable control of the Company which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion including acts of local government and parliamentary authority; shortage of supplies (but not lack of funds), utilities, equipment, materials, breakdown or shortage of equipment and labour disputes of whatever nature and for whatever cause arising.

9.5. These Conditions and any Contract shall be governed and construed in accordance with the laws of England (including as to validity and enforcement) and the parties submit to the exclusive jurisdiction of the English courts.

9.6. If a dispute or difference arises under this Contract which either party wishes to refer to adjudication the RICS will be the adjudicator nominating body.

9.7. These Conditions (and where applicable construed together with the Contract) shall constitute the entire agreement between the parties with respect to its subject matter and (except in the case of fraud) supersedes all warranties, promises and representations or other assurances.

9.8. All illustrations, drawings and data contained in the Company's printed literature, prices list, publications or advertisements (Material) are approximate representations only and none of them form part of the Contract. The Company owns all intellectual property rights (IPR) relating to such of the Material that it produces and no rights or licences are granted in respect of the IPR in the Material. The company shall not be liable for any use by any person of any of the IPR in the Material for any purpose other than that for which the Material was produced.

9.9. No person who is not a party to this contract shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract except where such right or remedy exists or is available apart from that Act.

10. INSTRUCTIONS AND VARIATIONS

10.1. The Customer may not issue instructions or request variations to the Works ("Variation") unless these instructions are in writing and the instructions are valued as variations or the Variation is agreed in writing by an authorised representative of the Company.

10.2. Variations shall be valued by the Company by reference to the relevant rates and prices in the Order.

10.3. The Company shall be paid any loss and/or expense incurred by the Company due to the progress of the Work being affected by the Variation and shall be granted an extension of time as is reasonable given the nature and extent of the Variation.

10.4. The value of the Variation together with the value of any loss and expenses to be paid to the Company calculated in accordance with this clause 10 shall be added to the Charges

11. CDM

10.5. In carrying out its duties under the CDM Regulations the Customer and its agents acting on its behalf must;

11.1.1 Ensure that all documentation is sent to the Company in a timely manner so as not to delay us in exercising our duties including those as Principal Contractor (if applicable);

11.1.2 Ensure that where documentation is produced it is sent concurrently to the ultimate employer (if any) by such means as are notified to the Customer by us;

11.1.3 Ensure that all documentation is issued in a manner and format compliant with the CDM Regulations; and

11.1.4 Not commit any act which has the effect of putting us in breach of our obligations under the CDM Regulations.

11.2 The Customer warrants that it has the requisite skills, knowledge and experience necessary to comply with its obligations under the CDM Regulations and to fulfill the role of Principal Designer and Contractor (as applicable). Where the Customer is a company, plc, company incorporated by royal charter, limited liability partnership or partnership, it further warrants that it has the necessary organisational capability necessary to fulfil its obligations under the CDM Regulations.