



## Weaver Vale Housing Trust Limited Standard Terms and Conditions of Purchase

### TERMS & CONDITIONS APPLYING TO ALL ORDERS:

#### 1 Definitions

1.1 In these terms and conditions the following expressions shall have the following meanings unless inconsistent with the context:-

**Contract** means the agreement between the Trust and the Supplier which incorporates these terms and conditions and the requirements set out in the Purchase Order.

**Goods** means any goods agreed in the Contract to be bought by the Trust from the Supplier.

**HGCRA** means the Housing Grants Construction and Regeneration Act 1996 and any re-enactments, amendments and relevant regulations.

**The Trust** means Weaver Vale Housing Trust Limited.

**Intellectual Property Rights** means all intellectual property rights (including without limitation patents, trademarks, designs, design rights, copyright, inventions, trade secrets, know-how and confidential information) and all applications for protection of any of the same.

**Legislation** means all laws, statutes, statutory instruments, regulations in force from time to time in the United Kingdom.

**Purchase Order** means the Trust's written instructions to the Supplier to supply Goods and/or Services incorporating these terms and conditions.

**Services** means the services, duties and responsibilities to be provided, performed and observed by the Supplier pursuant to the Contract.

**Supplier** means the person, firm or company to whom the Purchase Order is addressed.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Condition headings do not affect the interpretation of these terms and conditions.

#### 2 Application of Terms and Conditions

2.1 Subject to any variation under condition 2.4, these terms and conditions are the only conditions upon which the Trust is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms, conditions or representations.

2.2 The acceptance of a Purchase Order and the supply of Goods and/or Services to the Trust by the Supplier shall be deemed to be conclusive evidence of the acceptance of these terms and conditions by the Supplier.

2.3 Any specifications, drawings and the like relating to the Goods and/or Services to be supplied or executed against a Purchase Order are expressly incorporated into and form part of these terms and conditions and the Supplier shall supply the Goods and/or Services fully in compliance with any such specifications, drawings and the like.

2.4 These terms and conditions apply to all the Trust's purchases and any variation to these terms and conditions shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Trust.

### 3 **Prices**

3.1 The price of the Goods and/or Services shall be stated in the Purchase Order and unless otherwise agreed in writing by the Trust shall be exclusive of value added tax but inclusive of all other charges.

### 4 **Deliveries**

4.1 Unless expressly agreed in writing otherwise, any agreed times for the supply of Goods and/or Services or the completion of works shall be of the essence.

4.2 If there is, or is likely to be, any delay or likely delay in completing a Purchase Order the Supplier shall, immediately after becoming aware of this fact, give written notice to the Trust for any actual or anticipated delay and give details of any alternative delivery dates proposed and subject to receipt of such notice the Trust may grant in writing a reasonable extension of the period of time stated in the relevant Purchase Order if and to the extent that, in the reasonable opinion of the Trust, the delay is solely due to a cause beyond the Supplier's control.

4.3 Delivery notes must be supplied with every delivery against a Purchase Order. Every delivery note and all correspondence must quote the Trust's Purchase Order number and must provide the full contact name, address and telephone number of the Supplier.

4.4 It is the Supplier's responsibility to ensure that Goods are delivered to the delivery point specified in the Purchase Order.

4.5 Unless expressly agreed in writing otherwise, deliveries will only be accepted between Monday to Friday (except bank holidays) during office hours (9:00 am – 5:00 pm).

### 5 **Acceptance of Goods/Services**

5.1 An authorised representative of the Trust must sign for Goods delivered and/or Services provided. However, such a signature does not by itself constitute the Trust's acceptance of the quality or quantity of the Goods delivered and/or Services provided, even where any delivery note provided to the Trust by the Supplier states that any such signature confirms that a specified quantity of goods have been received in a specific condition.

5.2 The Trust reserves the right for good and sufficient reason to reject inferior or defective Goods and/or Services. The Trust will notify the Supplier in writing with reasons for rejection and will request the Supplier to remove and/or rectify any such rejected Goods and/or Services at the Supplier expense. Rejected Goods and/or Services will remain the property of the Supplier at all times and the Trust will be under no obligation to pay for them.

5.3 The acknowledgement of delivery in no way limits or excludes the liability of the Supplier under the Contract.

5.4 The Supplier is responsible for the provision of all equipment required for the processing (if necessary), loading, delivery and off-loading of the Goods.

5.5 The Trust shall provide for use by the Supplier in connection with performance of the Orders such facilities and equipment as are described in the Purchase Order and the Supplier shall be solely responsible for all other equipment, goods and materials necessary for the proper performance of the Purchase Orders.

## 6 **Services**

- 6.1 Where a Purchase Order includes or is for the supply of Services the Supplier will provide or execute the same only by appropriately qualified persons acting with due skill and care. Services shall be completed with due diligence, with due skill and care and in a good and workmanlike manner and strictly in compliance with any agreed specifications, drawings and the like.

## 7 **Risk**

- 7.1 The Goods shall remain at the risk of the Supplier until delivery to the Trust is complete (including off-loading and stacking) when ownership of the Goods shall pass to the Trust.

## 8 **Payment**

- 8.1 The Trust will not make any payment to the Supplier unless the Supplier is in receipt of an official Purchase Order.

- 8.2 If appropriate, separate invoices must be rendered for each part delivery against a Purchase Order and marked for the attention of the Finance Department at the Trust's offices at Gadbrook Point, Rudheath Way, Northwich, Cheshire CW9 7LL. The Purchase Order number must be correctly quoted on all invoices. The Trust is registered for VAT (reg. No. 787219586) and requires tax invoices from all VAT registered Suppliers showing the VAT rate, the amount of VAT charged and the Supplier's VAT registration number.

- 8.3 Subject to compliance by the Supplier with these terms and conditions and unless otherwise agreed in writing the Trust will aim to make payment for Goods and/or Services within 30 days of the invoice tax date of the invoice received from the Supplier correct in all material particulars. The Trust's preferred method of payment will be via a BACS transfer. Details of the bank account into which such payment shall be made shall be notified to the Trust on the Trust's new supplier form by the Supplier as soon as possible and no later than 10 days prior to the first payment becoming due under the Contract.

- 8.4 Payment by the Trust shall be without prejudice to any claims or rights which the Trust may have against the Supplier and shall not constitute any admission by the Trust as to the performance by the Supplier of its obligations hereunder.

## 9 **Liability and Indemnity**

- 9.1 The Supplier shall keep the Trust indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs, claims and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Trust as a result of or in connection with:

- i defective workmanship, quality or materials; and
- ii any claim made against the Trust in respect of any liability, loss, damage, injury, cost or expense sustained by the Trust's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods and/or Services as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier.

- 9.2 The Supplier:

- i accepts liability for death and personal injury howsoever resulting from the Supplier's negligence; and

- ii accepts liability for damage to property resulting from the Supplier's negligence where such negligence has arisen or arises in connection with the provision of the Services or in connection with any other activities undertaken by the Supplier pursuant to or for any purpose related to the Contract; and
- iii hereby agrees to indemnify the Trust against all and any liability, loss, damage, costs, claims and expense of whatsoever nature incurred or suffered by the Trust or by any third party whether arising from any disputes, contractual, tortious or other claims or proceedings which seek to recover loss and damage incurred by reason of any such death, personal injury or damage to property in relation to the provision of Goods or Services.

9.3 The Supplier undertakes to:

- i maintain, at its own cost, public liability insurance for the amount of £5,000,000 (five million pounds) in respect of any one occurrence or series of occurrences arising out of one event. The amount of public liability insurance may be amended by the Schedule attached.
- ii maintain, at its own cost, professional indemnity/product liability insurance for the amount of £5,000,000 (five million pounds) in respect of any one occurrence or series of occurrences arising out of one event to ensure that its activities under the Contract are insured and remain insured under an annual professional indemnity policy or policies for a period of six (6) years from the carrying out of the Purchase Order.
- iii The provisions of this Condition 9 shall survive the termination of the Contract for any reason.

10 **Confidentiality**

- 10.1 The Supplier agrees to keep all documents supplied to it by the Trust or which are created in connection with this Contract and the Goods and Services and all other matters arising or coming to its attention in connection with the provision of the Goods and Services secret and confidential and not at any time for any reason whatsoever to disclose them or permit them to be disclosed to any third party except as permitted hereunder to enable the Supplier to carry out its duties and obligations. The Supplier's obligations under this Condition shall survive the expiry or the termination of the Contract for whatever reason.

11 **The Trust's Property**

- 11.1 Copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied by the Trust to the Supplier or not so supplied but used by the Supplier in the provision of the Services shall at all times be and remain the exclusive property of the Trust but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the Trust and shall not be disposed of other than in accordance with the Trust's written instructions, nor shall such items be used otherwise than as authorised by the Trust in writing.

12 **Termination**

- 12.1 The Trust shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract in the event of:
- i the Supplier shall become bankrupt, or make a composition or arrangement with its creditors, or make a proposal in respect of its company for a voluntary arrangement for a composition of debts or a scheme of arrangement to be approved (in accordance with the Companies Act or Insolvency Act), or have an application made under the Insolvency Act in respect of its company to the court for the appointment of an administrator, or have a winding up order made, or (except for the purposes of amalgamation or reconstruction) have a resolution for voluntary winding up passed, or

have a provisional liquidator, receiver or manager of its business or undertaking duly appointed, or have an administrative receiver as defined in the Insolvency Act appointed, or have possession taken by or on behalf of the holders of any debenture secured by a floating charge; or

12.2 Without prejudice to the Trust's other rights and remedies, the Trust may forthwith terminate the Contract by notice if:

- i the Supplier commits any breach of the Contract and fails to remedy such breach within 14 days of being given written notice to do so by the Trust; or
- ii the Supplier fails to perform its obligations under the Contract with due skill, care and diligence.

12.3 Termination of the Contract shall not prejudice or affect any right or remedy which has accrued or shall accrue thereafter to the Trust, and any provision which is expressed to survive the Contract shall remain in full force and effect.

12.4 In the event of the Trust terminating the appointment of the Supplier under this Clause 12 the Trust shall be under no obligation to make further or additional payments to the Supplier and/or the Trust shall not be liable to the Supplier for any loss of profits, loss of contracts or other costs, losses and/or expenses arising out of or in connection with such termination.

### 13 **Assignment and Sub-Contracting**

13.1 The Supplier shall not assign, transfer, sub-contract or in any other manner make over to any third party the benefit of the Contract (or any part thereof) without the prior written consent of the Trust.

13.2 The Supplier shall not sub-let the performance of the whole of the Contract. The Supplier shall not sub-let any part of the Contract without the prior consent of the Trust and such consent if given shall not relieve the Supplier from any liability or obligation under the Contract without prejudice to the generality of the foregoing the Supplier shall ensure that sub-contractors comply with the Contract and it shall be responsible for the acts, defaults and neglects of any sub-supplier, its agents, servants or workmen.

### 14 **Health & Safety**

14.1 Suppliers must comply with all health and safety legislation. In addition to complying with all relevant legislation, the Supplier must, when on the Trust's premises or carrying out work for and on behalf of the Trust, comply with the Trust's health, safety and Suppliers Code of Practice at work policies and procedures made under them. The policies and procedures are available for inspection from an authorised representative of the Trust.

### 15 **15. Law and Disputes**

15.1 Subject to clause 15.2 the validity, construction and performance of the Contract shall be governed by English Law and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of the Contract shall be subject to the exclusive jurisdiction of the English courts to which the parties hereto irrevocably submit.

15.2 If there is any dispute or difference the parties may adjudicate in accordance with the provisions of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (the **Scheme**). The specified nominating body to select adjudicators shall be the Royal Institution of Chartered Surveyors. In paragraph 21 of the Scheme "this paragraph" shall be deleted and "paragraph 20" substituted. The Parties shall comply forthwith with any decision of the adjudicator, and shall submit to summary judgment and enforcement in respect of all other decisions, in each case, without any defence, set-off counterclaim, abatement or deduction.

16        **Set Off**

16.1        Without prejudice to the Trust's other rights and remedies, if the Supplier is in breach of any of his obligations under this Contract, the Supplier shall pay or allow the Trust such sum as the Trust estimates to be fair and reasonable in respect of any losses, damages, costs, claims or expenses which the Trust has suffered or may become liable by reason thereof.

16.2        If any monies shall be due from the Supplier whether pursuant to condition 16.1 or otherwise, the same may be deducted by the Trust from any sum then due or which at any time thereafter may become due to the Supplier under the Contract and/or any other agreement whatsoever entered into between the Supplier and the Trust.

17        **No Waiver**

17.1        No failure to exercise or delay in exercising any right, power or remedy under or in connection with the Contract shall operate as a waiver thereof, and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof, or the exercise of any other right or remedy.

18        **Third Parties**

18.1        A person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available other than pursuant to this Act.

19        **Defects**

19.1        The Supplier will make good by replacement any defects in the Goods and shall bear any reasonable expenses incurred by the Trust as a consequence of such defects including, where necessary, the costs of opening up or dismantling of other works or assemblies to permit such replacement and of re-assembly and making good after replacement and testing to the Trust's reasonable satisfaction subject to the Trust taking all reasonable steps to mitigate the amount and cost of such works. Failure by the Supplier to make good any such defect (save for such minor defects as do not affect the intended use of the Goods) shall entitle the Trust to refuse to acknowledge delivery or, if delivery has been acknowledged, to invalidate such acknowledgement.

20        **Title**

20.1        Full and unencumbered title to the Goods shall pass to the Trust on the date of acknowledgement of delivery relating to such Goods and such title shall be free from any charge, lien, pledge or encumbrance of any nature either in favour of the Supplier or any other party.

21        **Supplier responsibilities and insurances**

21.1        The quantity, type and price of the Goods, plus any particular requirements in relation to the Goods, shall be as set out in the Purchase Order.

21.2        The Supplier warrants that:

21.2.1        the Goods will correspond to the type, quantities, descriptions and particular requirements (if any) contained in the Purchase Order and shall be fit for the purpose of their intended use and to the extent that such description is incomplete or insufficient the Supplier warrants that the Goods will comply with all applicable European Standards and warrants that in procuring, processing (if necessary), loading, delivering and off-loading the Goods it will exercise all reasonable skill, care and diligence to be expected of an experienced supplier of such materials;

- 21.2.2 the sale of the Goods and/or the supply of the Services and the Trust's use of them will not breach any Intellectual Property Rights and the Supplier shall indemnify the Trust against any loss in relation to any such breach of Intellectual Property Rights;
- 21.2.3 that the Goods and the Supplier's actions in performing the Contract will comply with all relevant Legislation; and
- 21.3 The Supplier shall provide to the Trust prior to delivery, full information in respect of any substances to be supplied which are subject to the Control of Substances Hazardous to Health Regulations 2002, and the Trust shall be under no obligation to make any payment to the Supplier in relation to the Goods if (where applicable) such information has not been supplied in accordance with this Clause 21.3.
- 21.4 The Supplier shall keep a complete and up to date point in time record of the Goods supplied further to the Contract and all other materials supplied to the Trust pursuant to other contracts and will provide this information to the Trust within three (3) Working Days of such a request from the Trust.

**22 Notices**

- 22.1 All notices shall be in writing and shall be validly served if delivered personally or sent by recorded delivery to the names and addresses of the Parties set out in the Purchase Order.

**IN ADDITION TO THE ABOVE TERMS AND CONDITIONS, ONE OF THE FOLLOWING SCHEDULES SHALL APPLY AS APPROPRIATE:**

**SCHEDULE A: PROPERTY SERVICES ADDITIONAL TERMS AND CONDITIONS**

**SCHEDULE B: ..... ADDITIONAL TERMS AND CONDITIONS**

**SCHEDULE C: ..... ADDITIONAL TERMS AND CONDITIONS**

**SCHEDULE D: ..... ADDITIONAL TERMS AND CONDITIONS**