

West Kent Housing Association (meaning West Kent Housing Association and its subsidiaries) – standard terms and conditions for the purchase of goods and/or services (“these Terms”)

1. Introduction

1.1 These Terms apply to all *Orders* to the exclusion of any other terms unless there is a specific contract between *You* and *West Kent Housing Association* (“*West Kent*”) governing this *Order*. *Your* terms and conditions of contracting are expressly excluded. Where there is a specific contract it shall apply in conjunction with these Terms to the extent that they are not inconsistent with the contract and this *Order* will be treated as a task or order under that contract.

1.2 In these Terms a reference to:

- “*Goods*” is to any items to be supplied to *West Kent* under this *Order*;
- “*Order*” is to the Purchase Order or Task Form to which these Terms relate;
- “*Services*” is to any services to be supplied to *West Kent* under this *Order*; and
- “*You*” or “*Your*” is to the supplier of the *Goods* and/or *Services*.

2. Quality and Performance

2.1 All *Goods* supplied must:

- conform to the specification in the *Order*;
- be of sound design, materials and workmanship;
- be free from defects and remain so for the period stated in the *Order* and if no period is stated for 12 months from their date of delivery;
- be fit for their purpose;
- be new (unless the *Order* states otherwise); and
- comply with all statutory and regulatory requirements relating to their manufacture, labelling, packaging, storage, handling and delivery.

2.2 *You* will indemnify *West Kent* in full against any costs, expenses, damages and losses (direct or indirect) that may be caused due to the discovery and correction of latent defects in the *Goods*.

2.3 All *Services* must be performed:

- by appropriately qualified and experienced staff;
- using reasonable care, skill and diligence;
- in a timely, efficient and professional manner; and
- to the reasonable satisfaction of *West Kent*.

3. Health and Safety, Data Protection, Equality and Diversity and Environmental Policy

In providing the *Goods* and/or *Services* *You* and *Your* personnel will comply with:

- all applicable laws (including health and safety, data protection legislation and equality and diversity laws); and
- any *West Kent* contractor code of conduct;
- *West Kent* Data Protection Policy & Procedure
- *West Kent* Equality and Diversity Policy;
- *West Kent* Environmental Policy; and
- any similar or updated policy supplied to you by *West Kent*.

4. Delivery

4.1 *You* must deliver the *Goods* and/or *Services* within 14 days of the *Order* unless the *Order* states otherwise. *You* must obtain a receipt for all *Goods* delivered from an authorised employee of *West Kent*.

4.2 If delivery of the *Goods*, or performance of the *Services*, is delayed due to any cause beyond *Your* reasonable control and *You* tell *West Kent* of this

immediately, *West Kent* may either reschedule the time for delivery/performance or cancel the *Order* without any liability to *You*.

4.3 If delivery is delayed in any other circumstances *You* must reimburse *West Kent* for any additional costs *West Kent* incurs.

4.4 *You* must attach a copy of *West Kent*'s original *Order* to all *Orders*, advice notes, invoices and packing notes. These must also contain:

- *Your* name and address;
- *West Kent* *Order* number (if provided);
- the date of despatch;
- a description of the *Goods* and/or *Services*;
- the address for delivery; and
- the due delivery date.

4.5 *West Kent* may reject all or any *Goods* that do not comply with the *Order* at any time within 1 (one) month from the date of delivery.

4.6 Risk and title in *Goods* will pass to *West Kent* on delivery of the *Goods* to the delivery address in the *Order*.

4.7 Whilst on *West Kent*'s premises or any premises *West Kent* manages (including tenanted properties), *You* and all persons for whom *You* are responsible must comply with *West Kent*'s rules relating to those premises. *West Kent* may refuse admission to *Your* personnel or require such personnel to leave those premises at any time without giving any reason.

5. Intellectual Property

5.1 *You* grant *West Kent* an irrevocable, non-exclusive, royalty free licence to use all applicable intellectual property rights in connection with the use of the *Goods* or receipt of the *Services*. *You* assign to *West Kent* all intellectual property rights in any *Goods* and/or *Services* that are produced for *West Kent* as bespoke.

5.2 *You* will indemnify *West Kent* in full against all costs, expenses, damages and losses (whether direct or indirect) incurred in connection with any actual or alleged infringement of a third party's intellectual property rights in any *Goods* and/or *Services* provided in connection with any *Order*.

6. Payment

6.1 *You* must state the relevant purchase order number(s) if provided on each invoice. Any invoice issued by *you* shall not be payable under these Terms unless and until the relevant purchase order number(s) is stated on it.

6.2 *West Kent* will consider and verify *Your* invoices promptly.

6.3 Where there is undue delay in *West Kent* considering and verifying an invoice, that invoice shall be regarded as valid and undisputed after a reasonable time has passed.

6.4 *West Kent* will pay *You* the price due for the *Goods* and/or *Services* within 30 (thirty) days from the date on which *Your* invoice is regarded as valid and undisputed.

6.5 If *You* enter into any subcontract in relation to the *Order*, *You* must insert into that subcontract terms:

- requiring *You* to consider and verify invoices from the subcontractor promptly;

- stating that where there is undue delay in *You* considering and verifying a subcontractor's invoice, that invoice will be regarded as valid and undisputed after a reasonable time has passed;
 - requiring *You* to pay the amount due to the subcontractor within 30 (thirty) days from the date on which the invoice is regarded as valid and undisputed; and
 - requiring *Your* subcontractors (of any tier) to include similar payment terms in all of their subcontracts related to the *Order* so that they are included in all subcontracts related to the *Order* regardless of the subcontractor's position in the supply chain.
- 6.6 The prices in the *Order* will apply (without variation) for the stated quantity of the *Goods* and/or *Services* through the period of provision of the *Services* in the *Order*. These prices include all delivery costs
- 6.7 *West Kent* may set off any sums owed by *You* against any sums payable to *You* in relation to the *Order*.
- 6.8 On the late payment of any valid and undisputed invoice related to the *Order* *West Kent* will pay interest at a rate of 3% (three per cent) above the base rate of the Bank of England in lieu of interest under the Late Payment of Commercial Debts (Interest) Act 1998.

7. Liability and Insurance

You will maintain the minimum insurance set out below during the guarantee period for *Goods* and/or throughout the period during which the *Services* are provided:

- Product Liability Insurance (for *Goods*) – £5 million
- Professional Indemnity Insurance (for *Services*) – £2 million
- Public Liability Insurance (for *Services*) – £5 million
- Employer's Liability Insurance (for *Services*) – £10 million

8. General

- 8.1 No variation, and no terms and conditions additional to these Terms, will be valid unless accepted in writing and signed by *West Kent*.
- 8.2 Nothing in these Terms or the *Order* confer any rights on any person under the Contracts (Rights of Third Parties) Act 1999.
- 8.3 *You* must not subcontract the provision of any *Goods* and/or *Services* without *West Kent's* prior written consent.
- 8.4 *You* will be responsible for all the actions of your permitted subcontractors, suppliers, agents and advisors in connection with the *Goods* and/or *Services*.

9. Termination

- 9.1 Where the *Order* is for *Services* *West Kent* may terminate the *Order* by giving you at least 30 (thirty) days' written notice.
- 9.2 *West Kent* may terminate an *Order* with immediate effect by giving *You* written notice if:
- *You* commit a material breach of these Terms which is not remedied to the satisfaction of *West Kent* within 7 (seven) days of written notice from *West Kent* notifying *You* of the breach and stating that if it is not remedied this *Order* will be terminated;
 - *You* or anyone for whom *You* are responsible has acted fraudulently or made a fraudulent misrepresentation in connection with the *Goods* and/or *Services*;

- *You* or anyone for whom you are responsible has offered or agreed to give any person working for or engaged by *West Kent* any gift or consideration, in relation to this *Order*, or any other contract between *You* and *West Kent*; and
- *You* have been the subject of any insolvency related procedure including having:
 - had an administrator, receiver, receiver and manager or administrative receiver appointed, or having notified or been notified of an intention, or taken any steps to appoint, any of them;
 - suspended the payment of debts or commenced negotiations with your creditors to reschedule your debts;
 - had a winding up petition presented against *You*; or
 - suffered any equivalent insolvency related procedure.

10. Notices

All notices or other communications in connection with this *Order* or these Terms must be in writing and shall be validly served if:

- delivered to the other party personally; or
- sent by prepaid first-class post or recorded delivery to:
 - its registered office (if a company); or
 - (in any other case) its principal place of business.

11. Governing Law

This contract shall be governed by English law and the parties shall submit to the exclusive jurisdiction of the English courts.

January 2023