

Hanover Housing Association Standard Terms and Conditions of Purchase for Goods, Works and Services

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 Hanover and the Supplier which incorporates these terms and conditions and the requirements set out in the Purchase Order.

Good Industry Practice means adopting and/or complying with standards, practices, methods and procedures conforming to the Law; applicable and relevant standards; and the degree of skill, care, diligence, prudence and foresight; which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.

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

Group has the meaning given in S.474(1) Companies Act 2006.

Hanover means Hanover Housing Association, a charitable Industrial & Provident Society registered with the Financial Services Authority and whose registered number is IP16324R.

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, statutory instruments, regulations in force from time to time in the United Kingdom.

Order means an order for the provision of Goods, Works and/or Services issued by Hanover incorporating these Conditions and as detailed in the Specification.

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

Services mean any 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.

Works means any works, duties and responsibilities to be provided, performed and observed by the Supplier pursuant to the Contract.

- 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 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 The Order to Hanover 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 Order to be supplied or executed against a Purchase Order are expressly incorporated into and form part of the Contract and the Supplier shall supply the Goods, Works and/or Services fully in compliance with any such specifications, drawings and the like. (See Appendix 1)
- 2.4 The Contract applies to all Hanover's purchases and any variation to the Contract shall have no effect unless expressly agreed in writing and signed by an authorised representative of Hanover.

3 Prices

- 3.1 The price of The Order shall be stated in the Purchase Order and unless otherwise agreed in writing by Hanover shall be exclusive of value added tax but inclusive of all other charges. (See Appendix 2)

4 Deliveries

- 4.1 Unless expressly agreed in writing otherwise, time shall be of the essence for the supply of.
- 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 Hanover giving the reasons for any actual or anticipated delay and details of any alternative delivery dates proposed and subject to receipt of such notice Hanover 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 Hanover 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 Hanover'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, Works and/or Services 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 Mondays to Friday (except bank holidays) during office hours (9:00 am – 5:00 pm).
- 4.6 In the event of failure to deliver Goods or carry out Works or Services specified in an order or failure to supply and deliver other goods (if any) to the approval of Hanover in place of any Goods rejected, Hanover may obtain from other sources Goods, Works or Services in lieu of those not delivered or carried out or so rejected, as the case may be, and any excess of cost so incurred by Hanover shall be repaid by the Supplier.

5 Acceptance of Goods, Works and Services

- 5.1 An authorised representative of Hanover must sign for Goods delivered and/or Services provided. However, such a signature does not by itself constitute Hanover's acceptance of the quality or quantity of the Goods delivered and/or Services provided, even where any delivery note provided to Hanover by the Supplier states that any such signature confirms that a specified quantity of Goods have been received in a specific condition.
- 5.2 Hanover reserves the right for good and sufficient reason to reject inferior or defective Goods, Works and/or Services. Hanover will notify the Supplier in writing with reasons for rejection and will request the Supplier to remove and/or rectify any such rejected Orders at the Supplier's expense. Rejected Orders will remain the property of the Supplier at all times and Hanover 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 Unless if stated in the Purchase Order, the Supplier is responsible for the provision of all equipment required for the processing (if necessary), loading, delivery and off-loading of the Goods and/or Works.
- 5.5 Hanover shall provide for use by the Supplier in connection with performance of Purchase Orders only such facilities and equipment as are described in the Purchase Order and the Supplier shall indemnify and keep indemnified Hanover in relation to any costs, losses, damages or expenses incurred in relation to the use of such facilities and equipment.

6 Services

- 6.1 Where a Purchase Order includes or is for the supply of Services the Supplier will provide or execute the same using the level of skill, care and diligence as would be expected of a properly qualified supplier experienced in carrying out services of the nature, scope, type and value to the Services. Services shall be completed in a good and workmanlike manner and strictly in compliance with the Contract.

7 Risk

- 7.1 The Goods shall remain at the risk of the Supplier until delivery to Hanover is complete (including off-loading and stacking). Ownership of and title in the Goods shall pass to Hanover on the date of delivery or payment.

8 Payment

- 8.1 Hanover 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. The Purchase Order number must be correctly quoted on all invoices. Hanover is registered for VAT 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 the Contract and unless otherwise agreed in writing Hanover will make payment for The Order within 28 days of receipt from the Supplier of an invoice correct in all material particulars. Hanover shall make all payments via a BACS transfer. Details of the bank account into which such payment shall be made shall be notified to Hanover 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 Hanover shall be without prejudice to any claims or rights which Hanover may have against the Supplier and shall not constitute any admission by Hanover as to the performance by the Supplier of its obligations hereunder.

9 Liability and Indemnity

- 9.1 The Supplier shall keep Hanover 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 and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Hanover as a result of or in connection with:
- i. defective workmanship, quality or materials; and
 - ii. an infringement or alleged infringement of any Intellectual Property Rights caused by the use, manufacture or supply of the Goods, Works and/or Services; and
 - iii. any claim made against Hanover in respect of any liability, loss, damage, injury, cost or expense sustained by Hanover'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, Works 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 Goods, Works and/or 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 Hanover against all and any liability, loss, damage, costs and expense of whatsoever nature incurred or suffered by Hanover 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, Works and/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.
- ii. maintain, at its own cost, employers liability 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.
- iii. 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.
- iv. 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 Hanover or which are created in connection with this Contract and the Goods, Works and/or Services and all other matters arising or coming to its attention in connection with the provision of the Goods, Works and/or Services secret and confidential and not at any time for 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 Hanover's Property

- 1.1 Intellectual Property Rights in all drawings, specifications and data supplied by Hanover to the Supplier or not so supplied but used by the Supplier in the provision of The Order shall at all times be and remain the exclusive property of Hanover 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 Hanover and shall not be disposed of other than in accordance with Hanover's written instructions, nor shall such items be used otherwise than as authorised by Hanover in writing.

12 Termination

12.1 Hanover shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract with immediate effect in the event:

12.1.1 where the Supplier is a company:

- a) an order is made for its winding up or a petition is presented or a meeting is convened for the purpose of considering a resolution for its winding up or any such resolution is passed; or
- b) a receiver (including any administrative receiver) or similar person is appointed in respect of, or an encumbrancer takes possession of, the whole or any part of any of its property, assets or undertaking or any step is taken by any person to enforce any rights under or pursuant to any security interest or encumbrance of any kind over any of its undertaking, property or assets; or
- c) an administrator is appointed (whether by the court or otherwise) or any step is taken (whether in or out of court) for the appointment of an administrator or any notice is given of an intention to appoint an administrator; or
- d) any distress, execution, sequestration or other similar process is levied or applied for in respect of the whole or any part of any of its property, assets or undertaking which is not remedied within 14 days; or
- e) any composition in satisfaction of its debts or scheme of arrangement of its affairs or compromise or arrangement between it and its creditors generally (or any class of its creditors) and/or its members is proposed, applied for, sanctioned or approved; or
- f) it is unable to pay its debts for the purposes of the Insolvency Act 1986, as amended, or becomes insolvent under any applicable legislation; or
- g) any event analogous to any of the above occurs in any jurisdiction outside England in which any relevant body corporate is incorporated, carries on business or has any assets;

12.1.2 where the Supplier is a partnership:

- a) on its dissolution; or
- b) when any of the following apply in relation to any of the partners:
 - i. he is the subject of a bankruptcy order; or
 - ii. he has a bankruptcy petition filed against him; or
 - iii. he enters into an individual voluntary arrangement, a deed of arrangement (pursuant to the Deeds of Arrangement Act 1914) or into any other composition or arrangement with his creditors in satisfaction of his debts; or
 - iv. he has any distress, execution or other process levied or applied for in respect of the whole or any part of any of his property or assets; or
 - v. he becomes bankrupt under any applicable legislation; or
 - vi. any event analogous to any of the above occurs in any jurisdiction outside England in which he resides, carries on business or has any assets.

- 12.1.3 where the Supplier is an individual, any of the events in Clause 12.1.2(b)i–vi apply in relation to that person.
- 12.2 Without prejudice to Hanover’s other rights and remedies, Hanover may terminate the Contract with immediate effect by notice if 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 Hanover.
- 12.3 Hanover may, without prejudice to any of its other rights or remedies, terminate this Contract for any reason upon 1 months written notice.
- 12.4 Termination of the Contract shall not prejudice or affect any right or remedy which has accrued or shall accrue thereafter to Hanover, and any provision which is expressed to survive the Contract shall remain in full force and effect.
- 12.5 In the event of Hanover terminating the appointment of the Supplier, Hanover shall be under no obligation to make further or additional payments to the Supplier and/or Hanover 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 Hanover.
- 13.2 Hanover shall be able to assign the Contract or any part thereof or any benefit or interest in the Contract to any company within Hanover's Group without the consent of the Supplier, subject to a maximum of two such assignments. Any other assignment shall be subject to the prior written consent of the Supplier (which shall not be unreasonably withheld or delayed).
- 13.3 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 Hanover 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 Legislation including health and safety Legislation. In addition to complying with all relevant Legislation, the Supplier must, when on Hanover's premises or carrying out work for and on behalf of Hanover, comply with Hanover'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 Hanover.

15 Law and Disputes

15.1 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.

16 Set Off

16.1 Without prejudice to Hanover'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 Hanover such sum as Hanover estimates to be fair and reasonable in respect of any losses, damages, costs or expenses which Hanover has suffered or may become liable by reason thereof.

16.2 If any sum of money shall be due from the Supplier whether pursuant to condition 16.1 or otherwise, the same may be deducted by Hanover 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 Hanover .

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 or Works and shall bear any reasonable expenses incurred by Hanover 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 Hanover's reasonable satisfaction subject to Hanover taking 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 or Works) shall entitle Hanover to refuse to acknowledge delivery/completion or, if delivery has been acknowledged, to invalidate such acknowledgement.

20 Supplier responsibilities

- 20.1 The quantity, type and price of the Goods, plus any particular requirements in relation to The Order, shall be as set out in the Purchase Order.
- 20.2 The Supplier warrants that the Goods, Works and/or Services 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 or Works will comply with all applicable European standards.
- 20.3 The Supplier shall provide to Hanover 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 Hanover shall be under no obligation to make any payment to the Supplier in relation to the Goods or Works if (where applicable) such information has not been supplied in accordance with this Clause 20.3.
- 20.4 The Supplier shall keep a complete and up to date point in time record of the Goods, Works and/or Services supplied further to the Contract and all other materials supplied to Hanover pursuant to other contracts and will provide this information to Hanover within three (3) days of such a request from Hanover.