

## General Terms and Conditions of Purchase

### 1. Definitions

- 1.1 'the **Buyer**' shall mean The Hyde Group.
- 1.2 'the **Seller**' shall mean the person, firm or company to whom the Purchase order is issued.
- 1.3 '**Purchase order**' shall mean the Purchase order placed by the Buyer with the Seller for the supply of the Goods and/or services.
- 1.4 '**Goods and/or services**' includes all Goods and/or services to be supplied and delivered by the Seller under the Purchase order and includes any labels, instructions or handbooks relating to the Goods and/or services.
- 1.5 '**Delivery**' shall mean the supply of all Goods and/or the completion of all Services described on the Purchase order.
- 1.6 '**Contract**' shall mean the Contract between the Buyer and Seller consisting of the Purchase order, these General terms and conditions of purchase, any other documents (or parts thereof) referred to in the Purchase order and the Seller's acceptance of the Purchase order but not any terms and conditions, other than these Conditions, incorporated in or referred to in such acceptance.
- 1.7 '**Hyde Group**' shall mean Hyde Housing Association Ltd and its subsidiaries
- 1.8 '**Premises**' shall mean any office, building, or other place belonging to or occupied by the Buyer where the Seller is to deliver the Goods and/or execute the Services in whole or in part.
- 1.9 '**Completion**' and '**Completed**' shall mean the completion of any quantity or part of the delivery (Goods and/or services) according to the Purchase order or any schedule attached including the Acceptance of the Goods and/or services by the Buyer.
- 1.10 '**Acceptance**' and '**Accept**' shall mean the acceptance of the Goods and/or services by the Buyer by written confirmation by the Buyer that the Goods and/or services have been delivered and/or performed to his reasonable satisfaction.
- 1.11 '**the Price**' shall mean the sum stated in the Purchase order for the supply of the Goods and/or completion of the Services, or the sum calculated in accordance with any schedule attached to the Purchase order together with such additions or deductions as may be allowed under these Conditions.
- 1.12 '**Date for delivery**' shall mean the Date for delivery specified in the Purchase order.
- 1.13 In this Contract where the context permits references to:
  - the masculine gender includes the feminine
  - the singular includes the plural
  - a person includes a firm or corporation
  - any enactment order regulation standard or other similar instrument shall be construed as a reference to any subsequent enactment order regulation standard of instrument amending same.

### 2. General

- 2.1 These terms and conditions apply in preference to and supersede any terms and conditions referred to, offered or relied upon by the Seller whether in negotiation or at any stage in the dealings between the Buyer and the Seller with reference to the

Goods and/or services to which this Contract relates. Without prejudice to the generality of the foregoing, the Buyer will not be bound by any standard or printed terms furnished by the Seller in any of its documents unless the Seller specifically states, in writing, separately from such terms that it intends such terms to apply and the Buyer acknowledges such notification in writing.

- 2.2 Where this Purchase order is issued as a result of a Contract (awarded via a competitive tender process), issued in connection with an established Framework agreement or such other written contract issued by the Buyer to the Seller, the Terms and conditions of the aforesaid Contract shall supersede and take preference to these General conditions of purchase.
- 2.3 The Purchase order shall remain confidential as between the Buyer and Seller. The Seller shall not disclose any details of the Purchase order without the prior written consent of the Buyer, which shall not be unreasonably withheld, except insofar as it is necessary for the Seller to fulfil his obligations under the Purchase order.

### **3. Variation**

- 3.1 Neither the Buyer nor the Seller shall be bound by any variation or waiver of, or addition to these conditions except as agreed by both parties in writing and signed on their behalf.

### **4. Specification, description, sample and standard**

- 4.1 The Goods and/or services shall conform in all respects with:
- the provisions of the Contract and in particular the specification, drawings, samples or other descriptions of the Goods and/or services contained or referred to in this Contract;
  - and European (EU) or International standards (ISO) specified in the Contract and where no EU or ISO standard is specified with the relevant British standards;
  - the requirements of any relevant legislation current at the Date for delivery.

### **5. Quality**

- 5.1 The Goods shall be of satisfactory quality as that expression is defined in the Sale and Supply of Goods Act 1994 including all the aspects of quality as listed in s.14(2)(B) of the said Act, and shall be free from defects in material or workmanship.

### **6. Fitness for purpose**

- 6.1 If the purpose for which the Goods and/or services are required is made known to the Seller expressly or by implication the Goods and/or services shall be fit for all purposes for which Goods and/or services of their kind are commonly supplied/performed.

### **7. Intellectual property**

- 7.1 The Seller shall indemnify the Buyer from and against all costs, claims proceedings or demands in respect of any infringement of letters patent, registered design, trade mark or copyright arising out of the sale or use of any Goods and/or services supplied under this Contract, provided always that the Seller shall not be required to indemnify the Buyer against such infringements where the Goods and/or services are supplied/performed to the particular design or specification of the Buyer.

## **8. Price**

- 8.1 Unless otherwise specifically stated in the Purchase order, the Price shall be fixed for the period of the Contract.

## **9. Payment**

- 9.1 The Seller shall be entitled to submit an invoice for the Goods and/or services as soon as Delivery has been completed. The Seller has an obligation to submit clearly labelled Invoices with the relevant Purchase order reference, other relevant information and clearly addressed to the Finance team or as stated on the purchase order to aid the invoice matching and payment process. Failure to do so may result in late payment for which the Buyer will not be held liable.
- 9.2 Payment shall be made by the Buyer via BACS within thirty (30) days of receipt of a correctly completed invoice after the satisfactory Delivery and Acceptance of goods and/or completion of Services in accordance with the instructions specified on the Purchase order unless, before payment is due, the Buyer has rejected all or any part of the Goods and/or Services pursuant to Clause 12.
- 9.3 Where either party fails to make a payment on a due date the other party shall be entitled to charge interest on the late payment (except where part or the whole of the payment is withheld due to a bona fide dispute as to entitlement to payment or as per Clause 9.1) calculated daily at the rate of 2% above the LIBOR rate from the due date {whether before or after any judgement} until actual payment and it is agreed by the parties that this clause provides the parties with a substantial remedy pursuant to sections 8 and 9 of the Late Payment of Commercial Debts (Interest) Act 1998.

## **10. Delivery**

- 10.1 Time shall be of the essence of the Contract and the Seller shall deliver the Goods and/or perform the Services to the Buyer by the Date for delivery during the times specified.
- 10.2 The Seller shall at his own expense deliver the Goods to the Buyer at the address specified in the Purchase order and unless otherwise specified in the Purchase order delivery shall include the off-loading of the Goods.
- 10.3 If the Goods are incorrectly delivered, the Seller shall be responsible for any additional expense incurred, save where the fault for incorrect Delivery lies with the Buyer.
- 10.4 A delivery note shall accompany each delivery of the Goods. All delivery notes shall be clearly marked with the Buyer's order number and the description and quantity of the goods concerned.

## **11. Time of performance**

- 11.1 If the Seller does not deliver the Goods and/or perform the Services or any part thereof within the time specified in the Contract, the Buyer shall be entitled to terminate the Contract and purchase other Goods and/or Services of the same or similar description to make good such default, without prejudice to any other remedy for breach of contract.

## **12. Acceptance and rejection**

- 12.1 If any of the Goods, or the packages containing the same, and/or the Services do not comply with the Purchase order or with any term of this Contract including quantity,

quality or description, the Buyer shall be entitled to reject those Goods and/or services or any part of them at any time after delivery and/or performance, irrespective of whether the Buyer has accepted them.

- 12.2 Any acceptance of such Goods and/or services by the Buyer shall be without prejudice to any rights that the Buyer may have against the Seller.
- 12.3 The Buyer shall be entitled to return any rejected Goods, carriage forward, to the Seller at the risk of the Seller, and the Seller shall credit the Buyer for any monies already paid in respect of the same.

### **13. Property and risk**

- 13.1 The Goods shall become the property of the Buyer when they have been delivered in accordance with Clause 10 above without prejudice to the Buyer's right to reject the Goods under Clause 12 unless any other place of delivery is provided for either in the Purchase order or any schedule attached.
- 13.2 Unless otherwise provided for in the Contract the risk in any Goods which are to be delivered by the Seller to the Buyer shall pass to the Buyer on Acceptance by the Buyer of such Goods in accordance with Clause 12.
- 13.3 Where Goods belonging to the Buyer are to be sent to the Seller's works for overhaul, repair or cleaning such Goods shall be at the risk of the Seller from the time that they are handed over to  
the Seller at their position on the Premises until they have been delivered back to the Buyer and, if so provided for on the Purchase order, repositioned, and reconnected to the satisfaction of the Buyer. The property in such Goods shall at all times remain with the Buyer and the Seller shall clearly mark such Goods as belonging to the Buyer and keep them separate from all other Goods in the Seller's possession as far as it is reasonable to do so in order to complete the work specified in the Purchase order.

### **14. Force Majeure**

- 14.1 Neither the Seller nor the Buyer shall be liable to the other for any failure to fulfil its obligations under the Contract to the extent that and for so long as such a failure is caused by circumstances beyond its reasonable control, PROVIDED THAT the party affected shall as soon as reasonably practicable serve notice on other party specifying the circumstances of the Force Majeure event. If such Force Majeure event shall be such as shall prevent or shall delay the delivery of the Goods and/or services for more than one week after the date for delivery the contractual obligations of both parties shall cease. In this event, the Buyer shall pay to the Seller such reasonable sum as may be agreed between the parties in respect only of the expenditure actually incurred and commitments entered into by the Seller in the performance of the Contract up to the date of the Force Majeure notice.

### **15. Indemnity**

- 15.1 The Seller shall indemnify the Buyer against all claims, cost, expenses, loss or damage which directly and naturally results in the ordinary course of events which the Buyer may suffer howsoever arising from the Seller's breach of any of its obligations under this Contract.

### **16. Assignment and sub-contracting**

- 16.1 The Seller shall not assign or transfer the whole or any part of this Contract.

16.2 The Seller shall not sub-contract any part of this Contract without the Buyer's prior written consent, which shall not be unreasonably withheld. The Seller shall be responsible for all work done and Goods supplied by sub-contractors as if the work had been done or the Goods had been supplied by the Seller.

16.3 Nothing within this Contract shall confer upon any third party the right or benefit to pursue any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

## 17. **Novation**

17.1 The Buyer shall be entitled to:

- assign, novate or otherwise dispose of its rights and obligations under this Contract or any part thereof to anybody to which the powers and duties (or any of them) of the Buyer may be transferred (whether by Act of Parliament or otherwise); or
- assign, novate or otherwise dispose of its rights and obligations under this Contract to any other body (including but not limited to any private sector body) which substantially performs any of the powers or duties that previously had been performed by the Buyer and in either case the Seller shall consent to such assignment, novation or disposal and agrees to promptly enter into any reasonable agreements to put the assignment, novation or arrangement into effect.

17.2 Any change in the legal status of the Buyer such that it ceases to be a contracting Authority shall not affect the validity of this Contract. In such circumstances, this Contract shall bind and inure to the benefit of any successor body to the Buyer.

## 18. **Equal opportunities**

18.1 The Seller shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or any Act of Parliament or statutory modification or re-enactment thereof relating to discrimination in employment. The Seller shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Seller and all sub- contractors permitted under the Contract.

## 19. **Anti-corruption/corrupt gifts or payments**

19.1 The Buyer may terminate this contract and recover all its losses if the Seller, its employees or anyone acting on the Seller's behalf:

- offers to give, or agrees to give to any member, employee or representative of the Buyer, any gift or consideration or any kind of inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Buyer or for showing or refraining from showing favour or disfavour to any person in relation to this Contract.
- offers to sell goods or services to any member, employee or representative of the Buyer on the terms specified under the Contract between the Buyer and the Seller.
- commits an offence under the Bribery Act 2010, or pays or offers any fee or reward contrary to Section 117(2) of the Local Government Act 1972.

## 20. **Insurance**

- 20.1 Without prejudice to its liability to indemnify the Buyer under Clause 15.1, the Seller shall throughout the duration of this Contract maintain such insurance as is necessary to cover the liability of the Seller in respect of the matters specified in Clause 15.1. For all claims to which this Clause applies, the insurance cover shall be for a sum not less than £10,000,000 (ten million) in respect of any one incident.
- 20.2 The Seller shall upon request made from time to time produce to the Authority documentary evidence that the insurances required by Clause 20.1 are properly maintained.

## 21. Confidentiality

- 21.1 The Seller undertakes to treat as confidential all information relating to:
- the business and operations of the Buyer
  - the terms and conditions of this Contract; and
  - all information relating to third parties obtained through the Seller's provision of the Goods and/or services and not disclose or use such information except as may be necessary for the proper provision of the Goods.
- 21.2 The Seller shall ensure that its employees, sub-contractors, and agents comply with confidentiality obligations set out in Clause 21.1.
- 21.3 The provisions of Clauses 21.1 and 21.2 shall not apply to:
- any information in the public domain otherwise than through act or default of (or on behalf of) the Seller and;
  - disclosure of any information where this is required by law.
- 21.4 The Seller acknowledges that, in responding to requests for information in relation to this Contract which are made under the Freedom of Information Act 2000 or any statutory modification or re-enactment thereof or any related guidelines or codes of practice, the Buyer shall be entitled to provide information in relation to this Contract, save such information which in the Buyer's opinion is exempt information as described within any provisions of Part II of the Freedom of Information Act 2000, and where it is in the public interest to maintain the exemption.
- 21.5 The Seller shall assist the Buyer at no additional charge in meeting the requests for information in relation to the Contract which are made to the Buyer in connection with the Freedom of Information Act 2000 or any statutory modification or re-enactment thereof, or any related guidelines or codes of practice. The Buyer may from time to time serve on the Seller an information notice requiring the Seller within such time and in such form as is specified in the information notice, to furnish to the Buyer such information as the Buyer may reasonably require relating to such requests for information.

## 22. Insolvency

- 22.1 The Buyer may at any time by notice in writing summarily terminate the Contract without compensation to the Seller in any of the following events:
- if the Seller, being an individual, or, where the Seller is a firm, any partner in that firm

shall at any time become bankrupt, or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so; or

- if the Seller being a company shall pass a resolution or the court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction), or if an administrative receiver on behalf of a creditor shall be appointed, or if the court shall make an administration order, or if circumstances shall arise which entitle the court or creditor to appoint an administrative receiver or which entitle the court to make a winding-up order or administration order; provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Buyer.

## **23. Publicity**

- 23.1 Neither the Seller nor his sub-contractors or assignees shall without prior written consent of the Buyer, advertise or publicly announce that the Seller is providing Goods and/or services to the Buyer.

## **24. Notices**

- 24.1 Notices to be served on either party shall be in writing.
- 24.2 Any notice to the Seller shall be deemed to be sufficiently served if given or left in writing at his usual or last known place of business and proof of postage by recorded delivery, or delivery by hand, of any Notice to the Seller at his usual or last known place of abode or business shall be sufficient evidence of its receipt by him.
- 24.3 Any notice to the Buyer shall be deemed to be sufficiently served if given or left in writing addressed to the Authorised officer at the address shown on the Purchase order and Proof of postage by recorded delivery, or delivery by hand, of any Notice to the Buyer addressed to the Authorised officer at the address shown in the Purchase order shall be sufficient evidence of its receipt by the Buyer.

## **25. Law**

- 25.1 This Contract shall be governed and constructed in accordance with English law and the parties hereby irrevocably submit to the jurisdiction of the English courts.

## **26. Transparency**

- 26.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions for the FOIA, the content of the Contract is not Confidential Information. The Buyer shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Seller hereby gives his consent for the Buyer to publish the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the contract, to the general public.