



whg - TERMS AND CONDITIONS FOR SUPPLY OF GOODS AND SERVICES

1. Interpretation

1.1 In this Agreement, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks are open for business or otherwise instructed.

WALSALL HOUSING GROUP LIMITED (trading as whg) a company limited by guarantee (registered number 04015633) whose registered address is at 100 Hatherton Street, Walsall, WS1 1AB contracting on its own behalf and on behalf of each organisation within the Group (“whg”);

Goods: the Goods (or any part of them) you have agreed to provide to whg as set out in the Purchase Order.

Purchase Order: whg’s purchase order for the Goods and / or Services.

Services: the Services (or any part of them) you have agreed to provide to whg as set out in the Purchase Order.

Specification: any specification for the Goods and/or Services, including any related plans and drawings that is supplied to you by whg, or produced by You and agreed in writing by whg.

You or Your: the supplier and the person or firm from whom whg purchases the Goods and / or Services.

2. Basis of Contract

2.1 This Agreement applies to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Purchase Order constitutes acceptance by whg to purchase the Goods and / or Services but only in accordance with this Agreement.

3. The Goods and/or Services

3.1 You shall ensure that the Goods and / or Services shall:

- (a) correspond with their description and any applicable Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by You or made known to You by whg expressly or by implication;

- (c) be free from defects in design, materials and workmanship and remain so for 24 months after delivery or for any warranty period that is applicable whichever is the latter; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods and/or Services.

3.2 whg shall have the right to inspect and test any Goods at any time before delivery.

3.3 If following such inspection or testing whg considers that the Goods do not conform or are unlikely to comply with your undertakings at clause 3.1, whg shall inform You and You shall immediately take such remedial action as is necessary to ensure compliance.

3.4 Notwithstanding any such inspection or testing, You shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect Your obligations under this Agreement, and whg shall have the right to conduct further inspections and tests after You have carried out Your remedial actions.

4. Delivery

4.1 You shall deliver the Goods and / or Services:

- (a) on the date specified in the Purchase Order, or, if no such date is specified as requested by whg;
- (b) to whg's premises or such other Delivery Location as is set out in the Purchase Order, or as instructed by whg prior to delivery (see Purchase Order for Delivery Location).
- (c) during whg's normal business hours, or as instructed by whg.

4.2 Delivery of any Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.3 If You:

- (a) deliver less than 5% of the quantity of Goods specified in the Purchaser Order, whg may reject the Goods; or
- (b) deliver more than 5% of the quantity of Goods ordered, whg may at its discretion reject the Goods or the excess Goods, or accept the excess free of charge.

Any rejected Goods shall be returnable at Your risk and expense.

- 4.4 Any time agreed between the parties for delivery of the Goods and / or Services shall be of the essence of the Agreement and whg shall be entitled to cancel, without notice, the whole or any part of this Agreement, if this Clause is not complied with by You.
- 4.5 You shall repair or replace free of charge, Goods damaged or lost in transit upon receiving notice to that effect from whg.
- 4.6 whg's signature on any delivery note of Yours is evidence of the number of packages received only and not evidence of the correct quantity of Goods received or that the Goods are in a good condition or of the correct quality.

5. Remedies

- 5.1 If the Goods and / or Services are not delivered on the date they are due as referred to in clause 4.1(a), or do not comply with the undertakings set out in clause 3.1, or otherwise are not in accordance with this Agreement then, without limiting any of its other rights or remedies, whg shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods and / or Services:
- (a) to terminate this Agreement;
 - (b) to reject the Goods and / or Services (in whole or in part) and in the sale of Goods to return them to You at Your own risk and expense;
 - (c) to require You to repair or replace or recomplete the rejected Goods and / or Services, or to provide a full refund of the price of the rejected Goods and / or Services (if paid);
 - (d) to recover from You any costs incurred by whg in obtaining substitute Goods and / or Services from a third party; and
 - (e) to claim damages for any other costs, loss or expenses incurred by whg which are in any way attributable to Your failure to carry out your obligations under this Agreement.
- 5.2 This Agreement shall apply to any repaired or replacement Goods and /or Services provided by You.
- 5.3 You shall keep whg indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by whg as a result of or in connection with:
- (a) any claim made against whg for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods and / or Services;
 - (b) any claim made against whg by a third party arising out of, or in connection with, the supply of the Goods and/or Services, to the extent that such claim

arises out of the breach, negligent performance or failure or delay in performance of this Agreement by You, its employees, agents or subcontractors; and

- (c) any claim made against whg by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods and / or Services.

This clause 5.3 shall survive termination of this Agreement.

- 5.4 whg's rights and remedies under this Agreement are in addition to its rights and remedies implied by statute and common law.

6. Title and Risk to Goods

- 6.1 You warrant that you have good title to the Goods and that You will transfer such title as you may have in the Goods to whg pursuant to Clause 6.2.

- 6.2 Title in the Goods will pass to whg on delivery to whg at the Delivery Location.

- 6.3 The Goods will be and shall remain at Your risk until such time as they are delivered to whg (or at whg's direction), and are found to be in accordance with the requirements of this Agreement. It shall be the duty of You at all times to maintain a contract of insurance over the Goods and, on request from whg, to assign to whg the benefits of such insurance.

7. Price and Payment

- 7.1 The price of the Goods and / or Services shall be the price set out in the Purchase Order.

- 7.2 The price of the Goods and/or Services is exclusive of amounts in respect of value added tax (**VAT**), but includes the costs of packaging, insurance and carriage of any Goods. No extra charges shall be effective unless agreed in writing and signed by whg.

- 7.3 whg must pay valid and undisputed invoices within 30 days of them being considered valid and undisputed.

- 7.4 whg shall, on receipt of a valid VAT invoice from You, pay to You such additional amounts in respect of VAT as are chargeable on the supply of the Goods and / or Services.

7.5 If the parties agree that You are to provide Goods and / or Services in addition to those specified in a Purchase Order, then such agreement will be reflected in a further Purchase Order, which will be deemed incorporated into this Agreement.

7.6 whg may, without limiting any other rights or remedies it may have, set off any amount owed to it by You against any amounts payable by it to You under this Agreement.

8. Customer Property

You acknowledge that all materials, equipment and tools, drawings, specifications, data supplied by whg to you (**Customer Materials**) and all rights in whg Materials are and shall remain the exclusive property of whg. You shall keep whg Materials in safe custody at Your own risk, maintain them in good condition until returned to whg, and not dispose or use the same other than in accordance with whg's written instructions or authorisation.

9. Insurance

During the term of the Agreement You shall maintain in force, with a reputable insurance company, employers liability, professional indemnity insurance, product liability insurance and public liability insurance to cover such heads of liability as may arise under or in connection with this Agreement, and shall, on whg's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Termination

10.1 whg may terminate this agreement in whole or in part at any time before delivery with immediate effect by giving You written notice, whereupon You shall discontinue all work on the Goods and/or Services. whg shall pay You fair and reasonable compensation for work-in-progress at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

10.2 Either party may terminate this Agreement with immediate effect by giving written notice to the other if the other becomes subject of any insolvency related procedure including having:

- (a) 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;
- (b) suspended the payment of debts or commenced negotiations with your creditors to reschedule your debts;
- (c) had a winding up petition presented against you; or

(d) suffered any equivalent insolvency related procedure.

10.3 Termination of this Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of this Agreement shall continue in full force and effect.

11. General

11.1 Assignment and Subcontracting.

(a) whg may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Agreement.

(b) You may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Agreement without whg's prior written consent.

11.2 **Waiver.** A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

11.3 **Third Party Rights.** A person who is not a party to this Agreement shall not have any rights under or in connection with it.

11.4 **Variation.** Any variation to this Agreement, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by whg.

11.5 **Governing Law and Jurisdiction.** This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

11.6. Safeguarding Against Fraud

11.6.1 You will take all reasonable steps, in accordance with Good Industry Practice, to prevent any fraudulent activity by Your staff and You (including its shareholders, members, directors) in connection with the receipt of monies from whg.

11.6.2 You will notify whg immediately if You have reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

11.6.3 If You or Your Staff commits Fraud in relation to this or any other contract, whg may:-

11.6.4 terminate the agreement with immediate effect by giving You notice in writing and recover from You the amount of any loss suffered by whg resulting from the termination including the cost which whg reasonable incurs when making other arrangements for the supply of the goods or services and any additional expenditure incurred by whg throughout the remainder of the Agreement; or

11.6.5 You will indemnify whg in full from and against any other loss sustained by whg in consequence of any breach of Clause 11.6.

11.7 Modern Slavery

11.7.1 You will take appropriate steps to ensure that there is no slavery or human trafficking in Your supply chains and in connection with Your organisation.

11.8 Data Protection

11.8.1 You shall (and shall procure that any of Your Staff involved in the provision of the Services pursuant to this Agreement) comply with any notification requirements under the Data Protection Act 2018 (“DPA”) and all Parties will duly observe all their obligations under all law relating to the processing of personal data which arise in connection with the Agreement.

11.9 Criminal Finance Act 2017

11.9.1 whg operates a zero-tolerance to tax evasion. whg expects suppliers to ensure that procedures are in place to ensure that all appropriate taxes are paid.