

# Sovereign Housing Association Limited

## Terms and conditions for Goods and / or Services

**1. Application.** The Supplier shall provide the goods and/ or services in accordance with the Agreement. The Agreement shall be comprised of (i) these terms and conditions (clauses 1 – 32) and the (ii) Purchase Order. The Agreement shall commence on the date stated in the Purchase Order and shall continue, unless terminated earlier in accordance with clause 11 (Termination), until the date stated in the Purchase Order. In the event of a conflict or any inconsistency in the Purchase Order and these terms and conditions, the Purchase Order shall take precedence.

**2. Subsidiaries.** All references to Sovereign shall be deemed to include all subsidiaries of Sovereign.

**3. Entire Agreement.** The parties agree that the Agreement and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter. Each party acknowledges that it has not entered into the Agreement or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Agreement or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Agreement. Nothing in this Agreement purports to limit or exclude any liability for fraud.

**4. Prices.** In consideration of the provision of the goods and/or services by the Supplier in accordance with terms of this Agreement, Sovereign shall pay the charges set out in the Purchase Order. Unless otherwise stated in the Purchase Order, the charges shall be fixed and is the entire price payable by Sovereign to the Supplier in respect of the goods and/or services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses and the cost of Supplier personnel.

**5. Delivery.** Time is of the essence. If the delivery of goods are not made in the quantities or on the delivery date or dates specified or the rendering of the services are not delivered and/ or completed by the date or dates specified in the Purchase Order. Sovereign shall have the right, in addition to its other rights and remedies provided by the contract or by law or in equity, to take either or both of the following actions: (i) direct expedited routings of the goods with the Supplier paying the difference in cost between the expedited routing and the Agreement routing cost; (ii) cancel this Agreement by written notice. This shall apply to goods not yet delivered or services not yet rendered. Sovereign shall be entitled to purchase substitute goods and/or services elsewhere and charge the Supplier with any additional costs incurred.

**6. Packaging.** All goods must be packaged in the manner as specified by Sovereign and delivered in the manner and by the route and carrier designated by Sovereign. If Sovereign does not specify the manner in which the goods must be packaged or delivered, the Supplier shall package the goods so as to avoid any damage in transit and deliver the goods at the lowest possible transportation rates, consistent with the Supplier's obligation to meet the delivery schedule set out in the Purchase Order.

**7. Title and Risk.** Risk in the goods shall pass to Sovereign on delivery and when Sovereign has accepted the goods as conforming in every respect with the Agreement. Title to the goods shall pass to Sovereign on the sooner of: (a) payment by Sovereign for the goods; or (b) delivery of the goods to Sovereign. The passing of title shall not prejudice any other of Sovereign's rights and remedies, including its right to reject. Neither the Supplier, or any other person, shall have a lien on, right of stoppage in transit or other rights in or to any goods title to which have vested in Sovereign or any specifications or materials of Sovereign, and the Supplier shall ensure that relevant third parties accept the exclusion of such lien and rights. The Supplier warrants and represents that it (i) has at the time the Agreement is made full, clear and unencumbered title to the goods, and the full, clear and unencumbered right to sell and deliver them to Sovereign; and (ii) shall hold such title and right to enable it to ensure that Sovereign shall acquire a valid, unqualified title to the goods and shall enjoy quiet possession of them.

**8. Inspection.** Sovereign's payment for the goods shall not constitute its acceptance of the goods. Sovereign shall have the right, but not the obligation, to inspect the goods and to reject any of the goods which are in Sovereign's judgment defective. Goods so rejected and goods supplied in excess of the quantities ordered may be returned to Supplier at its own expense. Payment, if any, made for any goods rejected hereunder shall be promptly refunded by the Supplier. The fact that Sovereign fails to inspect or test any goods shall not affect any of Sovereign's rights.

**9. Invoices and Payment.** Invoices shall be deemed valid should they contain the PURCHASE ORDER NUMBER, item number (if relevant), description of goods or services, quantities, unit prices, and total purchase price with all taxes stated separately (Valid Invoice). Payment shall be made no later than a period of 30 days after receipt of a Valid Invoice and acceptance of goods or services by Sovereign. All claims for money due or to become due from Sovereign shall be subject to deduction by Sovereign for any setoff or counterclaim arising out of this or any other of Sovereign's agreements with the Supplier.

**10. Changes.** No modification of this Agreement shall be effective without Sovereign's prior written consent. Sovereign reserves the right to change (i) specifications and drawings where the goods are being specifically manufactured for Sovereign, (ii) the place of delivery, (iii) the time of delivery and/ or (iv) the quantity purchased.

**11. Termination.** Sovereign may terminate this Agreement or any part thereof if the Supplier breaches any provision of this Agreement. This Agreement will terminate automatically, without notice, if the Supplier becomes insolvent or the subject of any proceeding under the law relating to bankruptcy or the relief of debtors. Sovereign may also terminate this Agreement or any part thereof at will, for the sole convenience of Sovereign with 14 days' notice to the Supplier.

**12. Warranty.** The Supplier warrants and represents that the goods shall (i) conform to any sample, drawings, their description and to Sovereign's specification set out in the Purchase Order (ii) be free from defects in design, material and workmanship (iii) comply with all applicable laws, standards and best industry practice (iv) be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and (v) be fit for purpose and any purpose held out by the Supplier and set out in the order and as otherwise required to meet Sovereign's needs. Sovereign's inspection, test, acceptance or use of the goods shall not affect the Supplier's obligations under these warranties. Sovereign may reject any goods that do not comply with clause 12 and the Supplier shall, at Sovereign's option, promptly remedy, repair, replace, correct, re-perform or refund the price of any such goods provided that Sovereign serves a written notice on the Supplier that some or all of the goods do not comply with clause 13. All warranties of the Supplier herein or which are implied by law shall survive any inspection, delivery, acceptance or payment by Sovereign. The Supplier warrants that the services shall conform to their descriptions and to Sovereign's specification set out in the Purchase Order and that services will be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13.

**13. Intellectual Property Rights Indemnification.** Supplier shall indemnify Sovereign from any damages, liabilities, claims, losses and expenses (including legal fees) paid or incurred by Sovereign in connection with any action against Sovereign for any alleged infringement of patent, invention or copyright rights arising from the sales or use of goods provided. Sovereign, at its expense, may participate in the defence of any such action, but shall not be obligated to so participate.

**14. Indemnification.** The Supplier shall indemnify and hold Sovereign and its affiliates harmless and, upon request, shall defend each of them from and against any or all claims, demands, litigation or proceedings of whatever kind, whether based upon negligence, breach of express or implied warranty, strict liability or any other theory, and from and against all direct, indirect, special, exemplary, incidental or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with the goods and/or services, the design, manner of preparation, manufacture, construction, completion, or delivery or non-delivery of any goods and/or services by

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Supplier, any breach by the Supplier of any of its obligations hereunder, or any other act, omission or negligence of the Supplier or any of the Supplier's employees, workers, servants, agents, subcontractors or suppliers. The Supplier shall, upon request, pay or reimburse Sovereign or any other party entitled to indemnification hereunder for all costs and expenses, including legal fees, as incurred by Sovereign or such other party in connection with any such claim, demand, litigation, proceeding, loss or damage. Sovereign's aggregate liability arising from or relating to this order is limited to the amount paid by Sovereign for the goods and/or services to the maximum extent allowable under applicable law. Sovereign shall not be liable under this Agreement for any special, incidental, consequential, indirect or punitive damages including, without limitation, lost profits or revenues even if Sovereign has been advised of the possibility of such damages.

**15. Confidentiality.** All specifications, documents and prototype goods delivered by Sovereign to the Supplier are the property of Sovereign. They are delivered solely for the purpose of Supplier's performance of this Agreement and on the express condition that the information contained therein shall not be disclosed to others nor used for any purpose other than in connection with this Agreement except with Sovereign's prior written consent. If Sovereign gives written consent, the Supplier will strictly comply with the terms and conditions of any consent and, even after such consent, will not use Sovereign's name or any of its trademarks, service marks, trade names, or logos except with the express prior written consent of Sovereign to the specific use. The Supplier shall promptly return to Sovereign all such specifications, documents and prototype goods upon Sovereign's written request. The Supplier's obligations under this clause shall survive the cancellation, termination or completion of this Agreement.

**16. Force Majeure.** In this clause, "Force Majeure" means an event or sequence of events beyond any party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Agreement including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Agreement; strike, lockout or boycott or other industrial action except strikes or other industrial disputes involving the Supplier's or its suppliers' workforce. A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it (i) promptly notifies the other of the Force Majeure event and its expected duration; and (ii) uses best endeavours to minimise the effects of that event. If, due to Force Majeure, a party (i) is or shall be unable to perform a material obligation, or (ii) is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or total of more than 30 days in any consecutive period of 60 days, the other party may terminate the Agreement on 14 days written notice.

**17. Remedies.** Each of the rights and remedies reserved to Sovereign in this Agreement shall be cumulative and additional to any other remedies provided in law or equity. No delay or failure by Sovereign in the exercise of any right or remedy shall affect any such right or remedy and no action taken or omitted by Sovereign shall be deemed to be a waiver of any such right or remedy.

**18. Compliance with Laws.** The Supplier warrants to Sovereign that all goods supplied hereunder will have been provided in compliance with all applicable national, international, foreign and local laws, statutes, regulations, orders, rules and treaties. The Supplier warrants to Sovereign that the Supplier is an affirmative action/equal opportunity employer, and the Supplier hereby certifies that it is in compliance with all applicable national, international, foreign and local employment laws, statutes, regulations, orders, rules and treaties. The Supplier shall be required to obtain and pay for any licence, permit, inspection or listing by any public body or certification organisation required in connection with the manufacture, performance, completion or delivery of any good and/or service.

**19. Notices.** All notices, consents, waivers and other communications required or permitted to be given pursuant to this Order, shall be in writing and shall be deemed to have been delivered either (i) on the delivery date (if personally delivered or if delivered to a confirmed e-mail address), (ii) one (1) business day after delivery to any national overnight courier directing delivery on the next business day with receipt requested, or (iii) three (3) business

days after deposit with a registered postal services company with return receipt requested, with adequate postage paid. All notices to Sovereign shall be sent to Sovereign Housing Association Ltd, Sovereign House, Basing View, Basingstoke, RG21 4FA, for the attention of the Procurement Department and to the Supplier at its address as stated in this Agreement, or at such other address as either party may designate in writing to the other party.

**20. Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, this provision shall not affect any other provision or provisions contained in this Agreement.

**21. Clause Titles.** The clause titles are solely for convenience of reference and shall not affect the meaning or construction of any provision of this Agreement.

**22. Applicable Law.** The construction, validity and performance of this Agreement shall be governed in all respects by the law of England and Wales.

**23. Dispute Resolution.** All causes of action arising hereunder or related in any way hereto shall be brought only in the English courts and the Supplier hereby submits to the jurisdiction of such courts and waives any claim that such courts are an inconvenient forum. An action by the Supplier arising out of or related to this Agreement shall be commenced within one (1) year from the date the right, claim, demand or cause of action shall first occur. Sovereign reserves the right to object to any proceedings issued against it, which are deemed to be non-compliant with the provisions of this clause.

**24. Survival.** In addition to those terms that survive the expiration or termination of this Order by their express terms, the provisions of clauses 11, 12, 13, 14, 18, 23 and 25 shall survive the expiration or termination of this Agreement for any reason. The Supplier acknowledges that any breach of the terms, conditions, or covenants set forth in clauses 14 or 18 may cause irreparable damage to Sovereign and that a recovery of damages at law would not be an adequate remedy. Accordingly, in the event that Supplier breaches the terms, covenants or conditions of clauses 14 or 18, the Supplier hereby consents to a restraining order and/or injunctive relief against the Supplier, without the posting of a bond, in addition to any other legal or equitable rights or remedies Sovereign may have.

**25. Insurances.** The Supplier shall have in place agreements of insurance with reputable insurers incorporated in the United Kingdom insuring the goods and/ or services and any of Sovereign's materials in the Supplier's possession against the usual risks, including accident, fire and theft, for their full replacement value until the risk in them passes to Sovereign, and insuring against all other risks that a prudent supplier should consider reasonable. On request, the Supplier shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable. The Supplier shall on request assign to Sovereign the benefit of such insurance.

**26. Relationship.** Nothing in this agreement constitutes a relationship of partnership or of employer and employee between the parties and the parties expressly deny any such relationship. Except as expressly provided for in this clause, a person who is not a party to the Agreement shall not have any rights under the Agreements (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Agreement. Any subsidiary of Sovereign shall be entitled under the Agreements (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Agreement. The consent of any such subsidiary is not required in order to rescind or vary the Agreement or any provision of it.

**27. Intellectual Property.** Nothing in this agreement alters the Supplier's ownership of any intellectual property it owned prior to this Agreement. Sovereign shall own all materials delivered (the Materials) and all intellectual property created by the Supplier in performing its obligations under this Agreement. The Supplier agrees to supply Sovereign with the Materials on termination of this Agreement.

**28. Publicity.** Neither party shall without the written consent of the other (the giving of which consent shall be at the sole discretion of that party) advertise, publicly announce or provide to any other person information relating to the existence or details of this Agreement or use the other party's

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name in any format for any promotion, publicity, marketing or advertising purpose.

**29. Assignment and Sub-Contracting.** Neither party shall assign the Agreement or any of its rights or obligations there under without first having received the written approval of the other party. The Supplier shall not sub-contract the Agreement or any part thereof without having first obtained the written permission of Sovereign provided that this restriction shall not apply to sub-contracts for materials or minor details or any part of the services to be performed or materials or equipment to be supplied for which the sub-contractor is named in the Agreement. The Supplier shall be responsible for the acts, defaults and omissions of its sub-contractors, whether approval has been given to their appointment under this clause or not, as if they were his own and any consent given under this clause shall not relieve the Supplier of any of his obligations under the Agreement.

**30. Environment.** The Supplier warrants that prices for alternative products, where such products exist, which are free from harmful toxins, chemicals or gases, or which are manufactured from recycled material, and which are in any case proven to be less detrimental to the environment. The Supplier agrees to provide goods/services which accord with Sovereign's policy on the environment. The Supplier shall, when working at Sovereign's premises, perform the Agreement in accordance with the Sovereign's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

**31. Conflicts of Interest, fraud and Competition Law.** The Supplier shall take all appropriate steps to ensure that neither it nor any employee, servant, agent, supplier or sub-contractor is placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or such persons and the duties owed to the Sovereign under the provisions of the Agreement. The Supplier shall promptly disclose to Sovereign full particulars of any such conflict of interest which may arise. The Supplier shall safeguard the Agreement against fraud generally and, in particular, fraud on the part of the staff, or the Suppliers' directors. The Supplier shall notify Sovereign immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur. The Supplier warrants that it has engaged in no price fixing, bid rigging, illegal price information exchange agreement or other arrangement in breach of UK competition laws (including any retained EU law) relevant to the Agreement or arrangements between the parties.

**32. Data Protection.** In this clause, defined terms have the meanings given to them in the Data Protection Act 2018 ("DPA"), Regulation (EU) 2016/679 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "UK GDPR") and all other domestic legislation that relating to the processing of Personal Data, and any associated guidance and Codes of Practice issued by the Information Commissioner or relevant government department (collectively, "the Data Protection Legislation"). Sovereign is the "Controller" and Supplier is the "Processor". To the extent Supplier processes Personal Data of Sovereign, Supplier warrants and undertakes to: (i) comply at all times with the provisions and obligations imposed by the Data Protection Legislation, including obtaining any and all necessary registrations, notifications and consents required under the Data Protection Legislation for the purposes of this Order; (ii) process Personal Data only in accordance with the prior written instructions of Sovereign for the purpose of this Order, unless required otherwise by law in which case the Supplier shall inform Sovereign of that legal obligation in advance, unless the law prohibits that on important grounds of public interest; (iii) implement and maintain appropriate technical and organisational measures to protect any Personal Data from unauthorised or unlawful processing, against a Personal Data Breach and assist Sovereign in complying with its obligations under the Data Protection Legislation, including any rights exercised by individuals in relation to their Personal Data; (iv) not engage a sub-processor without prior written authorisation from Sovereign and ensuring compliance with any conditions attached to that consent; (v) ensure the reliability of any employees agents or offices reasonably requiring access to the Personal Data for the purposes of this Order, ensuring they are under an obligation of confidentiality, having undertaken training in Data Protection Legislation and having an understanding of the Supplier and Sovereign's obligations in

relation to the Personal Data; (vi) not transfer the Personal Data outside of the UK without the prior written consent of Sovereign, complying with any conditions attached to that consent; and (vii) upon termination or expiry of the Order, at the choice of Sovereign, either return to Sovereign or securely destroy the Personal Data (including copies) in the Supplier's possession. The Supplier shall assist Sovereign, as may be reasonably required by Sovereign, in complying with its obligations under the Data Protection Legislation including in relation to any other complaint or request relating to Sovereign's obligations under the Data Protection Legislation. The Supplier is required to notify Sovereign on the receipt of a Data Subject Access Request or Complaint regarding the Personal Data promptly. Sovereign shall be entitled on giving reasonable notice to the Supplier to request that the Supplier provides evidence and / or allows Sovereign to audit the procedures of the Supplier for the purposes of ensuring compliance with these terms and to take any reasonable steps to satisfy itself that the Supplier is so complying. The Supplier warrants and undertakes that in the event that it becomes aware of any unlawful processing or Personal Data Breach in relation to the Personal Data, it shall: (i) record the details of the suspected incident in a security incident log and immediately undertake an initial investigation into the suspected incident; (ii) promptly and no later than 24 hours of becoming aware of the event, give written notice of the same to Sovereign; (iii) take no further steps in relation to the breach until such time that it has Sovereign's written instructions to do so; (iv) co-operate fully with Sovereign in the course of any investigation undertaken by Sovereign, any corrective actions arising from that investigation, including any report to, and investigation by the Information Commissioner's Office and / or notification to the affected individuals; and (v) implement any measure necessary to restore the security and integrity of any compromised Personal Data.