



# **STANDARD CONTRACT TERMS AND CONDITIONS**

PROVISION OF GOODS AND/OR SERVICES

CREATING  
COMMUNITIES  
**TOGETHER**



This Agreement sets out the terms and conditions and subject to which the Supplier agrees to provide the Goods and/or Services (as applicable) to Southern Housing on a non-exclusive basis.

**Southern Housing** is a Registered Society under the Co-operative and Community Benefit Societies Act 2014 No. 8983 of Fleet House, 59-61 Clerkenwell Road, London, EC1M 5LA.

## 1 Definitions

### 1.1 Definitions

In these terms and conditions, the following expressions shall have the following meanings:

**Applicable Law and Regulation** means all legal and regulatory requirements, policies, guidance and industry codes, at the time of instruction (whether binding or non-binding) which are applicable, to any obligations of the relevant party under this Agreement and/or to which the relevant party is subject;

**Agreement** means this agreement between Southern Housing and the Supplier which incorporates these terms and conditions, the Purchase Order and the Specification;

**Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the United Kingdom including the (i) Data Protection Act 2018 (ii) the General Data Protection Regulation ((EU) 2016/679) (iii) Law Enforcement Directive (Directive (EU) 2016/680); (iv) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended and any applicable national implementing Laws as amended from time to time and all applicable Law, guidance, codes of practice issued relating to data protection or issued by a supervisory authority related to Personal Data and privacy;

**Delivery** means, where the Goods/Services are delivered by the Supplier, the point of delivery when the Goods/Services are removed from the transporting vehicle and stacked at the Premises or where the Goods/Services are collected by Southern Housing, the point of delivery shall be when the Goods/Services are loaded on Southern Housing's vehicle and "**Deliver**" and "**Delivered**" shall be construed accordingly;

**Equipment** means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from Southern Housing) in the performance of its obligations under the Agreement which, for the avoidance of doubt does not include the Goods/Services;

**Goods/Services** means any Goods/Services purchased by Southern Housing from the Supplier from time to time supplied in accordance with the Specification, the details of which are set out in the Purchase Order;

**Intellectual Property Rights (IPR)** means all patents, trademarks, service marks, logos, registered designs, applications for any of the forgoing, rights in designs and inventions, know how, rights under licences, copyright (including rights in computer software), database rights, domain names, trade or business names, moral rights or other similar rights or obligations

whether registered or not including applications for registration and all similar forms of protection anywhere in the world;

**Southern Housing Policies** means those policies, including the code of conduct, are located here: <https://www.southernhousing.org.uk>

**Parties** means Southern Housing and the Supplier when referred to together and each shall be referred to as a “Party”;

**Premises** means Southern Housing’s premises, or such other premises as Southern Housing may designate, specified in the Purchase Order and to where Goods/Services are to be delivered and/or Services are to be performed;

**Purchase Order** means Southern Housing’s written instructions to the Supplier setting out the Goods and/or Services to be provided under the Agreement;

**Services** means the services, duties and responsibilities to be provided by the Supplier pursuant to the Agreement;

**Specification** means the statement of particulars provided by Southern Housing to the Supplier detailing, without limitation, technical specification, manufacturer, dimensions, price and quality of work for the Goods and/or Services;

**Supplier** means the person, firm, company or corporation with whom Southern Housing places a Purchase Order;

**Southern Housing** means Southern Housing, a Registered Society as defined in Section 1(1) of the Co-operative and Community Benefit Societies Act 2014, registered in England (registered number 8983) and registered with Regulator of Social Housing (registered number 5171), whose registered office is at Fleet House, 59-61 Clerkenwell Road, London, EC1M 5LA and includes any subsidiary or holding company or any company owned by the same holding company as owns Southern Housing (and subsidiary and holding company shall bear the same respective meanings as in the Companies Act 2006).

## 1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- 1.2.1 references to clauses, schedules and appendices are to be construed as references to clauses and/or schedules and appendices to this Agreement and references to this Agreement include its schedules and appendices;
- 1.2.2 if there is any conflict between the terms set out in the body of this Agreement and  
the terms of any Purchase Order, the terms set out in the main body shall prevail;
- 1.2.3 headings to the clauses, schedules, appendices are inserted for convenience of reference only and shall be ignored in the interpretation of this Agreement
- 1.2.4 words importing the singular shall include the plural and vice versa,

words importing a gender shall include both and references to persons shall include bodies corporate and unincorporate; and

- 1.2.5 references to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time.

## **2 Duration**

- 2.1 Acceptance of the Purchase Order for the supply of Goods and/or Services (if no express acceptance of the Purchase Order has been given by the Supplier) shall be deemed to be conclusive evidence of acceptance of this Agreement by the Supplier.
- 2.2 Subject to any specific termination rights contained herein, this Agreement shall take effect on the date of acceptance by the Supplier of the first Purchase Order issued to the Supplier (the "Commencement Date") and shall expire on the later of:
- 2.2.1 the date specified in the Purchase Order; or
- 2.2.2 until such time as the Supplier has completed the performance of the Services and/or delivered the Goods/Services in accordance with the Agreement and Southern Housing has paid all sums due under the Agreement.

## **3 Provision of Goods and/or Services**

- 3.1 The Supplier shall supply the Goods/Services and Services under this Agreement at such place or places as set out in the Purchase Order and in accordance with Southern Housing's requirements, in consideration for payment of the charges stated in the Purchase Order and the supplier shall ensure that all Goods and/or Services delivered shall:
- 3.1.1 be of good commercial quality, comprise only new materials and be fit for the purposes for which they are supplied; and
- 3.1.2 comply with all applicable laws, regulations and standards.
- 3.2 The Supplier shall ensure that the Goods/Services and Services operate and conform in all respects with the Specification and correspond with the description and quantity set out in the Purchase Order.
- 3.3 The Supplier shall provide all the Equipment necessary for the supply of the Goods/Services and/or the Services. All Equipment brought onto the Premises shall be at the Supplier's own risk and Southern Housing shall have no liability for any loss of or damage to any Equipment unless and to the extent that the Supplier is able to demonstrate that such loss or damage was caused by the default of Southern Housing.
- 3.4 All Equipment brought onto the Premises will remain the property of the Supplier and the Supplier shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- 3.5 Southern Housing shall have the right before delivery, to send the Supplier an order amendment adding to, deleting or modifying the Goods subject to the order. If the order amendment will cause a change to the price or delivery date, then the Supplier must suspend performance of the Contract and notify the Buyer without delay. The Supplier must allow Southern Housing at least 10 working days to consider any new price and delivery date, and the Contract shall take effect when

Southern Housing accepts in writing the new price and/or delivery date.

## **4 Supply of Service**

4.1 In supplying the Services, the Supplier shall:

- 4.1.1 co-operate with Southern Housing in all matters relating to the Services and comply with all Southern Housing's instructions, Southern Housing policies including the code of conduct;
- 4.1.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
- 4.1.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
- 4.1.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
- 4.1.5 comply with all applicable laws; and
- 4.1.6 provide all equipment, tools and vehicles and other items as are required to provide the Services

## **5 Delivery**

- 5.1 The time of Delivery of the Goods and/or Services shall be of the essence and failure to Deliver within the time promised or specified in the Purchase Order shall enable Southern Housing (at its option) to release itself from any obligation to accept and pay for the Goods and/or Services and/or to cancel all or part of the Purchase Order therefor, in either case without prejudice to its rights and remedies under the Agreement.
- 5.2 Southern Housing shall not be obliged to accept any incomplete Delivery and/or performance of the services nor shall it be obliged to accept any Goods/Services in excess of quantities stated on the Purchase Order;
- 5.3 A Delivery note must be supplied with every Delivery against a Purchase Order. The Delivery note must quote the Purchase Order number and include the full name and registered address of the Supplier.
- 5.4 It is the responsibility of the Supplier to ensure the Goods/Services are Delivered as specified in the Purchase Order or, if no delivery instructions are provided in the Purchase Order, to the address specified by Southern Housing in writing. Unless authorised in writing by Southern Housing, Deliveries to the Premises will only be accepted Monday to Friday (excluding bank holidays) between 9am and 5.00pm.
- 5.5 The Goods/Services shall be packed and marked in the proper manner and in accordance with Southern Housing's instructions and any statutory requirements or the requirements of the carriers. All packaging materials will be considered non-returnable and will be destroyed.

## **6 Title and Risk**

- 6.1 Without prejudice to the rights and remedies of Southern Housing (including Southern Housing's rights and remedies under clause 7 below), risk in any Goods/Services that form part of the Goods and/or Services shall pass to Southern Housing at the time of completion of Delivery.
- 6.2 Ownership and passing of title in the Goods/Services shall, without prejudice to any other rights or remedies of Southern Housing pass to Southern Housing on payment by Southern Housing of the relevant invoice.

## **7 Inspection, Rejection and Guarantee of Goods and/or Services**

- 7.1 On Delivery of the Goods/Services, an authorised representative of Southern Housing must sign the delivery note to confirm receipt and a copy retained at the Premises however such signature does not constitute acceptance of the quality or quantity of the Goods/Services
- 7.2 No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by Southern Housing of any rights or remedies in respect of the Goods and/or Services.
- 7.3 Southern Housing may by written notice to the Supplier reject any Goods and/or Services which fail to meet the requirements specified in the Agreement. Such notice shall be given within a reasonable period after Delivery and/or the completion of performance of the Services. If Southern Housing shall reject any of the Goods and/or Services pursuant to this clause 7.3, Southern Housing shall be entitled (without prejudice to its other rights or remedies) to either:
  - 7.3.1 Give the Supplier the opportunity at the Supplier's expense to either remedy any defect in the Goods/Services and/or failure in the performance of the Services together with any damage resulting from such defect or failure (and where such defect or failure is capable of remedy) or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the Agreement are fulfilled, in accordance with Southern Housing's instructions;
  - 7.3.2 Reject the Goods/Services (in whole or in part) and require the Supplier to remove the Goods/Services (in whole or in part) at the risk and cost of the Supplier on the basis that a full refund for the Goods/Services so rejected shall be paid to Southern Housing forthwith by the Supplier;
  - 7.3.3 Refuse to accept any other Goods and/or Services to be Delivered without any liability to Southern Housing; or
  - 7.3.4 Where the failure is due to a shortfall in the provision of Goods and/or Services, request the Supplier makes good any shortfall within the time period specified by Southern Housing.



## 8 Price and Payment

- 8.1 The price of the Goods and/or Services shall be stated in the Purchase Order and shall be fixed and exclusive of VAT but inclusive of all other levies, duties, taxes, charges and expenses (including packaging, carriage, insurance and other disbursements) and no increase will be accepted by Southern Housing unless agreed in writing before the execution of the Purchase Order.
- 8.2 Unless otherwise agreed in writing by Southern Housing, the Supplier shall render an original VAT compliant invoice to Southern Housing in arrears and shall contain all appropriate references to the Goods and/or Services to which it relates, the Purchase Order number and a detailed breakdown of what has been provided and the relevant price.
- 8.3 Unless otherwise stipulated in the Order, invoices in PDF format, accompanied by relevant supporting documents as reasonably required by Southern Housing and quoting a valid purchase order number (PO Number) shall be e-mailed to [Purchase.Ledger@southernhousing.org.uk](mailto:Purchase.Ledger@southernhousing.org.uk)
- 8.4 Payment shall be made to the Supplier within 30 days of receipt of a valid and properly rendered invoice.
- 8.5 If Southern Housing fails to pay any sum due to the other Party on its due date for payment under this Agreement, then (unless such payment forms the subject of a genuine dispute) interest shall be eligible and payable on request from the due date until the actual date of payment (both before and after judgement) at a rate of 2% per annum above Barclays Bank's base rate from time to time and interest shall be deemed to accrue from day to day.
- 8.6 Without prejudice to any other right or remedy Southern Housing may have, Southern Housing reserves the right to set off:
  - 8.6.1 any amount payable to the Supplier under the Agreement in respect of any Goods and/or Services that the Supplier has failed to provide or provided inadequately; and/or
  - 8.6.2 any sums due from the Supplier to Southern Housing (including any sum that the Supplier is liable to pay in respect of breach of this Agreement) whether under the Agreement or in any other agreement which may exist between the Parties from time to time.

## 9 Warranties and Representations

- 9.1 The Supplier warrants represents and undertakes to Southern Housing that:
  - 9.1.1 the provision of Goods/Services and performance of the Services conform in all respects with all Applicable Law and Regulation that may be in force from time to time including for the avoidance of doubt, any site regulations that may apply to the Premises.
  - 9.1.2 for a minimum period of twelve (12) months from the delivery of the Goods/Services, the Goods/Services are free from defects in design and workmanship and are fit for the purpose that such Goods/Services are ordinarily used for and for any particular purpose made known to the Supplier by Southern Housing; and

- 9.1.3 the Goods and/or Services do not infringe the Intellectual Property Rights or other rights of any third party anywhere in the world
- 9.1.4 the Services shall be performed by appropriately qualified and trained personnel with all due skill, care and diligence and to such high standards of quality as it is reasonable for Southern Housing to expect; and
- 9.1.5 the Services shall be carried out with due expedition and within the time specified in the Agreement.

## **10 Confidentiality**

- 10.1 Each of the Parties shall, and shall use reasonable endeavours to procure that their officers, employees, agents and other representatives shall safeguard, treat as confidential, and not use for purposes other than the performance of its obligations under this Agreement, the existence of this Agreement, their relationship with Southern Housing and all information, documents or materials in whatever form which it acquires during the term of this Agreement and which concerns the other Party except:
  - 10.1.1 As required to enable the Supplier or Southern Housing to perform their respective obligations under this Agreement;
  - 10.1.2 As required:
    - 10.1.2.1 By law;
    - 10.1.2.2 By any relevant national or supranational regulatory bodies acting properly
    - 10.1.2.3 in accordance with their powers and having jurisdiction over the Supplier or Southern Housing;
    - 10.1.2.4 By the duly appointed auditor of the Supplier or Southern Housing acting properly and in accordance with their powers; or
    - 10.1.2.5 With the prior written consent of the other Party.
- 10.2 The obligations of confidentiality in this Agreement shall survive the termination of this Agreement and continue unless and until any of the relevant information enters the public domain through no fault of the relevant Party, its officers, employees, agents or other representatives.

## **11 Data Protection**

- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 11.2 The parties acknowledge that for the purposes of the Data Protection Legislation, Southern Housing is the data controller, and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Unless otherwise agreed in writing, the Data Processing Operations (as reviewed from time to time) and as set out in clause 11.5.17 is the only processing that the Supplier is authorised to do by the Employer.
- 11.3 The Supplier shall notify Southern Housing immediately if it considers that any of



Southern Housing's instructions infringe the Data Protection Legislation.

- 11.4 The Supplier shall provide all reasonable assistance to Southern Housing in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Employer, include:
- 11.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 11.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Works;
  - 11.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 11.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 11.5 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- 11.5.1 process that Personal Data only in accordance with the Data Processing Operations, unless the Supplier is required to do otherwise by Law. If it is so required, the Contractor shall promptly notify Southern Housing before processing the Personal Data unless prohibited by Law;
  - 11.5.2 ensure that it has in place Protective Measures to protect against a Data Breach, which can include but is not limited to accidental, unauthorised, or unlawful destruction, loss, alteration or access, having taken account of the:
    - a) nature of the data to be protected;
    - b) harm that might result from a Data Breach;
    - c) state of technological development; and
    - d) cost of implementing any measures;
  - 11.5.3 ensure that:
    - a) the Supplier's Persons do not process Personal Data except in accordance with this Contract (and in particular the Data Processing Operations);
    - b) it takes all reasonable steps to ensure the reliability and integrity of any of the Supplier's Persons who have access to the Personal Data and ensure that they: are aware of and comply with the Supplier's duties under this clause;
      - (i) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
      - (ii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by Southern Housing or as otherwise permitted by this Contract; and

- (iii) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- 11.5.4 not transfer Personal Data outside of the EU unless the prior written consent of Southern Housing has been obtained and the following conditions are fulfilled:
  - a) Southern Housing or the Supplier has provided appropriate safeguards in relation to the transfer (in accordance with Data Protection Legislation) as determined by Southern Housing;
  - b) the Data Subject has enforceable rights and effective legal remedies;
  - c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavors to assist Southern Housing in meeting its obligations); and
  - d) the Supplier complies with any reasonable instructions notified to it in advance by the Employer with respect to the processing of the Personal Data;
- 11.5.5 at the written direction of Southern Housing, delete or return Personal Data (and any copies of it) to Southern Housing on termination or expiry of this Contract unless the Supplier is required by Law to retain the Personal Data.
- 11.5.6 Subject to clause 11.5.7 the Supplier shall provide written notice to Southern Housing's Data Protection Officer (e-mail: [dataprotection@southernhousing.org.uk](mailto:dataprotection@southernhousing.org.uk)) immediately if it:
  - 11.5.6.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 11.5.6.2 receives a request to rectify, block or erase any Personal Data;
  - 11.5.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 11.5.6.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - 11.5.6.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - 11.5.6.6 becomes aware of a Data Breach.
- 11.5.7 The Supplier's obligation to notify under clause 11.5.6 shall include the provision of further information to Southern Housing in phases, as details become available.
- 11.5.8 Taking into account the nature of the processing, the Supplier shall provide Southern Housing with full assistance in relation to either Party's obligations under Data

- 11.5.9 Protection Legislation and any complaint, communication or request made under clause 11.5.6 (and insofar as possible within the timescales reasonably required by Southern Housing) including by promptly providing:
  - 11.5.9.1 Southern Housing with full details and copies of the complaint, communication or request;
  - 11.5.9.2 such assistance as is reasonably requested by Southern Housing to enable Southern Housing to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 11.5.9.3 Southern Housing, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 11.5.9.4 assistance as requested by Southern Housing following any Data Breach;
  - 11.5.9.5 assistance as requested by Southern Housing with respect to any request from the Information Commissioner's Office, or any consultation by Southern Housing with the Information Commissioner's Office.
- 11.5.10 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause.
- 11.5.11 The Supplier shall allow for audits of its Data Processing activity, including security and other organisational and technical measures by Southern Housing or Southern Housing's designated auditor.
- 11.5.12 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 11.5.13 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:
  - 11.5.13.1 notify Southern Housing in writing of the intended Sub-processor and Processing;
  - 11.5.13.2 obtain the written consent of Southern Housing;
  - 11.5.13.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 10 such that they apply to the Sub-processor; and
  - 11.5.13.4 provide Southern Housing with such information regarding the Sub-processor as Southern Housing may reasonably require.
- 11.5.14 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 11.5.15 Southern Housing may, at any time on not less than 30 Business Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (in either case in accordance with Data Protection Legislation which shall apply when incorporated by attachment to this Contract).

- 11.5.16 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. Southern Housing may on not less than 30 Business Days' notice to the Contractor amend this Contract to ensure that they comply with any guidance issued by the Information Commissioner's Office.
- 11.5.17 The Supplier shall indemnify Southern Housing against all liabilities, costs, expenses, damages, and losses (and all other reasonable professional costs and expenses) suffered or incurred by the Employer arising out of or in connection with:
- 11.5.17.1 any breach of the obligations contained within this clause 11 (Data Protection); or
- 11.5.17.2 any failure to comply with its obligations as a Processor under the Data Protection Legislation.
- 11.5.18 The following Data Processing Operations shall apply to this Contract:

Subject Matter of Processing:	the Supplier will process Personal Data for the purpose of providing Works in accordance with the terms of this Contract.
Duration of Processing	the Supplier will process the Personal Data until the issue of the certificate of making good or until the date of termination of this Contract, where applicable.
Nature and Purpose of the Processing:	to maintain records required to allow the Supplier to fulfil its duties to provide Works as set out within this Contract.
Type of Personal Data:	Personal Data to include: Name, address, contact telephone numbers, email address, lone working markers, employees job title, family, lifestyle and social circumstances, complaint details, behaviour, audio recording.
Special Category Data:	health information. Further information may be provided by residents or occupants at the time and during the Supplier undertaking Works.
Categories of Data Subject:	Residents, occupants, employees, sub-contractors and their employees.
Specific Processing Instructions:	Data will be shared between Southern Housing and the Supplier via a secure data interface. The Supplier will ensure that any information is shared securely between itself and any Sub-processor.

## 12 Intellectual Property Rights

- 12.1 All Intellectual Property Rights of Southern Housing will remain with Southern Housing and will not be transferred to the Supplier or any other person in any way and all Intellectual Property Rights of the Supplier will remain with the Supplier and will not be transferred to the other Party or any other person in any way.
- 12.2 All Intellectual Property Rights in and to any documents, designs, literature and any other materials produced by or on behalf of Southern Housing in the provision of or relating to the Services shall vest absolutely in Southern Housing, and the Supplier:
  - 12.2.1 hereby assigns such Intellectual Property Rights to Southern Housing absolutely; and
  - 12.2.2 waives any and all moral rights in such Intellectual Property Rights.
- 12.3 Each party grants to the other a non-exclusive licence to use its trade marks so far as it is reasonably required in connection with the provision of the Services in accordance with this Agreement. Each party will only use the other's trade marks in accordance with any guidelines issued by the relevant party from time to time.

## 13 Liabilities

- 13.1 Subject to the provisions of this clause 13, the liability of the Supplier for each contract year of this Agreement (commencing from the Commencement Date) shall be:
  - 13.1.1 For all defaults resulting in direct loss to the property of Southern Housing shall in no event exceed the sum of £2,000,000 or The Supplier's level of Public liability insurance, whichever is higher; and
  - 13.1.2 In respect of all other defaults whether in contract tort (including without limitation negligence) or breach of statutory duty or otherwise arising by reason of or in connection with this Agreement or howsoever otherwise caused shall in no event exceed a sum equivalent to one hundred and twenty five percent (125%) of the charges paid or payable to the Supplier in the year of this Agreement, as calculated as at the date of the event giving rise to the claim under consideration (or if such event occurs in the first twelve (12) months of the Term, the amount estimated to be paid in the first twelve (12) months of the Term).
- 13.2 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:
  - 13.2.1 death or personal injury caused by negligence, fraudulent misrepresentation or any other liability which cannot be excluded or limited by statute or law;
  - 13.2.2 any breach of any obligations implied by Section 12 of the Sale of Goods/Services Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
  - 13.2.3 any claim under clause 9;

- 13.2.4 any claim under clause 10;
- 13.2.5 liability in respect of which an indemnity is given.

- 13.3 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or willful misconduct of Southern Housing or breach by Southern Housing of its obligations under the Agreement.
- 13.4 In no circumstances shall Southern Housing be liable to the Supplier, whether in contract tort (including without limitation negligence) or breach of statutory duty or otherwise arising by reason or in connection with this Agreement for loss (whether direct or indirect) of profits, business, goodwill, anticipated savings or any consequential or indirect loss whatsoever

## 14 Insurance

- 14.1 The Supplier shall have in force and maintain during the Agreement for a period of not less than 6 years after the Agreement with a reputable insurance company policies of insurance for such amounts and areas of liability as is defined below:
  - 14.1.1 Product liability or professional indemnity insurance (as applicable) adequate to cover all risks in the performance of this Agreement from time to time with a minimum limit of two million pounds sterling (£2,000,000) for each individual claim or such higher/lower limit as Southern Housing may reasonably require (and as required by Law) from time to time;
  - 14.1.2 Public liability insurance adequate to cover all risks in the performance of this Agreement from time to time with a minimum limit of two million pounds sterling (£2,000,000) for each individual claim or such higher/lower limit as Southern Housing may reasonably require (and as required by Law) from time to time;
  - 14.1.3 Employers liability insurance adequate to cover all risks in the performance of this Agreement from time to time with a minimum limit of ten million pounds sterling (£10,000,000) for each individual claim or such higher/lower limit as Southern Housing may reasonably require (and as required by Law) from time to time.

## 15 Termination

- 15.1 This Agreement may be terminated:
  - 15.1.1 By Southern Housing:
    - 15.1.1.1 if the Supplier persistently fails to comply with clauses 5 and 7.3 above and the failure is materially adverse to the interests of Southern Housing or prevents Southern Housing from discharging a statutory duty;  
or



- 15.1.1.2 if the Supplier commits any material breach of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 5 days of a written request to remedy the same; or
  - 15.1.1.3 immediately after giving written notice to the Supplier at any time.
- 15.1.2 By the Supplier if Southern Housing commits any material breach of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same;
- 15.1.3 Forthwith if either Party shall convene a meeting of creditors or propose a voluntary arrangement within Part I of the Insolvency Act 1986 or shall have committed an Insolvency Event.
- 15.2 Any termination of this Agreement pursuant to this Clause 15 or any other provision of this Agreement shall be without prejudice to any other rights or remedies a Party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## **16 Probity**

- 16.1 The Supplier must not do and ensure each Subcontractor and Supplier does not do anything which places Southern Housing in breach of any restriction in its Probity Policy on making apayment or granting a benefit to certain businesses trading for profit.

## **17 Assignment and Sub-Contracting**

- 17.1 The Supplier shall not without the written consent of Southern Housing assign, sub-contract, novate or in any way dispose of the benefit and/or the burden of the Agreement or any part of the Agreement. Southern Housing may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts, and omissions were its own.
- 17.2 Where Southern Housing has consented to the placing of sub-contracts, the Supplier shall, at the request of Southern Housing, send copies of each sub-contract, to Southern Housing as soon as is reasonably practicable.
- 17.3 Southern Housing may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement

## 18 General

- 18.1 Nothing in this Agreement shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between Southern Housing and the Supplier. The Supplier is not an employee of Southern Housing. The Supplier, whether sole trader or not, is responsible and liable to meet PAYE and National Insurance obligations for its staff, employees or agents as applicable.
- 18.2 Any failure, delay, relaxation or concession by Southern Housing in the exercise of its rights to insist upon the performance of any of the obligations or to exercise any rights hereunder shall not be construed as a waiver or relinquishment of the future exercise of any such right and the obligations of the Supplier shall continue in full force and effect.
- 18.3 Nothing in this Agreement shall confer, or is intended to confer, on any third party (save for affiliates) any benefit or the right to enforce any term of this agreement under the Contracts (Rights of Third Parties) Act 1999.
- 18.4 Upon termination of this Agreement for whatever reason each party shall be entitled to recover on demand from the other all sums which the other is liable to pay under this Agreement
- 18.5 This Agreement, together with the documents referred to herein, constitutes the entire agreement between the Parties as to the subject matter.
- 18.6 The Parties acknowledge that from time to time variations, deletions or additions may have to be made to this Agreement. No such variations, deletions or admissions shall be effective except by agreement in writing between the Parties in accordance with Clause 19.1 below
- 18.7 If any provision of the Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.
- 18.8 If the Contract involves any work or services which the supplier performs on Southern Housing's premises then the Supplier shall ensure that the Supplier's employees, their sub-Contractors and their employees and any other person associated with the Supplier will adhere to the obligations imposed on the Supplier by current safety legislation or any regulations that Southern Housing may notify to the Seller in writing.

## 19 Notices

- 19.1 Except as otherwise expressly provided within the Agreement, no notice or other communication from one Party to the other shall have any validity under the Agreement unless made in writing and validly served by or on behalf of the Party sending the communication and:
  - 19.1.1 delivered personally; or
  - 19.1.2 sent by recorded delivery; or
  - 19.1.3 emailed successfully; to the name and address of the Parties

set out in the Purchase Order.

## **20 Safeguarding**

- 20.1 In providing the services and works, the Supplier warrants that it will cooperate with Southern Housing to enable Southern Housing to comply with section 11 of the Children Act 2004 and sections 42 to 47 of the Care Act 2014
- 20.2 The Supplier shall make arrangements during the provision of the services and works to ensure that it complies with the Children Act 2004 and accordingly the Supplier shall comply with Southern Housing's policy regarding safeguarding children.
- 20.3 The Supplier shall make arrangements during the provision of the services and works under this Contract to ensure that it complies with the Care Act 2014 and accordingly the Supplier shall comply with Southern Housing's policy regarding safeguarding of vulnerable adults.

## **21 Anti-Money Laundering**

- 21.1 The Supplier will comply with any anti-money laundering legislation relevant to its business or the Orders including but not limited to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
- 21.2 In the event that the Supplier remits monies to Southern Housing, the Supplier will satisfy itself as to the source of the funds being remitted, and, in particular, that it does not suspect the funds to represent the proceeds of crime.
- 21.3 The Supplier will indemnify Southern Housing in respect of any loss to Southern Housing resulting, directly or indirectly, from the Supplier's failure to comply with this Clause.

## **22 Modern Slavery Act 2015**

- 22.1 The Supplier will support Southern Housing in meeting its obligation to publish an annual statement detailing the steps taken to eradicate slavery or human trafficking in any of part of its supply chain.
- 22.2 On request, the Supplier will present an annual statement to Southern Housing on their policy framework covering the relevant principles, due diligence and ongoing monitoring and performance for their direct employees, suppliers and sub-contractors.

## **23 Dispute Resolution**

- 23.1 In the first instance, the Parties shall use their best efforts to negotiate in good faith to settle amicably any dispute which may arise in respect of the construction or effect of this Agreement or the rights duties and liabilities of

the Parties hereunder or any matter or event connected with or arising out of this Agreement (a “Dispute”) within 20 calendar days.

- 23.2 If the Dispute is not settled in accordance with clause 23.1 above, either party may (but only with the prior written consent of the other) refer (the “reference”) such dispute to the Chartered Institute of Arbitrators in London. The seat of the Arbitration shall be London.

## **24 Governing Law**

- 24.1 This Agreement shall be governed by and interpreted in accordance with the laws of England and Wales and the Parties agree to submit to the exclusive jurisdiction of the English courts any dispute that arises in connection with the Agreement

## **25 Bribery, Corruption & Fraud**

- 25.1 The Supplier warrants and represents to Southern Housing that neither the Supplier nor any of their officers, employees, agents, advisers, suppliers sub-contractors, service providers, Directors, Persons with Significant Control or other persons associated with it:

- 25.1.1 has been convicted of any offence involving bribery or corruption, fraud or dishonesty
- 25.1.2 to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Relevant Law; or
- 25.1.3 has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts.

- 25.2 The Supplier shall promptly notify Southern Housing if, at any time during the delivery of this Agreement, its circumstances, knowledge or awareness or that of its officers, employees, agents, advisers, suppliers sub-contractors, services providers, Directors, Persons with Significant Control or other persons associated with it, changes such that it (or they) would no longer be able to meet the warranty set out in clause 25.1

- 25.3 Southern Housing may terminate this Agreement with immediate effect upon written notice to the Supplier if at any time after the Commencement of this Agreement the Supplier or any of its officers, employees, agents, advisers, suppliers sub-contractors, services providers, Directors, Persons with Significant Control or other persons associated with it:

- 25.3.1 pleads guilty to or is convicted of any offence involving bribery or corruption, fraud or dishonesty;
- 25.3.2 is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Relevant Laws; and/or

- 25.3.3 is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts.