

**SCHEDULE 3**  
**GOODS NOT FOR RESALE TERMS OF BUSINESS**  
**v2 2022**

**1. DEFINITIONS**

**Applicable Laws:** all applicable laws, statutes, regulations from time to time in force.

**Business Days:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Business Hours:** the period from 9.00 am to 5.00 pm on any Business Day.

**Change:** an amendment to:

a. the scope, nature, volume or execution of the Goods and Services under this agreement; or b. any other term or schedule of this agreement.

**Change Control Note:** the written record of any Change agreed or to be agreed by the parties pursuant to the Change Control Procedure.

**Change Control Procedure:** the procedure for agreeing a Change, as set out in clause 9.

**Charges:** the sums payable for the Goods and Services, as set out in Schedule 2.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Employees:** all persons involved in the management and performance of the agreement whether an employee, supplier, contractor or sub-contractor of the Supplier, who are or may be entitled to transfer to the employment of the New Provider, pursuant to the Transfer Regulations.

**Employment Liabilities:** all losses, damages, compensation, claims, demands, actions, fines, penalties, awards, liabilities, expenses and costs (including legal costs and expenses on an indemnity basis) in relation to Employees.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings that is agreed in writing by Wickes and the Supplier.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trademarks, service marks, business names and domain names, utility models, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Milestones:** a date by which a part of the Services is to be completed, as set out in Schedule 1.

**New Provider:** Wickes, and, where relevant, any replacement service provider nominated by Wickes to provide any of the Goods and/or Services or any other similar goods and/or services on termination (in whole or part) of the agreement.

**Order:** means any order from Wickes to the Supplier for the supply of the Goods and Services in such form as Wickes may determine from time to time which shall incorporate the terms of this agreement.

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**Sanctions:** means any laws, regulations, statutes or prohibitions relating to the adoption, implementation and/or enforcement of economic sanctions, export controls, trade embargoes or other restrictive measures.

**Service Levels:** means the service levels set out in Schedule 1, as may be varied by written agreement from time to time;

**Services:** the services set out in Schedule 1, including services which are incidental or ancillary to such services.

**Supplier:** means the person, firm or company who enters into this agreement with Wickes; and

**Supplier's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by the Supplier, its agents, subcontractors or consultants to Wickes and used directly or indirectly in the supply of the Services.

**Transfer Regulations:** Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended and re-enacted).

**Wickes:** Wickes Building Supplies Limited.

**Wickes Supplier Manual:** Wickes' supplier manual available at [www.wickesplc.co.uk/suppliers/suppliermanual/](http://www.wickesplc.co.uk/suppliers/suppliermanual/) or made available on request.

**Wickes Equipment:** any equipment, including tools, systems, cabling or facilities, provided by Wickes, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services.

**Wickes Materials:** has the meaning set out in clause 4.3(j).

## 2. SUPPLY OF GOODS

2.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by Wickes, expressly or by implication, and in this respect Wickes relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials and workmanship; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

2.2 The Supplier shall accept and fulfil all Orders in respect of any Goods in accordance with this agreement.

2.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the agreement in respect of the Goods.

2.4 Wickes may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the agreement.

2.5 If following such inspection or testing Wickes considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 2.1, Wickes shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

2.6 Wickes may conduct further inspections and tests after the Supplier has carried out its remedial actions 2

### 3. DELIVERY OF GOODS

3.1 The Supplier shall ensure that:

(a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

3.2 The Supplier shall deliver the Goods:

(a) on the date specified in the Order;

(b) to Wickes' premises at or such other location as is set out in the Order or as instructed by Wickes before delivery (**Delivery Location**); and

(c) during the Wickes' normal hours of business, or as instructed by Wickes.

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

3.4 Title and risk in the Goods shall pass to Wickes on completion of delivery.

### 4. SUPPLY OF SERVICES

4.1 The Supplier shall from the date set out in the Order and for the duration of the agreement supply the Services to Wickes in accordance with the terms of the agreement. The Supplier shall accept and fulfil all Orders in respect of any Services in accordance with this agreement.

4.2 The Supplier shall meet any performance dates for the Services specified in the Order or that Wickes notifies to the Supplier and time is of the essence in relation to any of those performance dates.

4.3 In providing the Services, the Supplier shall:

(a) provide the Services and the Deliverables in accordance with Schedule 1;

(b) co-operate with Wickes in all matters relating to the Services, and comply with Wickes' reasonable instructions;

(c) perform the Services with a reasonable level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

(d) use personnel 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;

(e) ensure that the Services and Deliverables will conform in all respects with Schedule 1 and that the Deliverables shall be fit for any purpose expressly or implicitly made known to the Supplier by Wickes;

(f) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

(g) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing

the Services are of the best quality and are free from defects in workmanship, installation and design;

(h) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

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(i) observe all health and safety rules and regulations and any other security requirements that apply at any of Wickes' premises;

(j) hold all materials, equipment and tools, drawings, specifications and data supplied by Wickes to the Supplier (**Wickes Materials**) in safe custody at its own risk, maintain Wickes Materials in good condition until returned to Wickes, and not dispose or use Wickes Materials other than in accordance with Wickes' written instructions or authorisation;

(k) not do or omit to do anything which may cause Wickes to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business;

(l) notify Wickes in writing immediately upon the occurrence of a change of Control of the Supplier.

## 5. WICKES REMEDIES

5.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, Wickes shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:

(a) to terminate the agreement with immediate effect by giving written notice to the Supplier;

(b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by Wickes in obtaining substitute goods and/or services from a third party;

(d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and

(e) to claim damages for any additional costs, loss or expenses incurred by Wickes which are in any way attributable to the Supplier's failure to meet such dates.

5.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 2.1, then, without limiting or affecting other rights or remedies available to it, Wickes shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(e) to recover from the Supplier any expenditure incurred by Wickes in obtaining substitute goods from a third party; and

(f) to claim damages for any additional costs, loss or expenses incurred by Wickes arising from the Supplier's failure to supply Goods in accordance with clause 2.1.

5.3 If the Supplier has supplied Services that do not comply with the requirements of clause 4.3(e) then,

without limiting or affecting other rights or remedies available to it, Wickes shall have one or more of the following rights and remedies:

- (a) to terminate the agreement with immediate effect by giving written notice to the Supplier;
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;

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- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by Wickes in obtaining substitute services or deliverables from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by Wickes arising from the Supplier's failure to comply with clause 4.3(e).

5.4 Wickes shall have the right at any time and for any reason to terminate an Order in whole or in part by giving the Supplier written notice whereupon all work on the Order shall be discontinued and Wickes shall pay to the Supplier 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.

5.5 Wickes' rights and remedies under the agreement are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## **6. TUPE**

6.1 The Supplier shall provide to Wickes upon reasonable request, full details of the terms and conditions of employment of any Employee together with details of any claims or potential claims by any Employee against their employer and will notify Wickes of any changes immediately. The Supplier hereby acknowledges and agrees that the information so provided may be released to others in connection with the tendering or re-tendering of the agreement (or any part) at any time prior to the expiry or termination of the agreement.

6.2 As soon as notice of termination of the agreement (or any part) is served and, in any event, in the 6 months immediately prior to the expiry of the agreement (whichever occurs earlier), the Supplier shall not, without the prior written consent of Wickes (which shall not be unreasonably withheld):

- (a) materially vary or allow to be varied the terms and conditions of employment of any Employees;
- (b) increase or allow to be increased the number of Employees; or
- (c) change or allow to be changed the identity of the Employees.

6.3 On termination of the agreement (for whatever reason), in the event that any Employee transfers or claims to be entitled to transfer to the employment of the New Provider, the Supplier shall indemnify the New Provider against all Employment Liabilities arising in connection with or as a result of:

- (a) any claim by any Employee arising directly or indirectly from any act or omission of the relevant employer in relation to such Employee (which shall be deemed to include the cessation of such Employee's employment) or arising by virtue of their employment prior to the agreement termination date (including accrued redundancy entitlement);
- (b) any claim by the Employee, a trade union or staff association or any other employee

representatives (including but not limited to any claims for protective awards) arising from or connected with any failure by the relevant employer to comply with any legal obligations to such trade unions, staff associations or employee representatives, whether any such claim arises or has its origin before or after the agreement termination date; and

- (c) any failure by the relevant employer to properly disclose to the New Provider all relevant information in relation to the Employees and/or to properly consult with those Employees in accordance with the Transfer Regulations.

## 7. CHARGES AND PAYMENT

7.1 The Charges for the Goods and Services are set out in Schedule 2. The Charges shall be fixed for the Initial Term, unless otherwise stated in Schedule 2. Any revisions must be agreed in writing by both parties.

7.2 The price for the Goods shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by Wickes.

7.3 In respect of the Services, where the Charges are calculated on a time and materials basis:

- (a) the Supplier's daily fee rates for each individual person as set out in Schedule 2 are calculated on the basis on an eight-hour day, worked during Business Hours;
- (b) the Supplier shall not be entitled to charge on a pro rata basis for part days worked by the Supplier's team during Business Hours, unless it has Wickes' prior written consent to do so;
- (c) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services, and the Supplier shall indicate the time spent per individual in its invoices;
- (d) in respect of the Goods, the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services, and the Supplier shall indicate the time spent per individual in its invoices.

7.4 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow Wickes to inspect such records at all reasonable times on request.

7.5 In respect of the Goods, the Supplier shall invoice Wickes on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice Wickes on as set out in Schedule 2. Each invoice shall include such supporting information required by Wickes to verify the accuracy of the invoice, including the relevant purchase order number.

7.6 Wickes shall pay each undisputed invoice submitted to it by the Supplier within 60 days of receipt to a bank account nominated in writing by the Supplier.

7.7 If Wickes receives an invoice which it reasonably believes includes a sum which is not valid and properly due:

- (a) Wickes shall notify the Supplier in writing as soon as reasonably practicable;
- (b) Wickes' failure to pay the disputed Charges shall not be deemed to be a breach of this agreement;
- (c) Wickes shall pay the balance of the invoice which is not in dispute by the due date for payment of the invoice;
- (d) to the extent that Wickes is obliged, following resolution of the dispute, to pay an amount, then the Supplier may charge interest in accordance with clause 7.9 (Interest on late payments) from the original due date until the date of payment;

(e) to the extent that the Supplier is obliged to refund an amount to Wickes, interest shall be added to that amount in accordance with clause 7.9 (Interest on late payments); and

(f) once the dispute has been resolved, where either party is required to make a balancing payment, it shall do so within 30 Business Days and, where the Supplier is required to issue a credit note, it shall do so within 30 Business Days.

7.8 All amounts payable by Wickes under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to Wickes, Wickes shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

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7.9 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% per year above the Bank of England's base rate from time to time, but at 2% per year for any period when the base rate is below 0%.

7.10 In the event that Wickes acquires or merges with other companies or businesses, the lowest negotiated Charges with either company or business will apply from the date of the acquisition/merger to all sales to Wickes. Wickes further reserves the right to re-negotiate terms when the acquisition/merger has a significant effect on volumes of Goods and/or Services purchased.

## 8. DEFAULT BY WICKES

A failure by Wickes to comply with the terms of this agreement can only relieve the Supplier from complying with its obligations under this agreement with effect from the date on which the Supplier notifies Wickes in writing and in reasonable detail of Wickes' failure and, in respect of the Services, its effect or anticipated effect on the same.

## 9. CHANGE CONTROL

9.1 Either party may submit a written request for Change to the other party in accordance with this clause 9.1, but no Change will come into effect until a Change Control Note has been signed by the authorised representatives of both parties.

9.2 If Wickes requests a Change:

(a) Wickes will submit a written request to the Supplier containing as much information as is necessary to enable the Supplier to prepare a Change Control Note; and

(b) within 5 Business Days of receipt of a request, the Supplier will, unless otherwise agreed in writing by the parties, send to Wickes a Change Control Note.

9.3 If the Supplier requests a Change, it will send to Wickes a Change Control Note.

9.4 A Change Control Note must contain sufficient information to enable Wickes to assess the Change, including as a minimum:

(a) the title of the Change;

(b) the originator of the Change and date of request;

(c) description of the Change;

(d) details of the effect of the proposed Change on:

(i) the Goods and/or Services;

(ii) the Charges;

(iii) any systems or operations of Wickes which communicate with, or are otherwise affected by, the Goods and/or the Services;

(iv) any other term of this agreement;  
(v) the date of expiry of validity of the Change Control Note; and (vi) provision for signature by Wickes and Supplier.

9.5 Each party will bear its own costs in relation to compliance with the Change Control Procedure. 7

## **10. AUDIT**

10.1 The Supplier shall allow Wickes (or its professional advisers) to access the Supplier's premises, personnel, systems and relevant records to verify that the Charges and any other sums charged to Wickes under this agreement are accurate.

10.2 Subject to the Supplier's confidentiality obligations, the Supplier shall provide Wickes (and its professional advisers) with all reasonable co-operation, access and assistance in relation to each audit.

10.3 Wickes shall provide at least 30 Business Days' notice of its intention to conduct an audit and any audit shall be conducted during Business Hours.

10.4 Wickes and its professional advisers shall have the right to take copies of any records which they reasonably require and remove such copies and the Supplier shall provide the necessary facilities to assist in copying free of charge.

## **11. INTELLECTUAL PROPERTY**

11.1 The Supplier acknowledges that all Wickes Materials supplied by Wickes to the Supplier and all rights in Wickes Materials are and shall remain the exclusive property of Wickes and shall be used by the Supplier solely for the purpose of performing its obligations under the agreement. The Supplier shall keep Wickes Materials in safe custody at its own risk, maintain them in good condition until returned to Wickes and not dispose or use the same other than in accordance with Wickes' written instructions or authorisation.

11.2 The Supplier shall promptly (on Wickes' written request at any time and in any event on termination of the agreement) either deliver to Wickes or, at Wickes' sole option, destroy all Wickes Materials. In the case of Wickes Materials held in machine readable form "destruction" shall involve erasing these from the medium on which they are held.

11.3 Any Intellectual Property Rights in or relating to any Goods/Services derived from or containing any Wickes Intellectual Property Rights and in any materials and information supplied by Wickes shall belong to Wickes and the Supplier hereby assigns all such Intellectual Property Rights to Wickes. Wickes Intellectual Property Rights, materials and information shall only be used by the Supplier to the extent necessary to fulfil its obligations under the agreement. Under no circumstances shall the Supplier (whether during or after termination of the agreement) sell, hire or otherwise dispose or part with possession of any Goods derived from or containing any Wickes Intellectual Property Rights.

11.4 Supplier shall keep in strict confidence all information concerning the business, products and customers of Wickes. The Supplier shall not without Wickes' prior written consent make use of Wickes' name or any of its Intellectual Property Rights for promotional or publicity purpose.

## **12. COMPLIANCE WITH LAWS AND POLICIES**

12.1 In performing its obligations under the agreement, the Supplier shall:

- (i) comply with all Applicable Laws from time to time in force; and
- (ii) comply with Wickes Supplier Manual.



### **13. INDEMNITY**

13.1 The Supplier shall indemnify Wickes against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Wickes arising out of or in connection with:

(a) any claim made against Wickes for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding Wickes Materials);

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(b) any liability incurred under the Consumer Protection Act 1987 in respect of the Goods and/or their packaging;

(c) any claim made against Wickes by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and

(d) any claim made against Wickes by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

13.2 The Supplier undertakes not to structure its business and the provision of the Goods or Services in any way that an employee of the Supplier (or agent or subcontractor) could claim to be entitled to transfer to the employment of Wickes pursuant to the Transfer Regulations. In the event that any such employee claims to be or is entitled to transfer pursuant to these Regulations, the Supplier shall indemnify Wickes in full against any costs, claims, losses or liabilities suffered as a result as set out in clause 6.3(b).

13.3 If the Supplier is required to indemnify Wickes under this clause 13, Wickes shall:

(a) notify the Supplier in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 13.1(a) (IPRs Claim);

(b) allow the Supplier, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Supplier shall obtain Wickes' prior approval of any settlement terms, such approval not to be unreasonably withheld;

(c) provide the Supplier with such reasonable assistance regarding the IPRs Claim as is required by the Supplier, subject to reimbursement by the Supplier of Wickes' costs so incurred; and

(d) not, without prior consultation with the Supplier, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Supplier considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of Wickes into disrepute.

13.4 This clause 13 shall survive termination of the agreement.

### **14. INSURANCE**

The Supplier shall maintain such insurances as are appropriate having regard to its obligations under the agreement and in particular public and product liability insurance for a minimum cover of £10million per claim and employer's liability insurance for a minimum of £5million per claim with an insurer acceptable to Wickes. The Supplier shall produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

### **15. TERMINATION**

15.1 Without affecting any other right or remedy available to it, Wickes may terminate the

agreement: (a) with immediate effect by giving written notice to the Supplier if:

- (i) there is a Control of the Supplier; or
- (ii) the Supplier commits a breach of clause 12 (Compliance with laws and policies); (iii) the Supplier fails to achieve the Service Levels.

15.2 Without affecting any other right or remedy available to it, either party may terminate the agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

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- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

15.3 Where Wickes terminates the agreement pursuant to clause 15.2, Wickes may on or within 14 days of giving the termination notice cancel any undelivered Orders without any liability to the Supplier.

## **16. CONSEQUENCES OF TERMINATION**

16.1 On termination of the agreement, the Supplier shall immediately deliver to Wickes all Deliverables whether or not then complete, and return all Wickes Materials. If the Supplier fails to do so, then Wickes may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the agreement.

16.2 Termination or expiry of the agreement shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16.3 The Supplier shall, if so requested by Wickes, provide all assistance reasonably required by Wickes to facilitate the smooth transition of the Services to Wickes or any replacement supplier appointed by it.

16.4 Any provision of the agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the agreement shall remain in full force and effect.

## **17. DATA PROTECTION**

The Parties agree to comply with the provisions of Schedule 4 in relation to their respective data protection obligations.

## **18. CONFIDENTIALITY**

18.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 18.2.

18.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 18; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the agreement.

## 19. SANCTIONS

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19.1 The Supplier (which for the purposes of this clause 19 shall include all of the Supplier's employees, agents, representatives, affiliates and any person employed by or acting on behalf of the Supplier) agrees that it will not take or knowingly permit any action to be taken that would cause Wickes to be in violation of any applicable Sanctions with which it is required to comply.

19.2 The Supplier acknowledges and agrees that it is familiar with and will abide by the Sanctions in all the countries in which it is incorporated or established and in which it does business.

19.3 If the Supplier discovers that it has or may have violated any of the provisions in this clause 19 the Supplier shall immediately notify Wickes and cooperate with any investigations by Wickes into such matters.

19.4 Without prejudice to the generality of clauses 19.1, 19.2 and 19.3 inclusive, the Supplier undertakes with Wickes to establish and at all times maintain and implement such policies and procedures as may be required to ensure that it prevents violations of applicable Sanctions.

## 20. ANTI BRIBERY

20.1 The Supplier shall:

(a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anticorruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

(c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and clause 20.1(b), and will enforce them where appropriate;

(d) notify Wickes (in writing) if it becomes aware of any breach of clauses 20.1(a) or 20.1(b), or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of this agreement;

(e) The Supplier agrees that its books, records and all accounts shall accurately reflect any and all payments in respect of transactions of the Supplier whether under this agreement or otherwise and Wickes (and Wickes' authorised representatives) shall have the right to inspect, audit and to take copies of the Supplier's books, records and accounts at any time on prior written notice.

20.2 The Supplier shall ensure that any person associated with the Supplier who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 20 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Wickes for any breach by such persons of any of the Relevant Terms.

20.3 Breach of this clause 20 shall be deemed a material breach under clause 15.2(a).

20.4 Without prejudice to Wickes' other rights in this agreement, Wickes shall not be required to make any payments to the Supplier that might otherwise be due from Wickes if such payments are related to a transaction in connection with which the Supplier has breached this clause 20.

## 21. ANTI FACILITATION OF TAX EVASION

21.1 The Supplier shall:

- (a) not engage in any activity, practice or conduct which would constitute either:
  - (i) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
  - (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;

- (b) establish, maintain and enforce its own policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person and to ensure compliance with clause 21.1(a);

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- (c) notify Wickes in writing if it becomes aware of any breach of clause 24.1(a) or has reason to believe that it has received a request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 in connection with the performance of the agreement.

21.2 The Supplier shall ensure that any its agents, consultants, contractors, subcontractors or other persons engaged in performance of the Supplier's obligations under the agreement do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 21 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Wickes for any breach by such persons of any of the Relevant Terms.

21.3 For the purposes of clause 21.2, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017.

## 22. NOTICES

22.1 Any notice given pursuant to or in relation to this agreement shall be in writing and shall be given if left at or sent by first class registered or recorded post to the registered office of the other party.

22.2 Notices shall be deemed to have been received, if delivered personally, at the time of delivery; and in the case of first class registered or recorded post, 48 hours from the date of posting. In proving such service it shall be sufficient to prove that the envelope containing such notice was correctly addressed to the relevant party (in accordance with this clause) and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered letter.

## 23. ASSIGNMENT

Neither party may assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement without obtaining the prior written consent of the other party.

## 24. THIRD PARTY RIGHTS

Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

## 25. FORCE MAJEURE

25.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;

- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party).

25.2 Provided it has complied with clause 25.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in

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the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

25.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

25.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 5 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

25.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than two weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving four weeks' written notice to the Affected Party.

## **26. WAIVER**

26.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

26.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **27. VARIATION**

Subject to clause 9 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## **28. SEVERANCE**

If any provision or part-provision of the agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the agreement is deemed deleted under this clause 28 the parties shall negotiate in good faith to

agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **29. NO PARTNERSHIP/AGENCY**

29.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

29.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **30. RIGHTS AND REMEDIES**

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

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## **31. COUNTERPARTS**

31.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

31.2 No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

## **32. ENTIRE AGREEMENT**

32.1 This agreement constitutes the entire agreement between the parties.

32.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

## **33. GOVERNING LAW**

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

## **34. JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation. Where the Supplier is domiciled outside the United Kingdom, Wickes may, at its sole option, elect for a dispute or claim to be referred and finally resolved by arbitration under the UNCITRAL arbitration rules. The London Court of International Arbitration shall be the appointing authority and the number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language used shall be English.

