

# Terms and conditions of purchase

The following constitute South Essex Homes Limited's standard terms and conditions of purchase and apply to all purchase orders placed by South Essex Homes Limited.

## 1. Receipt of Orders

1.1 No goods or services are to be supplied except against an official order produced by South Essex Homes Limited.

## 2. These Conditions

2.1 Subject to clause 2.3 below, unless otherwise agreed in writing, these conditions ("the Conditions") and the Official Order shall override any conditions or terms stipulated or referred to by the Supplier in his order or through negotiations with South Essex Homes Limited. The submission of a set of alternative conditions, sales contract or other conditions will not override the Conditions. Any written amendments must be agreed in writing by an authorised officer of the South Essex Homes Limited.

2.2 The acceptance of an Official Order and/or delivery of goods/provision of services is deemed to be acceptance of the Conditions.

2.3 For the avoidance of doubt where South Essex Homes Limited enters into a formal written contract with the supplier for the supply of goods and or services, and where there is a conflict between the terms of that formal written contract and the Conditions, the terms of the formal written contract shall apply.

## 3. Prices

All prices given are for goods/services delivered to the designated delivery point stated on the Order and are fully inclusive of all charges and must express all taxes and charges separately.

## 4. Deliveries

4.1 Delivery notes must be forwarded with every delivery against every Official Order. Every delivery note must quote the South Essex Homes Limited Purchase Order number ("Official Order Number") and must provide the full contact name, address and telephone number of the Supplier.

4.2 Delivery of goods must be to the delivery point specified in the Official Order and shall be the responsibility of the Supplier. Where assistance of any kind is required by the Supplier in offloading materials, this must be notified in writing to an Officer of South Essex Homes Limited in advance.

4.3 Deliveries will only be accepted Monday to Friday during office hours except Bank Holidays.

## **5. Acceptance of goods/services**

5.1 An authorised officer of South Essex Homes Limited as named in the Official Order will sign for a given number of packages delivered at a specific time. Such a signature cannot be taken to mean acceptance of the quality or quantity of the goods beyond the receipt of the designated number of boxes, even where the delivery note provided to South Essex Homes Limited states that a signature signifies that goods have been received in a specific condition.

5.2 Inferior or defective goods or goods in excess of Order will be rejected by South Essex Homes Limited. Goods not accepted for any reason remain the property of the Supplier at all times. A note of rejection with reasons will be sent to the Supplier requesting that the rejected goods be removed. Where no action is taken by the Supplier within five working days, a reminder notice will be forwarded giving notice of a final date by which the goods must be removed. Following that date, South Essex Homes Limited reserves the right to dispose of the goods as they see fit.

## **6. Quality**

Where this purchase order includes or is for the supply of services or work, the Supplier will provide the same only by appropriately qualified persons acting with due skill and care to complete the service or work with due diligence and in a good and workmanlike manner.

## **7. Payment**

7.1 No payment shall be made by South Essex Homes Limited unless the Supplier is in receipt of an Official Order.

7.2 The Official Order Number must be quoted on your invoice. If the order reference is not quoted this may result in a delay in making your payment or in your invoice being returned to you.

7.3 In the event that there is any appreciable delay in completing the order, separate invoices must be rendered for each delivery. The Official Order number must be correctly quoted on all invoices. South

Essex Homes Limited is registered for VAT (VAT reg. no. 864 0939 01) and tax invoices are required from all VAT registered suppliers.

7.4 Payment will be made by BACS (transfers between bank accounts). Remittance advice will be by email.

7.5 South Essex Homes Limited will normally pay its suppliers in sterling. Payments in other currencies will only be made via electronic bank transfer and must be agreed with South Essex Homes Limited at the time of order.

7.6 South Essex Homes Limited reserves the right to set off from the payment in respect of this order any sums due from the supplier under this or any other contract or agreement between the supplier and South Essex Homes Limited.

7.7 Standard payment terms are for payment on 30 days from receipt of invoice. South Essex Homes Limited will endeavour to pay small businesses within 10 days wherever possible.

## **8. Insurance**

8.1 The Supplier shall indemnify South Essex Homes Limited against all claims or demands whatsoever arising from or incidental to the carrying out of any works, the supply of materials and/or the provision of services that are the subject of this order. The Supplier or Suppliers agree to indemnify upon acceptance of this order.

8.2 The Supplier's insurance policies with current premium receipts shall if demanded be forwarded to and for the approval by South Essex Homes Limited prior to the start of the works, the supply of materials, and/or the provision of material and/or the provision of services as appropriate.

8.3 The minimum levels of insurance cover required are set out below.

- 8.3.1 Employers Liability: £5,000,000
- 8.3.2 Public Liability: £5,000,000
- 8.3.3 Professional Indemnity: (£s to be agreed if needed)

8.4 The Supplier will obtain such insurance from a reputable UK/EU provider and make available to South Essex Homes Limited proof of such cover upon request.

## **9. Bankruptcy**

9.1 In the event of the Supplier being unable to complete the Order through bankruptcy, liquidation or receivership, then the contract created by the Order shall automatically determine that South Essex Homes Limited shall be treated by the Supplier as a preferential creditor.

## **10. Whistleblowing Policy and Procedure**

10.1 South Essex Homes Limited has an officer appointed to receive any issues relating to whistleblowing and to receive any complaints of malpractice by any of its Suppliers or suppliers in the performance or delivery of services.

10.2 A copy of the Whistleblowing Policy & Procedure is available from South Essex Homes Limited.

## **11. Bribery**

### **11.1 The Supplier**

11.1.1 Shall not in connection with this Agreement commit a Prohibited Act.

11.1.2 Warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by South Essex Homes Limited, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to South Essex Homes Limited before execution of this Agreement.

11.1.3 Shall, if requested, provide South Essex Homes Limited with any reasonable assistance, at South Essex Homes Limited's reasonable cost, to enable South Essex Homes Limited to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act.

11.1.4 Shall have an anti-bribery policy (which shall be disclosed to South Essex Homes Limited) to prevent any Supplier Personnel or Associated Persons from committing a Prohibited Act and shall enforce it where appropriate.

11.2 If any breach of this clause is suspected or known, the Supplier must notify South Essex Homes Limited immediately.

11.3 If the Supplier notifies South Essex Homes Limited that it suspects or knows that there may be a breach of this clause, the Supplier must respond promptly to South Essex Homes Limited's enquiries, co-operate with any investigation, and allow South Essex Homes Limited to audit books, records and any other relevant documentation.

11.4 South Essex Homes Limited may terminate this Agreement by written notice with immediate effect if the Supplier or any Supplier personnel (in all cases whether or not acting with the Supplier's knowledge) breaches this clause.

11.5 Any notice of termination under clause 11.4 above must specify:

11.5.1 The nature of the Prohibited Act.

11.5.2 The identity of the party whom South Essex Homes Limited believes has committed the Prohibited Act; and

11.5.3 The date on which this Agreement will terminate.

11.6 Any dispute relating to

11.6.1 The interpretation of this clause; or

11.6.2 The amount or value of any gift, consideration or commission, shall be determined by South Essex Homes Limited and its decision shall be final and conclusive.

11.6.3 Any termination under this clause will be without prejudice to any right or remedy which has already accrued or subsequently accrues to South Essex Homes Limited.

## **12. Confidentiality and Data Protection**

12.1 Both Parties shall treat any information it may have obtained or received in relation to or arising out of or in connection with this Agreement or its negotiation or relating to the business or affairs of the other as private and confidential and neither Party shall publish or disclose the same or any particulars thereof without the prior written consent of the other or as may be permitted under the latter provisions of this clause.

12.2 The obligations expressed in clause 12.1 shall not apply to any information which:

12.2.1 Is or subsequently becomes in the public domain otherwise than by breach of this clause;

12.2.2 Is already in the possession of the receiving party without any accompanying obligation of confidentiality;

12.2.3 Is obtained from a third party who is free to divulge the same;

12.2.4 Is independently and lawfully developed by the recipient or its sub-Supplier outside the scope of this Agreement;

12.2.5 Subject to 12.2.6, so far as it may be necessary for the performance of this Agreement or for the operation and maintenance of the System supplied or licensed under this Agreement each party may divulge any information to be kept confidential under sub-clause 12.1 above to their Employees, agents and sub-Suppliers on a need to know basis.

12.2.6 Any person to who information is disclosed under clause 12.2.5 should be subject to equivalent obligations of confidentiality as set out in any of South Essex Homes Limited's internal policies regarding confidentiality or information security.

12.3 Nothing in this Agreement shall prevent South Essex Homes Limited from disclosing any confidential information:

12.3.1 To any independent individual Supplier properly engaged by South Essex Homes Limited to assist with the Project (provided that such Supplier is subject to equivalent obligations of confidentiality as referred to in clause 12.1);

12.3.2 For the purpose of the examination and certification of South Essex Homes Limited's accounts; or

12.3.3 For any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which South Essex Homes Limited has used its resources.

12.4. South Essex Homes Limited shall use all reasonable endeavours to ensure that any government department, Contracting Authority, Employee, third party or sub-Supplier to whom the confidential information is disclosed pursuant to this clause is made aware of South Essex Homes Limited's obligations of confidentiality and undertakes that they will take all reasonable steps to ensure compliance by such persons with the obligations as to confidentiality expressed in this clause.

12.5 Both Parties shall ensure that they, their Employees, agents and sub-Suppliers shall observe the requirements of the Data Protection Act 1998 and any amendments or revisions thereto in the retention provision and use of any data to be exchanged, provided or licensed under this Agreement and shall comply with any request made or direction given to the other which is directly due to the requirements of the Act.

12.6 On the conclusion or termination of this Agreement both Parties shall destroy all copies of confidential information obtained from the other and shall ensure that their Employees, agents or sub-Suppliers do likewise and the obligations as to confidentiality shall continue without limit as to time.

12.7 Each Party shall indemnify the other from and against any losses suffered or incurred by the other as a result of a breach by the first party of its obligations under this clause 12.

### **13. Freedom of Information**

13.1 The Supplier acknowledges that South Essex Homes Limited is subject to the requirements of the Code of Practice on Government Information, Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 (EIR) and shall assist and cooperate with South Essex Homes Limited to enable South Essex Homes Limited to comply with its information disclosure obligations.

13.2 The Supplier shall transfer to South Essex Homes Limited all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receiving a Request for Information; and provide South Essex Homes Limited with a copy of all South Essex Homes Limited's Information required under the act in its possession, or power in the form that South Essex Homes Limited requires within 5 Working Days (or such other period as South Essex Homes Limited may specify) of South Essex Homes Limited's request and provide all necessary assistance as reasonably requested by South Essex Homes Limited to enable South Essex Homes Limited to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations

13.3 South Essex Homes Limited shall be responsible for determining in its absolute discretion whether any Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations

13.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by South Essex Homes Limited.

13.5 The Supplier acknowledges that South Essex Homes Limited may, acting in accordance with the Freedom of Information Act 2000, be obliged to disclose Information without consulting or obtaining consent from the Supplier.

13.6 The Supplier shall ensure that all Information is retained for disclosure and shall permit South Essex Homes Limited to inspect such records as requested on reasonable written notice from time to time solely in order to enable South Essex Homes Limited to comply with their information disclosure obligations.

### **14. Health and safety**

14.1 The Supplier shall comply with all relevant health, welfare and safety legislation, regulations and Codes of Practice (including South Essex Homes Limited's Safety Policy) and shall at all times

ensure that any safety requirements requested by South Essex Homes Limited are fully complied with and adhered to.

14.2 The Supplier shall take all necessary steps to ensure that their employees or staff are aware of any relevant health and safety issues whilst working at South Essex Homes Limited's premises and that they notify South Essex Homes Limited of any health and safety risks of which they become aware

14.3 In addition to complying with all relevant legislation, the Supplier must, whilst on the South Essex Homes Limited's premises or carrying out work for and on behalf of South Essex Homes Limited, comply with the South Essex Homes Limited's health, safety and welfare policy and the relevant codes of practice and procedures made under it. The policy and codes/procedures are available for inspection from an authorised officer of South Essex Homes Limited. However, the Supplier will be deemed to be aware of them when they start the work irrespective of whether they have inspected the same.

## **15. Equality and Diversity**

15.1 The Supplier shall at all times comply with all equal opportunities legislation and shall not discriminate against any person unlawfully.

15.2 The Supplier shall co-operate with any investigation or proceedings concerning alleged contravention of any anti-discrimination legislation in performing the contract and shall impose the same obligations on any sub-Supplier

## **16. Safeguarding Children, Young People and Vulnerable Adults**

16.1 The Supplier acknowledges that South Essex Homes Limited has legal responsibilities regarding the safeguarding of children, young people and vulnerable adults under current legislation (including the Safeguarding of Vulnerable Groups Act 2006 ('SVGA')) and is also required to comply with various codes of practice and other guidelines (together the 'Safeguarding Obligation') and agrees to provide all assistance reasonably required by South Essex Homes Limited to enable South Essex Homes Limited to comply with the Safeguarding Obligation and shall not do any act that would cause South Essex Homes Limited to be in breach of any provision set out in or referred to in the Safeguarding Obligation.

16.2 The Supplier acknowledges that it may also have legal responsibilities regarding the safeguarding of children, young people and vulnerable adults and agrees to comply with those responsibilities.



16.3 The Supplier agrees that it will:

16.3.1 Comply with South Essex Homes Limited's Safeguarding Policies for Children, Young People and Vulnerable Adults, which are updated from time to time and shall ensure that at all times it is familiar with and complies with the reporting procedures for suspected abuse, as set out in the policies.

16.3.2 Ensure that adequate staff training is provided as appropriate;

16.3.3 To the extent that it is discharging a service for South Essex Homes Limited which would be regulated or affected by the Safeguarding Obligation observe and perform the Safeguarding Obligation;

16.3.4 Notify South Essex Homes Limited immediately of any breach of or departure from the Safeguarding Obligation.

16.4 The Supplier further agrees that it will:

16.4.1 Ensure that all individuals engaged in a Regulated Activity under the SVGA will be subject to a valid enhanced disclosure check through the Disclosure and Barring Service; and

16.4.2 Monitor the level and validity of the checks under this clause for each member of staff; and

16.4.3 Not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity under the SVGA or who may otherwise present a risk to service users and or children and/or vulnerable adults.

## **17. Third Party Rights**

Nothing in this Contract shall confer, nor is it intended to confer, any enforceable right on any third party under the Contracts (Rights of Third Parties) Act 1999 except as otherwise expressly so stated.

## **18. DBS Checks**

The Supplier agrees to comply with all relevant legislation including subordinate legislation made from time to time.

## **19. Intellectual Property and Third Party Claims**

19.1 The Supplier shall own and retain ownership of all intellectual property rights in any originally created work subject to the granting of a licence to South Essex Homes Limited as detailed below.

19.2 The Supplier shall automatically grant to South Essex Homes Limited, a perpetual, royalty free, unrestricted and non-exclusive licence to use all material, howsoever, created and developed during the provision of the Works, for such purpose and howsoever they desire.

19.3 The Supplier shall indemnify and hold South Essex Homes Limited harmless for any and all losses arising from any claims alleging infringement of intellectual property rights in any material provided by the Supplier that any third party may bring against South Essex Homes Limited.

19.4 The rights and obligations arising from this clause 19 shall survive the termination of this Agreement.

## **20. Force Majeure**

20.1 If either Party considers that any circumstances of Force Majeure have occurred which may affect materially the performance of its obligations under this Agreement then it shall notify the other in writing to that effect giving full details of the circumstances giving rise to the Force Majeure event.

20.2 Neither Party shall be considered to be in default of its obligations to the extent that it can establish that the performance of such obligations is prevented by any circumstances of Force Majeure which arise after the date of this Agreement and which were not foreseeable at the date of this Agreement.

20.3 If the performance of the obligations of either party is so prevented by the event of Force Majeure and shall continue to be so prevented for a period less than 30 days then during that period this Agreement shall be considered as suspended. Upon the ending of the Force Majeure event the contractual obligations of the parties shall be reinstated together with such reasonable modifications to take account of the effects of the Force Majeure event as may be agreed between the parties or in default of agreement as may be determined in accordance with the usual terms this Agreement.

20.4 If the performance of the obligations of either Party is so prevented by an event of Force Majeure and shall be so prevented for a period in excess of 30 days then this Agreement may be terminated by either Party by written notice and neither Party shall be liable to the other as a result of such termination.

## **21. Notices**

21.1 Any notice which either Party is required to give to the other shall be given in or confirmed by writing and shall be sufficiently served if sent to the other Party's representative at its address specified in this Agreement either by (a) hand, (b) first class post or recorded delivery or, (c) facsimile, confirmed by registered, first class post or recorded delivery within 24 hours of transmission.

21.2 The representative for each Party shall be;

For South Essex Homes Limited:

For the Supplier:

Or any other person so notified to the other Party.

## **22. Waiver**

Any failure by either Party to insist at any time upon the performance of any of the terms, provisions or undertakings under this Agreement or to exercise any of its rights under this Agreement shall not constitute or be construed as a waiver or relinquishment of that Party's rights to require the future performance of any such term provision or undertaking but the obligations of the other Party with regard to the same shall continue in full force and effect.

## **23. Third Party Rights**

This Agreement shall be construed and governed in all respects by English Law and the Parties hereby submit to the exclusive Jurisdiction of England and Wales for the settlement of any and all disputes relating to this Agreement howsoever arising.