



GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY OF SERVICES

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1 DEFINITIONS

1.1 The terms and expressions used in this Contract shall have the meanings set out below:

"Commencement Date"	means the date stated in the Special Conditions.
"Contract"	means the agreement reached between South Tyneside Homes and the Contractor upon the acceptance of the Tender by South Tyneside Homes subject to the Tender Documents.
"Contract Standard"	means such standard as complies in each and every respect with all relevant provisions of the Contract. Where no criteria are stated in the Contract, the standard is to be to the entire satisfaction of South Tyneside Homes .
"Contractor"	means the Contractor and where applicable shall include the Contractor's employees, sub-contractors and permitted assigns.
"Contract Period"	means the period stated in the Special Conditions (and any extension).
"Force Majeure"	means any cause materially affecting the performance by a party of its obligations under this Contract arising from any act, events, omissions, happenings or non-happenings beyond its reasonable control including, without limitation, acts of God, strikes, lock-outs or other industrial disputes, war, riot, fire, flood, or any disaster affecting either one of the parties hereto.
"Location"	means the Location where the Service is provided as set out in the Specification.
"Order"	means any Order placed by South Tyneside Homes with the Contractor following the Tender.
"Price"	means the rates or Prices contained within the Contractor's completed Form of Tender.
"Prohibited Act"	means offering, giving or agreeing to give to any employee of South Tyneside Homes any gift or consideration of any kind as an inducement or reward: 1.1.1 for doing or not doing any act in relation to the obtaining or performance of this Contract or any other Contract with South Tyneside Homes or 1.1.2 for showing favour or disfavour to any person in relation to this Contract or any other Contract with South Tyneside Homes and/or committing any offence; 1.1.3 under the Prevention of Corruption Acts 1889-1916, Competition Act 1998 and the Enterprise Act 2002 or 1.1.4 under legislation creating offences in respect of fraudulent acts or 1.1.5 at common law in respect of fraudulent acts in relation to this Contract or any other Contract with South Tyneside Homes or 1.1.6 defrauding or attempting to defraud or conspiring to defraud South Tyneside Homes.
"Service"	means the whole of the work to be carried out including any plant, equipment, goods, materials and vehicles to be supplied by the Contractor in accordance with the Contract including any variation made in accordance with the Conditions.
"Special Conditions"	means the additional terms and conditions identified as the Special Conditions which accompany the Form of Tender.

- "Specification" means the Specification setting out South Tyneside Homes detailed requirements in relation to the provision of the Service.
- "Tender" means the Tender submitted by the Contractor.
- "Tender Documents" means these General Conditions of Contract, the Form of Tender, the Specification and any Special Conditions or Schedules attached to the Form of Tender.

- 1.2 A reference to any statute, order, regulation or similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.
- 1.3 References to time shall mean Greenwich Mean Time and references to month shall mean a calendar month.
- 1.4 Any ambiguity, discrepancy, error, omission or mis-statement shall not vitiate the agreement nor shall it release the Contractor from the completion of any part of the Contract.

2 TENDER DOCUMENT

- 2.1 No Tender will be considered unless it is made on the Official Tender Form.
- 2.2 South Tyneside Homes does not bind itself to accept the lowest or any Tender and reserves the right to accept part only of a Tender.
- 2.3 In the event of any conflict or inconsistency between the General Conditions and the Special Conditions, the Special Conditions shall prevail.
- 2.4 All information supplied by South Tyneside Homes is supplied in good faith for general guidance in the preparation of the Tender. Where a contract value is provided, it is an estimate only and the actual value of the contract may be higher or lower.
- 2.5 South Tyneside Homes shall reserve the right to request that the Contractor provide security for the performance of the Contract, by Performance Bond, Parent Company Guarantee or otherwise before the Contractor commences the Contract.

3 CONTRACT EXTENSION

- 3.1 If the Contract Period includes an option to extend and South Tyneside Homes intends to take up the option, the Contractor shall be notified in writing prior to the commencement of the extension. If no such communication is received then it must be assumed that the Contract shall terminate after the initial Contract Period.
- 3.2 These General Conditions and any Special Conditions shall continue and apply during any extension period.

4 ORDERS

- 4.1 Orders for Services shall be made on South Tyneside Homes Official Purchase Order Form. No Services shall be delivered unless the Contractor shall have first received an Official Purchase Order. The Official Purchase Order number must be stated on any invoice submitted by the Contractor and no payments will be made for any Services not covered by an Official Purchase Order.

5 PERFORMANCE

- 5.1 The quality, description and frequency of the Service shall be provided by the Contractor in accordance with the Specification.
- 5.2 The Contractor shall provide the Service in a proper, skilful and workmanlike manner to the Contract Standard and shall employ and maintain a sufficient and competent staff to ensure that the Service is provided to the Contract Standard.
- 5.3 The Contractor shall provide the Service within normal working hours on a business day unless otherwise specified.

- 5.4 Commercial vehicles shall not enter or leave school premises during morning, midday and afternoon breaks.
- 5.5 Commercial vehicles visiting South Tyneside Homes premises shall be fitted with audible reversing alarms. Drivers of all vehicles whilst on South Tyneside Homes premises shall have regard for the safety of all persons.
- 5.6 South Tyneside Homes shall be under no obligation to accept or pay for any Service provided earlier than as stated in the Specification, unless agreed by South Tyneside Homes in advance.
- 5.7 If South Tyneside Homes or the Location where the Service is to be provided is affected by circumstance of Force Majeure, South Tyneside Homes shall be entitled to totally or partially suspend the date or dates for provision of the Service until the circumstances of the Force Majeure have ceased. The suspension shall not give rise to any claim by the Contractor against South Tyneside Homes, or the Location where the Service is provided nor entitle the Contractor to terminate the Contract.
- 5.8 In the event of industrial action by the Contractor's employees, it remains the Contractor's responsibility to meet the requirements of this Contract. The Contractor must inform South Tyneside Homes immediately of impending or actual disputes that may affect the Contractor's ability to provide the Service.
- 5.9 If the Contractor at any time becomes aware of any act or omission, or proposed act or omission by the South Tyneside Homes which prevents or hinders, or may prevent or hinder the Contractor from providing the Service in accordance with the Contract, the Contractor shall inform South Tyneside Homes.
- 5.10 Without prejudice to any other remedy, if the Service is not provided in accordance with the Contract, South Tyneside Homes shall be entitled:
- 5.10.1 to require the Contractor to provide the Service in accordance with the Contract as soon as reasonably practicable and in any event within 10 working days; or
- 5.10.2 at South Tyneside Homes sole option, and whether or not South Tyneside Homes has previously required the Contractor to provide the Service or to supply any replacement Service, to treat the Contract as discharged by the Contractor's breach and require the repayment of any part of the Price which has been paid together with payment of any additional expenditure over and above the Price reasonably incurred by South Tyneside Homes in obtaining other Services in replacement.

6 PASSING OF PROPERTY

- 6.1 Property in any goods provided in the course of the provision of the Service, shall pass to South Tyneside Homes upon use, installation or delivery.

7 PRICE

- 7.1 No increase in the Price may be made without the prior written consent of South Tyneside Homes. The Contractor shall first notify South Tyneside Homes, in writing, giving 28 days notice of variation in Price and providing documentary evidence in support of the application and receive from South Tyneside Homes approval in writing.
- 7.2 The Contractor shall not be entitled to retain or set off any amount due to it from South Tyneside Homes. South Tyneside Homes may set off any amount due to it from the Contractor (including any applicable VAT payable) against any amount due to the Contractor under this Contract. South Tyneside Homes shall notify the Contractor as soon as reasonably practicable of any such retention or set off.

8 PAYMENT

- 8.1 With every delivery of services or within seven days after delivery, the contractor will render to South Tyneside Homes at the place specified in the appropriate Order an Invoice for the Services. This document must indicate clearly any discounts available on early settlement and must quote South Tyneside Homes Official Order Number. Following delivery, payment will be effected within thirty days of receipt of a valid invoice.

9 GUARANTEE

- 9.1 South Tyneside Homes shall at its sole option as soon as practicable after discovering any failure request the Contractor to attend South Tyneside Homes premises or the Location where the Service is provided for

the purpose of remedying any fault or failure arising from the Service which has been provided, without cost to South Tyneside Homes.

10 INDEMNITY

- 10.1 The Contractor shall indemnify South Tyneside Homes in full for all damage or injury to anyone or to any property and against all actions, claims, demands, costs, or expenses awarded against or incurred by South Tyneside Homes (including the costs of transport, labour, administration and legal expenses on an indemnity basis to South Tyneside Homes) arising from:
- 10.1.1 any defect or fault in the Service provided; or
 - 10.1.2 any act or omission of the Contractor in providing the Service.
- 10.2 Without prejudice to any other provision of the Contract, the Contractor shall fully indemnify South Tyneside Homes against any claims made against it as a result of any failure by the Contractor to comply with any statutory provision relevant to the Service.
- 10.3 Unless provided by Clause 10.4 South Tyneside Homes shall not under any circumstances be liable to the Contractor whether in Contract, tort or otherwise, for any loss, damage, or injury however caused, or in connection with the provision of the Services.
- 10.4 Clause 10.3 shall not apply in relation to:
- 10.4.1 any failure by South Tyneside Homes to make proper payment to the Contractor in accordance with the terms of the Contract; and
 - 10.4.2 any deliberate or negligent act or omission of South Tyneside Homes or any of its employees and in particular any negligent act or omission giving rise to death or personal injury.
- 10.5 South Tyneside Homes shall not in any event be liable to the Contractor for any indirect or consequential loss however caused.
- 10.6 The Contractor's liability to indemnify South Tyneside Homes arising under Clauses 10.1 and 10.2 above shall be without prejudice to any other right or remedy of South Tyneside Homes arising under this Contract.
- 10.7 The Contractor shall immediately notify South Tyneside Homes of any accident that occurs on South Tyneside Homes premises.

11 INSURANCE

- 11.1 Without prejudice to the Contractor's liabilities under Clause 11, the Contractor shall maintain insurance necessary to cover any liability of the Contractor, in respect of any loss of or damage to property and personal injury to, or death of, any person arising out of or in the course of or caused by the Contractor's carrying out or failing to carry out obligations under the Contract and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof.
- 11.2 The Contractor shall throughout the Contract Period maintain insurance necessary to cover any liability arising under Clauses 10 and 11.1. Such insurance cover shall have an indemnity limit of not less than five million pounds (£5,000,000) in respect of any one incident.
- 11.3 The Contractor shall prior to the Commencement Date and on each anniversary of the Commencement Date and/or upon request, supply to South Tyneside Homes a copy of the policies affecting the insurances referred to in Clause 11.2 together with documentary evidence that such insurances are properly maintained.
- 11.4 If the Contractor does not maintain the necessary insurance as provided by Clause 11.3, South Tyneside Homes may insure against any risk in respect of the default and may charge the cost of such insurance together with an administration charge equal to 10% of the cost of the insurance to the Contractor.

12 TERMINATION

- 12.1 South Tyneside Homes may terminate the Contract with immediate effect by notice in writing to the Contractor on or at any time after the occurrence of any of the following events:

- 12.1.1 the passing by the Contractor of a resolution for its winding up or the making by a court of competent jurisdiction of an order winding up the Contractor or the dissolution of the Contractor.
 - 12.1.2 the making of an administration order in relation to the Contractor or the appointment of a receiver or administrative receiver over, or the taking of possession or sale by an encumbrancer of a material part of the Contractor's assets;
 - 12.1.3 the Contractor making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally;
 - 12.1.4 the Contractor commits any Prohibited Act;
 - 12.1.5 a breach by the Contractor of its obligations to take out and maintain required insurances;
 - 12.1.6 a material and substantial breach by the Contractor of any of its obligations under this Contract.
 - 12.1.7 the Contractor has knowingly given incorrect or misleading answers to questions when completing any Equality and Diversity Questionnaire submitted by South Tyneside Homes.
- 12.2 In the event of South Tyneside Homes having the right to terminate under Clauses 12.1.1, 12.1.2 or 12.1.3, South Tyneside Homes may, give the receiver, liquidator or other person the option of carrying out the Contract subject to a guarantee acceptable to South Tyneside Homes.
- 12.3 South Tyneside Homes shall be entitled to deduct from any sum which would have been due to the Contractor or be entitled to recover from the Contractor as a debt, any loss or damage to South Tyneside Homes or arising out of the termination of the Contract. Such loss or damage shall include the reasonable cost to South Tyneside Homes of the time spent by its Officers in terminating the Contract with the Contractor and in making alternative arrangements for the provision of the Service.
- 12.4 The termination of this Contract shall not prejudice or affect any claim, right, action or remedy that shall have accrued or shall accrue to either party.

13 INTELLECTUAL PROPERTY

- 13.1 Any Specification supplied by South Tyneside Homes to the Contractor, or specifically produced by the Contractor for South Tyneside Homes, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of South Tyneside Homes
- 13.2 Copyright in all documents including the Contract Documents provided by South Tyneside Homes shall at all times vest in South Tyneside Homes.
- 13.3 The Contractor shall indemnify and keep South Tyneside Homes indemnified against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising in respect of any breach by the Contractor of Clause 13.

14 DISPUTE RESOLUTION PROCEDURE

- 14.1 If a dispute arises between South Tyneside Homes and the Contractor in connection with the Contract (including any dispute as to the construction or meaning of any words in these conditions), the parties shall each use reasonable endeavours to resolve such dispute by means of prompt, bona fide discussion at an appropriate managerial level.
- 14.2 If a dispute is not resolved within 10 working days of it having been referred to a managerial level for discussion then either party may refer it to the Executive Director or equivalent officer of each party for resolution who shall meet for discussion within 10 days or longer period as the parties may agree.
- 14.3 A dispute not resolved in accordance with Clauses 14.1 and 14.2, shall next be referred at the request of either party to a mediator appointed by agreement between the parties within 28 days of one party requesting mediation.
- 14.4 The costs of any mediation shall be determined by the mediator.

15 VARIATIONS AND VALUATIONS

- 15.1 South Tyneside Homes shall be entitled to issue to the Contractor Variation Orders or instructions in writing or in case of urgency orally provided South Tyneside Homes confirms oral instructions in writing as soon as it is practicable.
- 15.1.1 Variation Orders issued by South Tyneside Homes may require the addition, suspension, reduction or cessation of the Service and/or the provision of emergency Services.
- 15.1.2 Instructions issued by South Tyneside Homes may require the Service to be provided in such a manner as South Tyneside Homes reasonably requires or at additional Locations.
- 15.2 The valuation of variations shall be made by South Tyneside Homes using rates and Prices contained in the Contract. Where the variation is not of similar character to or is not undertaken under similar conditions to the Contract, a valuation shall be made at fair rates and Prices having regard to the rates and Prices contained in the Contract.

16 ASSIGNMENT AND SUB-CONTRACTING

- 16.1 Subject to any express provision of this Contract, the Contractor shall not without the prior written consent of South Tyneside Homes, assign all or any benefit, right or interest under this Contract or sub-contract the provision of the Service. Where any sub-contracting is permitted, the Contractor shall remain responsible for the acts and omissions of its sub-contractors as though they were its own.
- 16.2 South Tyneside Homes shall be entitled to impose conditions in relation to any consent given including a requirement that a guarantee or other security be provided.
- 16.3 South Tyneside Homes shall be entitled to:
- 16.3.1 assign, novate or dispose of its rights and obligations under this Contract either in whole or part to any contracting Authority (as defined in the Public Service Contracts Regulations 1993); or
- 16.3.2 transfer, assign or novate its rights and obligations where required by law.

17 HEALTH AND SAFETY

- 17.1 The Contractor agrees, before the contract commences, to supply South Tyneside Homes with a list of harmful or potentially harmful properties or ingredients in any goods that are to be used, whilst the Service is provided. South Tyneside Homes will rely on the supply of such information from the Contractor in order to satisfy its own obligations under all Health and Safety legislation.

18 EQUALITY AND DIVERSITY

- 18.1 The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of Race Relations Act 1976, Race Relations (Amendment) Act 2000, Sex Discrimination Act 1975, and the Disability Discrimination Act 1995 or any statutory modification or re-enactment thereof relating to discrimination in the provision of services to the public or in employment or contravene the Human Rights Act 1999. The Contractor shall to the extent relevant to delivery of the Service comply with the Purchaser's equal opportunities policies, which may be consulted at <http://www.southtyneside.info>. The Contractor shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

19 CONFIDENTIALITY

- 19.1 All documents including Contract Documents provided by South Tyneside Homes and information which the Contractor may acquire as a result of the Contract are confidential to South Tyneside Homes and shall not be disclosed disposed of or used for any purpose without written consent from South Tyneside Homes.

20 FREEDOM OF INFORMATION

South Tyneside Homes is subject to the Freedom of Information Act 2000. As part of South Tyneside Homes duties under the Act, it may be required to disclose information forming part of the tender or contract anyone who makes a reasonable request.

If tenderers consider that any of the information provided in their tender is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party) then it should be clearly marked on each sheet or labelled as “**Not for disclosure to third parties**” together with valid reasons in support of the information being exempt from disclosure under the Act.

South Tyneside Homes will endeavour to consult with tenderers and have regard to comments and any objections before it releases any information to a third party under the Act. South Tyneside Homes must make its decision on disclosure in accordance with the Act. However, South Tyneside Homes cannot be held liable for any loss or prejudice caused by the disclosure of information that has not been clearly marked as "Not for disclosure to third parties" or where no reasons are provided to support a request to withhold its disclosure or in the event that disclosure is deemed to be in the Public interest.

21 PUBLICITY

- 21.1 The Contractor shall not without the prior written consent of South Tyneside Homes advertise or publicly announce that it is undertaking work for South Tyneside Homes nor hold itself out in any way as an agent of South Tyneside Homes.

22 TENDERING AND INDUCEMENTS

- 22.1 The Contractor shall not have engaged in the following practices in tendering for the provision of the Service:

22.1.1 communicating to any third party the amount of any proposed Tender, until after receiving notification from South Tyneside Homes that a Tender for the Contract has been accepted.

22.1.2 adjusting the amount of any proposed Tender in accordance with any agreement or arrangement by the Contractor with any third party.

22.1.3 entering into an agreement with any other person whereby that other person refrains from tendering.

- 22.2 As soon as either party becomes aware of or suspects the commission of any Prohibited Act in respect of the provision of the Service or otherwise, it shall notify the other party.

- 22.3 South Tyneside Homes shall have the right to require that the Contractor suspend from any further work on this Contract any person reasonably suspected of fraudulent action or malpractice.

- 22.4 The Contractor shall not during the Contract Period solicit or receive Orders or engage in private transactions with any servant or employee of South Tyneside Homes under this Contract.

23 NO WAIVER

- 23.1 Failure by either party at any time to enforce any one or more of the provisions of this Contract or to require performance by the other party of any of the provisions shall not:

23.1.1 constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Contract; nor

23.1.2 affect the validity of the Contract or any part of it or the right of the parties to enforce any provision in accordance with its terms.

- 23.2 No waiver of any of the provisions of this Contract shall be effective unless it is expressed to be a waiver in writing and communicated in accordance with Clause 25.

24 SEVERANCE

- 24.1 If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

25 NOTICES

- 25.1 Any notice required by this Contract to be given by either party to the other shall be in writing and shall be served personally, by fax or by sending it by registered post or recorded delivery to the appropriate address or fax number notified to each other.

- 25.2 Any notice served personally will be deemed to have been served on the day of delivery, any notice sent by post will be deemed to have been served 48 hours after it was posted and any notice sent by fax will be deemed to have been served 24 hours after it was despatched.

26 LAW AND JURISDICTION

- 26.1 This Contract shall be governed by the laws of England and the exclusive jurisdiction of the English courts and the Contractor shall comply at all times with all relevant Acts, Regulations, Orders, Rules of Law or E.U. Directives.