

# ANDIUM HOMES LIMITED

## STANDARD TERMS AND CONDITIONS

### 1. Formation of Contract

- 1.1. These terms and conditions shall apply to any Purchase Order issued by, or on behalf of, Andium Homes Limited except where:
  - 1.1.1. the Purchase Order refers or relates to a specific contract in which case that specified contract shall apply in conjunction with these terms and conditions in the order of priority identified in the specified contract;
  - 1.1.2. any minor changes to these terms and conditions are set out in the Purchase Order.
- 1.2. Nothing in these Conditions shall prejudice or override any condition or warranty expressly implied by statute.

### 2. Definitions

- 2.1. 'Agreement' means the contractual obligations created by the issue by Andium Homes of a Purchase Order subject to these Terms and Conditions and its acceptance by the Contractor.
- 2.2. 'Andium Homes' means, Andium Homes Limited, a company registered in the Island of Jersey, registered number: 115713 with a registered office situated at 33-35 Don Street, St Helier JE2 4TQ.
- 2.3. 'Business Day' means a day other than a Saturday, Sunday or public holiday in England or Jersey, when banks are open for business.
- 2.4. 'Contractor' means the person, firm or company named as such on page 1 of the Purchase Order (or its successors in title)
- 2.5. 'Deliverables' means any documents, products and materials developed by the Contractor 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).
- 2.6. 'Goods' means all or any of the items set out in the Purchase Order which are to be supplied to Andium Homes by the Contractor
- 2.7. 'Parties' means Andium Homes and the Contractor
- 2.8. 'Purchase Order' means any Purchase Order placed by Andium Homes under which the Contractor agrees to supply Goods and / or Services to Andium Homes
- 2.9. 'Services' means the Services to be performed by the Contractor for Andium Homes as described in the Purchase Order and anything created or produced as a result of the Services
- 2.10. 'Specification' means the requirements to which the Goods and / or Services supplied shall conform as detailed in the Purchase Order or otherwise agreed between the parties in writing.
- 2.11. 'Working Day' means Andium Homes' usual working days, which exclude weekends, bank holidays and some other days declared from time to time as statutory holidays by the States of Jersey, or such other days as may be notified to the Contractor by Andium Homes.



### 3. Assignment or Sub-contracting

- 3.1. The Contractor shall not assign, transfer, sublet or subcontract in whole or in part any of the Purchase Order without the prior written permission of Andium Homes.

### 4. Documents

- 4.1. All advice notes, invoices and packing notes issued by the Contractor shall be clearly marked by the Contractor with the Contractor's name and address, the Purchase Order number, the item code, date of despatch, a description of the Goods and / or Services, the address of their intended destination and the due delivery date.

### 5. Provision of Services

- 5.1. In providing any Services, the Contractor shall:
  - 5.1.1. co-operate with Andium Homes in all matters relating to those Services, and comply with all instructions of Andium Homes;
  - 5.1.2. perform those Services with the best care, skill and diligence in accordance with best practice in the Contractor's industry, profession or trade;
  - 5.1.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with this Agreement;
  - 5.1.4. ensure that those Services will conform with the Specification, and that the Deliverables shall be fit for any purpose that Andium Homes expressly or impliedly makes known to the Contractor;
  - 5.1.5. provide all equipment, tools and vehicles and such other items as are required to provide those Services;
  - 5.1.6. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in those Services or transferred to Andium Homes, will be free from defects in workmanship, installation and design;
  - 5.1.7. obtain and at all times maintain all licences and consents which may be required for the provision of those Services;
  - 5.1.8. comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of those Services, and with the terms of this Agreement;
  - 5.1.9. observe all health and safety rules and regulations and any other security requirements that apply at any of the Andium Homes' premises;
  - 5.1.10. hold any materials, equipment and tools, drawings, specifications and data supplied by Andium Homes to the Contractor (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to Andium Homes, and not dispose or use the Customer Materials other than in accordance with Andium Homes' written instructions or authorisation;
  - 5.1.11. not do or omit to do anything which may cause Andium Homes to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Contractor acknowledges that Andium Homes may rely or act on those Services; and
  - 5.1.12. comply with any additional obligations as set out in the Purchase Order.



## **6. Quality and Performance**

- 6.1. The Goods shall conform to the Specification; be of satisfactory quality, sound design, materials and workmanship, be safe and be fit for the purpose held out by the Contractor and for which they are procured by Andium Homes and be capable of the required performance to Andium Homes' reasonable satisfaction.
- 6.2. All Services performed under the Purchase Order must be executed by the Contractor in a timely, efficient and professional manner to the appropriate prevailing standards and to the reasonable satisfaction of Andium Homes and the Contractor shall meet any performance dates for the Services and time is of the essence in relation to any of those performance dates, unless otherwise agreed between the Parties in writing.

## **7. Changes to Specification**

- 7.1. The Contractor shall not make any changes to the Specification unless instructed to do so by Andium Homes or with the written consent or agreement of Andium Homes.

## **8. Inspection and Testing**

- 8.1. Before despatching the Goods or commencing provision of the Service the Contractor shall, if appropriate and if previously agreed by the Parties, allow Andium Homes to inspect and test the Goods and / or Services for compliance with the Specification and / or any other provisions of the Purchase Order.
- 8.2. If in Andium Homes' reasonable opinion, the Goods and / or Services do not comply with the Specification, Andium Homes shall inform the Contractor (in writing, unless this is impractical) either, of Andium Homes intention to reject the Goods, or the remedial steps which must be undertaken by the Contractor to ensure compliance with the Specification.

## **9. Delivery**

- 9.1. The Contractor warrants to Andium Homes that the Goods will be properly packaged and secured in such manner as to enable them to reach their destination in good condition and will, from the time of delivery, be free from defects or failures for such period as is reasonable for that type of Goods. The Contractor also warrants that it shall comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 9.2. Unless otherwise stated, delivery must take place on a working day and during the normal working hours.
- 9.3. The Contractor undertakes to meet the delivery date specified in the Purchase Order or otherwise agreed between the Parties and the delivery will be made to such delivery location as may be specified by Andium Homes in the Purchase Order.
- 9.4. The Contractor shall deliver the Goods and / or Services as instructed in the Purchase Order and obtain a receipt for them from an employee or agent authorised to issue such receipt on behalf of Andium Homes. Any requirements as to the manner, quantities or special requirements for delivery, specified in the Purchase Order, shall also be complied with by Andium Homes.
- 9.5. Andium Homes will allow the Contractor access to its premises as necessary for the delivery of the Goods and / or Services.
- 9.6. Andium Homes may refuse admission to the Contractor's personnel or require such personnel to leave its premises at any time and shall not be obliged to give the Contractor the reason(s) for its decision. Andium Homes will not apply the provisions of this clause unreasonably.



9.7. Whilst on Andium Homes' premises, the Contractor shall employ sufficient duty of care so as to prevent damage to Andium Homes' premises, goods, personnel, visitors and clients, and if made aware of any specific policies of Andium Homes, shall comply with them with the same duty of care.

## **10. Acceptance**

10.1. Andium Homes shall not be deemed to have accepted any part of the Goods or Services until after its employees or agents have inspected the Goods delivered. Andium Homes may reject goods that are not in accordance with the Purchase Order at any time before the expiry of 21 days after delivery. Unless within 28 days of receipt of notice of rejection the Contractor collects such goods, Andium Homes may dispose of them as Andium Homes shall consider fit.

## **11. Extension of Time, Rescheduling or Cancellation**

11.1. If, for any cause beyond the reasonable control of the Contractor, delivery of the Goods or performance of the Services is delayed, then unless time is of the essence, the time for such delivery or performance may be re-scheduled by agreement between the Parties. Such agreement should not be unreasonably withheld by either party. Changes to the time for delivery for any other reason shall be at the sole discretion of Andium Homes, in which case the Contractor shall be responsible for any additional costs.

11.2. Notification of any anticipated or actual delay must be immediately communicated to Andium Homes by the Contractor specifying the reason for the delay and any remedies the Contractor proposes to resolve the delay.

11.3. If in the reasonable opinion of Andium Homes it is inappropriate to reschedule delivery of the Goods and / or performance of the Services then Andium Homes may cancel the Purchase Order without incurring any liability for such cancellation.

## **12. Risk and Title**

12.1. Risk in the Goods shall only pass to Andium Homes upon acceptance of the Goods when delivered to the place and address specified in the Purchase Order, unless otherwise agreed in writing by the Parties.

12.2. Title in the Goods shall only pass to Andium Homes upon full payment of the total price for the Goods or services which is stated in the Purchase order (or otherwise agreed in writing between the Parties).

12.3. Andium Homes also reserves the right to take possession of all Goods to which it has acquired title.

## **13. Damage or Loss in Transit**

13.1. Any Goods lost or damaged in transit shall be restored or replaced by the Contractor at the Contractor's expense and to Andium Homes' satisfaction.

13.2. Delivery shall not be deemed to have taken place until restoration has taken place to the satisfaction of Andium Homes or replacement Goods have been accepted by Andium Homes.

13.3. Goods shall be deemed not to have been delivered by the Contractor unless a receipt for them from an employee or agent authorised to issue such receipt on behalf of Andium Homes can be produced by the Contractor.



## 14. Terms of Payment

- 14.1. Subject to the delivery by the Contractor of the Goods or Services and their acceptance by Andium Homes, Andium Homes agrees to pay the Contractor the total price for the Goods or Services which is stated in the Purchase Order (or otherwise agreed in writing between the Parties) within 30 Working Days of the date of receipt of a valid and undisputed invoice.
- 14.2. All prices and rates which are stated in the Purchase Order are exclusive of tax (unless otherwise stated in the Purchase Order).
- 14.3. Unless otherwise agreed in writing by Andium Homes, the total price for the Goods or Services which is stated in the Purchase Order (or otherwise agreed in writing between the Parties) shall include every cost and expense of the Contractor directly or indirectly incurred in connection with the supply of the Goods and/or the performance of the Services and no extra charges shall be effective unless agreed in writing and signed by Andium Homes.
- 14.4. If requested to do so by Andium Homes, the Contractor shall accept payment of monies due by electronic funds transfer through BACS Ltd or other electronic payment means, as good discharge of Andium Homes' indebtedness under the Purchase Order.
- 14.5. The Contractor shall be responsible for ensuring that all information on invoices is complete and accurate, and that specific reference is made to financial charge codes, purchase order numbers or job numbers submitted by Andium Homes.

## 15. Foreign Currency

- 15.1. Unless otherwise agreed in writing between the Parties all Purchase Orders are issued in pounds sterling and any invoice issued pursuant to a Purchase Order will be issued to Andium Homes in pounds sterling.
- 15.2. Any risk associated with currency exchange will be borne by the Contractor unless specifically agreed between the parties in writing.
- 15.3. Any requirement to account for Goods or Services in euro (or to prepare for such accounting), instead of and / or in addition to sterling, shall be implemented by the Contractor at no charge to Andium Homes.

## 16. Set Off

- 16.1. Andium Homes shall be entitled to set off against any sums due to the Contractor under the Purchase Order any sums which become payable by the Contractor to Andium Homes in relation to the Purchase Order or any other contract between the Parties.

## 17. Compliance

- 17.1. The Contractor and its personnel shall at all times comply with all applicable laws, including statutes, regulations and bye-laws of the Island of Jersey.

## 18. Entire Agreement

- 18.1. These terms and conditions and the Purchase Order shall (unless expressly agreed in writing by the Parties) comprise the entire terms and conditions of agreement between the Parties in relation to the subject matter of the Purchase Order (subject to Clause 1.1) and the Contractor's terms and conditions of contracting are expressly excluded. The Purchase Order and these terms and conditions shall therefore take priority over and supersede any other arrangements, communications (whether verbal or written), or any other documents (including but not limited to, other purchase orders, or other terms and conditions).



## **19. Rights of Third Parties**

19.1. Only a Party to the Agreement shall have a right to enforce any term of this Agreement and no other person shall have any right under this Agreement whether expressly, impliedly or otherwise without the prior agreement in writing of both Parties, which agreement should specifically refer to this clause. This clause does not affect any right or remedy of any person which exists or is available otherwise.

## **20. No Agency**

20.1. This Agreement does not either create a partnership between Andium Homes and the Contractor, or make one of the Parties the agent of the other for any purpose.

## **21. Publicity**

21.1. The Contractor shall not, without the prior written permission of Andium Homes, advertise or disclose to any third party that it is providing Goods and / or Services to Andium Homes.

## **22. Anti-Corruption**

22.1. The Contractor shall not do anything, or omit to do anything, which may be, or be considered to be, an inducement to any employee of Andium Homes. Any such inducement shall be deemed a breach of these Terms and Conditions, which shall be considered incapable of remedy.

## **23. Intellectual Property**

23.1. Intellectual property and other rights in the Goods and / or Services shall vest in the party from whom the Goods and / or Services originate unless the Goods and / or Services are produced for Andium Homes as bespoke. If the latter applies such rights shall vest in Andium Homes upon their creation and the Contractor shall do all such things and execute all such documents as Andium Homes may require in order to perfect such vesting. The Contractor shall ensure that it includes corresponding provisions in its contracts with its own Contractors and sub-contractors.

23.2. In the event of any breach of any such intellectual property rights the Contractor shall indemnify Andium Homes against all loss, damage, costs, legal costs and professional and other expenses of any nature whatsoever incurred or suffered by Andium Homes or by a third party as a result of such a breach, unless Andium Homes is responsible for the breach in question.

## **24. Notices**

24.1. Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

24.2. A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left as the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9:00am on the second Business Day after posting.

24.3. This Clause 23 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.



## 25. Liability

### 25.1. The Contractor:

25.1.1. warrants that it has exercised and will continue to exercise, in the performance of the Services or provision of the Goods, all the reasonable skill, care and diligence as may be expected of a properly qualified and competent member of the Contractor's profession.

25.1.2. accepts Andium Homes will be relying upon:

25.1.2.1. the Contractor's skill, care and diligence and its expertise and experience in the provision of the Goods and / or Services;

25.1.2.2. the accuracy of all representations or statements made and the advice given by the Contractor in connection with the provision of the Goods and / or Services and the accuracy of all contractual documentation.

25.2. The Contractor hereby agrees to indemnify Andium Homes against all losses, liabilities, damages, costs, legal costs and professional and other expenses of any nature whatsoever incurred or suffered by Andium Homes or by a third party as a result of such reliance.

25.3. The Contractor accepts:

25.3.1. liability for death or personal injury howsoever resulting from the Contractor's negligence; and

25.3.2. liability for damage to property resulting from the Contractor's negligence where such negligence has arisen or arises in connection with any other activities undertaken by the Contractor pursuant to or for any purpose relating to the Purchase Order.

25.4. The Contractor hereby agrees to indemnify Andium Homes against all and any losses, liabilities, damages, costs, legal costs and professional and other expenses of any nature whatsoever incurred or suffered by Andium Homes or by any third party whether arising from any disputes, contractual, tortious or other claims or proceedings which seek to recover loss and damage incurred by reason of any such death, personal injury or damage to property in relation to the provision of the Goods and / or Services.

25.5. the Contractor undertakes to maintain (at its own cost) at all times and with a reputable insurance company:

25.5.1. Public Liability Insurance for the amount of £5,000,000 (five million pounds)

25.5.2. Employees Liability Insurance for the amount of £10,000,000 (ten million pounds)

in respect of any one occurrence or series of occurrences arising out of one event.

25.6. The Contractor shall, on the request of Andium Homes, produce both the insurance certificate giving details of any cover and the receipt for the current year's premium in respect of each insurance.

25.7. The provisions of this condition shall not be extinguished by the termination of the Agreement for any reason.

## 26. Termination

26.1. Andium Homes may, without prejudice to any other power of termination or to any rights or remedies it may have, terminate the Agreement forthwith by notice in writing to the Contractor in the event of:



- 26.1.1. the making of an administration order in relation to the Agreement or the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer, or the making of a bankruptcy (including such term as defined in article 8 of the Interpretation (Jersey) Law 1954) or insolvency related order, in relation to the Contractor (including, without limitation, the Viscount of the Royal Court of Jersey) or relating to the affairs of the Contractor, or any analogous procedure or step being taken in any jurisdiction in relation to the Contractor or the affairs of the Contractor; or
- 26.1.2. there is a change of control of the Contractor;
- 26.1.3. the Contractor's financial position deteriorates to such an extent that in Andium Homes' opinion the Contractor's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy;
- 26.1.4. 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;
- 26.1.5. the Contractor committing any breach of the Agreement and (if the breach is capable of remedy) failing to remedy such breach within 14 days of being given written notice to do so by Andium Homes; or
- 26.1.6. the Contractor failing to perform its obligations under the Agreement with due diligence.
- 26.2. The Contractor shall indemnify Andium Homes against all costs, expenses and damages for which Andium Homes becomes liable arising from termination pursuant to this clause.
- 26.3. Termination of the Agreement shall not prejudice or affect any right or remedy which has accrued or shall accrue thereafter to Andium Homes, and any provision which is expressly to survive the Agreement shall remain in full force and effect.
- 26.4. Andium Homes may, in addition to any other power it may have, at any time by notice to the Contractor forthwith terminate the Agreement at no additional cost to Andium Homes. In such circumstances, the Contractor shall only be entitled to payment of a fair and reasonable sum for the Services performed or Goods delivered up to the date of termination.
- 26.5. On termination of this Agreement, the Contractor shall immediately deliver to Andium Homes any Deliverables whether or not then complete, and return any Customer Materials. If the Contractor fails to do so, then Andium Homes may enter the Contractor's premises and take possession of them. Until they have been returned or delivered, the Contractor shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement.

## 27. Confidentiality

- 27.1. The Contractor undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of Andium Homes, except as permitted by Clause 27.2.
- 27.2. The Contractor may disclose Andium Homes' confidential information:
- 27.2.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the Contractor's obligations under this Agreement. The Contractor shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses Andium Homes' confidential information must comply with this Clause 27; and





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

27.3. The Contractor shall use Andium Homes' confidential information for any purpose other than to perform its obligations under this Agreement.

## **28. Remedies**

28.1. If the Contractor fails to deliver the Goods by the applicable date(s) or to perform the Services by the applicable date(s), or both, Andium Homes shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:

28.1.1. to terminate this Agreement with immediate effect by giving written notice to the Contractor;

28.1.2. to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Contractor attempts to make;

28.1.3. to recover from the Contractor any costs incurred by Andium Homes in obtaining substitute goods and/or services from a third party;

28.1.4. to require a refund from the Contractor of sums paid in advance for Services that the Contractor has not provided and/or Goods that it has not delivered; and

28.1.5. to claim damages for any additional costs, losses or expenses incurred by Andium Homes which are in any way attributable to the Contractor's failure to meet such dates.

28.2. The conditions in paragraph 25.1 shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Contractor.

28.3. Andium Homes' rights and remedies under this Agreement are in addition to, and not exclusive of, any rights and remedies implied by statute.

## **29. Health and Safety**

29.1. The Contractor undertakes that he and his employees, agents and subcontractors will at all times comply with all health and safety requirements relating to the carrying out of the work under the Agreement. Such requirements include (but are not limited to) statutory laws and regulations, any codes of practice, British Standards (or their equivalent) and policies of Andium Homes relating to Health and Safety which may be applicable to the type of work carried out.

## **30. Discrimination**

30.1. The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise).

30.2. The Contractor shall take all reasonable steps to secure the observance of the previous clause by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Agreement.

## **31. Payment to Sub-Contractors**

31.1. Where the Contractor enters into a sub-contract with a supplier or contractor for the purposes of performing its obligations under this Agreement, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 working days from the receipt of a valid invoice.



### **32. Disclosure of Information under the Freedom of Information (Jersey) Law 2011 (FOI Law)**

32.1. The contractor agrees to comply with any requests for disclosure of information (subject to any statutory exemptions) properly made under the FOI Law which may include, but are not limited to, information held by the contractor on behalf of Andium Homes and information held by Andium Homes about the contractor.

### **33. Statutory and Other Regulations**

33.1. The Contractor shall comply in all respects with all applicable laws, rules and regulations in all matters arising in the performance of or in connection with this Agreement, including ensuring 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 this Agreement.

33.2. Without prejudice to or limitation of any other rights Andium Homes may have, if the Contractor does not fulfil its obligations and responsibilities under the Agreement, the Contractor shall indemnify Andium Homes against all costs for which Andium Homes becomes liable and for which it would not otherwise be liable.

### **34. Severance**

34.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 31 shall not affect the validity and enforceability of the rest of this Agreement.

### **35. Waiver**

35.1. 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. 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.

### **36. Data Protection**

36.1. The provisions of Andium Homes' Data Protection (Jersey) Law 2018 Contract Amendment dated [■] shall apply in relation to any Purchase Order and a copy of this Contract Amendment shall be made made available to the Contractor upon request.

### **37. Criminal Records Bureau Checks**

37.1. When reasonably required by Andium Homes, the Contractor agrees to comply with requests by Andium Homes for the details of its employees, agents and sub-contractors to be submitted for Criminal Records Bureau (CRB) clearance.

### **38. Governing Law**

38.1. This Agreement shall be governed by the laws of the Island of Jersey and the Parties shall submit to the exclusive jurisdiction of the Jersey courts.

