

GENERAL PURCHASING CONDITIONS – SPECIFIC TO HINKLEY POINT C

These General Material Purchasing Conditions are for incorporation into a contract for the procurement of goods or materials by one of the Costain Group of Companies named in the Order.

1. DEFINITIONS

- 1.1 “Purchaser” means the company named in the Order.
- 1.2 “Supplier” means the company or person named in the Order, who has agreed to supply the Goods. Or any other Company or person acting on behalf of the Supplier.
- 1.3 “Order” means the order to which these General Purchasing Conditions apply, issued by the Purchaser to the Supplier instructing the Supplier to supply the Goods.
- 1.4 “Supply Contract” means the agreement between the Purchaser and the Supplier comprising the Order and these General Purchasing Conditions.
- 1.5 “Goods” means the goods, materials, equipment, services and such other things, including the supply of records and documentation required to support the delivery of the Project and as may be reasonably required by the Regulators, that are to be supplied by the Supplier to the Purchaser as generally described in the Order, or which may reasonably be inferred from the Order as being included in the Supply Contract.
- 1.6 “Price” means any fixed price lump sum for the supply of the Goods, entered in the Order.
- 1.7 “Schedule of Rates” means any rates entered in or referred to in the Order.
- 1.8 “Employer” means the Purchaser’s employer under the Contract.
- 1.9 “Contract” means the contract between the Employer and the Purchaser for the work referred to in the Order.
- 1.10 “Contract Works” means the work to be carried out by the Purchaser under the Contract, into which the Goods will be incorporated, referred to in the Order.
- 1.11 “Site” means the place or places where the Goods are to be installed or used, as stated in the Order.
- 1.12 “Purchaser’s Representative” means any representative of the Purchaser whose name may be notified from time to time by the Purchaser to the Supplier, having full authority to act on behalf of the Purchaser.
- 1.13 “Specification” means the specification for the Goods including the packing and transport thereof and unloading if applicable, whether prepared by the Employer, the Purchaser or the Supplier or any of them.
- 1.14 “Programme” means the Programme for the supply of Goods, whether incorporated in the Order or otherwise notified by the Purchaser to the Supplier.
- 1.15 “Design Basis” means such drawings or other information incorporated in the Order or as may be notified by the Purchaser to the Supplier from time to time.

- 1.16 "Place of Delivery" means the Site or such other place or places where the Goods are to be delivered as may be notified to the Supplier by the Purchaser's Representative.
- 1.17 Reference in these General Purchasing Conditions to the defects correction period means the defects correction period specified in the Contract.
- 1.18 "Employer's Group Company" is any undertaking which is a group undertaking in relation to the Employer and/or in relation to any other undertaking in which the Employer or any such group undertaking holds more than 25% of the shares (and, for these purposes, the expressions "undertaking", "group undertaking" and "shares" have the meanings given in Section 1161 of the Companies Act 2006).
- 1.19 "Purchaser's Group Company" is any undertaking which is a group undertaking in relation to the Purchaser and/or in relation to any other undertaking in which the Purchaser or any such group undertaking holds more than 25% of the shares (and, for these purposes, the expressions "undertaking", "group undertaking" and "shares" have the meanings given in Section 1161 of the Companies Act 2006).
- 1.20 "Background Intellectual Property Rights" are Intellectual Property Rights in the Supplier's Documents prepared or developed whether before on or after the Supply Contract Date and not prepared or developed specifically for the purposes of this Supply Contract.
- 1.21 "Foreground Intellectual Property Rights" are Intellectual Property Rights in the Supplier's Documents prepared or developed, whether before on or after the Supply Contract Date specifically for the purposes of this Supply Contract.
- 1.22 "Intellectual Property Right" are patents, trade marks, service marks, trade names, registered designs, design rights, database rights, copyright (including rights in Software), moral rights, rights in know-how, rights in domain names and other intellectual property rights, in each case whether registered or unregistered, and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect anywhere in the world.
- 1.23 "The Supplier's Documents" are the documents provided by the Supplier and the documents, calculations, computer programs, software, drawings, manuals, models and other similar documents (including items created and stored on disks, diskettes, tapes and other electronically readable media), if any, prepared by the Supplier (or on his behalf, including by any subcontractor or lower tier subcontractor) in relation to the Supplier's design or this Supply Contract.
- 1.24 The "Project" means the design, engineering construction, completion, use, commissioning, operation, maintenance, alteration, adjustment, repair, modification, replacement, decommissioning, demolition, financing, refinancing and/or insurance of each EPR nuclear power plant (and the common or other facilities upon which it is dependent) being developed within the boundaries of the site.
- 1.25 "Others" are people or organisations who are not the Employer, the Purchaser, the Supplier, the Purchaser's Representative, or any subcontractor or supplier of the Supplier.
- 1.26 The "Supply Contract Date" is when this Supply Contract came into existence.
- 1.27 The "Parties" are the Purchaser and the Supplier.
- 1.28 The "Regulators" include the Office for Nuclear Regulation, including the Civil

Nuclear Security programme (ONR (CNS)), or anybody having responsibility for health and safety at nuclear installations in the United Kingdom which replaces the same from time to time, and the Environmental Agency, and any other Statutory Authority.

- 1.29 The “Nuclear Site Licence” is the nuclear site licence granted to the Employer pursuant to Sections 1(1), 4(1) and 4(2) of the Nuclear Installations Act 1965 in respect of the Project.
- 1.30 The “Supply Chain Mapping Tool” is the online mapping tool the details of which are set out within the documents supporting and forming the Supply Contract.

2. ORDER OF PRECEDENCE

- 2.1 In case of ambiguity or discrepancy between any of the documents incorporated in the Supply Contract such ambiguity or discrepancy shall be resolved by giving effect first to the Order and these General Purchasing Conditions.

3. PURCHASER’S REPRESENTATIVE

- 3.1 The Purchaser’s Representative shall carry out such duties as are specified in the Supply Contract or as may be necessary for the carrying out of the Supply Contract.
- 3.2 The Purchaser’s Representative may order variations to the Supply Contract and any variation shall be confirmed in writing; in order to be valid and binding.
- 3.3 The Purchaser’s Representative may give such instructions to the Supplier as the Purchaser’s Representative deems necessary and shall be confirmed in writing: in order to be valid and binding.

4. ASSIGNMENT AND SUB-CONTRACTING

- 4.1 The Supplier shall not assign, transfer, charge or otherwise deal with this Supply Contract (or any of its rights or obligations under this Supply Contract) nor grant, declare a trust of, create or dispose any right or interest in it without the prior consent of the Purchaser or the Purchaser’ Representative.
- 4.2 The Supplier shall not sub-let all or any part of the Supply Contract without the written consent of the Purchaser’s Representative.
- 4.3 The Supplier may allow a subcontractor to further subcontract part of its work but a person appointed by a subcontractor does not subcontract its works.
- 4.4 The Supplier does not vary or amend any subcontract he has entered into or waive or release a subcontractor from its obligations under the relevant subcontract or otherwise stop himself from enforcing or seeking redress for any material obligation or duty owed by a subcontractor without the Purchaser’s prior acceptance. A reason for withholding acceptance is
 - (i) The Supplier will not be able to comply with its obligations under this Supply Contract
 - (ii) It will be detrimental to recovery of additional costs due to the Supplier’s fault, or
 - (iii) The Purchaser’s rights and remedies under a warranty agreement given to him by the Supplier will be prejudiced

- 4.5 Unless it is due to the fault of the Purchaser, a variation does not arise if the Supplier is unable to enter into a subcontract with a subcontractor (including any named in the Supply Contract) or a subcontract is terminated or a replacement subcontractor is appointed.
- 4.6 The Supplier gives the Purchaser a true copy of each subcontract entered into by the Supplier as soon as it is entered into unless the Purchaser confirms otherwise in writing. The Supplier does not allow a subcontractor to enter onto the Site until the copy has been given to the Purchaser.
- 4.7 The Employer or the Purchaser may assign in whole or in part any benefit or right under this Supply Contract at any time to any person and the Purchaser gives written notice of the assignment to the Supplier. The Purchaser may at any time require the Supplier to agree to a novation of this Supply Contract to any Employer's or Purchaser's Group Company or to any purchaser of the Employer's or the Purchaser's interest in the Project, and in either case the novation agreement is in a form reasonably required by the Purchaser.
- 4.8 All subcontracting, is implemented in accordance with the subcontracting plan set out in the Supply Contract and both Parties comply with this plan.

5. BASIS OF OFFER AND PRICE

- 5.1 The Supplier acknowledges that the details of the Contract (other than the Purchaser's prices) were made available to the Supplier, and the Supplier has or is deemed to have full knowledge of the Contract except for the Purchaser's prices.
- 5.2 The Supplier shall be deemed to have examined the Site and to have satisfied himself as to the Contract Works and the circumstances affecting the Contract Works, and the manner by which the Goods are to be incorporated therein including without limitation any safety regulations applicable thereto.
- 5.3 The Supplier's Price and rates in the Schedule of Rates shall remain fixed throughout the period of the Order.

6. SUPPLIER'S OBLIGATIONS

- 6.1 The Supplier shall design (if applicable), manufacture, test and deliver the Goods to the place of delivery in accordance with the Programme.
- 6.2 The manufacturing of the goods shall as a first principle comply with the specification and in accordance with the Purchaser's Sustainable Procurement policy and the controls contained within the Delivering Sustainable Procurement document these can be found on www.costain.com. And subsequent good practice or in accordance with such British & European Standards or industry standards as may be applicable.
- 6.3 The Goods shall be manufactured, finished, packed and delivered to the Site or place of delivery to the reasonable satisfaction of the Purchaser's Representative and in accordance with such reasonable instructions as he may give.
- 6.4 The Supplier shall comply with the requirements set out in the Specification relating to the packing and marking of the Goods. Where there are no such requirements, the Supplier shall pack the Goods (unless it is expressly indicated otherwise in the Order

that packing is not required) so as to avoid damage during transfer to and storage on the Site or place of delivery, and shall if required, mark the Goods both on the exterior of the packing (unless packing is not required) and on the Goods themselves so that the Goods are readily identifiable. Markings on both the exterior and on the Goods shall include the Purchaser's order number.

- 6.5 Each consignment of Goods shall be accompanied by a packing list or delivery note which identifies clearly the Goods contained in each consignment and which states the Purchaser's Order Number.
- 6.6 The Supplier shall test the Goods during or following manufacture in accordance with the requirements of the Specification and applicable industry standard. The Supplier shall give the Purchaser adequate notice of when such testing is to be carried out. The Supplier shall test or witness testing of the Goods following installation thereof if required to do so by the Purchaser's Representative, and such testing or witnessing shall be deemed to be included in the Price or the Schedule of Rates.
- 6.7 Any failure by the Purchaser to witness testing or any approval by the Purchaser of the Goods or any tests shall not constitute acceptance of the Goods or relieve the Supplier of any liability under the Supply Contract.
- 6.8 All Goods supplied by the Supplier shall be fit for the purpose as intended as indicated by the Order or as may reasonably be inferred therefrom.
- 6.9 In providing the Goods, the Supplier shall comply with all legislation, instruments, rules or orders made under any Act of Parliament and any regulation (including those as may be reasonably required by the Regulators to enable the Employer to comply with the requirements of the Nuclear Site Licence), or bye-law of any local authority or of any statutory undertaker or of any public or private utility or undertaking which has any jurisdiction with regard to the Contract Works and/or the Goods and without prejudice to the generality of this clause undertakes to carry out and fulfil all its duties in accordance with health and safety legislation.
- 6.10 In performing the obligation under the supply Contract, the Supplier shall conform to all Governmental laws, regulations, or codes, local or national applicable to the country through which the goods are to be transported. The Supplier shall pay the costs of any compliance.
- 6.11 The Supplier maintains and implements, and ensures that each of his subcontractors maintains and implements, an effective quality control programme in accordance with the requirements set out in the Supply Contract

The Employer, the Purchaser, the Regulators and any other persons nominated by the Purchaser will be entitled to audit and/or inspect any aspect of the programme, or its implementation, and the Supplier will (and ensures that each of his subcontractors will) give access to the Employer, the Purchaser the Regulators and any other persons nominated by the Purchaser to any location where the supplier executes any part of the Goods and services, whether on or off the Site, for the purpose of carrying out such audits and/or inspections.

Compliance with the quality control programme does not relieve the Supplier of any of his duties, obligations or responsibilities under this Supply Contract.

- 6.12 The Supplier maintains a fully auditable cost control system and other information and records which enables full compliance with the Employer's and Purchaser's requirements and reporting procedures as set out in the Supply Contract. The Purchaser the Employer and any Regulator may inspect and audit any and all of the Supplier's records retained under this clause.

- 6.13 The Supplier takes all reasonable steps to protect the environment (both on and off the Site) and to avoid or limit damage and nuisance to people and property resulting from Contamination, pollution, noise and other results of his operations.
- 6.14 If so required by the Purchaser, the Supplier shall complete the Purchaser's Supply Chain Mapping Tool in accordance with the Purchaser's guidance and instructions. The Supplier shall ensure that its data held within the Supply Chain Mapping Tool is maintained and updated by the Supplier on a regular basis as may be required.

7. DESIGNS AND DRAWINGS

- 7.1 If applicable, using the Design Basis, the Supplier shall prepare such further designs and drawings as are necessary to enable the Goods to be manufactured in accordance with the Supply Contract and to the reasonable requirements of the Purchaser's Representative.
- 7.2 If applicable, all further designs and drawings shall be submitted to the Purchaser's Representative for his consent, which shall be obtained by the Supplier before manufacture is commenced.
- 7.3 If applicable, where the Supplier is responsible for the Design of the Goods, the Supplier shall effect and maintain Professional Indemnity insurance. The minimum Professional Indemnity Insurance cover effected by the Supplier shall be £10 million (each and every occurrence) and shall be maintained in full force for a period of 12 years from the delivery of the Goods.

8. INSTALLATION, OPERATION AND MAINTENANCE INSTRUCTIONS

- 8.1 In cases where the Goods are not to be installed in the Contract Works by the Supplier, the Supplier shall provide timeously such installation instructions as may be necessary to enable the Purchaser or his sub-contractors to install the Goods in the Contract Works. The Supplier shall provide timeously such operation and maintenance instructions as may be necessary to enable the Purchaser, the Employer, or the Purchaser's sub-contractors to operate and maintain the Goods.
- 8.2 It is expressly agreed that if the Supplier is to supply operation and maintenance instructions, together with any further records and documentation set out within the Supply Contract (collectively referred to in this clause as the "documents") as part of its obligations then the Supplier shall not be entitled to the release of any payments where it is specifically stated in the order that the said payments are dependent upon the receipt by the Purchaser of the documents

9. INTELLECTUAL PROPERTY AND DESIGNS

- 9.1 As between the Parties, the Supplier retains Background Intellectual Property Rights.

In relation to Background Intellectual Property Rights, the Supplier grants, or procures the grant to the Purchaser of, a non-terminable, transferable, worldwide, irrevocable, perpetual, non-exclusive, royalty-free licence to copy, adapt, modify, use and communicate the Supplier's Documents in which the Supplier retains Background Intellectual Property Rights for all purposes relating to the Project including the construction, completion, operation, maintenance, decommissioning, letting, sale, promotion, advertisement, refurbishment and repair of the Project. The rights given to the Purchaser under this clause are given with full title guarantee and extend to any Supplier's Documents prepared or

developed in whole or in part by any subcontractors or lower tier subcontractors. The Purchaser may allow Others to copy, adapt, modify and use the Supplier's Documents, whether by granting sub licences or assigning the benefit of this clause. This licence in the case of Supplier's Documents which are in the form of computer programs or Software, permits their use on any computer, including replacements of any computers.

The Supplier does not interfere with any acts within the scope of the licence granted to the Purchaser under, or any sub-licence granted by the Purchaser to Others in accordance with, this clause.

The Purchase's licence pursuant to this clause continues notwithstanding completion or earlier termination of the Supplier's obligation to provide the Goods and services.

- 9.2 To the extent the Supplier's Documents were created before the Supply Contract Date specifically for the purposes of this Supply Contract, the Supplier transfers on the Supply Contract Date the Foreground Intellectual Property Rights in such documents to the Purchaser. As between the Purchaser and the Supplier, the Purchaser owns, from the date of their creation, the Foreground Intellectual Property Rights in the Supplier's Documents created on or after the Supply Contract Date specifically for the purposes of this contract provided always that both the Purchaser and the Supplier acknowledge and agree that ownership of all such Foreground Intellectual Property Rights will be immediately transferred by the Purchaser to the Employer and that the Employer ultimately owns all such Foreground Intellectual Property Rights in the Supplier's Documents..

The Purchaser grants to the Supplier a limited, revocable, non-exclusive sub-licence to copy, adapt, modify, use and communicate the Supplier's Documents in which the Employer owns the Foreground Intellectual Property Rights for all purposes relating to providing the Goods and services. Such sub-licence will be subject to clause 18 (Confidentiality) and terminates at the end of the defects correction period referred to in clause 13 (Defects Correction) or, if earlier, if for any reason the Supplier's obligation to provide the Goods and services is terminated.

- 9.3 The Supplier irrevocably waives, and procures that each subcontractor and lower tier subcontractor irrevocably waives, any rights he or they may have pursuant to Chapter IV (Moral Rights) of Part 1 of the Copyright Designs and Patents Act 1988 and any other rights of a similar nature that may accrue in any applicable jurisdiction in relation to the Supplier's Documents, and the Supplier obtains a written waiver from his employees and from the respective employees of each subcontractor or lower tier subcontractor, of any such rights which they may have from time to time.
- 9.4 The Supplier executes such further documents and does such other things, and procures that each subcontractor and/or lower tier subcontractor executes such further documents and does such other things, as the Purchaser may request, in order to obtain for the Purchaser and the Employer, the full benefit of this clause.
- 9.5 In this subclause "claim" is a claim (or proceedings pursuing a claim) alleging an infringement (or alleged infringement) of any Intellectual Property Right relating to the information provided by the Purchaser or the Supplier's design or the Supplier's Documents.

A Party notifies the other as soon as he becomes aware of any claim made against him. Whenever a Party does not give notice to the other Party of any claim within 84 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this subclause.

The Purchaser indemnifies (including legal costs reasonably incurred in defending or settling claims) the Supplier against and from any claim which is or was an unavoidable

result of the Supplier's compliance with any part of the information provided by the Purchaser.

The Supplier indemnifies (including legal costs reasonably incurred in defending or settling claims) the Purchaser against any claim which arises out of or in relation to

- (i) any infringement or alleged infringement of any Intellectual Property Rights granted to the Purchaser under this contract,
- (ii) the Supplier's design or the Supplier's Documents or providing the Goods and services,
- (iii) the proper use of the Supplier's Documents and/or the completed Goods and services which comprise the Supplier's design.

If a Party is entitled to be indemnified under this subclause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation, arbitration or other proceeding which may arise from it. The other Party, at the request and cost of the indemnifying Party, assists in contesting the claim. This other Party (and its personnel) does not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party fails to take over the conduct of any negotiations, litigation, arbitration or other proceeding upon being requested to do so by such other Party or unless such admission is required by the applicable law, provided that the other Party has given the indemnifying Party prior notice of the same.

9.6 Notwithstanding the above provision, the Supplier shall be responsible for any errors, omissions or discrepancies within designs, drawings, samples, models, tests or any other information or documentation supplied or produced by the Supplier save to the extent that the error omission or discrepancy is due to information supplied to the Supplier by the Purchaser.

9.7 The Supplier shall be liable for and shall indemnify and keep indemnified the Purchaser against any and all expenses, liabilities, losses, claims and proceedings which the Purchaser may incur as a result of any breach of clauses 9.6 of these General Purchasing Conditions by the Supplier.

9.8 The Supplier shall reimburse the losses which the Purchaser may incur due to the late supply by the Supplier of designs, drawings or other information save to the extent that such late supply is due to the fault of the Purchaser or the Purchaser's Representative.

10. INSPECTION AND TESTING OF GOODS BEFORE DELIVERY

10.1 The Purchaser's Representative shall be entitled at all reasonable times to inspect examine and test the Goods during manufacture or at any other time before delivery. In case the Goods are not on the Supplier's premises the Supplier shall make whatever arrangements are necessary to enable the Purchaser's Representative to inspect, examine and test the Goods.

11. DELIVERY

11.1 The Supplier shall deliver the Goods in accordance with time periods and/or dates stated in the Order.

11.2 The Supplier shall manufacture the Goods so that they are ready for delivery at the time or times indicated on the Programme or at the time or times indicated in the Order or at

such other time or times as the Purchaser's Representative may notify the Supplier in writing. In case of conflict between the Programme and the Order, the Order shall prevail.

- 11.3 The Supplier shall deliver the Goods to the Site or to the Place or places of delivery or to such other place or places as the Purchaser's Representative may notify the Supplier in writing. The Goods shall be unloaded by the Supplier unless specified otherwise in the Order. The Goods shall be unloaded by the Supplier at the place or places indicated by the Purchaser's Representative.
- 11.4 If for any reason the Supplier suffers delay to the manufacture of the Goods by reason of a fault of the Purchaser, the Purchaser's Representative shall extend the time or times for delivery of the Goods by such period or periods as may be appropriate in the circumstances.
- 11.5 If the Supplier fails to deliver the Goods by the time or times required by the Supply Contract (or the extended time or times) the Supplier shall reimburse the Purchaser such losses as may be suffered by the Purchaser as a result, such as but not limited to liquidated damages, loss and expense of the Purchaser and claims from other suppliers and sub-contractors employed by the Purchaser in connection with the Contract Works.
- 11.6 Vehicle Safety Specification – From the 1st October 2013, all vehicles rated greater than 3.5te attending or going to the Purchaser's site geographically located within the M25, which are operated/used by the Supplier or its designated transportation/logistics supply chain that do not comply with the minimum Purchaser's safety specification/standard will be denied access to such project

The Supplier shall be liable for and indemnify the Purchaser against any expense, liability, loss, claim or proceedings howsoever arising in respect of such denied access

The Purchaser shall have no liability whatsoever to the Supplier (or its designated transportation /logistics supply chain) arising from such denied access

The minimum Purchaser safety specification/standard have been branded 'Stop & Think: Are your vehicles Safe?' The corresponding technical specification can be access via the following website path:

www.costain.com/responsibility/relationships/supplychain.

- 11.7 Fleet Operators Recognition Scheme (FORS) **Membership** – before 1st October 2013, all transportation operators acting on behalf of the Supplier must be registered with FORS and then within 3 months must achieve the bronze standard of accreditation. Thereafter, any vehicle not adorned with an official FORS decal and carrying evidence of bronze status will be denied access to our projects

The Supplier shall be liable for and indemnify the Purchaser against any expense, liability, loss, claim or proceeding howsoever arising in respect of such denied access

The Purchaser shall have no liability to the Supplier (or its designate transportation/logistics supply chain) arising from such denied access

Information on FORS registration and accreditation can be accessed via the FORA website www.fors-online.org.uk

- 11.8 Driver Training – the supplier shall ensure that it promotes driver awareness of the requirements of these clauses 11.6 to 11.9 and risk to vulnerable road users. In this regard, the Supplier shall deliver a training workshop or toolbox talk, signed off by all present as a record of their attendance. The Supplier shall either use the Purchaser's

FORS 'Cycle safety': It's no accident' driver presentation (downloadable from www.costain.com/responsibility/relationships/supplychain) or its own similar and equivalent training pack to deliver its training workshop or toolbox talks by the Supplier shall be deemed to be evidence in respect of the FORS audit for verification of training

- 11.9 With regard to the Supplier compliance with these clauses 11.6 to 11.9, the Purchaser reserves the right to audit (at any time during normal working hours) the Suppliers records and processes in relation to transportation upon giving reasonable prior notice to the supplier.

12. VARIATIONS

- 12.1 The Purchaser or the Purchaser's Representative may by a written instruction to the Supplier order a change or alteration to the quantity, quality, type or amount of the Goods (hereinafter 'a Variation').
- 12.2 As soon as possible after receiving such instruction the Supplier shall notify the Purchaser's Representative if in the Supplier's opinion the Variation will involve an addition or deduction to the Price or a change to the Schedule of Rates or a change to the time or times for delivery of the Goods.
- 12.3 The amount to be added to or deducted from the Price by reason of such Variation shall, if not the subject of a quotation from the Supplier which has been accepted by the Purchaser, be agreed by the Purchaser's Representative and the Supplier by reference to the rates, if any, specified in the Price or by reference to the Price, if applicable. Failing agreement the value of the Variation shall be determined by the Purchaser's Representative on such basis as is fair and reasonable. Where the Supplier does not agree with the determination made by the Purchaser the Supplier shall be entitled to refer the matter to dispute resolution in accordance with clause 20.
- 12.4 Where the Variation involves a change to the Schedule of Rates the applicable rate shall be agreed by the Purchaser's Representative and the Supplier by reference to the Schedule of Rates or failing agreement shall be determined by the Purchaser's Representative on such basis as is fair and reasonable. Where the Supplier does not agree with the determination made by the Purchaser the Supplier shall be entitled to refer the matter to dispute resolution in accordance with clause 20.
- 12.5 In case the Supplier is instructed to proceed with the Variation before the value thereof has been determined the Supplier shall keep contemporary records of the cost of making the Variation including the materials purchased and the time expended thereon. Such records shall be made available for inspection by the Purchaser's Representative as and when he requires at all reasonable times.
- 12.6 In the event that the Price is reduced for whatever reason, the Supplier shall have no entitlement whatsoever to any payment in respect of loss of profit or loss of opportunity.

13. DEFECTS CORRECTION

- 13.1 The defects correction period is the period stated in the Order or if no period is stated 24 months following the date of completion of the Contract Works. The Supplier shall make good by repair or replacement any defect or damage to the Goods which may appear during the defects correction period, following instructions issued in writing to the Supplier by the Purchaser or the Purchaser's Representative. The Supplier shall carry out the correction of the defect or damage during the time or times notified in the said instructions or as may otherwise be agreed by the Purchaser or the Purchaser's

Representative.

- 13.2 The Supplier shall bear the cost of such correction where the defect or damage arises from any defective materials, workmanship or design or from any act of omission of the Supplier or any other defects or fault within the Goods which has not been caused solely by the Purchaser or the Employer.
- 13.3 In case the Supplier fails to correct any defect or damage within the time instructed or at all the Purchaser may arrange for the correction to be carried out by others and may deduct the reasonable cost of doing so from monies due to the Supplier or may recover the said cost from the Supplier as a debt.

14. TITLE AND RISK

- 14.1 Title in Goods supplied pursuant to this Supply Contract shall pass to the Purchaser upon their receipt on Site (or such other place of delivery which the Purchaser has agreed) or upon payment for the Goods, or the date when the Supplier becomes entitled to payment of the Goods, whichever is the earlier.
- 14.2 Risk in the Goods remains with the Supplier until delivery on Site (or such other place of delivery which the Purchaser has agreed)

15. PAYMENTS

- 15.1 All payment invoices shall be submitted to the Purchaser's address stated on the Order and marked for the attention of the Accounts Department. The Supplier shall be entitled to payment for the Goods as stated on the Order; provided that the Purchaser is satisfied that he has title to the Goods and that the delivery of the Goods and any associated documentation (as referred to in subclause 8.2) has been discharged in full.
- 15.2 The Purchaser shall not use a factoring agent to collect any debts owed to the Purchaser by the Supplier without the prior written consent of the Purchaser.

16. SET OFF

- 16.1 The Purchaser has the right to withhold from monies due to the Supplier any amounts which are owed to the Purchaser by the Supplier arising out of or in connection with the Supply Contract or any other contract between the Purchaser or a holding company or subsidiary of Costain (as defined in section 1159 of the Companies Act 2006) and the Supplier. Without prejudice to the foregoing, if the Supplier is in breach of the provisions of the Supply Contract, pending the final agreement between the Parties as to the amount of loss or damage suffered or to be suffered by the Purchaser the Supplier shall pay or allow the Purchaser such sum as the Purchaser shall in good faith estimate as the amount of such loss or damage.

17. INSURANCE

- 17.1 The Supplier shall insure and procure that his subcontractors shall insure to the levels appropriate and relevant to their work, the following in the joint names of the Supplier and the Purchaser to the amount of cover stated in the Order for the periods specified below.
 - (i) The Goods, from the date of commencement of their manufacture until they have been delivered to the Site or the place of delivery specified in the Order and

unloaded (if the Supplier is responsible for unloading), for their repair or full replacement value.

- (ii) Following the incorporation of the Goods into the Contract Works the Supplier shall at all times (including during the Contract period) maintain a policy of insurance to cover the Supplier's third party liability including but not limited to damage to the Contract Works, the Goods or other property, and death or injury to any persons whatsoever including without limitation the workmen of the Purchaser and the Supplier which is due to any fault in the Goods whether due to faulty design or faulty manufacture by the Supplier.
 - (iii) The material or property referred to in Clause 25.3 (ii) and (iii).
- 17.2 The Supplier shall insure in the joint names of the Purchaser and the Supplier any material or property sent to the Supplier by the Purchaser for any purpose in connection with the Supply Contract against any damage or loss which may occur to it whilst in the custody of the Supplier.
- 17.3 The Supplier has no benefit under any Costain Group insurance policy.

18. CONFIDENTIALITY AND PUBLICITY

- 18.1 Save as may be necessary for the proper performance of the Supply Contract the Supplier treats all information obtained under, arising from or in connection with this Supply Contract, or the Goods and services or the Project as confidential. The Supplier does not without the prior written consent of the Purchaser (in his sole and absolute discretion)
- (i) disclose to any person not duly checked and vetted and holding all necessary security clearances for the purpose of the Nuclear Industries Security (Amendment) Regulations 2006 and the Anti-Terrorism, Crime and Security Act 2001 any information which is classified by any Regulator or by the Purchaser or the Employer as, or which bears the protective marking, 'top secret', 'secret', 'confidential' or 'restricted' or which is otherwise judged by the ONR (CNS) to be security sensitive ("Classified Information"),
 - (ii) disclose to any person any information or documents concerning this Supply Contract or the Goods and services or the Project,
 - (iii) disclose to any person any information or document obtained by the Supplier concerning the Purchaser, the Employer, or others retained or engaged by the Purchaser, the Employer or any Purchaser's or Employer's Group Company in relation to the Project or
 - (iv) use or disclose information concerning the contract obtained either by the Supplier or by any person employed by him except for the purposes of the Supply Contract.
- 18.2 The Purchaser may require as a precondition to the granting of any consent required under this clause, that any person to whom the Supplier proposes to disclose information provides a confidentiality undertaking to the Purchaser in terms satisfactory to the Purchaser (in his sole and absolute discretion).
- 18.3 Clauses 18.1 and 18.2 do not apply to the disclosure of

- (i) any information other than Classified Information which is already in the public domain at the time of its disclosure other than by breach of these provisions or
 - (ii) any information which is required to be disclosed by any applicable law or any information other than Classified Information which is required to be disclosed by the regulations of any stock exchange.
- 18.4 The Supplier procures that each person to whom the Supplier discloses any information or document referred to in clause 18.1 (each such person being a "Recipient") observes the restrictions on disclosure applicable to the Supplier under this clause as if the same restrictions were applicable to such Recipient, and the Supplier is responsible and liable to the Purchaser for any loss or damage suffered by the Purchaser in consequence of any failure by any Recipient to observe such restrictions.
- 18.5 The Supplier notifies the Purchaser promptly if the Supplier becomes aware of any breach by the Supplier of his obligations under this clause or of any breach by any Recipient of any confidentiality undertaking provided by such Recipient pursuant to clause 18.2 or any failure by any Recipient to observe the restrictions referred to in clause 18.4. The Supplier gives the Purchaser all assistance the Purchaser may reasonably require in connection with any proceedings the Purchaser may bring or other steps the Purchaser may take against any Recipient in respect of any such breach or failure or against any other person in respect of a breach of confidence.
- 18.6 Without prejudice to any other rights or remedies that the Purchaser may have, the Parties acknowledge and agree that damages alone would not be an adequate remedy for any breach by the Supplier of this clause and that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this clause by the Supplier would be more appropriate remedies.
- 18.7 The Supplier does not without the prior written approval of the Purchaser at any time for any reason disclose to any person or publish or make any statement concerning the Purchaser, Employer and/or Others connected with the Project, this Supply Contract or the Goods and services provided always that this shall not preclude the Supplier from disclosing information with any of its subcontractors to the extent necessary to enable the Supplier to comply with its obligations under the Supply Contract (subject always to the provisions of clause 18).

19. CARE OF GOODS

- 19.1 The Supplier shall be responsible for the care of the Goods or any part thereof until the Goods or part thereof are delivered to the Site or the place or places of delivery and have been unloaded by the Supplier where the Supplier is responsible for unloading. In case all or any part of the Goods suffers loss or damage whilst the Supplier has the responsibility for the care thereof the same shall be made good by the Supplier at his own expense at such time as the Purchaser's Representative may instruct.

20. DISPUTES

- 20.1 If any dispute or difference arises at any time out of or in connection with the Supply Contract and it cannot be resolved amicably it shall initially be referred to formal mediation. Should the mediation be unsuccessful the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the Parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

20.2 Notwithstanding the provision set out under subclause 20.1, if the Purchaser is of the opinion (in his absolute discretion) that a dispute arising under the Supply Contract raises or concerns issues or facts which are substantially the same as or connected with issues or facts raised or concerned with a related dispute under the Contract then the Purchaser may apply the same dispute resolution procedures set out under the Contract to the dispute arising under this Supply Contract and the Supplier hereby agrees that such dispute resolution procedure shall apply.

21. THIRD PARTIES

21.1 Other than as may be expressly stated herein, nothing in this Supply Contract purports to confer on any third party any benefit or right to enforce any term of the Supply Contract and the Contract (Rights of Third Parties) Act 1996 shall not apply.

22. TERMINATION

22.1 The Purchaser may without prejudice to any other rights or remedies terminate the Supplier's employment under this Supply Contract in respect of the whole or any portion of the work to be carried out or Goods to be supplied under the Supply Contract if the Supplier:-

- (i) fails within three working days' notice in writing to proceed regularly and diligently with the design or manufacture or delivery of the Goods in accordance with the provisions of Clause 6 (Supplier's Obligations) hereof; or
- (ii) without reasonable cause wholly suspends carrying out the design, manufacture or delivery of the Goods before completion thereof; or
- (iii) refuses or neglects after three working days' notice in writing to remove defective work or improper materials or to rectify defects or faults in the Goods; or
- (iv) conducts himself in such a manner as to prejudice the completion of the whole or any portion of the Contract; or
- (v) fails to complete and deliver up the whole or any portion of the Goods by the time or times specified, or by such extended time or times as may be allowed by the Purchaser or the Purchaser's Representative; or
- (vi) makes any arrangements with its creditors (including a voluntary arrangement as defined in the Insolvency Act 1986); has a receiver, administrator, administrative receiver, provisional liquidator or other encumbrancer appointed over the whole or any material part of its assets under the Insolvency Act 1986; or has a petition presented (and not being the subject of challenge by the Supplier) or a resolution passed or an order made for the administration or winding up, bankruptcy or dissolution of the Supplier;
- (vii) fails within three working days of a notice in writing from the Purchaser to comply with any of the obligations on the part of the Supplier herein contained; or
- (viii) significantly breaches any health and safety requirement of the Supply Contract.

Notwithstanding the matters set out in this clause 22.1, the Purchaser may terminate in his sole and absolute discretion at any time and for any reason whether or not it is intended for any remaining works to be executed by the Employer or the Purchaser.

22.2 Upon termination, the Supplier shall not be entitled to any compensation and shall upon

instruction from the Purchaser remove or leave (as instructed) any of its materials or property from or at the Site or place of delivery.

22.3 Notwithstanding anything to the contrary contained in these conditions, the Supplier's entitlement to payment shall be for the value of the Goods delivered to the place of delivery provided that the Supplier can demonstrate that the Purchaser has title to the same. Such payment shall be subject to Clauses 15 and 16 hereof. The Purchaser shall be entitled to set off all loss, expense and damage suffered by the Purchaser by reason of a termination under this clause.

22.4 Upon termination the Purchaser may instruct the Supplier to remain on Site, including retaining any equipment, plant and materials, completing the remainder of the Goods and works and (if requested to do so by the Employer) to enter in to a new contract with the Employer on the same terms and form as this Supply Contract between the Purchaser and the Supplier (the "terminated contract") and to assign the benefit arising from the terminated contract or any subsubcontract or other contract related to performance of this terminated contract to the Employer and the Supplier hereby agrees to enter into such new contract upon request by the Purchaser or the Employer and consents to such assignment. Should such new contract be entered into then the Employer shall enjoy the same rights and benefits as he would have had under the terminated contract had the Employer been the employer under the terminated contract from the outset and had such contract not been terminated and the Supplier shall complete the Goods and works under such new contract in full and in such a manner as described within and required by the terminated contract. For the avoidance of doubt, such new contract shall govern retrospectively all Goods and works carried out by the Supplier under the terminated contract."

23. TERMINATION OF THE PURCHASER'S EMPLOYMENT

23.1 If the Purchaser's employment under the Contract is terminated the Supply Contract shall also be terminated. The Purchaser shall bear no liability for any loss or expense suffered by the Supplier and shall not be obliged to make any further payments to the Supplier in the event of the termination of the Purchaser's employment as aforesaid. Furthermore, the Supplier agrees that the Purchaser may assign the benefit of this Supply Contract and any future performance of this Supply Contract by the Supplier to the Employer and the Supplier hereby consents to such assignment

24. COLLATERAL WARRANTIES

24.1 In case the Employer requires the Purchaser's suppliers or supplier's subcontractors to provide collateral warranties to the Employer or third parties the Supplier shall provide such warranties as the Purchaser may reasonably require, and if so required by the Purchaser from the ultimate holding company of the relevant Supplier or subcontractor. Each such agreement is to be duly executed as a deed, is to be in the form set out in the Supply Contract and is to be provided within 14 days of the Supply Contract Date or, where the relevant subcontractor has not been engaged by the Supplier at the Subcontract Date, within 14 days of him being engaged by the Supplier. Provided that the Supplier's liabilities thereunder shall not be greater than the Supplier's liability to the Purchaser under the Supply Contract.

24.2 In case the Employer requires the Purchaser's suppliers to provide insurance backed guarantees to the Employer or third parties the Supplier shall provide such guarantees as the Purchaser may reasonably require. Each such guarantee shall be enforceable for the period set out in the Supply Contract and delivered to the Purchaser no later than delivery of the Goods under the Supply Contract.

- 24.3 If the Supplier does not provide an agreement in accordance with this sub-clause 24 then, without prejudice to the Purchaser's other rights and remedies, the Purchaser is entitled at his sole discretion to deduct or withhold from any payment to which the Supplier would otherwise be entitled in respect of the work done or supplied or done or supplied by the relevant subcontractor until the provision of the relevant agreement. The amount which can be deducted or withheld in respect of each subcontract shall not exceed 10% of the overall price payable under the relevant subcontract. The Purchaser retains full legal and beneficial ownership of any monies deducted or withheld pursuant to this provision
- 24.4 The cost of supplying any such warranties or guarantees shall be deemed to be included in the Price or the Schedule of Rates.

25. WARRANTIES AND LIABILITY

- 25.1 The Supplier warrants to the Purchaser that the Goods:-
- (i) will be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the Supply Contract is entered into;
 - (ii) will be free from defects in design, material and workmanship;
 - (iii) will correspond with any relevant specification or sample;
 - (iv) will comply with all statutory requirements and regulations relating to the supply of the Goods;
 - (v) that the Goods will be manufactured by appropriately qualified and trained personnel, with due care and diligence to such high standard of quality as it is reasonable for the Purchaser to expect in all the circumstances;
 - (vi) that where no standards are specified in the Supply Contract the Goods will be in accordance with the standards specified in the Contract or in the absence of any such standard in accordance with any relevant British Standard or industry standard or in the absence of any such standards in accordance with instructions to be issued by the Purchaser's Representative;
 - (vii) that the Goods will be free from defect; free from any third party rights and interests (including liens, charges and options) and that the use or possession by the Purchaser of any of the Goods will not subject the Purchaser to any claim for infringement of any intellectual property rights of any third party.
- 25.2 Without prejudice to any other remedy, if any other Goods are not supplied or do not perform in accordance with the Supply Contract, then the Purchaser shall be entitled:
- (i) to require the Supplier to repair the Goods free of charge or to supply replacement Goods free of charge in accordance with the Supply Contract within 7 days; or
 - (ii) at the Purchaser's sole option, and whether or not the Purchaser has previously required the Supplier to repair the Goods or to supply any replacement Goods, to treat the Supply Contract as repudiated by the Supplier's breach and require the payment of any sums which have been paid by the Purchaser to the Supplier in respect of such Goods.
- 25.3 The Supplier hereby indemnifies and shall keep indemnified the Purchaser in full against all liability, loss, damage, costs and expenses (including legal expenses) awarded against

or incurred or paid by the Purchaser as a result of or in connection with:

- (i) the Supplier's failure to perform in accordance with the Supply Contract;
- (ii) the personal injury or death of any persons arising out of or in the course of or caused by the carrying out of the Supply Contract by the Supplier; or
- (iii) any injury or damage whatsoever to any property real or personal due to any negligence, omission or default of the Supplier his servants or agents.

25.4 The Supplier shall indemnify and save harmless the Purchaser from all liens and other encumbrances against the Goods or any property belonging to or in possession of the Purchaser on account of debts or claims alleged to be due from the Supplier or its sub-contractors to any person, including sub-contractors. On behalf of the Purchaser and in the Purchaser's name, as the case may be the Supplier shall defend at its own expense any claim or litigation in connection therewith and shall follow any reasonable instructions issued by the Purchaser in connection therewith.

26. VAT

26.1 All rates and prices included in the Supply Contract are exclusive of Value Added Tax.

27. NOTICES

27.1 All notices required by this Supply Contract to be served on the Purchaser by the Supplier shall be served in writing at the address given in the Order.

28. LAW OF SUPPLY CONTRACT

28.1 The Supply Contract shall be governed by the law of England and Wales.

29. ADMINISTRATION OF THE CONTRACT

29.1 Whenever the Purchaser is required by the Contract to give any return, account or notice to the Employer or the Employer's representative the Supplier shall in relation to the Supply Contract give a similar return, account or notice or such other information in writing to the Purchaser as will enable the Purchaser to comply with the terms of the Contract, and shall do so in sufficient time to enable the Purchaser to comply with such terms punctually. If by reason of any breach by the Supplier of this provision the Purchaser is prevented from recovering any sum from the Employer under the Contract then without prejudice to any other remedy which the Purchaser may possess for such breach the Purchaser may deduct such sum from monies otherwise due to the Supplier under the Supply Contract.

30. ENTIRE AGREEMENT

30.1 The Supply Contract constitutes the entire agreement between the Supplier and the Contractor as to the terms upon which the Goods shall be supplied and delivered and supersedes any previous agreements relating to the subject matter of the Supply Contract. Any other terms whether written or verbal (including without limitation any terms and conditions contained in the Supplier's order forms, tender, printed conditions, correspondence or delivery notes) are expressly excluded.

31. ANTI BRIBERY AND CORRUPTION

- 31.1 The Supplier acknowledges that it has seen the Purchaser's Anti-Bribery Policy and agrees to comply with and support such policy so as not to breach or cause the Purchaser to breach the Bribery Act 2010. The Supplier shall further comply with and shall procure that its subcontractors shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and the Prevention of Corruption Acts 1889-1916.
- 31.2 Where the Supplier is a non-UK company, in relation to its activities, practices and conduct outside the UK, the Supplier shall 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
- 31.3 The Supplier shall have and shall maintain in place throughout the term of the Supply Contract its own policies and procedures, including but not limited to adequate procedures in accordance with the Bribery Act 2010, to ensure compliance with this clause 31 and will enforce them where appropriate
- 31.4 The Supplier warrants that it has not received or provided any request or demand for any undue financial or other advantage of any kind in entering into the Supply Contract, including
- (i) offering or agreeing to give to any servant, employee, officer or agent of the Employer or the Purchaser any grant, gift or consideration of any kind as an inducement or reward
 - (ii) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Supply Contract or any other contract with the Employer or the Purchaser or
 - (iii) for showing or not showing favour or disfavour to any person in relation to this Supply Contract or any other contract with the Employer or the Purchaser,
 - (iv) entering into this Supply Contract or any other contract with the Employer or the Purchaser in connection with which commission has been paid or has been agreed to be paid by the Supplier or any subsubcontractor or on its or their behalf or to its or their knowledge unless, before the relevant subcontract or document is entered into, particulars of any such commission and the terms and conditions of any such subcontract or document for the payment thereof have been disclosed in writing to the Purchaser,
- and the Supplier shall promptly report to the Purchaser any request or demand for any undue financial or other advantage of any kind received by the Supplier from any other party in connection with the performance of the Supply Contract.
- 31.5 With regard to the Supplier's compliance with this clause 31, the Purchaser reserves the right to audit (at any time during normal working hours) and for up to twelve years following the delivery of the Goods under this Supply Contract the Supplier's methods of working and processes upon giving reasonable prior notice to the Supplier.
- 31.6 Without prejudice to the generality of clause 31.5, if the Purchaser reasonably suspects the Supplier or any person associated with the Supplier of breach of this clause 31, the Purchaser and its third party representatives shall have the right to immediately access and take copies of any records and any other information held at the Supplier's premises and to meet with the Supplier's personnel to audit the

Supplier's compliance with its obligations under this clause 31. The Supplier shall give all necessary assistance to the conduct of such audit during the term of the Supply Contract and for a period of twelve years after termination or expiry of the Supply Contract.

- 31.7 The Supplier shall ensure that any person associated with the Supplier who is providing any part of the Goods or providing works or service in connection with the Supply Contract, including its agents, suppliers or subcontractors, 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 31 (**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 the Purchaser for any breach by such persons of any of the Relevant Terms.
- 31.8 Should the Purchaser determine that the Supplier or any person associated with the Supplier who is providing any part of the Goods or providing works or service in connection with the Supply Contract, including its agents, supplier or subcontractors, has acted in a manner which could constitute a breach of the Bribery Act 2010, the Prevention of Corruption Acts 1889-1916 or of this clause 31, the Purchaser may immediately terminate the Agreement, at its sole discretion, in accordance with clause 22.1. For the avoidance of doubt, if the Purchaser terminates this Supply Contract in accordance with this clause, there will be no rectification or period to put right the default before termination.

32. COMPETITION LAW

- 32.1 The Supplier acknowledges that it has seen the Purchaser's Competition Law Policy and agrees to comply with and support such policy so as not to breach or cause the Purchaser to breach the prohibitions against anti-competition set out in the Competition Act 1998 and the Enterprise Act 2002 (the "Acts"). The Supplier shall further comply with all applicable laws, statutes, regulations and codes relating to UK and EU competition laws, including but not limited to the Competition Act 1998 and the Enterprise Act 2002.
- 32.2 Where the Supplier is a non-UK company, in relation to its activities, practices and conduct outside the UK, the Supplier shall not engage in any activity, practice or conduct which would constitute an offence under the Acts if such activity, practice or conduct had been carried out in the UK.
- 32.3 The Supplier warrants that it has engaged in no price fixing, bid rigging, illegal price information exchange agreement or other arrangement in breach of UK, EU or other competition laws relevant to the Supply Contract or arrangements between the Parties.
- 32.4 The Supplier shall have and shall maintain in place throughout the term of the Supply Contract its own policies, procedures to ensure compliance with the Acts and will enforce such policies and procedures where appropriate.
- 32.5 With regard to the Supplier's compliance with this clause 32, the Purchaser reserves the right to audit (at any time during normal working hours) the Supplier's compliance with this clause 32 upon giving reasonable prior notice to the Supplier.
- 32.6 Without prejudice to the generality of clause 32, if the Purchaser reasonably suspects the Supplier or any person associated with the Supplier of breaching this clause 32, the Purchaser and its third party representatives shall have the right to immediately access and take copies of any records and any other information held at the Supplier's premises and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 32. The Supplier shall give all necessary assistance to the

conduct of such audit during the term of this Supply Contract and for a period of twelve years after termination or expiry of this Supply Contract.

- 32.7 The Supplier shall ensure that any person associated with the Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, suppliers or subcontractors, 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 32 (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 the Purchaser for any breach by such persons of any of the Relevant Terms.
- 32.8 Should the Purchaser determine that the Supplier or any person associated with the Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, supplier or subcontractors, has acted in a manner which could constitute a breach of the Acts or of this clause 32, the Purchaser may immediately terminate the Supply Contract, at its sole discretion. For the avoidance of doubt, there will be no rectification or period to put right the default before termination in respect of a breach of clause 32.

33. DATA PROTECTION

- 33.1 The Supplier acknowledges that it has seen the Purchaser's Data Protection Policy and agrees to comply with and support such policy so as not to breach or cause the Purchaser to breach the Data Protection Act 1998 and any future legislation enacted in replacement of it (the "Act"). The Supplier shall further comply with all applicable laws, statutes, regulations and codes relating to data protection and information security including but not limited to the Act.
- 33.2 Where the Supplier is a non-UK company, in relation to its activities, practices and conduct outside the UK, the Supplier shall not engage in any activity, practice or conduct which would constitute an offence under the Act if such activity, practice or conduct had been carried out in the UK.
- 33.3 The Supplier shall have and shall maintain in place throughout the term of this Supply Contract its own policies, procedures and safeguards to ensure compliance with the Act, and will enforce such policies and procedures where appropriate.
- 33.4 With regard to the Supplier's compliance with this clause 33, the Purchaser reserves the right to audit (at any time during normal working hours) the Supplier's compliance with this clause 33 upon giving reasonable prior notice to the Supplier.
- 33.5 Without prejudice to the generality of clause 33, if the Purchaser reasonably suspects the Supplier or any person associated with the Supplier of breaching this clause 33, the Purchaser and its third party representatives shall have the right to immediately access and take copies of any records and any other information held at the Supplier's premises and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 33. The Supplier shall give all necessary assistance to the conduct of such audit during the term of this Supply Contract and for a period of twelve years after termination or expiry of this Supply Contract.
- 33.6 The Supplier shall ensure that any person associated with the Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, suppliers or subcontractors, 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 33 (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 the Purchaser for any breach by such persons of any of the Relevant Terms.

- 33.7 Should the Purchaser determine that the Supplier or any person associated with the Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, supplier or subcontractors, has acted in a manner which could constitute a breach of the Act or of this clause 33, the Purchaser may immediately terminate the Supply Contract, at its sole discretion. For the avoidance of doubt, there will be no rectification or period to put right the default before termination in respect of a breach of clause 33.
- 33.8 The Supplier acknowledges that it shall keep the Purchaser indemnified against any liabilities which the Purchaser may suffer or incur due to the Supplier's breach of the provisions of this clause 33.

34. MODERN SLAVERY AND HUMAN TRAFFICKING

- 34.1 The Supplier acknowledges that it shall comply with all applicable laws, statutes, regulations and codes relating to modern slavery and human trafficking including but not limited to the Modern Slavery Act 2015 (the "Act").
- 34.2 Where the Supplier is a non-UK company, in relation to its activities, practices and conduct outside the UK, the Supplier shall not engage in any activity, practice or conduct which would constitute an offence under the Act if such activity, practice or conduct had been carried out in the UK.
- 34.3 The Supplier shall have and shall maintain in place throughout the term of this Supply Contract its own policies, procedures to ensure compliance with the Act, and will enforce such policies and procedures where appropriate.
- 34.4 With regard to the Supplier's compliance with this clause 34, the Purchaser reserves the right to audit (at any time during normal working hours) the Supplier's compliance with this clause 34 upon giving reasonable prior notice to the Supplier.
- 34.5 Without prejudice to the generality of clause 34, if the Purchaser reasonably suspects the Supplier or any person associated with the Supplier of breaching this clause 34, the Purchaser and its third party representatives shall have the right to immediately access and take copies of any records and any other information held at the Supplier's premises and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 34. The Supplier shall give all necessary assistance to the conduct of such audit during the term of this Supply Contract and for a period of twelve years after termination or expiry of this Supply Contract.
- 34.6 The Supplier shall ensure that any person associated with the Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, suppliers or subcontractors, 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 34 (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 the Purchaser for any breach by such persons of any of the Relevant Terms.
- 34.7 Should the Purchaser determine that the Supplier or any person associated with the

Supplier who is providing any part of the Supply Contract or providing works or service in connection with this Supply Contract, including its agents, supplier or subcontractors, has acted in a manner which could constitute a breach of the Act or of this clause 34, the Purchaser may immediately terminate the Supply Contract, at its sole discretion. The Purchaser shall also be entitled to terminate the Supply Contract with immediate effect where the Supplier has failed to take reasonable steps to ensure modern slavery or human trafficking is not taking place in its supply chain and one of its supply chain has committed an offence under the Act, or where applicable, where the Supplier has failed to take reasonable steps to ensure compliance and one of the Supplier's supply chain fails to comply with its duty to prepare a slavery and human trafficking statement, as prescribed in Part 6, Section 54 of the Act. For the avoidance of doubt, there will be no rectification or period to put right the default before termination in respect of a breach of clause 34.

34.8 The Supplier acknowledges that it shall keep the Purchaser indemnified against any liabilities which the Purchaser may suffer or incur due to the Supplier's breach of the provisions of this clause 34.

35. RECORDS

35.1 The Supplier keeps these records

- (i) Accounts of payments of Defined Cost
- (ii) Proof that the payments have been made
- (iii) Communications about and assessments of compensation events for subcontractors and
- (iv) Other records as stated in the Supply Contract

The Supplier ensures that each subcontractor keeps records of a similar nature to those he is required to keep in relation to the contractors or suppliers he has engaged.

35.2 The Supplier allows the Purchaser to inspect at any time within working hours the accounts and records which he or his subcontractor are required to keep these records