

# CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS (and any related Services)

**These conditions may be varied only with the written agreement of the Purchaser.  
No terms or conditions put forward at any time by the Supplier shall form any part of the Contract unless specifically agreed in writing by the Purchaser**

## 1 CONDITIONS

In these conditions:

'Purchaser' means Caledonian Maritime Assets Limited, a company incorporated in Scotland under Company Number SC001854 and having its registered office at Dalmore House, 310 St Vincent Street, Glasgow, G2 5QR:

'Supplier' means the person, firm or company to whom the Contract is issued:

'Goods' means any such goods as are to be supplied to the Purchaser by the Supplier (or by any of the Supplier's sub contractors) pursuant to or in connection with this Contract:

'Contract' means the contract between the Purchaser and Supplier consisting of any Purchase Order, the Supplier's quote or tender accepted by the Purchaser, (as the case may be), and any other documents (or parts thereof) referred to in them, including these Conditions and any Schedules annexed:

'Conditions' means the terms and conditions of sale or supply set out in this document as amended, novated, restated or supplemented from time to time by any written special terms and conditions of sale or supply set out in the Purchase Order;

'Purchase Order' means the document setting out the Purchaser's requirements for the Contract:

'Services' means the services provided as specified in the Contract including (but not restricted to) installation of goods and shall, where the context so admits, include any materials, articles and goods to be supplied in connection with any such services;

'Premises' means the location where the Goods are to be delivered or the Services are to be performed as specified in the Contract or Purchase Order.

## 2 THE GOODS

2.1 The Supplier shall sell and the Purchaser shall purchase the Goods and the Supplier shall perform and the Purchaser shall accept the Services in accordance with any written quotation of the Supplier which is accepted by the Purchaser, or any written order of the Purchaser which is accepted by the Supplier, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 The Supplier shall perform the Services with reasonable skill, care and diligence and the Goods and Services shall be to the reasonable satisfaction of the Purchaser and shall conform in all respects with any particulars specified in the Contract and in any variation thereto.

2.3 The Goods and Services shall conform in all respects with the requirements of any statutes, orders, regulation or byelaws from time to time in force.

2.4 The Goods shall be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Purchaser and in all circumstances the Purchaser relies on the skill and judgement of the

Supplier in the supply of the Goods and the execution of the Contract.

2.5 Any storage or transportation that may be provided by the Purchaser for any property belonging to the Supplier shall be provided without acceptance by the Purchaser of any liability whatsoever in respect of such property.

## 3 THE PRICE

3.1 The price of the Goods and any Services shall be as stated in the Contract and no increase will be accepted by the Purchaser unless agreed by the Purchaser in writing before the commencement of performance of the Contract.

3.2 Unless otherwise agreed in writing by the Purchaser, the Supplier shall render a separate invoice in respect of each consignment of Goods delivered under the Contract. Payment shall be due 30 days after receipt of the Goods or completion of the Services or the receipt of the correct invoice therefor, whichever is the later.

3.2 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

## 4 CHANGE TO CONTRACT REQUIREMENTS

4.1 The Purchaser may order any variation to any quantity or specification of Goods or to any part of the Services that for any other reason shall in its opinion be desirable. Any such variation may include (but shall not be restricted to) additions, omissions, alterations, substitutions to the Goods or Services and changes in quality, form, character, kind, timing, method or sequence of the delivery of Goods or provision of Services.

4.2 Save as otherwise provided herein, no variation of the specification of Goods or of the Services as provided for in Condition 4.1 hereof shall be valid unless given or confirmed in the form of an order given by the Purchaser. All such orders shall be given in writing provided that if for any reason the Purchaser shall find it necessary to give any such order orally in the first instance the Supplier shall comply with such oral order which must be confirmed in writing by the Purchaser within 2 working days of the giving of such oral order by the Purchaser, failing which the variation made by such oral order shall cease to have effect on the expiry of the said 2 working day period.

4.3 Where any such change in quality of specifications of Goods or variations of the Services made in accordance with Conditions 4.1 and 4.2 has affected or may affect the costs incurred by the Supplier delivering the Goods or providing the Services, the Supplier will notify the Purchaser in writing of the effect which it had had or may have on the said costs and such notification shall be considered by the Purchaser, who shall take all of the facts into account (including such information as may be provided by the Supplier in respect of the effect which such variation has had or may have on the costs incurred by the Supplier in providing the Goods or Services) and may authorise such alteration to the sums to be paid to the Supplier in accordance with the provisions of the Contract as are, in his opinion, appropriate and reasonable in the circumstances.

## 5 INSPECTION OF PREMISES AND NATURE OF SERVICES

5.1 The Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Services to be carried out and satisfied himself in relation to all matters connected with the Services and Premises.

5.2 The Purchaser shall, at the request of the Supplier, grant such access as may be reasonable for this purpose.

5.3 Unless otherwise specified, the Supplier shall provide all plant, tools, material, labour, haulage and any other things necessary to complete the Contract.

## 6 SUPPLIER'S STATUS

In carrying out any Services associated with the Contract the Supplier shall be acting as principal and not as the agent of the Purchaser.

Accordingly:

(a) the Supplier shall not (and shall procure that his agents and servants do not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent of the Purchaser, and

(b) nothing in this contract shall impose any liability on the Purchaser in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Purchaser to the Supplier that may arise by virtue of either a breach of this Contract or any negligence on the part of the Purchaser, his staff or agents.

## 7 SUPPLIER'S PERSONNEL

7.1 The Supplier shall take the steps reasonably required by the Purchaser to prevent unauthorised persons being admitted to the Premises. If the Purchaser gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by the Purchaser the Supplier shall replace any person removed under this Condition with another suitably qualified person and procure that any security pass issued to the person removed is surrendered. The giving of such notice by the Purchaser to the Supplier as aforesaid shall not entitle the Supplier to delay, suspend, terminate or withhold the performance of any of its obligation in terms of the Contract and the Supplier shall remain bound to timeously implement its obligations in full, whether or not it complies with the terms of the said notice or otherwise.

7.2 If and when instructed by the Purchaser, the Supplier shall give to the Purchaser a list of the names and addresses of all persons who are or may be at any time concerned with the Services or any part of them specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as the Purchaser may reasonably require.

7.3 The decision of the Purchaser as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in

the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required of him by this Condition shall be final and conclusive.

7.4 The Supplier shall bear the cost of any notice, instruction or decision of the Purchaser under this Condition.

## 8 DELIVERY

8.1 The Supplier shall make no delivery of materials, plant or other things, nor commence any work on the Premises without obtaining the Purchaser's prior consent. The Supplier shall make delivery at a time agreed between the Supplier and Purchaser.

8.2 The Goods and Services shall be delivered to the Premises or such other location as specified by the Purchaser. Any access to the Premises and any labour and equipment that may be provided by the Purchaser in connection with delivery of the Goods or performance of the Services shall be provided without acceptance by the Purchaser of any liability whatsoever and the Supplier shall indemnify the Purchaser in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation of the Goods or performance of the Services to the extent that any such damage or injury is attributable to any act or omission of the Supplier or any of his employees, servants, agents or sub-contractors.

8.3 Where any access to the Premises is not to be admitted to or installation of the Goods or the performance of the Services the Supplier and any person removed under this Condition with another suitably qualified person and fire arrangements and shall conduct themselves in an appropriate manner to minimise disruption to the locality, others working and neighbours of such Premises.

8.4 The time of delivery or performance shall be of the essence and failure to deliver or perform within the time promised or specified shall enable the Purchaser (at his sole option) to release himself from any obligation to accept and pay for the Goods or Services and/or to cancel all or part of the Contract therefor, in either case without prejudice to his other rights and remedies.

8.5 The Supplier shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

## 9 ACCESS

9.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work or Services on the Premises without obtaining the Purchaser's prior consent.

9.2 Where any access to the Premises is necessary in connection with delivery or installation of the Goods or performance of the Services the Supplier and his employees, servants, agents or sub-contractors shall at all times comply with the reasonable requirements of the Purchaser's Security and fire arrangements and shall conduct themselves in an appropriate manner to minimise disruption to the locality, others working and neighbours of such Premises.

9.3 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable him to deliver the Goods or carry out the Services concurrently with the execution of work by

others. The Supplier shall co-operate with such others as the Purchaser may reasonably require.

9.4 The Purchaser shall have the power at any time during the progress of the Services to order in writing:

(a) the removal from the Premises of any materials which in the opinion of the Purchaser are either hazardous, noxious or not in accordance with the Contract;

(b) the substitution of proper and suitable materials;

(c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work which, in respect of material or workmanship, is not in the opinion of the Purchaser in accordance with the Contract.

The Supplier shall comply forthwith with the terms of any such order.

9.5 On completion of delivery of the Goods or the Services the Supplier shall remove his plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Goods or Services and leave the Premises in a neat and tidy condition.

## 10 FREE-ISSUE MATERIALS

Where the Purchaser for the purpose of the Contract issues materials they shall at all times remain the property of the Purchaser. The Supplier shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Supplier shall notify the Purchaser of any surplus materials remaining after completion of the Services and shall dispose of them as the Purchaser may direct, complying where applicable, at their own cost with any **waste legislation, order, directive or regulations or policy**. Waste of such materials arising from bad workmanship or negligence of the Supplier or any of his servants, agents or sub-contractors shall be made good at the Supplier's expense. Without prejudice to any other of the rights of the Purchaser, the Supplier shall deliver up such materials whether processed or not to the Purchaser on demand.

## 11 TIME OF PERFORMANCE

The Supplier shall begin performing the Services on the date stated in the Purchase Order as the start date and shall complete them by the date stated in the Purchase Order as the end date or continue to perform them for the period stated in the Purchase Order (whichever is applicable). Time is of the essence of the Contract. The Purchaser may by written notice require the Supplier to execute the Services in such order as the Purchaser may decide. In the absence of such notice the Supplier shall submit such detailed programmes of work and progress reports as the Purchaser may from time to time require.

## 12 PROPERTY AND RISK

Property and risk in the Goods shall without prejudice to any of the rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 14 hereof) pass to the Purchaser at the time of delivery.

## 13 DAMAGE IN TRANSIT

On dispatch of any consignment of the Goods the Supplier shall send to the Purchaser at the address for delivery of the goods an advice note specifying the means of transport, the place and date of dispatch, the date and time of delivery and the number of packages, a description of the Goods and

their weight and volume. The Supplier shall free of charge and as quickly as possible either repair or replace (as the Purchaser shall elect) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the Purchaser provided that:

(a) in the case of damage to such Goods in transit the Purchaser shall within thirty days of delivery give notice to the Supplier that the Goods have been damaged;

(b) in the case of non-delivery the Purchaser shall (provided the Purchaser has been advised of the dispatch and date of delivery of the Goods) within 10 days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.

## 14 INSPECTION, REJECTION AND GUARANTEE

14.1 The Supplier shall permit the Purchaser or his authorised representatives to make any inspections or tests of the Goods he may reasonably require and the Supplier shall afford all reasonable facilities and assistance free of charge at his premises. No failure to make complaint at the time of such inspection or tests and not approval given during or after such tests or inspections shall constitute a waiver by the Purchaser or any rights or remedies in respect of the Goods.

14.2 The Purchaser may by written notice to the Supplier reject any of the Goods, which fail to meet the requirements specified in the contract. Such notice shall be given within a reasonable time after delivery to the Purchaser of Goods concerned. If the Purchaser shall reject any of the Goods pursuant to this Condition the Purchaser shall be entitled (at no cost to the Purchaser and without prejudice to his other rights and remedies) either:

(a) to have the Goods concerned as quickly as possible either repaired by the Supplier or (as the Purchaser shall elect) replaced by the Supplier with Goods which comply in all respects with the requirements specified herein, or

(b) to obtain a refund of the full purchase price from the Supplier in respect of the goods concerned.

14.3 The guarantee period applicable to the Goods shall be 12 months from the putting into service or 18 months from the date of delivery of the Goods, whichever shall be the shorter (subject to any alternative guarantee arrangements agreed in writing between the Purchaser and the Supplier). If the Purchaser shall within such guarantee period or within 30 days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use the Purchaser shall be entitled (at no cost to the Purchaser and without prejudice to his other rights and remedies) either:

(a) to have the Goods concerned as quickly as possible either repaired by the Supplier or (as the Purchaser shall elect) replaced by the Supplier with Goods which comply in all respects with the requirements specified herein; or

(b) to obtain a refund of the full purchase price from the Supplier in respect of the Goods concerned.

14.4 Any Goods rejected or returned by the Purchaser as described in Conditions 14.2 or 14.3 shall be returned to the Supplier at the Supplier's risk and expense.

## 15 LABELLING AND PACKAGING

15.1 The Goods shall be packed and marked in a proper manner and in accordance with the Purchaser's instructions and any statutory

requirements and any requirements of the carriers. In particular the Goods shall be marked with the number of the Purchase Order (if any) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous goods (and all documents relating thereto) shall bear prominent and adequate warnings. The Supplier shall indemnify the Purchaser against all actions, suits, claims demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition.

15.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. The Purchaser accepts no liability in respect of the non-arrival at the Supplier's Premises of empty packages returned by the Purchaser unless the Supplier shall within ten days of receiving notice from the Purchaser that the packages have been dispatched notify the Purchaser of such non-arrival.

#### 16 AUDIT

The Supplier shall keep and maintain until 2 years after the Contract has been completed records to the satisfaction of the Purchaser of all expenditures which are reimbursable by the Purchaser and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by the Purchaser on a time charge basis. The supplier shall on request afford the Purchaser or his representatives such access to those records as may be required by the Purchaser or his representatives such access to those records as may be required by the Purchaser in connection with the Contract.

#### 17 CORRUPT GIFTS OR PAYMENTS

The Supplier shall not offer or give, or agree, to give, to any employee or representative of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Purchaser or for showing or refraining from showing favour or disfavour to any person in relation to this or any such Contract. The attention of the Supplier is drawn to the criminal offences created by the **Public Bodies Corrupt Practices Act 1889** and the **Prevention of Corruption Acts 1906 and 1916**.

#### 18 PATENTS, INFORMATION AND COPYRIGHT

18.1 It shall be a condition of the contract, except to the extent that the Goods or Services incorporate designs furnished by the Purchaser, that nothing done by the Supplier in the provision of the Goods or performance of the Services shall infringe any patent, trade mark, registered design, copyright or other right in the nature of industrial or intellectual property of any third party and the Supplier shall indemnify the Purchaser against all actions, claims, demands, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition.

18.2 All rights (including ownership and copyright) in any reports, documents, specifications, instructions, plans, drawings, patents, models or designs whether in writing or on magnetic or other media:

(a) furnished to or made available to the Supplier by the Purchaser shall remain vested in the Purchaser.

(b) prepared by or for the Supplier for use, or intended use, in relation to the performance of this Contract are hereby assigned to and shall vest in the Purchaser and (without prejudice to Condition 22.2)

the Supplier shall not and shall procure that his employees, servants, agents and sub-contractors shall not (except to the extent necessary for the implementation of this Contract) without the prior written consent of the Purchaser use or disclose any such reports, documents, specifications, instructions, plans, drawings, patents, models, designs or other material as aforesaid or any other information (whether or not relevant to this Contract) which the Supplier may obtain pursuant to or by reason of this Contract, except information which is in the public domain otherwise than by reason of a breach of this provision, and in particular (but without prejudice to the generality of the foregoing) the Supplier shall not refer to the Purchaser or the contract in any advertisement without the Purchaser's prior written consent.

18.3 The provisions of this Condition 18 shall apply during the continuance of this Contract and after its termination howsoever arising.

18.4 The Purchaser will hold and use the information the Supplier provides for the administration of the Supplier's account. The Purchaser undertakes not to divulge this information to any other party unless required to do so by law or to protect the Purchaser's own business interests. Occasionally the Purchaser may contact the Supplier about general matters that relate to the Purchaser's business. If the Supplier does not wish to be contacted about these matters or if the Supplier wished further information on the Purchaser's Data Protection Policy, the Supplier should write to the Data Protection Officer, Caledonian Maritime Assets Limited, Dalmore House, 310 St Vincent Street, Glasgow, G2 5QR.

#### 19 HEALTH & SAFETY AND ENVIRONMENT

19.1 The supplier represents and warrants to the Purchaser that the Supplier has satisfied himself that all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed and constructed so as to be safe and without risk to the health or safety of persons using the same, and that he has made available to the Purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the goods will be safe and without risk to health.

19.2 The Supplier shall perform the Services in such a manner as to be safe and without risk to the health or safety of persons in the vicinity of the place where the Services are being performed (whether such persons are in the vicinity of the said place at the time when the Services are being performed or otherwise) and in such a manner as to comply with any relevant health and safety or other legislation (including Statutory Instrument, Orders, or Regulations made under the said legislation) and any requirements imposed by a local or other regulatory authority in connection with the performance of services of the type supplied to the Purchaser, whether specifically or generally.

19.3 Without prejudice to the generality of Condition 19.1 hereof, the Supplier shall indemnify the Purchaser against all liability, actions, suits, claims, damages, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of Conditions 19.1 or 19.2 hereof.

#### 20 INDEMNITY AND INSURANCE

20.1 Without prejudice to any rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 14 hereof) the Supplier shall indemnify the Purchaser against all actions, liabilities, suits, claims, damages, demands,

losses, charges, costs and expenses which the Purchaser may suffer or incur as a result as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any breach of the Contract by the Supplier, defect in the Goods or Services or the negligent, wilful or wrongful act or omission of the Supplier.

20.2 The Supplier shall have in force and shall require any sub-contractor to have in force with a reputable insurance company at all times whilst engaged in the delivery of the Goods or the supply of the Services:

(a) employer's liability insurance in accordance with any legal requirements for the time being in force, and

(b) public liability insurance for such sums and range of cover as the Supplier deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of no less than £1 million for any one incident and unlimited in total, unless otherwise agreed by the Purchaser in writing.

20.3 The policy or policies of insurance referred to in Condition 20.2 shall be shown to the Purchaser whenever he requests, together with satisfactory evidence of payment of premiums.

#### 21 DISCRIMINATION

21.1 In relation to the Contract, the Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of the **Race Relations Act 1976**, the **Sex Discrimination Act 1975**, the **Disability Discrimination Act 1995**, the **Equality Act 2006**, the **Employment Equality (Religion or Belief) Regulations 2003** and the **Employment Equality (Sexual Orientation) Regulations 2003** or any statutory modifications or re-enactment thereof relating to discrimination in employment. The Supplier shall take all reasonable steps to secure the observance of these provisions by all servants; employees or agents of the Supplier and all sub-contractors employed in the execution of the Contract.

21.2 The Supplier acknowledges that it shall be responsible for obtaining a copy of the Purchaser's (i) Code of Respect; and (ii) Dignity at Work Policy and the Supplier shall be responsible for ensuring that it and all servants, employees and agents of the Supplier and all sub-contractors employed in the performance of the Supplier's obligations under the Contract shall comply with the provisions and the spirit of such documents and the Purchaser shall use its reasonable endeavours to provide the Consultant with copies of such documents.]

#### 22 CONFIDENTIALITY AND ACCESS TO PUBLIC INFORMATION

22.1 The Supplier shall keep secret and not disclose and shall procure that his employees keep secret and do not disclose, any information of a confidential nature obtained by him by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision.

22.2 All information related to the Contract which is held by the Supplier on behalf of the Purchaser and is subject to the provisions of the Freedom of Information Act (Scotland) 2002.

22.3 The Purchaser may disclose such information related to the Contract as may be required under the Freedom of Information (Scotland) Act 2002 and the

Purchaser shall not be liable for any such disclosure, including without limitation, (i) the disclosure of any information which would constitute an actionable breach of confidence; and (ii) the disclosure of any information which would or would be likely to prejudice the commercial interests of the Supplier in terms of the aforementioned Act.

22.4 Disclosure may be made by the Purchaser of such information relating to the outcome of the procurement process as may be required to be published in the Official Journal of the European Communities or elsewhere in accordance with any EC or UK legislation, statute, order, directive, regulation or Government policy on the disclosure of information regarding government contracts. This disclosure may include the number of tenders received, the identity of the successful tenderer, the winning contract price, the specification of goods or services to be supplied, terms and conditions of contract, quality and performance standards, and subsequent performance against those quality and performance standards.

22.5 The Purchaser may seek and obtain references about the Supplier from banks, existing or past clients, or other referees proposed by the Supplier.

22.6 The provisions of this Condition 22 shall apply during the continuance of this Contract and after its termination howsoever arising.

### 23 TERMINATION

23.1 The Supplier shall notify the Purchaser in writing immediately upon the occurrence of any of the following events:

(a) where the Supplier is an individual and if a petition is presented for the Supplier's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Supplier, or he is apparently insolvent, or he makes any composition arrangement with or for the benefit of creditors, or is an administrator or trustee is appointed to manage his affairs; or

(b) where the Supplier is not an individual but is a firm or a number of persons acting together in any capacity, if any event in (a) or (c) of this Condition occurs in respect of the firm or any partner in the firm or any of those persons or a petition is presented for the Supplier to be wound up; or

(c) where the Supplier is a company, if the company passes a resolution for winding-up or enters liquidation (otherwise than for the purposes of and followed by a bona fide scheme of solvent amalgamation or reconstruction) or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrator, administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge.

(d) the Supplier ceases or threatens to cease to supply the Goods or provide the Services.

(e) the Supplier makes default in or commits any breach of its obligations to the Purchaser hereunder;

(f) the Purchaser reasonably apprehends that any of the events contained in this Condition 23 is about to occur in relation to the Contract and notifies the Supplier accordingly.

23.2 On the occurrence of any of the events described in Condition 23.1 or, if the Supplier shall have committed a material breach of this Contract and (if such breach is capable of remedy) shall have

failed to remedy such breach within 30 days of being required by the Purchaser in writing or do so or, where the Supplier is an individual, if he has died or been adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983 or of Part V of the Mental Health (Scotland) Act 1984, the Purchaser shall be entitled to terminate this Contract by notice to the Supplier with immediate effect. Thereupon, without prejudice to any other of his rights, the Purchaser may himself complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance therefore in any payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to the Supplier, and the Purchaser shall not be liable to make any further payment to the Supplier until the Services have been completed in accordance with the requirements of the Contract and shall be entitled to deduct from any amount due to the Supplier the costs thereof incurred by the Purchaser's (including the Purchaser's own costs). If the total cost to the Purchaser exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by the Purchaser from the Supplier.

23.3 In addition to his rights of termination under Condition 23.2, the Purchaser shall be entitled at all times to terminate this Contract by giving to the Supplier not less than 30 days' notice to that effect.

23.4 Termination under Condition 23.2 or 23.3 shall not prejudice or affect any right of action or remedy, which shall have accrued to, shall thereupon accrue to the Purchaser and shall not affect the continued operation of Conditions 18 and 22.

### 24 RECOVERY OF SUMS DUE

Wherever under the Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due, or which at any later time may become due by the Purchaser to the Supplier under the Contract or under any other agreement or contract between the Purchaser and the Supplier.

### 25 ASSIGNATION AND SUB-CONTRACTING

25.1 The Supplier shall not without the written consent of the Purchaser assign the benefit or burden of the Contract or any part thereof.

25.2 No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.

### 26 NOTICES

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage, facsimile transmissions or other means of telecommunications resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Purchase Order, or to such other address as the party may by notice to the other have substituted therefore, and shall be deemed to have been delivered on the day it was sent if a business day, or if not a business day, then on the next occurring business day thereafter.

### 27 HEADING & MISCELLANEOUS

28.1 The headings to Condition shall not affect their interpretation.

27.2 Each clause of these Conditions and every part hereof shall be separate and severable to the extent that if one clause of part thereof shall be

unenforceable the other clauses and other parts of the clause respectively shall be effective.

27.3 No waiver of any of these Conditions by the Purchaser shall be construed as a waiver of any subsequent breach of the same or any other provision.

27.4 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

### 28 GOVERNING LAW

These Conditions shall be governed by and construed in accordance with Scots law and the Supplier hereby irrevocably submits to the exclusive jurisdiction of the Scottish courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

