

HARGREAVES GROUP

TERMS AND CONDITIONS FOR WORKS AND SERVICES (INCLUDING ON SITE REPAIRS)

1 INTERPRETATION

1.1 In these Conditions, the following expressions shall have the following meanings:

"Anti-Bribery Laws" means any bribery, fraud, kickback, or other similar anti-corruption law or regulation of any country applicable to the business transacted pursuant to the Contract or to the parties, including the Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977;

"Applicable Works Documents" means the documentation incorporated into the Contract by reference in the Works Order and which are to be complied with by the Contractor in the execution of the Works in accordance with these Conditions;

"Approved Design Works" shall have the meaning given to the term at Condition 4.8;

"Associated Person" means in relation to any entity, a person who (by reference to all the relevant circumstances) performs services for or on behalf of that entity in any capacity and including third party service providers, employees, agents, subsidiaries, representatives and sub-contractors;

"Best Industry Practice" means that degree of skill, diligence, prudence and foresight which, as at the relevant time, would be reasonably and ordinarily expected from a skilled, experienced and reputable provider of works and/or services which are the same as or similar to the relevant Works being executed by the Contractor under the Contract under the same or similar circumstances, using the best techniques and practices for any given process, seeking in good faith to comply with its contractual obligations and complying with applicable laws;

"Company" means the relevant member of the Hargreaves Group as named in the Works Order;

"Completion Certificate" means the certificate, and/or notification document, issued by the Project Manager to the Contractor pursuant to Condition 5.9 on completion of the Works for the purposes of the Contractor obtaining payment of the Contract Price in accordance with the terms of the Contract;

"Conditions" means these terms and conditions of contract for works and services (including on-site repairs);

"Confidential Information" means any and all information provided by either party under the Contract that is either: (a) marked as being confidential; and/or (b) any and all information or data disclosed (whether in writing, orally or in any other form, and whether directly or indirectly) by a party to the other party, that is of a type that may reasonably be considered confidential, including without limitation, the terms and conditions of the Contract, the Approved Design Works, the Applicable Works Documents, any specifications, drawings, samples or other documents provided by a party in respect of the Works and the existence of the relationship between the Contractor and the Company;

"Contract" means the contract between the Company and the Contractor for the execution of the Works, comprising:

- (i) these Conditions, together with any documents referred to herein;
- (ii) the Works Order and any special conditions, specifications or other documents referred to therein;
- (iii) the Applicable Works Documents; and
- (iv) the Supplier Questionnaire (where the Supplier Questionnaire has been completed by the Contractor).

"Contract Price" means the sum stated in the Works Order as being payable by the Company to the Contractor in consideration of the proper execution of the Works in accordance with the terms and conditions of the Contract;

"Contractor" means the person, firm or company with whom the Contract is made, as more particularly set out in the Works Order;

"Contractor's Representative" means the person with day to day responsibility for the overseeing the execution of the Works under the Contract and for liaising with the Company and the Project Manager on all matters arising out of or in connection with the Contract, as appointed by the Contractor under Condition 3.4;

"Control" means the power of a person to direct the affairs of another whether by virtue of ownership of shares, contracts or otherwise;

"Correct Invoice" means a detailed invoice to be submitted by the Contractor to the Company pursuant to Condition 7.4 setting out: (i) the Purchase Order reference number to which the Works Order relates (as set out in the Works Order); (ii) full particulars of the Works carried out by the Contractor to which the invoice relates; (iii) any discounts given; (iv) a copy of the Completion Certificate, Interim Certificate or Final Certificate (as appropriate); (v) time sheets recording all time spent on the Works by each of the Contractor's employees, agents, representatives or sub-contractors and the applicable Day Rates, Night Rates and Overtime Rates (as set out in the Works Order or the Applicable Works Documents); and (vi) any other information as may be requested by the Company from the Contractor from time to time;

"Date for Completion" means the date for the completion of the Works as specified in the Works Order, or where no date is specified in the Works Order, the date for completion of the Works as notified by the Project Manager to the Contractor in advance in writing, as may be amended by the parties pursuant to Condition 5.5;

"Design Works" means that element of the Works comprising the design of the whole or any part of the Works, as set out in the Works Order;

"Drug Testing Charge" means the standard charge applied by the Company for undertaking the Drug Testing Procedure, as notified to the Contractor in advance of any Drug Testing Procedure taking place;

"Drug Testing Procedure" means the drug testing procedure implemented by and/or on behalf of the Company in respect of persons engaged in Works at any of its sites;

"Final Certificate" means the certificate to be issued by the Project Manager to the Contractor following the expiry of any applicable Maintenance Period pursuant to Condition 5.10 (where the Works Order indicates that the Works include a Maintenance Period);

"Hargreaves Group" means the Company and its subsidiaries from time to time and the ultimate holding company (if any) of the Company and every other subsidiary of the same ultimate holding company (if any) from time to time (and "holding company" and "subsidiary" shall have the meanings given to them in section 1159 of the Companies Act 2006);

"Insolvency Event" occurs when:

- (a) a resolution is passed or an order is made for the winding up of the other party (otherwise than for the purpose of solvent amalgamation or reconstruction); or
- (b) the other party becomes subject to an administration order; or
- (c) a receiver or administrator is appointed over the whole or part of the other party's business or any step is taken for the appointment of any such receiver or administrator; or
- (d) an encumbrancer takes possession of any of the other party's property or equipment; or
- (e) if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986; or
- (f) if a proposal is made for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors; or
- (g) the other party is unable to pay its debts as they fall due within the meaning of Section 123 of the Insolvency Act 1986; or

- (h) the other party, being an individual or partnership, is declared or adjudicated bankrupt or enters into any arrangement or composition with its creditors; or
- (i) anything analogous to the events set out in sub clauses (a) to (h) occurs in any jurisdiction.

"Insurance Requirements" means the minimum levels of insurance cover to be obtained and maintained in effect by the Contractor pursuant to Condition 14.2, as more particularly set out in the Works Order;

"Intellectual Property Rights" means any and all intellectual property rights protected under the law anywhere in the world, including without limitation, patents, designs, copyright, trade marks, know-how, technical information, rights in data and database rights (whether registered or unregistered or any applications for registration) whether now known or future;

"Interim Certificate" means a certificate to be issued by the Project Manager to the Contractor during the execution of the Works pursuant to Condition 5.8 (where the Works Order indicates that payments are to be made on Interim Certificates);

"Liquidated Damages" means the sum payable by the Contractor to the Company upon the occurrence of the event specified at Condition 9.2 as liquidated damages, such sum being more particularly set out in the Works Order;

"Local Authority Agreement" means any agreement between the Company and a local authority (or any other body of competent jurisdiction) whether in writing or otherwise, setting out obligations, restrictions, parameters and other requirements on the conduct of the Company of its business at the Site, as notified to the Contractor in advance in writing;

"Loss" means any and all loss, damage, penalties, costs and expenses (including legal expenses and disbursements) arising from any and all liabilities, obligations, awards, actions, claims, demands and/or proceedings whatsoever and howsoever caused or arising and whether or not such losses were reasonably foreseeable at the time the Contract was made;

"Machinery" means any plant and/or machinery belonging to the Company and/or any third party which the Contractor is to repair under the Contract;

"Maintenance Period" means the period (if any) specified in the Works Order during which the Contractor is to provide the Maintenance Services in respect of the Works Deliverables and/or any plant and/or equipment provided by the Contractor as part of the Works;

"Maintenance Services" means the support and maintenance services to be provided by the Contractor to the Company during the Maintenance Period in respect of the Works Deliverables and/or any plant and/or equipment provided by the Contractor as part of the Works, as specified in the Works Order;

"Planning Permission" means any permissions, authorisations and/or consents obtained by and/or on behalf of the Company in respect of the Site or location at which the Works are to be executed and in compliance with which the Contractor is to execute the Works (where the Works Order states that such Planning Permissions are applicable);

"Project Manager" means the person with day to day responsibility for the management of the appointment of the Contractor under the Contract and for liaising with the Contractor on all matters arising out of or in connection with the Contract, as appointed by the Company pursuant to Condition 3.1;

"Site" means the location where the Works are to be executed by the Contractor;

"Supplier Questionnaire" means the questionnaire prepared by a member of the Hargreaves Group and completed by suppliers of works, services and/or goods to members of the Hargreaves Group in order for such suppliers to be an approved supplier of works, services and/or goods to members of the Hargreaves Group and the terms contained, and documents referred to, therein;

"Timed Programme" means the detailed timetable and plan for the execution of the Works referred to in the Works Order (if any);

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended from time to time);

"Variation Request" means any written request made by the Project Manager to the Contractor to change the Works, including without limitation, the scope, nature, quality or duration of the Works, in accordance with Condition 6;

"Warranty Period" means a period of twenty four (24) months commencing on the date of issuance of a Completion Certificate or such other date as the Project Manager notifies to the Contractor in writing that the Works have been completed, unless otherwise stated in the Works Order;

"Working Days" a day (other than a Saturday, Sunday or public holiday) when banks are open for business in London;

"Works" means the engineering and/or construction works or services to be performed by the Contractor (including without limitation, the delivery of the Works Deliverables and the provision of the Maintenance Services) in accordance with the terms of the Contract, as more particularly set out in the Works Order;

"Works Deliverables" means all the plant, equipment, materials, structures, buildings, erections and/or any other deliverables to be provided by the Contractor in the course of executing the Works, as more particularly set out in the Works Order; and

"Works Order" means the Company's order for the Works incorporating these Conditions, as submitted in writing by the Company to the Contractor.

1.2 In these Conditions:

- 1.2.1 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 headings are for ease of reference only and shall not affect the interpretation or construction of these Conditions; and
- 1.2.4 any list of examples following the word including shall be interpreted without limitation to the generality of the preceding words.

1.3 The Conditions shall apply to all Works Orders made by the Company for the Works and are the only Conditions upon which the Company is prepared to deal with the Contractor. No terms or conditions endorsed upon, delivered with or contained in the Contractor's tender, quotation or any other documents submitted by the Contractor to the Company shall form part of the Contract and the Contractor waives any right which it otherwise might have to rely on such terms and conditions.

1.4 If there is any conflict between the provisions of, or documents forming, the Contract, the following order of prevalence shall apply (unless expressly stated otherwise in a Works Order):

- 1.4.1 firstly, these Conditions;
- 1.4.2 secondly, the Supplier Questionnaire (where the Supplier Questionnaire has been completed by the Contractor);
- 1.4.3 thirdly, the Applicable Works Documents;
- 1.4.4 fourthly, the Works Order; and
- 1.4.5 finally, any other documents referred to in the Works Order.

2 EXECUTION OF THE WORKS

2.1 The Contractor shall carry out and complete the execution of the Works in accordance with the terms and conditions of the Contract and to the satisfaction of the Project Manager.

2.2 The Contractor warrants and represents to the Company that the Works:

2.2.1 will be performed by appropriately qualified and trained personnel, with due skill, care and diligence and in accordance with Best Industry Practice;

2.2.2 will comply with all statutory requirements, applicable laws, rules and regulations and voluntary codes of conduct applicable to the execution of the Works; and

2.2.3 will comply in every respect with all Applicable Works Documents and any other applicable specifications, drawings, samples or descriptions provided by, and/or on behalf of, the Company to the Contractor.

2.3 The Contractor warrants and represents to the Company that the Works Deliverables (and the Approved Design Works, where applicable):

2.3.1 will be of a satisfactory quality, (including, in the case of all goods and materials supplied and/or used in connection with the Works or transferred to the Company, within the meaning of the Sale of Goods Act 1979), and fit for any purpose expressly or impliedly made known to the Contractor by the Company;

2.3.2 will comply in every respect with all Applicable Works Documents and any other applicable specifications, drawings, samples or descriptions provided by, and/or on behalf of, the Company to the Contractor in respect of the Works Deliverables;

2.3.3 comply with all statutory requirements, applicable laws, rules and regulations and voluntary codes of conduct applicable to the Works Deliverables; and

2.3.4 without prejudice to Conditions 2.3.1 to 2.3.3 (inclusive), shall be free from defects in workmanship, installation and design for the duration of the Warranty Period.

2.4 The Contractor warrants and represents to the Company that:

2.4.1 it will not do or omit to do anything which may cause the Company or any member of the Hargreaves Group to lose any licence, authority, consent or permission (including without limitation, any applicable Planning Permissions and Local Authority Agreements) upon which it relies for the purposes of conducting its business or cause any such licence, authority, consent or permission to be suspended, revoked or made subject to conditions;

2.4.2 it has, or will obtain prior to the commencement of the Works, all necessary licences, consents and permissions required for the execution of the Works;

2.4.3 it shall co-operate in good faith with the Company in all matters relating to the Works and shall comply with the reasonable and lawful instructions of the Company (including without limitation, the instructions of the Project Manager); and

2.4.4 it has the necessary expertise to comply with the Contract and confirms the accuracy of all statements and representations made in respect of the Works prior to and during the Contract, including without limitation, any and all warranties, statements and representations made in the Supplier Questionnaire and the Applicable Works Documents.

2.5 The Contractor shall immediately notify the Project Manager of the occurrence of any defects in the workmanship, installation and/or design of the Works Deliverables during the execution of the Works and/or during the Maintenance Period (if applicable). If the Contractor identifies any defects in the workmanship, installation and design of the Works Deliverables during the execution of the Works and/or any defects in the workmanship, installation and design of the Works Deliverables are notified to it in writing by the Project Manager, then the Contractor shall take all such steps and undertake all such actions as are required, at its own cost and expense, to remedy such defects so that the Works Deliverables are free from any defects in the workmanship, installation and design upon the completion of the Works.

3 ROLE OF THE PROJECT MANAGER AND CONTRACTOR'S REPRESENTATIVE

3.1 The Company shall appoint a person to be the Project Manager for the purposes of the Contract and, subject to Condition 3.2, to carry out the functions of the Project Manager under the Contract. The Company shall notify the Contractor in writing of the appointment of the Project Manager (or of the appointment of any other person to succeed him).

3.2 The Project Manager may from time to time delegate to any employee, agent, representative or sub-contractor of the Company any of his powers and/or functions under the Contract and shall notify the Contractor as to what powers and/or functions have been so delegated. For the purposes of the Contract, where the Project Manager has delegated its powers and/or functions to an employee, agent, representative or sub-contractor of the Company, any references in these Conditions to the Project Manager exercising any rights and/or discharging responsibilities under the Contract which have been delegated, shall be deemed to be references to the relevant employee, agent, representative or sub-contractor of the Company exercising such rights and/or discharging such responsibilities.

3.3 The Contractor shall:

3.3.1 comply with any and all reasonable and lawful instructions given by the Project Manager in respect of the execution of the Works;

3.3.2 co-operate in good faith with the Project Manager in all matters under or in connection with the Contract; and

3.3.3 provide the Project Manager with access to all Works Deliverables and any other facilities, plant, machinery and materials to be delivered under or used in connection with the Contract for the purposes of enabling the Project Manager to discharge their duties under the Contract and to ensure that the Contractor is complying with its responsibilities under the Contract.

3.4 The Contractor shall appoint a person to be responsible for overseeing and managing the execution of the Works on behalf of the Contractor and shall notify the Project Manager of his appointment (or of the appointment of any other persons to succeed him) (the **Contractor's Representative**).

3.5 The Project Manager shall be entitled to object to the appointment of a particular person as the Contractor's Representative or to require at any time the person appointed as the Contractor's Representative to be replaced by another person satisfactory to the Project Manager.

4 DESIGN WORKS

4.1 The provisions of this Condition 4 shall apply to the Contract where the Works Order indicates that the Contractor is responsible for Design Works (or part thereof).

4.2 Any work undertaken by the Contractor in completing or detailing any design, drawing or specification furnished to the Contractor by or on behalf of the Company shall be regarded as Design Works completed by the Contractor for the purposes of the Contract, provided that the Contractor shall not thereby become responsible for those aspects of the Design Works furnished by or on behalf of the Company.

4.3 If the Contractor requires information on loadings or other stresses additional to that contained in any Works Order, Applicable Works Documents, or any other documents referred to therein, before submitting the Design Works to the Project Manager for approval under Condition 4.4, such information shall be provided by the Project Manager as soon as reasonably practicable.

4.4 The Contractor shall submit to the Project Manager for approval on or before the date specified in the Works Order (or, if no such date is specified, within a period to be agreed between the Project Manager and the Contractor) such number of copies of the Design Works as the Project Manager may request. The Project Manager shall within fourteen (14) days (or such other period as the Project Manager and the Contractor may agree) inform the Contractor whether the Project Manager, in its absolute discretion, approves the Design Works or not.

4.5 If the Design Works are rejected by the Project Manager pursuant to Condition 4.4, the Contractor shall at its own cost and expense amend the Design Works as required by the Project Manager and re-submit it to the Project Manager for approval within fourteen (14) days of receipt of notice of rejection from the Project Manager pursuant to Condition 4.4 (unless otherwise agreed in writing).

4.6 Any Design Works re-submitted by the Contractor shall be subject to the approval process under Conditions 4.4 and 4.5.

4.7 Any exercise by the Project Manager of its right to reject any Design Works pursuant to Condition 4.4 shall not relieve the Contractor of its obligations to complete the Works and delivery of the Works Deliverables on or before the Date for Completion.

4.8 Upon approval of the Design Works by the Project Manager under Condition 4.4, such Design Works shall be deemed "**Approved Design Works**" for the purposes of the Contract and shall not be amended otherwise than in accordance with the terms of the Contract. For the avoidance of doubt, any approval by the Project Manager of the Approved Design Works shall not, nor shall it be deemed to, relieve the Contractor of its obligations for ensuring that such Approved Design Works comply with the terms of the Contract, including without limitation, the provisions of Condition 2.3.

4.9 On completion of the Works, the Contractor shall provide the Project Manager with one complete set (in the form required by the Project Manager) of Approved Design Works.

4.10 Without prejudice to any other rights or remedies to which the Company may be entitled, and subject to Condition 4.11, if any Approved Design Works (or any part of them) prove defective, inadequate or otherwise not in accordance with the Contract at any time during the execution of the Works or prior to the expiry of the Warranty Period, then:

4.10.1 The Contractor shall promptly take such steps as are necessary to amend the Approved Design Works and rectify the design of the Works to the satisfaction of the Project Manager at its own costs and expense; or

4.10.2 The Company shall be entitled to, or engage a third party to, amend the Approved Design Works and rectify the design of the Works and all additional expenditure incurred by the Company in remedying the design of the Works shall be payable by the Contractor to the Company upon demand.

4.11 If any Approved Design Works (or any part of them) prove defective, inadequate or otherwise not in accordance with the Contract at any time during the execution of the Works or prior to the expiry of the Warranty Period and such defect is caused by a design (or part thereof) furnished by or on behalf of the Company, upon request of the Company the Contractor shall amend Approved Design Works and rectify the design of the Works in accordance with the Contract and to the satisfaction of the Project Manager at the cost and expense of the Company.

5 TIME FOR COMPLETION OF THE WORKS

5.1 The Contractor shall commence the execution of the Works on either:

5.1.1 the date specified in the Works Order; or

5.1.2 if the Contractor incorporates a Timed Programme, the date specified in the Timed Programme; or

5.1.3 if no such date is specified, as notified to the Contractor by the Project Manager.

5.2 If the Works Order states that the "Works" include the provision of the Maintenance Services, the Contractor shall commence the execution of the Maintenance Services on the Date for Completion (unless otherwise stated in the Works Order or specified by the Project Manager in writing during the execution of the Works) and shall continue to provide the Maintenance Services for the duration of the Maintenance Period in accordance with the terms of the Contract and to the satisfaction of the Project Manager. For the avoidance of doubt, any work undertaken by the Contractor in remedying any defects in the Works that occur during the Warranty Period in accordance with the terms of the Contract shall not constitute, or be deemed to contribute to, the provision of the Maintenance Services and no sums shall be owed to the Contractor by the Company in respect of the same.

5.3 Subject to Condition 5.2, the execution of the Works shall be completed by the Contractor on or before the Date for Completion (save that the Contractor shall not be liable for any failures to complete the execution of the Works on or before the Date for Completion to the extent that any such failure is caused by the acts, omissions, defaults or delays of the Company). Time shall be of the essence for the purposes of the Date for Completion.

5.4 In carrying out the Works:

5.4.1 the Contractor shall meet all deadlines and milestones set in the Timed Programme (if applicable); and

5.4.2 provide such updates and progress reports on the execution of the Works as the Project Manager may require from time to time.

5.5 If at any time during the execution of the Works, the Contractor falls behind the Timed Programme or anticipates that it is likely to fall behind the Timed Programme and/or fail to meet the Date for Completion, the Contractor shall immediately inform the Project Manager in writing, and submit to the Project Manager a modified Timed Programme and/or amended Date for Completion for the approval of the Project Manager. Any proposed changes by the Contractor to the Timed Programme and/or the Date for Completion shall not form part of the Contract until agreed by the parties in accordance with Condition 6 and the Contractor shall continue the execution of the Works under the existing Timed Programme and/or towards the existing Date for Completion until the change has been agreed in accordance with Condition 6.

5.6 The approval by the Project Manager of any modified Timed Programme pursuant to Condition 5.5 shall not relieve the Contractor of its obligations to complete the execution of the Works on or before the Date for Completion, unless the Project Manager agrees to extend the Date for Completion. Further, the approval of the Project Manager of any modified Timed Programme and/or amended Date for Completion pursuant to Condition 5.5 shall be without prejudice to the Contractor's obligations under Conditions 9 and 10.

5.7 The Contractor shall not be entitled to any additional sums in respect of the modification of the Timed Programme and/or amendment of the Date for Completion, unless otherwise agreed in writing pursuant to Condition 6.

5.8 If the Works Order states that payments are to be made to the Contractor on the basis of Interim Certificates then the Contractor shall make an application to the Project Manager, supported by such documentary evidence as the Project Manager may require from time to time, for an Interim Certificate showing the value of all Work completed (as calculated in accordance with the Contract Price stated in the Works Order) by the Contractor at the Site during the period in respect of which payment is claimed. If the Project Manager is satisfied that Work has been completed in accordance with the Contract, he shall issue an Interim Certificate within fourteen (14) days of the date of receipt of the application in respect of the same, certifying payment of the amount which in the Project Manager's opinion is due to the Contractor under the Contract for such work (as calculated in accordance with the Contract Price stated in the Works Order).

5.9 Upon completion of the execution of the Works in accordance with the Contract, the Contractor shall apply to the Project Manager for a Completion Certificate, supported by such documentary evidence as the Project Manager may require from time to time. If the Project Manager is satisfied that the Works have been completed in accordance with the Contract, he shall issue the Completion Certificate within twenty eight days (28) days of the date of receipt of the application in respect of the same. For the avoidance of doubt, the Warranty Period in respect of the Works Deliverables provided under the Contract shall not commence until the Project Manager has issued a Completion Certificate.

5.10 Within twenty eight (28) days of the end of the Maintenance Period (if any), the Contractor shall apply to the Project Manager for a Final Certificate, supported by such documentary evidence as the Project Manager may require from time to time. If the Project Manager is satisfied that all outstanding Maintenance Services have been provided by the Contractor in accordance with the Contract, he shall issue the Final Certificate within twenty eight (28) days of the date of receipt of the application in respect of the same.

5.11 The issue by the Project Manager of any certificate under these Conditions or the payment of any invoice by the Company shall not be, nor shall it be deemed to be, evidence of the satisfactory performance by the Contractor of its obligations under the Contract nor that the Works (or any part of the Works, including without limitation, the Works Deliverables and/or the Maintenance Services) have been executed in accordance with and comply with the requirements of the Contract, and the Company expressly reserves all rights in respect of the same (whether of a contractual nature or otherwise).

6 VARIATION REQUEST

6.1 The Project Manager may request changes to the Works by issuing a Variation Request to the Contractor.

6.2 As soon as is reasonably practicable after receipt of a Variation Request, and in any event within five (5) Working Days, the Contractor shall provide an estimate of time and costs involved in implementing such a Variation Request and an initial assessment of the impact of the change on the Works.

6.3 The Contractor shall use its best endeavours to make the requested change(s) to the Works to accommodate any changes to the needs and requirements of the Company as set out in the Variation Request.

6.4 Once any Variation Request is agreed in writing and signed by both parties, such Variation Request shall form part of the Contract.

7 CONTRACT PRICE

7.1 In consideration of the proper execution of the Works by the Contractor, the Company shall pay to the Contractor the Contract Price.

7.2 Where the Contract Price is stated as being a fixed price in the Works Order, it shall be (unless otherwise agreed in writing):

7.2.1 exclusive of Value Added Tax (VAT) (which shall be payable by the Company subject to receipt of a valid VAT invoice in respect of the same);

7.2.2 inclusive of the provision of all services, spares, plant, equipment, materials, packing and transport (including loading, unloading, freight, insurance and labour charges);

7.2.3 inclusive of all duties, imports, taxes, levies other than VAT; and

7.2.4 inclusive of all labour costs in respect of the Works.

7.3 Where the Contract Price is stated as being on a time and material basis in the Works Order, (unless otherwise agreed in writing):

7.3.1 the Contract Price shall be exclusive of Value Added Tax (VAT) (which shall be payable by the Company subject to receipt of a valid VAT invoice in respect of the same);

7.3.2 the Contract Price shall be inclusive of all duties, imports, taxes, levies other than VAT; and

7.3.3 the Contractor shall maintain complete and accurate records of all the time spent and materials it uses in executing the Works in such a form as the Project Manager may require, including without limitation, daily time sheets recording all time spent on the Works by each of its employees, agents, representatives or subcontractors (and the applicable Day Rates, Night Rates and Overtime Rates that are to be applied to such timesheets, as set out in the Works Order) and a detailed list of all material, plant, machinery and equipment purchased by the Contractor in respect of the Works with valid documentary evidence detailing the sums for such materials and the dates paid.

7.4 The Contractor shall submit Correct Invoices to the Company upon (where indicated in the Works Order):

7.4.1 receipt of an Interim Certificate in respect of the amount certified by the Project Manager as payable under the Interim Certificate in accordance with Condition 5.8; and/or

7.4.2 receipt of a Completion Certificate in respect of the total Contract Price, subject to the deduction of any sums already paid by the Company to the Contractor under Interim Certificates (where the Contract Price is fixed) and/or the deduction of any sums permitted to be retained by the Company until the expiry of the Maintenance Period where Maintenance Services are to be provided (as stated in the Works Order); and/or

7.4.3 receipt of a Final Certificate in respect of any sums retained by the Company following the issuance of a Completion Certificate where such retention was permitted under the Works Order and/or in respect of any additional sums due in respect of the provision of the Maintenance Services (as stated in the Works Order); and/or

7.4.4 such other date, and in respect of such other amount, as may be specified in the section entitled "Invoicing" in the Works Order, and the Company shall pay such invoices within sixty (60) days of the date of the last day of the month in which the Correct Invoice is received by the Company in respect of the same.

7.5 The Company shall be entitled to withhold, or deduct by way of, or otherwise, set off any monies owing at any time to the Contractor against any monies due to the Company from the Contractor or for the Contractor's breach of any contract and whether such liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

7.6 If there is any invoice which is in dispute (whether in whole or part), the Company shall be entitled to withhold payment of the relevant invoice in full and the parties shall enter into good faith discussions to resolve such dispute. For the avoidance of doubt, the Company shall not be under any obligation to make payment of any invoice of part thereof until such dispute is resolved.

7.7 If the Company fails to make payment to the Contractor of any sums owed under the Contract, the Contractor may charge interest to the Company on such sums at a rate of 2% (two per cent) per annum above the base lending rate from time to time of the Bank of England until such payment has been made. Interest shall not be payable on any unpaid sums under Conditions 7.5 and 7.6 above.

8 SUSPENSION RIGHTS

8.1 Without prejudice to Condition 12, the Company may by written notice at any time, and without cause, order the Contractor to suspend the execution of the whole or any part of the Works for the time being or for a specified period.

8.2 Upon receipt of written notice from the Project Manager pursuant to Condition 8.1:

8.2.1 the Contractor shall stop work immediately and comply with any directions with regards to the orderly suspension of the Works which may be given by the Company; and

8.2.2 the Company shall pay to the Contractor all sums due to the Contractor for work done up to the date of receipt of the notice of suspension, subject always to the Contractor providing the Company with all such documentation as it may reasonably request to evidence the same, including without limitation, a Correct Invoice. All sums payable by the Company to the Contractor under this Condition 8.2.2 shall be payable by the Company within sixty (60) days of the last day of the month in which the Correct Invoice is received by the Company in respect of the same.

8.3 The obligation of the Company under Condition 8.2.2 shall be the Company's sole and exclusive liability to the Contractor in respect of the suspension of the Contract in whole or in part under Condition 8.1.

9 LIQUIDATED DAMAGES

9.1 The provisions of this Condition 9, are applicable where the Works Order states that Liquidated Damages are payable.

9.2 Without prejudice to any other rights or remedies to which the Company may be entitled, if the execution of the Works is not completed by the Contractor by the Date for Completion and/or any other key milestones or dates within any applicable Timed Programme are missed (as stated in the Works Order) the Contractor shall be liable to pay to the Company the Liquidated Damages for the period during which the execution of the Works remains

uncompleted (save to the extent that any such failure or delay is caused by the acts or omissions of the Company, its employees, agents or subcontractors). The Company and the Contractor hereby expressly acknowledge and agree that the Liquidated Damages payable by the Contractor to the Company pursuant to this Condition 9.2 is proportionate to protect the legitimate interest of the Company and represents a genuine pre-estimate of the losses that may be incurred by the Company as a result of the Contractor failing to meet the Date for Completion or any other key milestones or dates within any applicable Timed Programme are missed (as appropriate).

10 THE COMPANY'S REMEDIES

10.1 Without prejudice to any other rights or remedies to which the Company may be entitled, if in the reasonable opinion of the Company, the Contractor:

10.1.1 is in material breach of any of Conditions 2.1 to 2.4 (inclusive); and/or

10.1.2 has failed, refused and/or neglected to comply with the reasonable and lawful instructions of the Project Manager in accordance with Condition 3.3 (provided always that the Project Manager has confirmed in writing to the Contractor such failure, refusal or neglect and the Contractor has failed to remedy the same within seven (7) days of a request in writing to do so); and/or

10.1.3 subject to Condition 5.5, is likely to fail to meet a deadline set within the Timed Programme and/or the Date for Completion (provided always that following a request from the Project Manager to do so, in the reasonable opinion of the Company the Contractor has failed to take such steps as are necessary to bring the execution of the Works into line with the date and times specified in the Timed Programme and/or the Date for Completion), (and the occurrence of any of the events specified at Conditions 10.1.1 to 10.1.3 (inclusive) shall be deemed a "Works Failure" for the purposes of this Condition 10) then the Company shall be entitled to exercise the rights and remedies conferred upon it pursuant to Condition 10.2.

10.2 Upon the occurrence of a Works Failure, the Company shall be entitled to exercise any of the following rights and remedies:

10.2.1 to require the Contractor to re-perform the Works giving rise to the Works Failure in accordance with the terms of the Contract at its own cost and expense. If the Works Failure is caused by the occurrence of a defect in the workmanship, installation and/or design of the Works Deliverables during the Warranty Period then the Warranty Period shall be extended by a period equal to the period that the Works Deliverables remain defective; and/or

10.2.2 to assess the cost of remedying the Works Failure (the Assessed Cost) and the Assessed Cost shall be payable by the Contractor to the Company upon demand; and/or

10.2.3 to terminate the Contract (in whole or in part) and carry out itself, or engage a third party to carry out, such works and/or services as are necessary to remedy the Works Failure (in whole or in part) and all additional expenditure incurred by the Company in remedying such Works Failure (including without limitation any tendering and administrative costs incurred by the Company in identifying an appropriate third party) shall be payable by the Contractor to the Company upon demand,

and the Company shall be entitled to exercise the rights granted to it under Condition 7.5 in respect of any sums payable by the Contractor to the Company under Conditions 10.2.2 and/or 10.2.3.

10.3 For the purposes of the Company exercising its rights under Condition 10.2.3 the Contractor shall assign to the Company upon request, or to any third party appointed by the Company pursuant to Condition 10.2.3, the benefit of any sub-contract entered into by the Contractor in connection with the Works and as is necessary for the Company or any third party to remedy such Works Failure.

10.4 The Contractor shall not be liable under Condition 10.1 if and to the extent that any such delay or failure was caused or contributed to by the act or omission of the Company.

11 TERMINATION FOR CAUSE

11.1 Without prejudice to any other rights or remedies to which it may be entitled, the Company shall have the right at any time by giving notice in writing to the Contractor to terminate the Contract immediately if:

11.1.1 the Contractor commits a material and/or persistent breach of any of the terms or conditions of the Contract and (if the breach is capable of remedy) the Contractor fails to remedy it within seven (7) days of receipt of notice in writing requiring remedy of the breach; or

11.1.2 the Contractor is subject to a change of Control or an Insolvency Event; or

11.1.3 the Contractor commits any act which brings or is likely to bring the Company (and/or the Hargreaves Group) into disrepute or which damages or is likely to damage their interests; or

11.1.4 the financial position of the Contractor deteriorates to such an extent that, in the reasonable opinion of the Company, the capability of the Contractor to adequately fulfil its obligations under the Contract has been placed in jeopardy.

12 TERMINATION FOR CONVENIENCE

12.1 Without prejudice to any other rights or remedies to which it may be entitled, the Company may terminate the Contract for any reason at any time, in whole or in part, by providing no less than seven (7) days written notice to the Contractor.

12.2 If the Contract is terminated by the Company pursuant to Condition 12.1:

12.2.1 the Contractor shall comply with Condition 13.1 in respect of the cessation of the Works; and

12.2.2 the Company shall pay to the Contractor for all Works properly carried out by the Contractor up to the date of termination either: (i) where the Contract is on a time and materials basis, for all time properly incurred and materials used up to the date of termination; or (ii) if the Contract Price is a fixed price, that proportion of the Contract Price which represents the extent of the work which has been carried out by the Contractor up to the date of termination, as determined in the reasonable opinion of the Project Manager. All sums payable by the Company to the Contractor under this Condition 12.2.2 shall be payable by the Company within sixty (60) days of the last day of the month in which the Correct Invoice is received by the Company in respect of the same.

12.3 The obligation of the Company under Condition 12.2.2 shall be the Company's sole and exclusive liability to the Contractor in respect of the termination of the Contract in whole or in part under Condition 12.1.

13 CONSEQUENCES OF TERMINATION

13.1 Upon termination or expiry of the Contract, howsoever caused or occasioned, the Contractor shall co-operate fully with the Company in good faith and comply with any directions issued by the Company to the Contractor and provide all such assistance as may be required by the Company (including providing all documents relating to the Works requested by the Company), at its own cost and expense to ensure the orderly handover of the Works to the Company and/or any third party appointed by the Company.

13.2 The termination of the Contract however arising will be without prejudice to the rights and duties of either party accrued prior to termination or expiry. The Conditions which impliedly or expressly have effect or continue after termination or expiry will continue to be enforceable notwithstanding termination or expiry of the Contract.

14 LIABILITY AND INDEMNITY

14.1 The Contractor shall indemnify, keep indemnified and hold harmless the Company (and each member of the Hargreaves Group) in full, and on demand, from and against any and all Loss which may be incurred by the Company (and/or any member of the Hargreaves Group) as a result of or in connection with:

14.1.1 any infringement or alleged infringement of the Intellectual Property Rights of any other person arising out of or in connection with the Works or the use of any design, drawings, plant and equipment, materials or other items provided by, or on behalf of, the Contractor in connection with the execution of the Works, including without limitation any Approved Design Works (except to the extent that the claim arises from compliance with any specifications, drawings, samples or descriptions provided by the Company or on behalf of the Company);

14.1.2 the death of, or injury to, any person or out of or in connection with the damage to any property, including without limitation property of the Company, to the extent that such death, injury or damage is caused by breach of the terms and conditions of the Contract, any negligent performance, delay and or failure to perform any of its obligations under the Contract by the Contractor, its employees, agents or sub-contractors; and

14.1.3 any claim made against the Company and/or any member of Hargreaves Group by a third party as a result of or in connection with any breach of the terms and conditions of the Contract and/or any negligent performance, delay and/or failure to perform any of its obligations under the Contract by the Contractor, its employees, agents or sub-contractors.

14.2 The Contractor shall obtain and maintain in force during the continuance of the Contract and for the duration of the Warranty Period, adequate and suitable insurance with a reputable insurance company to cover all of its liabilities under the Contract, including without limitation, the Insurance Requirements set out in the Works Order and all such other product liability, professional indemnity insurance, public liability insurance and employer's liability insurance cover as the Company may require the Contractor to obtain from time to time in respect of its liabilities under the Contract.

14.3 The Contractor shall ensure that the Company's interest in the insurance policies effected pursuant to Condition 14.2 is noted on the relevant policies and the Contractor shall, if required by the Company, produce satisfactory evidence to the Company that such insurance policies have been effected. For the avoidance of doubt, the Contractor shall be liable under all provisions of the Contract whether or not it complies with Conditions 14.2 and 14.3.

14.4 If the Contractor fails to insure, or fails to pay the insurance premium under any policy, as required under this Contract, the Company shall be entitled to take out such insurance as it considers necessary to cover the relevant risk and recover the cost of such insurance from the Contractor on demand.

14.5 Subject to Condition 14.6, the Company shall not be liable to the Contractor for any of the following:

14.5.1 loss of profits;

14.5.2 loss of business;

14.5.3 loss of anticipated savings;

14.5.4 loss of revenue;

14.5.5 loss of opportunity;

14.5.6 loss of contracts;

14.5.7 loss of data;

14.5.8 loss of goodwill or reputation;

14.5.9 special, indirect or consequential loss; or

14.5.10 delay in performing or any failure to perform its obligations under this Contract to the extent that such delay or failure was caused or contributed to by the act or omission of the Contractor,

and in each case whether arising under or in connection with this Contract, whether in contract, tort (including negligence) or otherwise, and irrespective of whether any of the above are direct or indirect loss or damage.

14.6 The limitations in Condition 14.5 shall not apply to any liability:

14.6.1 for death or personal injury caused by negligence;

14.6.2 for fraud or fraudulent misrepresentation; or

14.6.3 that cannot be excluded by law.

14.7 The aggregate liability of the Company, whether in contract, tort (including for negligence) or for breach of statutory duty (howsoever arising), misrepresentation or otherwise in connection with this Contract, shall be limited to an amount equal to the Contract Price paid by the Company to the Contractor in respect of Works properly executed. The Contractor shall have a duty to mitigate any loss and/or damage arising from any claim.

15 CONFIDENTIALITY

15.1 Each party shall keep, and shall procure that their employees, agents, representatives and subcontractors shall keep, in strict confidence, all Confidential Information received from the other party or which otherwise comes into its possession. Each party shall restrict disclosure of such Confidential Information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging its obligations under the Contract.

15.2 This Condition 15 shall apply during the continuance of the Contract and after its termination or expiry howsoever arising without limitation in time.

15.3 The Contractor shall not, without the prior written consent of the Company, publicly announce or advertise in any form that it provides services to the Company and/or its relationship with the Company pursuant to the terms of the Contract.

16 INTELLECTUAL PROPERTY

16.1 All Intellectual Property Rights of either party in existence prior to the date of the commencement of the Works under the Contract (**Background IPR**), will be owned by and shall remain vested in the party in whom the Background IPR was owned and vested in prior to the date of the commencement of the Works under the Contract.

16.2 Subject to Condition 16.3 and without prejudice to Condition 16.1, all Intellectual Property Rights produced and/or arising from the performance of the Contract shall vest and remain solely and exclusively vested in the Company (and to the extent the same are not already vested in the Company, the Contractor hereby assigns to the Company with full title guarantee and free from all third party rights, all such Intellectual Property Rights). For the avoidance of doubt, all Intellectual Property Rights in the Approved Design Works and the Works Deliverables shall vest in and be the exclusive property of the Company.

16.3 The Contractor hereby grants to the Company a royalty-free and non-exclusive licence, for the duration of the Term, to use its Background IPR to the extent required to obtain the benefit of the Works.

16.4 The Contractor shall promptly at the Company's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Company may from time to time require for the purpose of securing for the Company the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Company in accordance with Condition 16.2.

16.5 All fossils, coins, articles of value or antiquity and other remains or things of geological or archaeological interest discovered on the Site shall, as between the Company and the Contractor, be deemed to be the absolute property of the Company. The Contractor shall take reasonable precautions to prevent its workmen or any other persons from removing or damaging any such items and shall immediately upon their discovery and before removal acquaint the Company of the discovery and carry out the Project Manager's instructions as to their disposal at the cost of the Company.

17 ASSIGNMENT AND SUB-CONTRACTING

17.1 The Contractor shall not assign the whole or any part of the Contract or any interest in it without the prior written consent of the Company.

17.2 Subject to Condition 17.3, the Contractor shall not, without the prior written consent of the Company, sub-contract the execution of the whole or any part of the Works.

17.3 The Contractor may sub-contract the execution of the Works or part thereof, if such sub-contracting is stated as being permissible in the Works Order. Where the Works Order specifies that one or more specified sub-contractors may be used, the Contractor shall only sub-contract the execution of the Works (or part thereof) to one or more of those sub-contractors specified in the Works Order.

17.4 Where any part of the Works is sub-contracted, the provisions of the Contract shall continue to apply in full as between the Company and the Contractor as though the sub-contracted works were being carried out by the Contractor himself, who shall be liable for all acts and omission of any sub-contractor.

17.5 In respect of any part of the sub-contracted works, the Company shall be entitled, upon serving notice to that effect upon the Contractor, to make payment direct to the sub-contractor.

17.6 Where notice has been served upon the Contractor in accordance with Condition 17.5, the Contractor shall, if so requested by the Company, inform the Company as to the amount claimed as due by the sub-contractor to whom the notice applies. Any payments made to a sub-contractor in accordance with Condition 17.5 shall be notified by the Company to the Contractor and may be deducted from any sums payable to the Contractor under the Contract.

17.7 Notwithstanding direct payment by the Company under this Condition 17, no contractual relationship shall be implied or inferred between the Company and any sub-contractor nor shall the Contractor be relieved of any liability to the Company in respect of the sub-contracted works.

18 USE OF PLANT AND EQUIPMENT

18.1 Except as otherwise stated in the Works Order, the Contractor shall provide suitable plant and equipment for the execution of the Works. If the Works Order states that the Company are to provide specified plant and equipment to the Contractor for the execution of the Works, the Contractor may, within one (1) week of commencing to use such specified plant and equipment or within one (1) month of such specified plant and equipment being first available for inspection by the Contractor (whichever is the earlier), reject it on the grounds of its unsuitability or poor condition but thereafter shall not be entitled to reject the plant and equipment nor make any claim against the Company on such grounds.

18.2 If the Company provide, or procure from any third party the provision of, any plant and equipment (other than plant and equipment specifically to be provided by the Company under the Contract) to the Contractor for the execution of the Works, the Contractor shall not be entitled to make any claim against the Company because of the unsuitability or condition of such plant and equipment and the Contractor hereby expressly acknowledges and agrees that the Company makes no warranties, representations, statements or otherwise as to the quality, suitability or fitness for purpose of any plant and/or equipment it provides (or procures the provision of) to the Contractor and the Company hereby excludes to the maximum extent permitted by law any liability for any costs, charges, damages, expenses or other liabilities in respect of the same. If such plant or equipment breaks down or becomes unusable, the Contractor shall at its own cost and expense repair or replace it.

18.3 The Contractor shall take proper care of and at his own cost and expense maintain in good condition and working order all plant and equipment provided by the Company (whether specifically to be provided by the Company under the Contract or otherwise) for the execution of the Works.

18.4 The Contractor shall not interfere with any existing works, whether the property of the Company or of any other party and whether the position of such works is indicated to the Contractor by the Company or not, except where such interference is specifically described as part of the Works, either in the Contract or in an instruction given by the Project Manager.

19 SETTING OUT

19.1 Except as otherwise provided in the Contract, the Contractor shall be responsible for the true and proper setting out of the Works from bench marks, base lines or other reference points provided by the Company and for the correctness of the position, levels, dimensions and alignments of all parts of the Works. The Contractor shall provide all necessary instruments, appliances and labour for this purpose. The checking of any setting-out or of any line or level by the Company shall not relieve the Contractor of any responsibility for the correctness thereof and the Contractor shall protect and preserve all bench marks, sight rails, pegs and other things used in setting out the Works.

19.2 If at any time during the execution of the Works any error appears or arises in the position, levels, dimensions or alignment of any part of the Works set out by the Contractor, the Contractor shall at his own cost rectify such error to the satisfaction of the Project Manager unless the error is based on incorrect data supplied in writing by the Company in which case the costs of rectifying the same shall be paid by the Company.

19.3 The Contractor shall, if required by the Project Manager, search for the cause of any defect, imperfection or fault in the Works. Unless the defect, imperfection or fault is one for which the Contractor is liable under the Contract, the cost of the work carried out by the Contractor in searching shall be borne by the Company but if the defect, imperfection or fault is one for which the Contractor is liable under the Contract, the cost of the work carried out in searching shall be paid by the Contractor.

20 MAINTENANCE AND DEFECTS

20.1 Without prejudice to Conditions 2.5 and 10, where the Works are or include the repair of Machinery, the Contractor shall also make good:

(a) all damage to the Machinery (or any part thereof) attributable to any such defect or fault in the Works; or

(b) defects which are found or develop in the Machinery (or any part thereof) arising from the failure of the Contractor, its employees, agents or of subcontractors to carry out the Works in accordance with the Contract, that occurs during the execution of the Works or during the Warranty Period.

20.2 If any defects in Machinery occur during the Warranty Period then the Warranty Period shall be extended by a period equal to the period that the relevant Machinery remains defective.

20.3 If the Contractor fails to do any work under this Condition 20, the Company may either itself or through a third party, carry out such work as is necessary to remedy such defects and the Contractor shall reimburse the Company for all costs and expenses incurred by the Company in connection therewith.

21 HEALTH AND SAFETY

21.1 The Contractor shall observe and comply with all health and safety rules and regulations and any other security requirements that apply at the Site and/or in relation to the Works, and all the other instructions given by the Project Manager in connection with the safe execution of the Works and/or the operation of the Site.

21.2 The Contractor shall notify the Company as soon as it becomes aware of any health and safety hazards and/or failures to comply with the health and safety rules and regulations and any other security requirements that apply at the Site and/or in relation to the Works.

21.3 The Contractor shall provide all necessary supervision, having regard to the nature and extent of the Works, to secure the proper and safe execution of the Works in accordance with the Contract, including without limitation the provision of a competent and authorised agent or charge man skilled in the type of work being executed and approved by the Project Manager and who shall be on the Site at all times while the Works are in progress.

21.4 The Contractor shall also provide during the Maintenance Period (where applicable) such supervision as the Project Manager may require.

22 CONTRACTOR'S PERSONNEL

22.1 The Company shall have the right to object, in its absolute discretion and without giving any reason, to the engagement (whether as employee or independent contractor) by the

Contractor or any sub-contractor of any person in connection with the execution of the Works at the Site and, immediately upon receipt of such objection, the Contractor shall ensure that any such person ceases to be so engaged and to attend at the Site.

22.2 The Contractor shall, if so required, deliver to the Project Manager a return in such form and at such intervals as the Project Manager may require showing in detail the names and numbers of the employees, agents, representatives and/or sub-contractors from time to time engaged by the Contractor or his sub-contractors on the Site in connection with the Works and shall, if so required by the Project Manager, immediately notify him of the name and class of labour of any employees, agents, representatives and/or sub-contractors taken on or removed from engagement by the Contractor or any of its sub-contractors.

22.3 The Contractor shall procure that, upon request from the Company, such of its employees, agents, representatives and/or sub-contractors as may be required by the Company shall attend at a site (at a time and date designated by the Company) for the purposes of such employees, agents, representatives and/or sub-contractors undertaking the Drug Testing Procedure.

22.4 If any of the Contractor's employees, agents, representatives and/or sub-contractors fail the Drug Testing Procedure or refuse to submit to the Drug Testing Procedure, the Contractor shall:

22.4.1 ensure that any such person ceases to be engaged in, or in connection with, the execution of the Works at the Site and immediately vacates the Site; and

22.4.2 reimburse the Company for the Drug Testing Charge together with any and all additional administrative costs and expenses incurred by the Company in connection therewith.

22.5 The Contractor shall be entitled, on behalf of the relevant employee, agent, representative or sub-contractor, to challenge the results of any Drug Testing Procedure undertaken by and/or on behalf of the Company pursuant to Condition 22.3 immediately upon receipt of the results of the Drug Testing Procedure. Upon notification of a challenge by the Contractor pursuant to this Condition 22.5, the relevant employee, agent, representative and/or sub-contractor shall immediately submit to a further Drug Testing Procedure. If the relevant employee, agent, representative or sub-contractor fails the further Drug Testing Procedure, then in addition to its obligations under Condition 22, the Contractor shall reimburse the Company the Drug Testing Charge together with any and all additional administrative costs and expenses incurred by the Company in connection therewith.

22.6 The parties do not consider that TUPE shall operate to transfer the employment of any employee of the Contractor or any of its sub-contractors as a consequence of the termination of this Contract (whether in whole or in part).

22.7 If the expiry or termination of this Contract (whether in whole or in part) operates so as to transfer the contracts of employment or engagement of any employees of the Contractor or its sub-contractors under TUPE to the Company or to any new contractor (as appropriate), the Contractor shall indemnify and keep indemnified the Company from, and hold the Company (or any new contractor, as appropriate) harmless from and against any Loss -incurred or suffered by the Company (or any new contractor, as appropriate) arising under TUPE or arising out of or in connection with the employment or engagement of such employees or sub-contractors (including without limitation, any claims for redundancy, personal injury, discrimination, unfair dismissal and/or wrongful dismissal).

22.8 The Contractor shall be responsible for paying any employee, agent, representative and/or sub-contractor engaged by the Contractor to execute the Works and for making any deductions required by law in respect of income tax and National Insurance contributions or similar contributions relating to the execution of the Works.

22.9 The Contractor hereby agrees to indemnify, keep indemnified, defend and hold the Company (and members of the Hargreaves Group) harmless in full, and on demand, in respect of any claims that may be made by HM Revenue and Customs and any other relevant authorities against the Company (and/or any member of the Hargreaves Group) in respect of tax demands or National Insurance or similar contributions relating to the execution of the Works by the Contractor.

23 POST-COMPLETION OF WORKS

23.1 Without prejudice to Condition 13.1, upon the completion of the Works or the termination of the Contract (whichever is the earlier), the Contractor shall promptly upon request, clear away and remove from the Site all of its plant and equipment and any unused materials, rubbish and temporary works used in connection with the Works and leave the whole of the Site and the Works clean and in a condition satisfactory to the Project Manager.

23.2 Any scrap material and/or redundant equipment that the Company so require shall remain the property of the Company. The Contractor must stack any such material/equipment in a position as directed by the Project Manager.

24 PLANNING PERMISSION AND PLANT MOVEMENTS

24.1 Without prejudice to Conditions 2.1 to 2.4 (inclusive), the Contractor shall perform the Works (including the delivery of the Works Deliverables) in accordance with all applicable Planning Permissions and Local Authority Agreements, and shall ensure that it does not by any act or omission, cause the Company to be in breach of any such Planning Permissions and/or Local Authority Agreements.

24.2 If the execution of the Works and/or the delivery of the Works Deliverables requires the movement of any large and/or heavy duty plant, machinery and/or equipment either at the Site or to and/or from the Site (**Large Plant Movement**), then prior to carrying out any such Large Plant Movement the Contractor shall notify the Project Manager of the nature of the Large Plant Movement and the proposed time and date of such Large Plant Movement. The Contractor shall not carry out any Large Plant Movement without the prior approval of the Project Manager, and in any event shall ensure that such Large Plant Movement is carried out with minimum disruption to the Site and its surrounding area.

25 EXAMINATION OF WORKS BEFORE COVERING UP

25.1 No Works shall be covered up or put out of view without the approval of the Project Manager and the Contractor shall afford full opportunity for the Project Manager to examine and measure any Works which is about to be covered up or put out of view. The Contractor shall give due notice to the Project Manager whenever any such Works are ready or about to be ready for examination and the Company shall attend for the purpose of examining and measuring such Works unless they consider it unnecessary and advise the Contractor accordingly.

25.2 The Contractor shall uncover any part or parts of the Works or make openings in or through the same as the Project Manager may direct and shall reinstate and make good such part or parts to the satisfaction of the Project Manager. If any such part or parts have been covered up or put out of view after compliance with the requirements of Condition 25.1 and are found to have been executed in accordance with the Contract, any costs incurred in uncovering, making openings in or through, reinstating and making good the same shall be paid by the Company but in any other case such costs shall be borne by the Contractor.

25.3 The Contractor shall, if required by the Project Manager, search for the cause of any defect or fault in the Works during the execution of the Works (and where applicable, any Maintenance Period) and Conditions 2.4, 10 and 20 shall apply to any defects identified which are found to be caused by the Contractor. If and to the extent that any defect, imperfection or fault in the Works is found to be caused by the Company and/or any third parties appointed by the Company, then the Contractor shall carry out all such Works as may be required to remedy such defect or fault at the cost of the Company, provided always that the scope and costs of such Works are agreed in advance with the Company.

26 ANTI-BRIBERY

26.1 The Contractor shall comply with all applicable Anti-Bribery Laws and shall ensure that, at all times during the Contract:

26.1.1 it implements adequate procedures designed to prevent it or any Associated Person from engaging in any activity which would constitute an offence under the Bribery Act 2010 if it were carried out in the UK, or violate any applicable Anti-Bribery Laws; and

26.1.2 it reports to the Company any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of the Contract.

26.2 The Contractor warrants and represents that, in connection with this Contract, no improper financial or other advantage has been, will be or is agreed to be given to any person (whether working for or engaged by the Contractor or any third party) by or on behalf of the Contractor or its Associated Persons.

27 GENERAL

27.1 This Contract set out the entire agreement between the parties in relation to the subject matter hereof and supersedes any previous agreement relating to the subject matter of the Contract, whether written or oral. Each party acknowledges and agrees that in entering into the Contract it places no reliance on any representation or warranty in relation to the subject matter of this Contract, nor shall it have any remedy in relation to the subject matter of the same save as expressly set out in the Contract. The only remedy available to either party for breach of such warranties or representations shall be for breach of contract under the terms of this Contract. Nothing in this Condition or in this Contract shall operate so as to exclude or restrict any remedy or liability for fraud or fraudulent misrepresentation.

27.2 The Contractor shall maintain accurate, up to date and comprehensive records in respect of the Works and the performance of its obligations under the Contract and shall provide the Company with access to all such records upon receipt of notice in writing from the Company to do the same.

27.3 Any notice to be given under the Contract shall be in writing and may be made or delivered by one party hereto to the other at the registered office of the party or to such other address as such party may have notified to the other party giving such notice for the purposes of this Condition and shall be deemed to have been made or delivered:

27.3.1 in the case of notice given by facsimile, when a transmission report showing receipt of the whole of the notice on the correct facsimile number is produced, provided that the notice is received in legible form; or

27.3.2 in the case of notice given by letter, when left at the address or, if sent by prepaid first class recorded delivery, forty eight hours (48) after posting

27.4 If such notice arrives on a day which is not a Working Day, it shall be deemed to have been delivered on the next following Working Day.

27.5 The Contractor is appointed as an independent contractor and nothing in this Contract shall be construed as establishing or implying any agency, partnership or corporate relationship or relationship of employer and employee between the parties, or to authorise either party to act as agent of the other, and neither party shall have the authority to act in the name of or otherwise bind the other in any way, whether contractually or otherwise.

27.6 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable (in whole or part), the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.

27.7 The rights and remedies provided in the Contract are cumulative and not exclusive of any rights or remedies otherwise provided by law.

27.8 The failure of a party to exercise or enforce any right under the Contract shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

27.9 Other than members of the Hargreaves Group, a person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. The Company may perform any of its obligations or exercise any of its rights hereunder through any member of the Hargreaves Group. Notwithstanding that members of the Hargreaves Group shall be entitled to enforce rights under this Contract which have been given for their benefit, the parties to this Contract may enter into any agreement or arrangement varying or amending any of the terms of this Contract, or compromising or settling any claim under this Contract (including in respect of such rights), without reference to the interests of, or the consent of, the other members of the Hargreaves Group not party to this Contract.

27.10 Save as expressly set out in this Contract, no variation of the Contract shall be binding upon the parties unless the same is in writing signed by a duly authorised representative of both the Company and the Contractor.

The Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in all respects in accordance with the laws of England and Wales, and the English courts shall have exclusive jurisdiction in all matters relating to the Contract (whether of a contractual or tortious nature or otherwise).

May 2016