

GRENCORE STANDARD TERMS AND CONDITIONS OF PURCHASE

CAPITAL EQUIPMENT

1. DEFINITIONS

In these Conditions unless the context requires otherwise, the following expressions will have the following meanings:

"Anti-Slavery Laws" any and all Applicable Laws anywhere in the world which relate to anti-slavery or servitude, anti-forced or compulsory labour and/or human trafficking;

"Applicable Law" any:

- (a) statute, statutory instrument, bye-law, order, regulation, directive, treaty, decree, decision of the European Council or law (including any common law or civil law judgment, demand, order or decision of any court, regulator or tribunal) which includes but is not limited to the CDM Regulations;
- (b) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or
- (c) industry code of conduct or guideline,

which relates to the Contract and/or the Equipment or the Services (if any) and/or the activities which are comprised in all or some of the Services (if any) and/ or the use or application of the Equipment or output from the Services (if any);

"Arising IPR" all Intellectual Property Rights which come into existence as a result of the performance by the Supplier of this Contract and all Intellectual Property Rights in the information, materials, deliverables, manuals, reports, technical specifications, instructions and any other outputs of this Contract provided to Grencore by the Supplier;

"Business Day" any day other than a Saturday, Sunday or bank or public holiday in England and/or Wales;

"CDM Regulations" the Construction (Design and Management) Regulations 2015 and any subsequent amendments thereto including but not limited to any approved code of practice and any guidance requirement or amendment issued by the Health and Safety Executive;

"Charges" the charges for the Services (if any) as set out in the Order;

"Commissioning Period" means the period of time for commissioning as set out in the Order or the Project Programme (if any);

"Conditions" these terms and conditions of purchase;

"Confidential Information" has the meaning given to it in **Condition 18.1**;

"Construction Act" means the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009;

"Contract" any contract between Grencore and the Supplier for the sale and purchase of the Equipment and/or the Services (if any) formed in accordance with **Condition 2**;

"Critical Standards" means those performance standards which are described or referred to in the Specification and/or the Order (as applicable);

"Data Protection Laws" shall mean all Applicable Laws relating to data protection, the processing of personal data and privacy, including:

- (i) the Data Protection Act 1998;
- (ii) the Data Protection Act 2018;
- (iii) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679; and
- (iv) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications);

and references to **"Data Processor"**, **"Data Subjects"**, **"Personal Data"**, **"Process"**, **"Processed"**, **"Processing"**, **"Processor"** and **"Supervisory Authority"** have the meanings set out in, and will be interpreted in accordance with, such Applicable Laws

"Data Security Incident" means (a) a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Agreement Personal Data transmitted, stored or otherwise Processed; or (b) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Agreement Personal Data that has previously been subject to a breach within the scope of **paragraph 0**, which may result in exploitation or exposure of that Agreement Personal Data; or (c) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of systems Processing Agreement Personal Data

"Delivery Address" the address or addresses for delivery of the Equipment set out in the Order;

"Delivery Date" the date or dates for delivery of the Equipment set out in the Order or the Project Programme (if any);

"Disputed Sum" that part of an amount invoiced by the Supplier which is the subject of a bona fide dispute;

"Due Date" the date on which a payment falls due pursuant to the Contract;

"Equipment" the equipment and associated materials described in the Order;

"Factory Acceptance Certificate" means the document signed by both parties in which those parties confirm that the Factory Acceptance Tests has been successfully completed;

"Factory Acceptance Tests" means the factory acceptance tests described or referred to in the Specification and/or the Order (as applicable);

"Final Date for Payment" the final date for payment of any sum which becomes due under the Contract;

"Greencore" means the member of the Greencore Group named in the Order, whose registered office is at Midland Way, Barlborough Links Business Park, Barlborough, S43 4XA;

"Greencore Group" in relation to Greencore, its parent undertakings, its subsidiary undertakings and the subsidiary undertakings of any of its parent undertakings from time to time and for the purpose of this definition parent undertaking and subsidiary undertaking

has the meaning set out in section 1162 Companies Act 2006 and a company shall be treated as a member of another company even if its shares in that other company are registered in the name of another person (or its nominee), whether by way of security or in connection with the taking of security;

"Installation Date" the first day of the Installation Period;

"Installation Long Stop Date" means the date referred to as such in the Order or the Project Programme (if any);

"Installation Period" the period of time within which Installation Services are to be carried out as set out in the Order or the Project Programme (if any);

"Installation Services" the installation and commissioning services as set out in the Order;

"Intellectual Property Rights" all intellectual and industrial property rights of any kind whatsoever including patents, supplementary protection certificates, rights in Know-How, registered trade marks, registered designs, models, unregistered design rights, unregistered trade marks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions;

"International Transfer" means a transfer of Personal Data to a country outside the European Economic Area (as it is made up from time to time) of Agreement Personal Data which is undergoing Processing or which is intended to be Processed after transfer

"Know-How" formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions;

"Liability" liability arising out of or in connection with a Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including without limitation any liability under an indemnity contained in a Contract and/or arising from any breach of or failure to perform or defect or delay in performance of, any obligations under a Contract, in each case howsoever caused including if caused by negligence;

"Liquidated Damages" shall be as set out in the Order;

"Long Stop Date" means the date referred to as such in the Order or the Project Programme (if any);

"Modern Slavery Practice" any practice that amounts to (a) slavery or servitude (each as construed in accordance with Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 as amended), (b) forced or compulsory labour (as defined by the International Labour Organisation's Forced Labour Convention 1930 (No. 29) and Protocol), (c) human trafficking or (d) the arranging or facilitation of the travel of another person with a view to that person being exploited;

"Notice of Intention to Suspend" means a notice in writing specifying the Supplier's intention to suspend performance of any or all of its obligations under the Contract stating the ground(s) on which the Supplier intends to suspend performance;

"Obsolete" means, as regards an item of Equipment, where such item is no longer in current production, including in circumstances where spare parts may continue to be available;

"Order" Greencore's order in respect of the Equipment and Services (if any);

"Pay Less Notice" a notice in writing specifying the sum that Greencore considers is due to the Supplier at the date that this notice is served and the basis upon which that sum has been calculated and for the avoidance of doubt such sum may be stated to be zero;

"Payment Application" an application for payment submitted in writing by the Supplier to Greencore in accordance with the Contract which shall be in the form of a valid VAT invoice and shall state:

- (a) the instalment of the Price and/or the Charges (as applicable) for which the application is made, the sum that the Supplier considers is due and the basis upon which such instalment is calculated;
- (b) the amounts on account of the Price and/or the Charges (as applicable) previously paid by Greencore to the Supplier,

and shall be supported by such documents, vouchers and receipts as may reasonably be requested by Greencore;

"Payment Milestones" the dates for payment of the Price and Charges (if any) by Greencore as set out in the Order;

"Payment Notice" means a notice pursuant to Section 110A of the Construction Act;

"Performance Long Stop Date" means the date referred to as such in the Order or the Project Programme (as applicable);

"Performance Period" the period of time within which Services (excluding Installation Services) are to be carried out as set out in the Order or the Project Programme (as applicable);

"Policies" all of Greencore's policies from time to time, including (without limitation), those on health and safety, site security and corporate social responsibility;

"Price" the price for the Equipment as set out in the Order;

"Project Manager" means the person appointed by Greencore as the project manager and notified to the Supplier from time to time;

"Project Programme" means the project programme (if any) attached to the Order or otherwise agreed between the parties;

"Rebate" the rebate (if any) set out in the Order;

"Representative" in respect of a party, that party's officers, directors, employees, consultants and professional advisers (and in the case of Greencore this shall include members of the Greencore Group and their officers, directors, employees, consultants and professional advisers); and **"Representative"** means any of them;

"Scheme for Construction Contracts" Part 1 of the Schedule to the Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) Regulations 2011;

"Services" means the Installation Services and/or any other services to be provided by the Supplier as set out in the Order;

"Site" means the site at which the Equipment is to be installed as specified in the Order;

"Site Acceptance Test" means the site acceptance tests described or referred to in the Specification and/or the Order (as applicable);

"Site Acceptance Test Certificate" means the document signed by both parties in which those parties confirm that the Site Acceptance Test has been successfully completed;

"Specification" means the User Requirement Specification or the Supplier Specification or both (as applicable) as set out or referred to in the Order;

"Sub-Processor" means the third party appointed by The Supplier to Process Agreement Personal Data

"Supplier" the entity named as the supplier in the Order;

"Supplier Specification" the Equipment specification provided by the Supplier (if any) and any attachments thereto in each case which have been approved by Greencore;

"User Requirement Specification" means the Equipment user requirement specification developed by Greencore (if any) and any attachments thereto;

"VAT" means value added tax;

"Warranty Period" the period of time starting from the date that the Site Acceptance Test Certificate is signed by Greencore or if there is no Site Acceptance Test Certificate, the Delivery Date and continuing for the longer of: (i) 12 months; (ii) the period of time set out as the Warranty Period in the Order; or (iii) the period of time that the Supplier customarily guarantees the Equipment;

"writing" subject to **Condition 2.1**, includes (without limitation) electronic mail and any comparable means of communication.

2. **FORMATION**

- 2.1 The Contract excludes all other terms and conditions including without limit any terms and conditions which the Supplier purports to apply under any acknowledgement or confirmation of order, quotation, specification, delivery note, invoice or any similar document whether or not such document is referred to in the Contract.
- 2.2 Each quotation for the Equipment and Services (if any) shall be deemed to be an offer by the Supplier to sell the Equipment and perform the Services (if any) on these Conditions and will remain open for acceptance for 60 days from its date. A contract for the supply of Equipment and Services (if any) by the Supplier to Greencore on these Conditions will be formed when Greencore accepts the quotation by issuing an Order to the Supplier. No Contract will exist prior to the submission of the relevant Order.
- 2.3 Each Contract shall form a separate agreement for the provision of Equipment and Services (if any) between Greencore and the Supplier.
- 2.4 Any Contract may only be cancelled or varied by the Supplier with the prior written consent of Greencore and on condition that the Supplier shall indemnify Greencore in full against all losses, costs, damages, charges and expenses incurred (directly or indirectly) by Greencore as a result of such cancellation or variation.
- 2.5 Greencore is entitled to cancel the Contract in whole or in part by giving written notice to the Supplier at any time prior to delivery of all of the Equipment or performance of all of the Services (if any) to which the Contract relates in which event Greencore's only liability will be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation, but such compensation will not include loss of profits (whether direct, indirect or consequential) or any indirect or consequential loss.
- 2.6 Greencore may at any time make changes in writing relating to a Contract. If such changes result in an increase or decrease in cost of, or time required for, the performance of the Contract, a fair adjustment will be made to the Price, Charges and/or delivery schedule.

Any such adjustment must be approved by Greencore in writing before the Supplier proceeds with such changes.

2.7 If there is any conflict between the Conditions and any Order, then the terms of that Order shall prevail.

3. **THE PROVISION OF THE EQUIPMENT**

3.1 The Supplier shall:

3.1.1 use the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a leading professional supplier of the Equipment in carrying out the design, manufacture and delivery of the Equipment;

3.1.2 supply the Equipment in the quantities and at the quality specified in the Contract;

3.1.3 comply with all of its obligations in the:

3.1.3.1 Specification;

3.1.3.2 Contract; and

3.1.3.3 Project Programme,

as amended from time to time by written agreement between both parties;

3.1.4 supply the Equipment in accordance with the description of the Equipment specified in the Specification and this Contract;

3.1.5 supply Equipment that meets the Critical Standards;

3.1.6 ensure that the Equipment and all other materials used shall be free from defects in materials, design and workmanship;

3.1.7 ensure that no part of the Equipment is Obsolete nor within 12 months of both parties having signed the Site Acceptance Test Certificate will become Obsolete;

3.1.8 ensure the Equipment is compliant with Applicable Law.

3.2 **Condition 3.1** is a condition of each Contract which allows Greencore to terminate the relevant Contract for material breach if the Supplier does not meet it.

4. **GENERAL SUPPLIER OBLIGATIONS**

4.1 The Supplier will:

4.1.1 promptly provide Greencore with any information reasonably requested by Greencore relating to the supply of the Equipment and the provision of the Services (if any) under this Contract;

4.1.2 co-operate fully with, and follow the reasonable instructions of the Project Manager with respect to the performance of the Supplier's obligations under this Contract except only where to do so would require the Supplier to breach the Contract or Applicable Law. Neither such co-operation nor the following of the Project Manager's instructions shall diminish or otherwise affect the Supplier's obligations and liabilities or Greencore's rights and remedies under this Contract;

- 4.1.3 co-operate fully with any and all third parties engaged by Greencore in connection with the design, manufacture, delivery and commissioning of the Equipment and in respect of the Services (if any); and
- 4.1.4 ensure it has and maintains in force during the term of the Contract, all licences, permissions, authorisations, consents and permits needed to manufacture (where applicable) and supply the Equipment and provide the Services (if any) in accordance with the terms of the Contract.

5. **PRICE AND PAYMENT**

- 5.1 Subject to the Supplier performing its obligations in accordance with the terms of this Contract, Greencore will pay the Prices and Charges (if any) to the Supplier in accordance with the Payment Milestones (or such other times as may be agreed by the parties from time to time in the event that there is any delay in reaching a Payment Milestone and such delay is due to the act or omission of Greencore).
- 5.2 The only monies to be paid by Greencore in connection with the supply of the Equipment and the performance of the Services (if any) are the Prices and Charges which are inclusive of all costs and expenses incurred by the Supplier including all packaging, insurance, carriage and delivery costs. The Price and the Charges are fixed (unless the parties agree otherwise in writing).
- 5.3 Any sum payable under the Contract is exclusive of VAT (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time, subject to receipt by Greencore of a valid VAT invoice.
- 5.4 The Supplier may invoice Greencore for the Prices for the Equipment and the Charges for the Services (if any) as set out in the Order.
- 5.5 The Supplier expressly waives and releases any and all liens or claims on any of the Equipment.
- 5.6 Invoices issued by the Supplier shall:
 - 5.6.1 be valid tax invoices for the purposes of value added tax legislation;
 - 5.6.2 identify the Supplier, the Equipment and the Services (if any); and
 - 5.6.3 be sent to Greencore at the invoice address set out in the Order, or (if no address is set out, as requested by Greencore from time to time).
- 5.7 If Greencore disputes any invoice or part of any invoice issued by the Supplier to Greencore or receives an invoice in respect of any Equipment and Services (if any) which Greencore believes (acting reasonably) have not been properly provided then:
 - 5.7.1 Greencore will pay that part of the invoice which is not the Disputed Sum in accordance with **Condition 5**;
 - 5.7.2 Greencore will be entitled to withhold payment of the Disputed Sum;
 - 5.7.3 the parties will negotiate in good faith to resolve the dispute, but if a resolution cannot be reached within ninety (90) days of the start of such negotiations, **Condition 25** will apply;
 - 5.7.4 the Supplier will provide all such information and evidence as may be reasonably necessary to verify the Disputed Sum; and
 - 5.7.5 following resolution of the dispute, Greencore will pay to the Supplier that part of the Disputed Sum (if any) as it is resolved is payable by Greencore.

- 5.8 If any sum payable under a Contract is not paid on or before the due date for payment the non-defaulting party will be entitled to charge the defaulting party interest on that sum at 2% per annum above the base lending rate from time to time of HSBC Bank plc from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis.
- 5.9 Greencore or any member of the Greencore Group will be entitled but not obliged at any time without notice to the Supplier to set off any liability which the Supplier has to it or any member of the Greencore Group (howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency) against any liability which it has to the Supplier. Greencore's rights under this **Condition 5.9** will be without prejudice to any other rights or remedies available to Greencore under the Contract or otherwise.
- 5.10 Notwithstanding any other provision of the Contract, to the extent that the Construction Act applies, the following provisions shall apply in relation to the remuneration of the Supplier:
- 5.10.1 the Price and/or the Charges (as applicable) shall be payable by instalments as set out in the Order. The Supplier may from time to time (but not more frequently than the Payment Milestones) submit to Greencore a Payment Application in respect of each instalment of the Price and/or the Charges (as applicable), provided that a Payment Application shall not be made unless and until payment of that instalment is due in accordance with the relevant Payment Milestones set out in the Order;
- 5.10.2 Payment Applications that are incomplete or submitted prematurely shall be resubmitted in accordance with **Condition 5.10.1**;
- 5.10.3 the due date for payment by Greencore in respect of a Payment Application shall be the date of receipt by Greencore of the Payment Application in accordance with **Condition 5.10.1**;
- 5.10.4 not later than 5 days after the date on which a sum becomes due to the Supplier Greencore shall issue a Payment Notice setting out the amount Greencore considers due at the payment date and the basis on which that sum is calculated;
- 5.10.5 if a Payment Notice is not given by Greencore in accordance with **Condition 5.10.1** in respect of a Payment Application by the Supplier, the amount of the Price and/or the Charges (as applicable) instalment to be made by Greencore shall, subject to any Pay Less Notice, be the sum stated as due in the Payment Application;
- 5.10.6 the Final Date for Payment shall be up to five days following the next weekly electronic transfer payment run following the 90th day of the date of receipt of a valid tax invoice addressed to Greencore in the amount of the relevant Payment Notice or Payment Application (as appropriate pursuant to **Condition 5.10.5**) or the amount stated in any Pay Less Notice, save that if Greencore receives a valid invoice which is due for payment in the month of March or September, the Final Date for Payment shall be up to five days following the next weekly electronic payment run following the 120th day of the date of receipt of such valid invoice or up to five days following the next weekly electronic payment run following the 120th day of the date of receipt of the Equipment and/or Services, whichever is the later;
- 5.10.7 where Greencore intends to withhold payment of some or all of an amount payable in respect of a Payment Application, Greencore shall give a Pay Less Notice to the Supplier detailing the sum Greencore considers to be due on the date the notice is served and the basis on which that sum is calculated. A Pay Less Notice must be served not later than 2 days before the Final Date for Payment of the Payment Application to which the Pay Less Notice refers. In respect of any amount referred to in a Pay Less Notice, that amount shall not be deemed to be due to the Supplier;

5.10.8 if any part of the Price and/or the Charges (as applicable) payable under this Contract is not paid by the Final Date for Payment and no effective Pay Less Notice has been issued to the Supplier then, without prejudice to the Supplier's other rights under this Contract:

5.10.8.1 that sum shall bear the interest rate specified in **Condition 5.8** of this Contract from the Final Date for Payment until payment is made in full, both before and after any judgment. The parties agree that this **Condition 5.10.8.1** is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998;

5.10.8.2 the Supplier shall be entitled to serve a Notice of Intention to Suspend on Greencore and if Greencore has failed to pay any sum due to the Supplier for a minimum period of seven days following the date on which the Notice of Intention to Suspend was served on Greencore, the Supplier shall be entitled to:

(a) suspend any or all of its obligations under this Contract; and

(b) reimbursement by Greencore of a reasonable sum to cover costs and expenses reasonably incurred by the Supplier as a result of exercising the right to suspend in accordance with **Condition 5.10.8.2,**

provided that such right to suspend shall cease immediately upon payment in full by Greencore of the sum due to the Supplier and the Supplier shall resume performance of its obligations under the Contract on the next Business Day.

5.11 The Supplier shall pay Greencore the Rebate (if any) in accordance with the terms set out in the Order.

5.12 The Supplier acknowledges and accepts that Greencore pays invoices on a weekly basis and that the Supplier's invoices will be processed for payment as part of a weekly payment run. Monies will be paid via electronic transfer and the Supplier will normally receive payment within three Business Days of such electronic transfer.

6. **INSPECTION AND TESTING**

6.1 Without prejudice to Greencore's rights and remedies, prior to the delivery of the Equipment to the Delivery Address, the Supplier will provide or procure the provision of access to Greencore and its officers, employees, agents and subcontractors to any site connected with the supply of the Equipment upon reasonable notice and during normal business hours for the purpose of:

6.1.1 inspecting, auditing, verifying or monitoring the Equipment;

6.1.2 carrying out the Factory Acceptance Tests; and/or

6.1.3 checking the manner and performance of the Supplier's obligations under the Contract,

and Greencore will use reasonable endeavours not to cause undue disruption to the business of the Supplier in the exercise of its right under this **Condition 6.1.**

6.2 If the results of any inspection, audit, verification or monitoring or the carrying out of the Factory Acceptance Tests cause Greencore to be of the opinion that the Equipment does not or will not conform or is unlikely to conform with the Contract, Greencore shall inform the Supplier and the Supplier shall immediately take such action as shall be necessary to ensure that the Equipment conforms with the Contract. Greencore shall have the right to

repeat any inspecting, auditing, verifying or monitoring or the Factory Acceptance Tests described in **Condition 6.1** as necessary.

- 6.3 Where Greencore is satisfied that the Equipment conforms with the Contract, it shall either sign the Factory Acceptance Certificate or notify the Supplier that the Equipment is suitable for delivery.
- 6.4 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Equipment and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations and liabilities or Greencore's rights and remedies under this Contract.

7. **DELIVERY**

- 7.1 The Equipment shall be delivered to the Delivery Address on or by the Delivery Date and within the delivery window set out in the Order (if any) unless otherwise requested by Greencore in writing. Unless otherwise specified in an Order, the Supplier shall off-load the Equipment at its own risk and as directed by Greencore. Delivery shall be deemed to have taken place once the Supplier has off-loaded the Equipment at the Delivery Address.
- 7.2 The Supplier shall comply with all reasonable instructions of Greencore in delivering the Equipment to the Delivery Address.
- 7.3 If Greencore is unable to accept delivery of the Equipment on the Delivery Date (or such other date as agreed by the parties in writing), Greencore shall notify the Supplier in writing of the next available date on which Greencore shall be able to accept delivery of the Equipment and the Supplier shall deliver the Equipment as per Greencore's written notification (such date being the new "**Delivery Date**").
- 7.4 If the Equipment has not been delivered on or before the Delivery Date (or such other date as may be agreed in writing by the parties), the Supplier shall pay the Liquidated Damages to Greencore up to and including the Long Stop Date. The Supplier and Greencore agree that the Liquidated Damages are a genuine pre-estimate of the loss that Greencore will suffer as a result of the delay in the delivery of the Equipment, are a proportionate amount to protect the interests of Greencore and will not be regarded as a penalty.
- 7.5 If the Equipment has not been fully delivered by the Long Stop Date then, without prejudice to any other rights which Greencore may have and save where Greencore has materially contributed to such delay by reason of its own voluntary act or omission, Greencore reserves the right to:
- 7.5.1 terminate this Contract with immediate effect by giving notice in writing to the Supplier to that effect and thereupon the Supplier shall promptly repay to Greencore all instalments of the Price already paid by Greencore;
 - 7.5.2 refuse to accept any subsequent delivery of the Equipment (or part thereof) or any Services (if any) which the Supplier attempts to make;
 - 7.5.3 require the Supplier promptly to dismantle and remove the Equipment from the Site. Such dismantling and removal of the Equipment shall be at the cost and risk of the Supplier and take place at time(s) and date(s) agreed in writing between the parties but in any event within 14 days of termination of this Contract. Following the dismantling and removal of Equipment the Supplier shall reinstate the Site to the reasonable satisfaction of Greencore;
 - 7.5.4 recover from the Supplier all expenditure reasonably incurred by Greencore in obtaining suitable alternative equivalent equipment in substitution from another supplier; and
 - 7.5.5 be indemnified by the Supplier in full against all losses, costs, damages, charges and expenses which are or will be incurred (directly or indirectly) by Greencore

as a result of such termination minus any Liquidated Damages paid in accordance with **Condition 7.4**.

7.6 In the event that the Supplier fails to dismantle and remove the Equipment pursuant to **Condition 7.5.3** within 14 days of termination of the Contract, Greencore may at its discretion either itself or via a third party contractor, and at the Supplier's cost and risk, dismantle and remove the Equipment from the Site (for disposal or for collection by the Supplier) and reinstate the Site.

8. **TITLE AND RISK**

8.1 Risk in the Equipment shall pass to Greencore on the Installation Date. The parties agree that the Supplier shall be liable for any damage to the Equipment caused by it or its agents, officers or subcontractors at any time during the Contract.

8.2 Title to the Equipment shall pass to Greencore on the Installation Date.

9. **SERVICES AND COMMISSIONING**

9.1 The Supplier will, in providing the Services:

9.1.1 use the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a leading professional provider of the Services;

9.1.2 use appropriately qualified, trained and experienced personnel;

9.1.3 fulfil all requirements set out in the Contract and the Project Programme (as may be amended from time to time by written agreement between both parties);

9.1.4 conduct itself in a safe manner which is free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner;

9.1.5 ensure it is compliant with Applicable Law and not do or omit to do anything which may cause Greencore to lose any licence, permission or consent or to be in breach of any Applicable Law;

9.1.6 comply with Greencore's reasonable instructions and the reasonable requirements of Greencore's insurers in carrying out the Services; and

9.1.7 cause the minimum interference and disruption to Greencore's business.

9.2 The Supplier shall keep all materials and equipment required in connection with the Services properly and separately stored and labelled and if at the Site, at a location at the Site as Greencore notifies to the Supplier.

9.3 The Installation Services shall be performed within the Installation Period unless otherwise requested by Greencore in writing.

9.4 All Services (excluding the Installation Services which shall be performed within the Installation Period) will be performed in accordance with the Performance Period set out in the Order.

9.5 If Greencore is unable to accept performance of the Installation Services during the Installation Period (or such other dates as agreed by the parties in writing), Greencore shall notify the Supplier in writing of the next available dates on which Greencore shall be able to accept performance of the Installation Services and the Supplier shall perform the Installation Services as per Greencore's written notification (such dates being the new Installation Period).

- 9.6 If Greencore is unable to accept performance of the Services (excluding the Installation Services to which **Condition 9.5** shall apply) during the period of time set out in the Order (or such other dates as agreed by the parties in writing), Greencore shall notify the Supplier in writing of the next available dates on which Greencore shall be able to accept performance of the Services (excluding the Installation Services to which **Condition 9.5** shall apply) and the Supplier shall perform such Services as per Greencore's written notification (such dates being the new Performance Period).
- 9.7 If the Services have not been completed by the last day of the Installation Period (in the case of the Installation Services) or the last day of the Performance Period (in the case of Services which are not Installation Services) or such other date as may be agreed in writing by the parties, the Supplier shall pay the Liquidated Damages to Greencore up to and including the Installation Long Stop Date. The Supplier and Greencore agree that the Liquidated Damages are a genuine pre-estimate of the loss that Greencore will suffer as a result of the delay in the performance of the Services, are a proportionate amount to protect the interests of Greencore and will not be regarded as a penalty.
- 9.8 If the Services have not been delivered by the Installation Long Stop Date (in the case of the Installation Services) or the Performance Long Stop Date (in the case of Services which are not Installation Services) then, without prejudice to any other rights which Greencore may have and save where Greencore has materially contributed to such delay by reason of its own voluntary act or omission, Greencore reserves the right to:
- 9.8.1 terminate this Contract with immediate effect by giving notice in writing to the Supplier to that effect and thereupon the Supplier shall promptly repay to Greencore all instalments of the Price already paid by Greencore;
 - 9.8.2 refuse to accept any subsequent delivery of the Equipment (or part thereof) or any Services (if any) which the Supplier attempts to make;
 - 9.8.3 require the Supplier promptly to dismantle and remove the Equipment from the Site. Such dismantling and removal of the Equipment shall be at the cost and risk of the Supplier and take place at time(s) and date(s) agreed in writing between the parties but in any event within 14 days of termination of this Contract. Following the dismantling and removal of Equipment the Supplier shall reinstate the Site to the reasonable satisfaction of Greencore;
 - 9.8.4 recover from the Supplier all expenditure reasonably incurred by Greencore in obtaining suitable alternative equivalent equipment in substitution from another supplier or suitable equivalent services; and
 - 9.8.5 be indemnified by the Supplier in full against all losses, costs, damages, charges and expenses which are or will be incurred (directly or indirectly) by Greencore as a result of such termination minus any Liquidated Damages paid in accordance with **Condition 9.7**.
- 9.9 In the event that the Supplier fails to dismantle and remove the Equipment pursuant to **Condition 9.8.3** within 14 days of termination of the Contract, Greencore may at its discretion either itself or via a third party contractor, and at the Supplier's cost and risk, dismantle and remove the Equipment from the Site (for disposal or for collection by the Supplier) and reinstate the Site.
- 9.10 The Equipment shall be commissioned within the Commissioning Period and test runs shall be performed in accordance with the Site Acceptance Test.
- 9.11 In the event that the parties cannot agree that the Site Acceptance Test Certificate should be signed at the first Site Acceptance Test:
- 9.11.1 the Supplier shall, at its own expense, make those changes that are necessary to ensure that the Equipment meets the Critical Standards;

- 9.11.2 the parties may agree in writing for the Commissioning Period to be extended; and
- 9.11.3 Greencore shall make the Site as well as a reasonable number of personnel, materials and utilities available to the Supplier to repeat the Site Acceptance Test at reasonable times agreed by the parties and upon reasonable notice to Greencore.
- 9.12 The procedure set out in **Condition 9.11** above will be repeated by the parties two more times. If after the third Site Acceptance Test, the parties cannot agree that the Site Acceptance Test Certificate should be signed, **Conditions 9.13 to 9.20** shall apply.
- 9.13 Any dispute arising in relation to the signing of a Site Acceptance Test Certificate will be determined by an independent expert (the "**Expert**") who will be selected and appointed in accordance with **Condition 9.14**.
- 9.14 Either party may request that an Expert be appointed by serving a written notice (an "**Expert Request**") on the other. The Expert will be selected by the President from time to time of the Institution of Mechanical Engineers.
- 9.15 Each party will co-operate in doing everything that is reasonably necessary to procure the appointment of any Expert that has been selected pursuant to **Condition 9.14** (including by acting reasonably in agreeing the terms of engagement of any such Expert).
- 9.16 If, following his appointment, the Expert dies or becomes unwilling or incapable of acting, either party may serve a new Expert Request.
- 9.17 The Expert will make his determination in writing and will give reasons. The Expert will act as expert and not as arbitrator.
- 9.18 The Expert's determination will be final and binding.
- 9.19 Each party will bear its own costs and expenses in relation to the Expert's determination.
- 9.20 The Expert's fees and any costs and expenses incurred in relation to his appointment will be borne by the parties in such proportions as the Expert determines and in the absence of such determination by the parties equally.
- 9.21 If both parties agree that the Site Acceptance Test has been successful (or if it has been determined by an Expert that the Site Acceptance Test has been successful) then the Site Acceptance Test Certificate shall be promptly signed by both parties.
10. **SPECIFICATION**
- 10.1 The Supplier will ensure that the Equipment is designed and manufactured in accordance with, and complies in all other respects with, the Specification. For the avoidance of doubt, the Specification forms an integral part of this Contract.
- 10.2 The parties agree that in the event that there is a User Requirement Specification and a Supplier Specification and there is a conflict between the provisions therein, the provisions of the User Requirement Specification will take precedence.
11. **INTELLECTUAL PROPERTY**
- 11.1 Nothing in this Contract will operate to transfer to the Supplier or to grant to the Supplier any licence or other right to use any of Greencore's Intellectual Property Rights.
- 11.2 The Supplier grants to Greencore a perpetual, irrevocable non-exclusive, worldwide, sub-licensable, royalty free licence to use any Intellectual Property Rights of the Supplier which Greencore requires in order to make use of the Equipment.
- 11.3 All Arising IPR will be the property of Greencore.

- 11.4 The Supplier, with full title guarantee:
- 11.4.1 assigns to Greencore (by way of present assignment of the future copyright) all future copyright in the Arising IPR; and
 - 11.4.2 agrees to assign to Greencore all other Intellectual Property Rights in the Arising IPR,
- throughout the world for the whole term, including any extensions or renewals of such Intellectual Property Rights, and including the right to sue for damages and other remedies for infringements of such Intellectual Property Rights.
- 11.5 The Supplier will, at its own cost:
- 11.5.1 execute all such documents and do all such acts and things as Greencore may reasonably request from time to time in order to secure the full right, title and interest of Greencore in the Intellectual Property Rights in the Arising IPR; and
 - 11.5.2 procure the irrevocable waiver of all moral rights (and any broadly equivalent rights which may exist in any territory of the world) in the Arising IPR.
- 11.6 The Supplier will indemnify Greencore and each member of the Greencore Group (as applicable) against all losses, liabilities, costs, damages and expenses that Greencore or the relevant member of the Greencore Group does or will incur or suffer, all claims or proceedings made, brought or threatened against Greencore or the relevant member of the Greencore Group by any third party and all losses, liabilities, costs (on a full indemnity basis), damages and expenses Greencore or the relevant member of the Greencore Group does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with the actual or alleged infringement of the third party's Intellectual Property Rights as a result of the possession, sale or use of the Equipment by Greencore or the relevant member of the Greencore Group.

12. **WARRANTIES AND UNDERTAKINGS**

- 12.1 The Supplier warrants and undertakes to Greencore that:
- 12.1.1 all information communicated to Greencore by the Supplier in connection with the Contract and, where applicable, any tender process relating to it is true, complete and accurate in all material respects;
 - 12.1.2 as at the Installation Date, the Equipment and all other materials used shall conform in all respects with the Specification, this Contract and any requirements agreed by Greencore and the Supplier in writing;
 - 12.1.3 the Equipment shall comply with the Critical Standards at all times during the Warranty Period;
 - 12.1.4 the Supplier has the right to transfer the legal and beneficial title to the property in the Equipment and the Supplier's title to and property in the Equipment is free from all charges and encumbrances and from all other rights exercisable by, or claims by, third parties;
 - 12.1.5 no claim has been made by any person to be entitled to the legal or beneficial title to the property in the Equipment or any part of the Equipment.
- 12.2 Where within the Warranty Period the Equipment or any part of the Equipment is found to be defective in respect of its design, material or workmanship or fails to correspond with this Contract and/or the Critical Standards then without prejudice to any other rights or remedies available to Greencore:
- 12.2.1 the Supplier shall, at Greencore's request and at the Supplier's cost repair or replace its Equipment in question, promptly remedy the defective design,

material or workmanship and ensure that the Equipment corresponds with the Specification and this Contract such repair or replacement or remedial work to be carried out within 48 hours of written notification of such defect being given to the Supplier by Greencore; or

12.2.2 Greencore may, after allowing the Supplier 48 hours written notification of the defect, at its option, carry out at the Supplier's expense any such repair or replacement or remedial work.

12.3 The Supplier will, to the extent possible, pass on to Greencore the benefit of any warranties or guarantees received by the Supplier from any other person or entity relating to the Equipment and Services (if any).

13. **POLICIES**

13.1 The Supplier will comply with the Policies notified to it by Greencore from time to time and all lawful and reasonable directions of Greencore.

13.2 If required by Greencore, the Supplier shall be registered with the Suppliers Ethical Data Exchange (Sedex <http://www.sedexglobal.com/about-sedex/>) and linked to Greencore through the Sedex platform.

13.3 Without prejudice to any other provision of the Contract, the Supplier, will whilst present at any Greencore site, at all times:

13.3.1 comply with all of the Policies notified to it by Greencore from time to time and any other on site regulations (including security rules and safety requirements);

13.3.2 comply with any requirements of or instructions that may be given by Greencore (including any request to leave immediately the site); and

13.3.3 not create any unnecessary nuisance, annoyance, damage or disturbance on the site or to any assets on the site.

14. **ENDING THE CONTRACT**

14.1 Either party may end a Contract immediately by giving written notice to the other party if the other party commits a material breach of the Contract and, where the breach is capable of being remedied, fails to remedy the breach within 30 days of that written notice.

14.2 Either party may end the Contract immediately by giving written notice to the other if the other ceases (or threatens to cease) to trade, goes into liquidation or bankruptcy (or has a petition for its winding up or bankruptcy presented or passes a company resolution for its winding up), goes into administration (or is subject to an administration application), has a receiver appointed over some or all of its assets or proposes an arrangement or compromise with people to whom it owes money.

15. **CONSEQUENCES OF ENDING A CONTRACT**

15.1 Even after the Contract has ended:

15.1.1 each party shall keep any accrued rights, obligations or liabilities to the extent arising prior to the end of the Contract;

15.1.2 those terms of the Contract which are expressed, or by implication are intended to continue in force on or following the end of the Contract shall do so, including without limit those under **Conditions 11, 12, 15, 16, 18, 25 and 26**.

15.2 On the date the Contract is ended, each party shall promptly return any Confidential Information, data or property of the other party to that other party.

16. **LIABILITY**

- 16.1 Neither Greencore nor the Supplier excludes or limits its Liability (if any) to the other:
- 16.1.1 for personal injury or death resulting from its negligence or the negligence of a person for whom it is vicariously liable;
 - 16.1.2 for breach of its obligations arising under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
 - 16.1.3 under the indemnity in **Condition 11** (Intellectual Property);
 - 16.1.4 for breach of **Condition 18** (Confidentiality);
 - 16.1.5 under the indemnity in **Condition 16.4**;
 - 16.1.6 for fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation by a person for whom it is vicariously liable; or
 - 16.1.7 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.
- 16.2 Subject to **Condition 16.1**, Greencore's maximum aggregate Liability arising under or in connection with any Contract shall be limited to the Price and Charges (if any) paid or payable by Greencore in respect of the Contract.
- 16.3 Subject to **Condition 16.1**, neither party shall have any Liability to the other party for any indirect, consequential or special loss.
- 16.4 The Supplier shall indemnify Greencore and shall keep Greencore indemnified at all times hereafter in relation to any and all claims made by or on behalf of or in respect of any persons employed or engaged by the Supplier (including for the avoidance of doubt all persons employed or engaged by any sub-contractor of the Supplier appointed in accordance with **Condition 22**) in relation to the provision of any or all of the Services hereunder ("**Claimant**"), and whether arising during the Contract, or on or after the termination of the Contract, and including in particular (but not limited to) any claim by or on behalf of any such Claimant pursuant to the Transfer of Undertakings Protection of Employment) Regulations 2006.

17. **INSURANCE**

- 17.1 The Supplier shall (at its own cost) have in place insurance cover with reputable insurers of sufficient value and of the correct types to cover the Supplier's activities carried out under the Contract, including but not limited to the following:
- 17.1.1 employers liability insurance for a minimum of £5,000,000 (five million pounds) for any one claim;
 - 17.1.2 public liability insurance for a minimum of £5,000,000 (five million pounds) for any one claim;
 - 17.1.3 products liability insurance for a minimum of £5,000,000 (five million pounds) for any one claim;
 - 17.1.4 motor insurance for a minimum of £1,000,000 (one million pounds) for any one claim.
- 17.2 The Supplier shall promptly on request supply written evidence of such insurances to Greencore.

18. **CONFIDENTIALITY**

- 18.1 In this Contract, "**Confidential Information**" means, subject to **Condition 18.4**:

- 18.1.1 any information (whether written, oral, in electronic form or in any other media) that is disclosed in connection with this Contract by or on behalf of a party (the "**Discloser**") to the other party (the "**Recipient**") whether before, on or after the date of this Contract and that relates (in whole or in part) to the Discloser (and where the Discloser is Greencore, any member of the Greencore Group) or its (or their) businesses; and
 - 18.1.2 the terms of or subject matter of this Contract or any discussions or documents in relation to it, and in respect of such information each party will be deemed to be a Recipient.
- 18.2 The Recipient will at all times, but subject to **Condition 18.3** and **Condition 18.4**:
- 18.2.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this **Condition 18**;
 - 18.2.2 use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under this Contract;
 - 18.2.3 only make such copies, summaries, extracts, transcripts, notes, reports, analyses and recordings (in any form of media) that use, contain or are based on (or derived from) Confidential Information as are reasonably necessary to perform its obligations and exercise its rights under this Contract; and
 - 18.2.4 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.
- 18.3 The Recipient may disclose Confidential Information:
- 18.3.1 subject to **Condition 19**, to those of the Recipient's Representatives who need access to that Confidential Information in order for the Recipient's obligations under this Contract to be performed and the Recipient's rights under this Contract to be exercised. Prior to any such disclosure the Recipient must make that Representative aware of the fact that the Confidential Information is confidential and the obligations of confidentiality contained in this **Condition 18**. The Recipient will take reasonable steps to procure that each of the Recipient's Representatives will not do or omit to do anything which if done or omitted to be done by the Recipient would constitute a breach of **this Condition 18**. The Recipient will be liable for the acts and omissions of its Representatives in respect of the Discloser's Confidential Information as if they were acts or omissions of the Recipient; and
 - 18.3.2 to the extent required by law or by any governmental or regulatory authority (including any stock or investment exchange or listing authority or the Panel on Takeovers and Mergers). Where reasonably practicable and lawful the Recipient will notify the Discloser in writing in advance of such disclosure, will consult with the Discloser as to the content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as reasonably possible, with the terms of this Contract.
- 18.4 Subject to **Condition 18.5**, the Recipient's obligations under this **Condition 18** will not extend to Confidential Information which:
- 18.4.1 the Discloser agrees in writing is not Confidential Information;
 - 18.4.2 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this **Condition 18** by the Recipient or any of the Recipient's Representatives;

- 18.4.3 the Recipient can prove to the reasonable satisfaction of the Discloser from written records or other substantive evidence:
- 18.4.3.1 has been received by the Recipient (or one of the Recipient's Representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant Representative); or
 - 18.4.3.2 was independently developed by the Recipient (or one of the Recipient's Representatives) without any breach of this Contract.
- 18.5 **Condition 18.4.3** will not apply to the Confidential Information referred to in **Condition 18.1.2**.
19. **DATA PROTECTION**
- 19.1 Greencore authorises the Supplier to Process the Personal Data during the term of this Contract as a Data Processor/Processor solely for the purpose and to the extent described in the Schedule to this Contract, if applicable.
- 19.2 In performing the services and its other obligations under this Contract the Supplier will:
- 19.2.1 comply with the Data Protection Laws;
 - 19.2.2 not cause Greencore or any of its affiliates to breach any obligation under the Data Protection Laws; and
 - 19.2.3 notify Greencore without undue delay if it identifies any areas of actual or potential non-compliance with the Data Protection Laws or this Condition 19 without prejudice to its obligations to comply with, or to any rights or remedies which Greencore may have for breach of, the Data Protection Laws or this Condition 19.
- 19.3 The Supplier will not engage or use any third party for the Processing of Personal Data or permit any third party to Process Personal Data without the prior written consent of Greencore.
- 19.4 If the Supplier appoints a Sub-Processor, the Supplier will ensure that, prior to the Processing taking place, there is a written contract in place between the Supplier and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor the same terms as those imposed on the Supplier in this Condition 19. The Supplier will procure that Sub-Processors will perform all obligations set out in this Condition 19 and the Supplier will remain responsible and liable to Greencore and its affiliates for all acts and omissions of Sub-Processors as if they were its own.
- 19.5 The Supplier will:
- 19.5.1 Process the Personal Data only on documented instructions from Greencore or the relevant affiliate (unless the Supplier or the relevant Sub-Processor is required to Process Personal Data to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case the Supplier will notify Greencore of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to Greencore on public interest grounds);
 - 19.5.2 immediately inform Greencore in writing if, in its reasonable opinion, any instruction received from Greencore or any of Greencore affiliates infringes any Data Protection Laws;
 - 19.5.3 without prejudice to Condition 19.5.1, ensure that Personal Data will only be used for the purpose and to the extent described in Schedule **Error! Reference source not found.**, if applicable;

- 19.5.4 without prejudice to Condition 19.5.3, not without the prior written consent of Greencore or its relevant affiliate:
 - 19.5.4.1 convert any Personal Data into anonymised, pseudonymised, depersonalised, aggregated or statistical data;
 - 19.5.4.2 use any Personal Data for "big data" analysis or purposes; or
 - 19.5.4.3 match or compare any Personal Data with or against any other Personal Data (whether The Supplier's or any third party's).
- 19.5.5 ensure that any individual authorised to Process Personal Data accesses such Personal Data strictly on a need to know basis as necessary to perform their role in the performance of this Condition 19, and:
 - 19.5.5.1 is subject to confidentiality obligations at least equivalent to those set out in Condition 18 or is under an appropriate statutory obligation of confidentiality; and
 - 19.5.5.2 complies with this Condition 19; and
 - 19.5.5.3 is appropriately reliable, qualified and trained in relation to their Processing of Personal Data;
- 19.5.6 at the option of Greencore, securely delete or return to Greencore or transfer to any replacement supplier (in the format required by Greencore) all Personal Data promptly after the end of the provision of services relating to Processing or at any time upon request, and securely delete any remaining copies and promptly certify (via a director) when this exercise has been completed.
- 19.6 The Supplier will not make an International Transfer without Greencore's prior written consent. If Greencore gives its prior written consent to an International Transfer, before making that International Transfer the Supplier will demonstrate or implement, to Greencore's satisfaction, appropriate safeguards for that International Transfer in accordance with Data Protection Laws and will ensure that enforceable rights and effective legal remedies for Data Subjects are available. Such appropriate safeguards may include:
 - 19.6.1 there is in force a European Commission decision that the country or territory to which the International Transfer is to be made ensures an adequate level of protection for Processing of Personal Data;
 - 19.6.2 the relevant Data Processor/Processor enters into an agreement with Greencore or the relevant member of the Greencore Group in the form of the standard contractual clauses approved by the European Commission decision for the transfer of personal data to processors established in third countries from time to time, completed with such information as Greencore or the relevant member of the Greencore Group may reasonably require; or
 - 19.6.3 the International Transfer is to the United States of America and the relevant Data Processor/Processor has and maintains for the duration of the Processing a current registration under the US-EU Privacy Shield.

If the appropriate safeguards demonstrated or implemented by the Supplier (or the relevant Data Processor/Processor) in accordance with this Condition 19.6 are deemed at any time not to provide an adequate level of protection in relation to Personal Data, the Supplier will implement such alternative measures as may be required by Greencore to ensure that the relevant International Transfer and all resulting Processing are compliant with Data Protection Laws. The Supplier or the relevant Sub-Processor will not need to comply with the conditions set out in this Condition 19.6 if it is required to make an International Transfer to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case the Supplier will

notify Greencore of such legal requirement prior to such International Transfer unless such Applicable Laws prohibit notice to Greencore on public interest grounds.

19.7 The Supplier will:

- 19.7.1 implement, and assist Greencore to implement, technical and organisational measures to ensure a level of security appropriate to the risk presented by Processing the Personal Data, in particular from a Data Security Incident;
- 19.7.2 notify Greencore immediately if at any time the Supplier or a Sub-Processor is, or ought to be, aware of any reason why it is unable to comply with Condition 19.7.1, without prejudice to its obligation to comply with, or to any rights or remedies which Greencore may have for breach of, Condition 19.7.1;
- 19.7.3 notify Greencore promptly after becoming aware of a reasonably suspected, "near miss" or actual Data Security Incident with all relevant information, including the nature of the Data Security Incident, the categories and approximate number of Data Subjects and Personal Data records concerned, the likely consequences of the Data Security Incident and any measure proposed to be taken to address the Data Security Incident and to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all the relevant information at the same time, the information may be provided in phases without undue delay, but the Supplier (and Sub-Processors) may not delay notification under this Condition 19.7.3 on the basis that an investigation is incomplete or ongoing;
- 19.7.4 promptly (and in any event within 48 hours) notify Greencore of any request that it receives for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint that it receives from a Data Subject or Supervisory Authority or other third party in connection with t Personal Data;
- 19.7.5 provide reasonable assistance to Greencore and the other members of its Group in responding to requests for exercising Data Subjects' rights under the Data Protection Laws and communications and complaints from Data Subjects and Supervisory Authorities and other third parties in connection with Personal Data, including by appropriate technical and organisational measures, insofar as this is possible;
- 19.7.6 not, without Greencore's prior written consent, make or permit any announcement in respect of a Data Security Incident or respond to any request for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint from a Data Subject or Supervisory Authority in connection with Personal Data; and
- 19.7.7 assist in providing reasonable assistance to Greencore and the other members of its Group in:
 - 19.7.7.1 documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects;
 - 19.7.7.2 taking measures to address Data Security Incidents, including, where appropriate, measures to mitigate their possible adverse effects; and
 - 19.7.7.3 conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly.

19.8 The Supplier will:

- 19.8.1 make available to Greencore and the other members of its Group all information necessary to demonstrate compliance with the obligations set out in this Condition 19; and
- 19.8.2 allow for and contribute to audits, including inspections, conducted by Greencore or another auditor mandated by Greencore.
- 19.9 The Supplier will prepare and securely maintain a record of all categories of Processing activities carried out on behalf of Greencore and other members of the Greencore Group in relation to the Personal Data, including as a minimum: (i) its name and contact details and details of its Data Protection Officer or other person with responsibility for data protection compliance; (ii) the categories of Processing it carries out on behalf of Greencore and other members of the Greencore Group; (iii) International Transfers; (iv) a general description of the technical and organisational security measures referred to in Condition 19.1.7.1; and (v) the same information in relation to any Sub-Processor, together with its name and contact details (together the "Data Record"). The Supplier will promptly upon request securely supply a copy of the Data Record to Greencore.
- 19.10 The Supplier will indemnify Greencore and each other member of the Greencore Group against all losses, liabilities, costs, damages and expenses that Greencore does or will incur or suffer, all claims or proceedings made, brought or threatened against Greencore by any person and all losses, liabilities, costs (on a full indemnity basis), damages and expenses Greencore does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with any breach by the Supplier or any Sub-Processor of any of its obligations under this Condition 19 (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations).
- 19.11 Any breach of this Condition 19 by the Supplier or any Sub-Processor will be a material breach of this Contract which is not capable of being remedied, irrespective of whether any financial loss or reputational damage arises, and irrespective of the level of any financial loss or deprivation of benefit arising, as a consequence of such breach.
- 19.12 The Parties agree that on the termination of the Contract the Supplier or any Sub-Processor shall, at the choice of Greencore return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to Greencore that it has done so, unless legislation imposed upon the Supplier or any Sub-Processor prevents it from returning or destroying all or part of the personal data transferred. In that case, the Supplier or any Sub-Processor warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
- 19.13 The Supplier or any Sub-Processor warrant that upon request of Greencore and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in Condition 19.12.

20. **INSPECTION OF RECORDS**

Greencore (at the Supplier's cost, such cost to be notified to the Supplier in advance) will be entitled upon reasonable notice and during normal business hours to inspect or cause to be inspected such records, documents and other apparently relevant information (in whatever tangible or intangible form) as Greencore will reasonably require and will be entitled to be supplied without charge with any copies or extracts therefrom.

21. **NOTICES**

21.1 Any notices given under or in connection with this Contract must be in writing marked for the attention of the specified representative of the other party:

21.1.1 sent to that party's address by pre-paid first class post or mail delivery service providing proof of delivery; or

- 21.1.2 delivered to or left at that party's address (but not, in either case, by one of the methods set out in **Condition 21.1.1**).
- 21.2 The address and representative for each party shall be as notified to the other party in writing from time to time.
- 21.3 Notices given in accordance with **Condition 21.1** will be deemed to have been served on the next Business Day after the day of posting (where the notice has been served in accordance with **Condition 21.1.1**) or the next Business Day after being left at the relevant address (where the notice has been served in accordance with **Condition 21.1.2**).

22. **SUBCONTRACTING AND ASSIGNMENT**

- 22.1 The Supplier may not subcontract, assign or transfer its rights or obligations under the Contract without the prior written consent of Greencore. Where the Supplier is permitted to subcontract by Greencore, the Supplier shall remain responsible and liable for the acts and omissions of its subcontractors.
- 22.2 Greencore may subcontract, assign or transfer its rights or obligations under the Contract at any time.

23. **ANTI-CORRUPTION**

- 23.1 The Supplier will, and will procure that its officers, employees, agents and any other persons who perform the Services for it or on its behalf in connection with the Contract will:
 - 23.1.1 not commit any act or omission which causes or could cause Greencore or the Supplier to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption;
 - 23.1.2 comply with any Greencore Policy (as notified to it from time to time) relating to anti-corruption as updated from time to time;
 - 23.1.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received in connection with the Contract and the steps taken to comply with this **Condition 23.1**, and permit Greencore to inspect those records as reasonably required;
 - 23.1.4 promptly notify Greencore of:
 - 23.1.4.1 any request or demand for any financial or other advantage received by the Supplier (or that person); and
 - 23.1.4.2 any financial or other advantage the Supplier (or that person) give or intend to give whether directly or indirectly in connection with the Contract; and
 - 23.1.4.3 promptly notify us of any breach of this **Condition 23.1**.
- 23.2 Greencore may terminate the Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of **Condition 23.1**.

24. **ANTI-SLAVERY**

- 24.1 The Supplier will not engage in any Modern Slavery Practice.
- 24.2 The Supplier will:
 - 24.2.1 comply with any Policies of Greencore relating to anti-slavery (as notified to the Supplier by Greencore and as amended from time to time) at all times and will procure that its officers, employees, agents and any other persons who perform

services for or on behalf of it in connection with this Contract will comply with the same at all times;

- 24.2.2 conduct proper and adequate checks on any agency or person used by it to provide labour, employees, contractors or other persons to undertake tasks for it (in each case whether on a permanent or temporary basis) to ensure that any such agency or person does not engage in any Modern Slavery Practice;
- 24.2.3 provide Greencore (at the Supplier's cost) with such reasonable assistance and information as Greencore may require from time to time to enable Greencore to:
 - 24.2.3.1 perform any activity required by any government, regulatory entity or agency in any relevant jurisdiction for the purpose of compliance with any applicable Anti-Slavery Laws or as required by Greencore;
 - 24.2.3.2 prepare a slavery and human trafficking statement as required by section 54 Modern Slavery Act and to include the matters referred to in section 54(5) of that Act;
 - 24.2.3.3 identify any non-compliance with any Policy of Greencore (as notified to it by Greencore from time to time) relating to anti-slavery; and
 - 24.2.3.4 conduct due diligence and to measure the effectiveness of the steps we are taking or wish to take to ensure that Modern Slavery Practices are not taking place in the Greencore business or supply chains;
- 24.2.4 permit Greencore, and any person nominated by Greencore for this purpose to have such access on demand to the Supplier's premises, personnel, systems, books and records as Greencore may reasonably require to verify the Supplier's compliance with this **Condition 24**.
- 24.2.5 Greencore may terminate any Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of any of its obligations under **Conditions 24.1** or **24.2**.

25. **GOVERNING LAW AND JURISDICTION**

- 25.1 The Contract and any non-contractual obligations arising out of or in connection with it will be governed by the laws of England and Wales.
- 25.2 The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Contract (including in relation to any non-contractual obligations).
- 25.3 Notwithstanding any other provision of the Contract, to the extent that the Construction Act applies, either party may, at any time, by written notice to the other require that such dispute or difference be referred for determination by adjudication in accordance with the Scheme for Construction Contracts, the terms of which are deemed to apply upon such notice and to be incorporated by reference to this **Condition 25.3**.

26. **GENERAL**

- 26.1 If any part of the Contract is found by any court or authority to be illegal, invalid or unenforceable then that part will be removed from the Contract to the extent required, but the other parts of the Contract will remain in full force and effect.

- 26.2 Except as stated in **Conditions 26.3 to 26.7** the parties to the Contract do not intend that any of its terms will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person or entity not a party to it.
- 26.3 The Supplier shall provide the Equipment and Services (if any) to Greencore and, if Greencore requires in writing, to any other member of the Greencore Group.
- 26.4 The obligations owed to Greencore shall be owed to any member of Greencore Group to whom the Equipment and Services (if any) are actually provided.
- 26.5 A company within the Greencore Group who receives Equipment and Services (if any) under the Contract can enforce the terms of the Contract under the Contracts (Rights of Third Parties) Act 1999.
- 26.6 The parties may vary or rescind the Contract without the consent of any member of the Greencore Group.
- 26.7 If, at any time, either party fails to exercise any right or remedy in connection with any part of the Contract, this will not operate as a waiver of that right or remedy.
- 26.8 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:
- 26.8.1 neither Greencore or the Supplier has entered into the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement which is not expressly set out in the Contract; and
- 26.8.2 as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 26.9 Save as otherwise expressly provided in this Contract, no variation to this Contract will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of the parties.