

## PURCHASE ORDER CONDITIONS MINOR WORKS NO DESIGN NO BUILD

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## PURCHASE ORDER CONDITIONS MINOR WORKS NO DESIGN NO BUILD

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions, unless the context otherwise requires, the words set out in the table at condition 107 (*Defined Terms*) have the meanings set out in that table.
- 1.2 In the Contract, unless the context otherwise requires, a reference to a statute or statutory provision includes:
- (a) any orders, regulations, codes of practice, instruments or other subordinate legislation made under it; and
  - (b) subject to condition 79 (*Change of Law*), any statute or statutory provision as enacts, re-enacts, amends, extends, consolidates or replaces the same either before or during the Term.
- 1.3 The use of the singular includes the plural and vice versa and use of any gender includes all genders.
- 1.4 Unless the context requires otherwise, any reference to **person** includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having legal personality).
- 1.5 The use of **including** and similar expressions does not limit the generality of any preceding words.
- 1.6 The language of this Contract is English and all Drawings, notices, documents, correspondence and any other information must be in English unless agreed otherwise by RWE in writing.

### 2 CONTRACT FORMATION

- 2.1 Any UK registered Affiliate of RWE AG may be named in and raise an Order. An Order is an offer by RWE to purchase the Works from the Contractor.
- 2.2 The Contractor accepts an RWE offer either by expressly giving to RWE written notice of acceptance (including returning a signed Order) or impliedly by fulfilling in whole or part the Order (**Accept, Acceptance**).
- 2.3 On Acceptance, a contract is made between RWE and the Contractor which is comprised of and subject to the contents of the Order and these Conditions (**Contract**).
- 2.4 Subject to condition 7 (*Change Control*) and 90 (*Variation*) the Conditions, unless expressly set out in an Order, prevail over any other terms and conditions, any Contractor quotes or proposals or any other communication relating to the Works. The Order takes precedence over the Conditions.

### 3 APPOINTMENT

- 3.1 On Acceptance, RWE appoints the Contractor to carry out the Works on the terms of and to the standards required in the Contract and the Contractor agrees to so carry out the Works.
- 3.2 The appointment of the Contractor is not exclusive and nothing in the Contract gives or is deemed to give the Contractor exclusive rights to supply any Works to RWE or its Affiliates.
- 3.3 RWE is not obliged to order any minimum volume of Works and there is no minimum value.
- 3.4 In all respects the relationship of the Contractor to RWE is that of an independent contractor providing Works to RWE and neither the Contractor nor its Personnel are or are deemed to be employees of RWE.

### 4 TERM

- 4.1 Subject to conditions 34(*Defects*), 55.3 (c) and 99 (*Cumulative Remedies*), the Contract comes into effect on the Commencement Date and (unless terminated at an earlier date under the Conditions) terminates automatically once all obligations under the Contract are fulfilled (**Term**).

### 5 CONTRACT MANAGEMENT

- 5.1 The Contractor, if requested, upon reasonable notice and during normal office hours on business days attends such meetings at the Site and/or other RWE's premises (or such other place as may be agreed) as is reasonably required by RWE from time to time to review the Works. Any such review is without prejudice to the rights and obligations under the Contract.

### 6 RWE INSTRUCTIONS

- 6.1 RWE may issue written instructions which, subject to condition 6.2, the Contractor carries out.
- 6.2 If any instruction issued by RWE:
- (a) requires the Contractor to undertake work not provided for in or not to be reasonably inferred from the Contract; or
  - (b) imposes any significant additional obligation or restriction or requires the significant omission of any work or of any obligation or restriction,

and PROVIDED THAT such instruction has not arisen from and compliance with it does not reveal any Contractor Default, then the instruction is and is deemed to be a Change Request and condition 7 (*Change Control*) applies.

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### 7 CHANGE CONTROL

7.1 RWE may in writing request and the Contractor may in writing propose a variation to:

- (a) these Conditions; and/or
- (b) an Order or Specification

in each case at any time prior to the Target Completion Date (**Change Request**).

7.2 Where a Change Request is issued by RWE and is not material, the change is made and/or is deemed to be made with no adjustment to Fees or Target Completion Date unless otherwise agreed between the Parties.

7.3 Where a Change Request is raised by the Consultant and/or is material, RWE acting reasonably and, where relevant using the Rates or pro-rating the Fixed Price as the case may be, assesses and determines the required changes to Fees or to the Target Completion Date.

7.4 If the Contractor disagrees with the RWE determination, subject to condition 8 (*Contractor to Proceed*), it escalates under condition 86 (*Escalation*).

### 8 CONTRACTOR TO PROCEED

8.1 Unless otherwise stated in a Change Request, upon receipt of a Change Request, the Contractor proceeds immediately with the Works described in the Change Request as if such change is stated in the Contract.

8.2 The Contractor does not delay the commencement of a Change Request pending agreement, determination, escalation or dispute of any extension of the Completion Date or adjustment to the Fees and keeps records of the cost of undertaking the Change Request and of time expended. The Contractor permits RWE or any person on its behalf to inspect such records on notice and at all reasonable times.

### 9 STANDARDS

9.1 The Contractor at all times during the Term:

- (a) complies with the Contract, all Applicable Law, rules, guidelines, quality and safety standards and codes of practice and RWE Policy Document(s) applicable to the supply of the Works and the Site;
- (b) performs the Works with reasonable skill, expertise, care and diligence, in accordance with sound technical and engineering practice and Good Industry Practice and in compliance with any minimum standards and/or qualifications set out in the Specification or required under Applicable Law;
- (c) executes and completes the Works in a proper and workmanlike manner, with appropriate resource and in strict accordance with the Contract.
- (d) ensures safe organisation and implementation of the supply of the Works;
- (e) provides all Personnel for the provision of the Works and competently supervises them at all times.

9.2 The Contractor passes on the benefit of all manufacturers' and any other relevant third party warranties or guarantees to RWE in relation to the Plant and Materials and/or the Works.

9.3 The Contractor must not act (or omit to act) so as to, in the sole opinion of RWE, bring RWE's name or the name of any RWE Affiliate into disrepute or damage their respective reputation(s), goodwill or business interests.

### 10 PROVISION OF THE WORKS

10.1 The Contractor:

- (a) supplies the quantities of Plant and Materials and the Works set out in the Contract; and
- (b) supplies all necessary Contractor Equipment including safety equipment and ensures they are in a good, legal and serviceable condition;
- (c) trains its Personnel to ensure that they are qualified and able to carry out the Works safely including in the use of Contractor Equipment;
- (d) carries out all risk assessments;
- (e) provides safe systems of work for all activities performed under this Contract ;
- (f) supplies superintendence, labour and except as stated in the Specification, all necessary facilities, vehicles or other transport,
- (g) supplies Personnel who are all suitably qualified, competent, skilled and experienced and are trained and able to Deliver and carry out the Works safely and in compliance with this Contract;
- (h) puts procedures in place to ensure that Personnel are able to understand and comply with oral and written instructions given by RWE including those which relate to health and safety; and
- (i) puts in place suitable precautions to prevent damage to property or injury to persons,

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in each case, necessary to properly and efficiently provide the Works and so that the Works as executed meet statutory requirements of Applicable Law, are of satisfactory quality and are fit for any purpose made known to the Contractor by or on behalf of RWE and satisfy RWE requirements as stated in the Specification.

#### 10.2 The Plant and Materials:

- (a) do not infringe RWE's intellectual property rights (including copyright) (IPR) or that of any third party;
- (b) correspond to any description or previous sample supplied;
- (c) are Delivered new, with good marketable title and free from any lien, charge or other encumbrance;
- (d) are clearly marked with RWE's name, address, order number and advice note (detailing transport, weight, number or volume and point and date of dispatch) and any other information RWE notifies that is required; and
- (e) are labelled and supplied with all necessary warnings, instructions and other information relevant to their storage and use.

#### 11 COMPLIANCE WITH APPLICABLE LAW

- 11.1 The Contractor, in all matters arising out of or in connection with the performance of its obligations under the Contract, holds all necessary licences and consents, complies in all respects with, gives all notices and pays all fees required by Applicable Law.
- 11.2 RWE may (but is not obliged to) without liability suspend or stop all or any part of the Works if it believes the working processes being used breach the requirements of Applicable Law and/or conditions of this Contract relating to the environment, health and/or safety or otherwise are unsafe or pose a risk to persons or property.
- 11.3 The Contractor indemnifies RWE for all Loss awarded against or incurred as a result of any breach of this condition 11.2
- 11.4 A breach by the Contractor of Applicable Law is a material breach of this Contract.

#### 12 METHOD OF WORKING

- 12.1 The Contractor adopts its own general method of working.
- 12.2 The Contractor provides safe systems of work for all activities performed under the Contract and takes into account risks and issues identified in the risk register and/or any of its own risk assessments.
- 12.3 The Contractor complies with:
  - (a) RWE's procurement policy (including sustainability) and other relevant policies (including health and safety and security) that RWE gives the Contractor access to or provides to the Contractor; and
  - (b) local procedures and processes that RWE gives the Contractor access to or provides to the Contractor if the Contractor accesses RWE's property.
- 12.4 The Contractor complies with reasonable requests of RWE in relation to the provision of the Works and co-operates with RWE Personnel.

#### 13 SITE CONDITIONS

- 13.1 The Contractor inspects and examines and/or is deemed to have inspected and examined the Site and its surroundings and all information available in connection with them and to have fully acquainted and satisfied itself so far as is practicable to do so before Acceptance or otherwise commencing the provision of the Works as to the conditions of the Site and generally to have obtained for itself all necessary information as to:
  - (a) risks, contingencies and all other circumstances which may influence or affect the provision or construction of the Works (including the sub-surface conditions where applicable, climate, hydrological ground, general conditions on the Site, any artificial or natural obstructions and all existing services);
  - (b) the Plant and Materials and Contractor Equipment necessary for the completion of the Works; and
  - (c) the means of communication with and restrictions of access to the Site.
- 13.2 The Contractor may not make any Claim arising from the Contractor's failure to inspect and/or examine the Site or any Contractor interpretation of anything so inspected or examined.

#### 14 RELIANCE ON RWE INFORMATION

- 14.1 The Contractor is deemed to have scrutinised the Specification prior to the Commencement Date.
- 14.2 RWE may, on request and without prejudice to any rights or obligations under the Contract at law, supply the Contractor with information in RWE possession in relation to the Site and that RWE considers is necessary for the supply of the Works.
- 14.3 RWE does not warrant the adequacy, accuracy or sufficiency of any information supplied by or on behalf of RWE.
- 14.4 The Contractor takes all necessary steps to obtain all necessary information for undertaking the supply of the Works at the Site in

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accordance with the Contract and for checking the adequacy, accuracy and sufficiency of the information it obtains including any supplied by or on behalf of RWE.

- 14.5 The Contractor promptly notifies RWE if it considers that information supplied on or on behalf of RWE is insufficient or if there are any material inconsistencies or inaccuracies in any of it.
- 14.6 RWE instructs the Contractor in relation to any such material errors, inconsistencies or inaccuracies in any information supplied by or on behalf of RWE and condition 7 (*Change Control*) applies.

#### 15 CONTRACTOR EQUIPMENT

- 15.1 Unless otherwise stated in the Contract, the Contractor provides all Contractor Equipment necessary to complete the Works.
- 15.2 All Contractor Equipment when brought on to the Site is and is deemed to be exclusively intended for the execution of the Works.
- 15.3 The Contractor does not remove from the Site any Contractor Equipment, except:
- (a) when it is no longer required for the completion of the Works; or
  - (b) when RWE has given its prior consent.

#### 16 CO-OPERATION AND CO-ORDINATION

- 16.1 The Contractor acknowledges that RWE may be operating the Site, that other works may be in progress and/or that Others are contributing to the Project in each case concurrently with the Works provided by the Contractor.
- 16.2 The Contractor takes no action which impedes, disrupts or frustrates the progress of any such works of RWE or of Others.
- 16.3 If the Contractor becomes aware that its provision of the Works may conflict with work of RWE or Others, the Contractor alerts RWE as soon as it is reasonably practicable to do so.
- 16.4 RWE instructs the Contractor in relation to any such conflict and condition 7 (*Change Control*) applies.

#### 17 IMPORT PERMITS, LICENCES AND DUTIES

- 17.1 The Contractor obtains all import permits or licenses required for any part of the Plant and Materials, Contractor Equipment and/or carrying out the Works (Delivered Duty Paid (as defined in the Incoterms 2020)).

#### 18 PROGRESS

- 18.1 The Contractor submits progress reports as required by RWE and on request attends review meetings to discuss any aspect of the Works.
- 18.2 The Contractor notifies RWE without delay if any circumstances arise which could delay the provision of the Works and, without prejudice to either Party's rights or obligations, states the measures being taken to mitigate such delay.

#### 19 DELIVERY

- 19.1 The Contractor is responsible at its sole cost and risk including the cost to insure for all transport, loading, collection, handling, storage, packing, unpacking, reception at the Location and Delivery reasonably necessary for the provision and completion of the Works.
- 19.2 The Contractor will properly pack Plant and Materials and secure them in such manner as to enable them to reach their destination in good condition.
- 19.3 If Delivery dates are not already set out in the Milestones:
- (a) the Contractor applies in writing to RWE for permission to Deliver any Plant or Contractor Equipment to the Site; and
  - (b) Plant or Contractor Equipment is not Delivered to the Site without the prior written permission of RWE.
- 19.4 On unloading Plant and Materials, the Contractor ensures that good manual handling practice is observed at all times, all lifting and unloading equipment is in a good and serviceable condition and that Contractor Personnel are trained in the use of the lifting and unloading equipment.
- 19.5 Any inspection, endorsement, review or comment (or any omission to inspect, review or endorse) by or on behalf of RWE on or in relation to Delivery of Plant and Materials is without prejudice to any rights or obligations under this Contract.
- 19.6 The Contractor will remove and dispose of any waste in compliance with relevant Applicable Law.

#### 20 PROGRAMME

- 20.1 The Contractor commences the execution of the Works from the Commencement Date and proceeds regularly and diligently with the Works and completes each part of the Works in accordance with the Milestones and the Programme and in any event on or before the Target Completion Date.
- 20.2 Where Milestones and/or the Programme are not incorporated within the Contract, the Contractor submits to RWE for its approval the Milestones and/or the Programme (which is in the form stated in the Specification) within 7 days of the Commencement Date or such other period as agreed with RWE.



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- 20.3 Any approval by RWE of the Programme is without prejudice to rights and/or obligations of either Party.
- 20.4 No material alterations to the Programme are made without the approval of RWE pursuant to condition 7 (*Change Control*).
- 20.5 If there is no Programme, the Contractor, subject to condition 19.3 proceeds diligently with the Works and completes them within a reasonable time scale given the nature and extent of the Works and the nature of the Site and Work Area.

#### 21 REVISION OF PROGRAMME

- 21.1 If the progress of the Works does not conform to the Programme, RWE may instruct the Contractor to revise and re-submit the Programme or if there is no Programme, to progress faster with the Works.
- 21.2 The Contractor revises and re-submits the Programme to show the modifications necessary to ensure completion of the Works within the Completion Date or otherwise informs RWE how it intends to progress faster with the Works.
- 21.3 If RWE approves the revised Programme or intended progress, the Contractor then takes all such steps as necessary to comply with the revised Programme or intended progress and ensure the Works are completed within the Completion Date.
- 21.4 If such modifications are required for reasons for which the Contractor is not responsible, any reasonable costs of preparing the revised Programme are incurred as a Change Request subject to condition 7 (*Change Control*).
- 21.5 In all other cases, the costs of the modifications to the Programme are borne by the Contractor.

#### 22 EXTENSION OF TIME

- 22.1 The Contractor may Claim an extension of time by raising a Change Request pursuant to condition 7 (*Change Control*) to the extent it is or will be delayed in completing the Works because of any of the following reasons:
  - (a) the failure of RWE to fulfil any of its material obligations under the Contract;
  - (b) delay by any Others; or
  - (c) an Event of Force Majeure

PROVIDED ALWAYS THAT the Contractor is not entitled to Claim an extension of time:

- (a) to the extent any delay is caused by or contributed to by a Defect or a Contractor Default; or
  - (b) to the extent that the Contractor fails to take such steps as it is reasonably practicable to do so to avoid or reduce the cause of delay and/or effects of any delay; or
  - (c) in respect of any period of delay which arises prior to or concurrently with the events listed in condition 22.1 for which the Contractor is not entitled to be granted an extension of time; or
  - (d) in respect of any period where the event or events listed in condition 22.1 are not the sole or dominant cause of delay.
- 22.2 The Contractor gives to RWE notice of its intention to make a Claim for an extension of time within fourteen (14) days of the earlier of when the circumstances for such a Claim becomes known to the Contractor or when such circumstances should have become known to the Contractor.
- 22.3 The notice is followed within seven (7) days by a Claim with full supporting details.
- 22.4 RWE is not under any obligation to accept any request for an extension of time made to it by the Contractor pursuant to this condition 22 if such request is not made within fourteen (14) days of the earlier of when the circumstances for such a Claim become known to the Contractor or when such circumstances should have become known to the Contractor.

#### 23 SAFE SITE ACCESS

- 23.1 Any access to the Site is subject at all times to such safety and security Applicable Laws, Good Industry Practice and RWE Policy Documents as are in force at the time at the Site and reasonable instructions issued by RWE regarding safety on the Site.
- 23.2 The Contractor ensures that it and its Personnel:
  - (a) are familiar with the arrangements for access to Site and available facilities at the Site;
  - (b) complies with any quality and/or safety standards relevant to the Site, the Service and the Work Area; and
  - (c) do not enter any adjacent area without obtaining prior permission.

- 23.3 The Contractor does not permit access to the Site by any third party other than Contractor Personnel involved in the supply of the Works without permission of RWE.
- 23.4 The Contractor at all times affords access to the Site and the necessary facilities to inspect the Works to RWE, relevant authorities and officials and complies with all reasonable and lawful instructions issued by any of them.

#### 24 WORKING HOURS

- 24.1 No Works are carried out on the Site outside the access hours set out in the Order or this Contract or if none are so set out, outside normal working hours unless:

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- (a) an Order so provides; or
- (b) in case of emergency or the work is unavoidable or necessary for the saving of life or property or for the safety of the Works, in which case the Contractor immediately advises RWE; or
- (c) RWE so instructs or gives its written consent and only to the extent of such instruction and/or consent.

### 25 FENCING AND SECURITY

- 25.1 The Contractor provides and maintains at its own cost all lights, guards, fencing and watching as required for the carrying out of the Works or for safety and convenience of all persons at the Site and Work Areas.

### 26 PROHIBITED MATERIALS

- 26.1 The Contractor does not specify for use or use or permit to be used in the Works any products or materials which at the time of specification or use do not conform with British Standards or other appropriate applicable standards or codes of practice or generally recognised good building practice and/or at the time of specification or use are generally known to be deleterious, in the particular circumstances in which they are used, to health, safety and/or durability of buildings or structures.

### 27 CLEARANCE OF SITE

- 27.1 The Contractor from time to time during the progress of the Works or when instructed by RWE clears away and removes all surplus materials and rubbish from the Site.
- 27.2 On Completion of the Works, the Contractor removes from the Site all Contractor Equipment, surplus materials and rubbish, returns RWE Equipment and leaves the Site and the Works clean and in a workmanlike condition to the satisfaction of RWE.

### 28 INSPECTION AND TESTING

- 28.1 The Contractor allows RWE to inspect and test the Works (and if necessary, re-test and re-inspect) where and when RWE deems it is appropriate to do so, as stated as a Milestone and/or as otherwise required by Applicable Law.
- 28.2 Where Tests on Completion are set out in the Contract, the Works satisfy the Tests on Completion Criteria on before the Target Completion Date.
- 28.3 Where RWE tests or inspects or attends the Contractor's tests or inspections, the Contractor co-operates with RWE and gives RWE access to all relevant places, documents and any other information.
- 28.4 If a fault is found, RWE may recover any of its costs from the Contractor to re-inspect and/or re-test. If, to resolve a dispute or otherwise, RWE arranges an independent person to test, inspect, re-test or re-inspect the goods/services, then the Contractor and RWE are each bound by the outcome of such independent test or inspection.
- 28.5 Any test or inspection that RWE attends or arranges is not an admission or an acceptance by RWE that the Works comply with this Contract.

### 29 REJECTION

- 29.1 At any time on or before Completion, if as a result of any inspection, examination or testing RWE decides that any of the Works and/or Plant and Materials is Defective it may reject such Works and notifies the Contractor (**Rejection Notice**).
- 29.2 The Rejection Notice states the reasons for rejection.
- 29.3 RWE does not reject any Works for minor defects which do not affect the commercial operation of the Works.
- 29.4 The Contractor with all speed and diligence makes good the Defect or ensures that any rejected Works comply with the Contract and removes the rejected Plant and Materials unless otherwise instructed by or on behalf of RWE.
- 29.5 If RWE requires Works to be re-tested, the tests are repeated under the same conditions as any original tests.
- 29.6 If the Contractor fails to collect or remove rejected Plant and/or Materials or any other materials relating to the Works (including waste) within seven (7) days after notice by RWE that they are available for collection, RWE may charge the Contractor storage costs and/or may sell or dispose of the rejected Plant and/or Materials.
- 29.7 If RWE sells the rejected Plant and/or Materials it will provide to the Contractor the proceeds of sale after deducting its storage costs and its reasonable costs and expenses in connection with the sale.

### 30 COMPLETION

- 30.1 Completion occurs when the Works:
- (a) satisfy the Tests on Completion Criteria as demonstrated in the Tests on Completion;
  - (b) are completed in accordance with the Contract (except in minor respects that do not affect the use of the Works for their intended purpose); and
  - (c) a Completion Certificate is issued or is deemed to be issued in accordance with condition 31,

#### (Completion).

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### 31 COMPLETION CERTIFICATE

- 31.1 The Contractor may apply by notice to RWE for a Completion Certificate not earlier than fourteen (14) days before the Works are, in the Contractor's opinion, complete and ready for taking over and in any event, where Tests on Completion are included in Contract, not before the satisfaction of the Tests on Completion Criteria.
- 31.2 Within twenty eight (28) days from the date so stipulated by the Contractor, RWE either:
- (a) issues the Completion Certificate to the Contractor with a copy to RWE stating the Completion Date; or
  - (b) rejects the application giving its reasons and specifying the work required to be done by the Contractor to enable the Completion Certificate to be issued.
- 31.3 If the Works are divided into Sections, the Contractor may apply for separate Completion Certificates for each Section.

### 32 USE BEFORE TAKING OVER

- 32.1 If required by RWE, the Contractor permits the use of the Works or any part prior to the issue of a relevant Completion Certificate.
- 32.2 The Contractor obligations to carry out and complete the Works to enable a Completion Certificate to be issued is not affected by use of the Works under this condition 32 SAVE THAT:
- (a) the Contractor may Claim reasonable additional costs incurred in carrying out and completing the Works under condition 7 (*Change Control*); and
  - (b) the Contractor may apply for an extension of time in accordance with condition 22 (*Extension of Time*) if the use of the Works by RWE impedes progress of the Works and causes delay.

### 33 REMEDIES FOR LATE DELIVERY

- 33.1 Without prejudice to any rights or obligations of a Party under the Contract or at law, on each occasion when the Contractor fails to perform a material aspect of the Works by the Target Completion Date, RWE may (at its sole discretion) elect to:
- (a) suspend payments or cease to pay and cease to be liable to pay any sum due and payable for the delayed Works; and/or
  - (b) charge to the Contractor the costs, losses or expenses which RWE incurs as a result of that delay including:
    - (i) the additional costs incurred by RWE in obtaining replacement Works either from its own resources or from a third party; and
    - (ii) the value of any payments contractually due and payable to third parties because RWE relied on the Contractor performing the Works on or before the Target Completion Date; and/or
  - (c) require the Contractor to remedy immediately any failure to perform the Works in accordance with the terms of the Contract at its own cost, and
  - (d) in the event the failure to deliver or delay is not remedied on before the expiry of twenty-eight (28) days of the Target Completion Date (or such other extended time of delay as RWE may elect), terminate the Contract on written notice for Contractor Default.

### 34 DEFECTS

- 34.1 The Contractor is responsible for any Defects in the Works which occur before the expiry of the Defects Liability Period.
- 34.2 The Defects Liability Period commences either:
- (a) on the Completion Date; or
  - (b) where any part of the Works is taken over separately from the Works, the Defects Liability for that part commences on the date that the last such Section is taken over in accordance with the Contract.
- 34.3 Without prejudice to any rights or obligations of a Party under the Contract or at law, RWE may, by notice in writing to the Contractor, notify the Contractor of a Defect (**Defect Notice**) PROVIDING THAT the Defect occurred or can reasonably be deemed to have occurred either before Completion or within the Defects Liability Period.
- 34.4 The Contractor, at RWE's sole discretion, as soon as practicable (and in any event within 5 days or such other time as RWE notifies) repeats, replaces or repairs the Defective Works PROVIDED THAT if the Contractor repeats, modifies, repairs or replaces the Works, the modified, repaired or replacement Works:
- (i) must not diminish or curtail any of the required functions, features, facilities or the provision of the Works; and
  - (i) must comply with the warranties, standards and obligations contained in this Contract and RWE shall have the same rights in respect of them.
- 34.5 If a Defect is not replaced or repaired in accordance with condition 34.4, the Contractor immediately on request:



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- (a) reduces the Fees taking into account the Defect; and/or
- (b) refunds and/or credits the Fee paid or payable by RWE to the Contractor in respect of any Defective Works; and/or
- (c) pays a sum equivalent to any additional expenditure reasonably incurred by RWE in obtaining either:

- (i) repeat or replacement Works; or
- (ii) repairs to the Defective Works,

in each case whether by using its own resources or from a third party; and

- (d) pays a sum equivalent to any sums contractually due and payable to third parties because RWE relied on the Contractor supplying the Works without Defect.

34.6 A further Defects Liability Period for any repeated, repaired or replaced Works commences on the date of Delivery of the repaired or replaced Works.

### 35 ACCESS

35.1 Throughout the Term, RWE:

- (a) to the extent stated in the Specification, provides means of access for the Delivery to the Site of all Plant and Materials and Contractor Equipment; and
- (b) affords the Contractor such access but not exclusive access to such areas of the Site and facilities and RWE Materials as the Contractor reasonably requires to carry out the Works under the Contract; and
- (c) RWE makes available any RWE Representative or other appropriate Personnel to liaise with the Contractor and provide such information and give such decisions within a reasonable time as may be properly requested by the Contractor and reasonably required to enable the Contractor to perform the Works in accordance with this Contract,

in each case PROVIDED THAT where any access dates or hours or means of access are stated in the Order or otherwise communicated, the Contractor complies with such access dates or hours and/or means of access.

### 36 FEE

36.1 In consideration for the supply of the Works, RWE pays the Fee in the amounts, at the rate and/or at the frequency set out in the Order.

36.2 The Fee is inclusive of all cost and/or expenses associated with the provision of the Works including subsistence, accommodation, supply of equipment or tools and compliance with all obligations under this Contract.

36.3 The Contractor acknowledges that it has taken account of all work necessary to complete the Works and all of its obligations under this Contract in agreeing the Target Completion Date and the Fee.

### 37 FIXED PRICE

37.1 Where the Fee for the Works is expressed in the Order as a fixed price, the Fee is the sum set out and described as such in the Order (**Fixed Price**) and is deemed to:

- (a) include all costs associated with the Contractor permanent or temporary Personnel engaged in the Works including the costs of any incentives necessary to meet the Completion Date;
- (b) include all profit and other costs, expenses or disbursements incurred in the provision and completion of the Works in accordance with this Contract including overhead costs.

### 38 RATES

38.1 Where the Fee is calculated on a price per unit, rates, hourly or other frequent charge basis (**Rates**), the following applies:

- (a) the Fee is calculated in accordance with the Rates set out or referred to in the Order;
- (b) the Rates are inclusive of all: salaries, wages, bonuses and other emoluments, statutory charges and levies, pension provisions, overtime or payments for working unsociable hours.

### 39 INVOICING

39.1 The Contractor invoices the Fees at the time and frequency as set out in the Order and if not so set out, within a calendar month after the month of the completion of the Works.

39.2 All invoices contain the information and are sent to the address specified in the Order and if none is so specified, the Contractor sends invoices in PDF format to [invoice@rwe.com](mailto:invoice@rwe.com) with a copy to the RWE Representative including at least the Order number, RWE legal entity, a description of the Services, the Fees, the Target Completion Date and other sufficient detail to enable RWE to verify the Fees.

39.3 Paper copy invoices are not required but if they are sent, the Contractor posts them to the RWE legal entity name as shown on the RWE GUK Purchase Order Minor Works No Design No Build JB 20.07.22 .docx

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Order, Accounts Payable, Zentraler Rechnungseingang, D-45096 Essen. Any general invoicing or payment enquiries may be emailed to [accounting\\_services@rwe.com](mailto:accounting_services@rwe.com) or telephone enquiries to +44 (0)179 389 2016 (Accounts Payable).

- 39.4 RWE sends remittance advices electronically to the email address supplied in advance by the Contractor to [accounting\\_services@rwe.com](mailto:accounting_services@rwe.com).
- 39.5 Where Rates are used to calculate the Fee, the Contractor supplies all records of time spent by relevant Personnel pursuant to condition 42 (*Records of Work*) with each invoice.

#### 40 PAYMENT TERMS

- 40.1 The final date for the payment of an invoice by RWE is the number of calendar days as expressed in the Order after receipt by RWE of a valid VAT invoice for the amount due and if no date is so specified, the final date for payment is sixty (60) days after receipt by RWE of a valid VAT invoice for the correct and undisputed amount due.
- 40.2 RWE may return any invoices which are not submitted in accordance with condition 39 (*Invoicing*).
- 40.3 RWE pays any undisputed element of the invoice by the final date for payment.
- 40.4 Condition 44 (*Default Interest*) does not apply to any withheld element of an invoice pending any dispute escalation, resolution or determination.
- 40.5 Payment by RWE is without prejudice to any obligations or rights of either Party under the Contract.

#### 41 NON PAYMENT

- 41.1 If RWE fails to make any payment of undisputed sums due and payable on or before the relevant final date for payment, the Contractor may on written notice:
- (a) after giving 28 calendar days' written notice to RWE to pay sums due and payable and where RWE has not paid such due and payable sums, suspend the Works until the failure to pay is remedied and in the event the Contractor incurs any additional expense and cost (including overheads and financing charges allocated to them but excluding any allowance for profit) as a result of the suspension and the subsequent resumption of Works, the Contractor makes a Claim; and/or
  - (b) if RWE continues not to pay sums due and payable and RWE has not escalated or disputed any such sum or any part of such sum for a further period of twenty-eight (28) days after any suspension pursuant to condition 41.1(a), terminate the Contract by giving a further thirty (30) days' written notice to RWE.

#### 42 RECORDS OF WORK

- 42.1 If the Fee or any amendments to the Fee pursuant to condition 7 (*Change Control*) or otherwise are calculated by applying Rates, the Contractor maintains time sheets in units of time worked by its Personnel in the form specified by RWE from time to time to verify time worked on the Works. Such time sheets are available for inspection by or copied and submitted to RWE when making a claim, when issuing an invoice and as otherwise reasonably required by RWE.

#### 43 SET OFF

- 43.1 RWE may at any time, on written notice, set off any Contractor liability to RWE or to any RWE Affiliate under this Contract against any liability that RWE or any RWE Affiliate may owe to the Contractor under this Contract.

#### 44 DISPUTED INVOICE

- 44.1 If RWE disputes any part of an amount included in any invoice, RWE pays the undisputed amount of such invoice, subject to the submission by the Contractor to RWE of a credit note for such part of the invoice which RWE does not so pay.

#### 45 DEFAULT INTEREST

- 45.1 If either Party fails to pay any sum due and payable under the Contract when due (whether before or after any judgement) the liability of that Party is increased to include interest on that sum from the date when such sum is due and payable until the date of the actual payment at a rate of 3% over the base rate from time to time of the Bank of England. Such interest accrues daily and is compounded monthly. The Parties agree that this is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

#### 46 VAT

- 46.1 Any sum expressed to be due from one Party to the other under this Contract for a taxable supply is exclusive of value added tax (**VAT**) payable on it and the recipient of the supply pays an amount equal to such VAT in addition to any such sum on receipt of a valid VAT invoice from the supplying Party.

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### 47 TAX AND OTHER LIABILITIES

- 47.1 The Contractor is responsible for any tax (including income tax) liabilities and National Insurance or similar contributions required by statutory authorities to be made in respect of any payments due and payable or paid by RWE to the Contractor under the Contract.
- 47.2 The Contractor indemnifies RWE in respect of any Claims that may be made by the relevant authorities against RWE in respect of any Loss and/or:
- (a) any tax (including income tax and including penalties and interest charges); and
  - (b) National Insurance or similar contributions

in each case relating to the supply of the Works by or on behalf the Contractor under this Contract and/or any payments made by RWE to the Contractor under the Contract.

### 48 TITLE

- 48.1 The title, ownership, property and beneficial interest in all Plant and Materials vests in RWE upon the earlier of Delivery or payment.
- 48.2 The Contractor marks the Plant and Materials as RWE property.
- 48.3 RWE reserves the right to not make any payment for the Works unless, if requested by RWE, the Contractor provides RWE with documentary evidence from the supplier(s) of the Plant and Materials (if this is not the Contractor) that the Contractor has an unqualified right to pass ownership of the Plant and Materials to RWE. Such right is not to be unreasonably exercised by or on behalf of RWE.
- 48.4 Where, in the provision of the Works materials (including asset components) are created or identified and the removal of them is not part of the Works then title in them remains with RWE and risk in them remains with the Contractor.
- 48.5 Unless the contract states otherwise, the Contractor brings these to RWE's attention, makes them available for RWE's use and keeps them safe and tidy until RWE removes them or asks the Contractor to remove them.

### 49 RISK

#### 49.1 Risk in the Works

The Works and each part of them are at the risk of the Contractor until the Risk Transfer Date.

#### 49.2 Protection of the Works

- (a) the Contractor protects the Works to prevent damage to them as required and maintains such protection until the date of issue of the Completion Certificate.
- (a) the Contractor protects occupiers of adjacent properties and the public from danger, discomfort, disturbance, trespass, Environmental damage or nuisance caused by the Works or the performance of its obligations under the Contract.
  - (b) The Contractor keeps Plant and Materials insured for their full replacement value until the Risk Transfer Date.
  - (c) Any Plant and Materials damaged or lost in transit is the Contractor's risk.

#### 49.3 Making good loss of or damage to the Works before the Risk Transfer Date

- (a) Any loss of or damage to the Works which arises out of or in connection with the performance of the Contract and which occurs before a relevant Risk Transfer Date is made good by the Contractor at the Contractor expense as soon as it is reasonably practicable to do and without prejudice to a Party's rights or obligations under this Contract.

#### 49.4 Loss of or damage to the Works after Risk Transfer Date

- (a) Subject to rights and obligations accruing prior to the Risk Transfer Date, after the Risk Transfer Date, the Contractor liability in respect of loss of or damage to any part of the Works is limited to:
- (i) the fulfilment of the Contractor obligations under condition 34 (*Defects*) in respect of Defects; and
  - (ii) promptly making good any loss or damage caused by the Contractor during the Defects Liability Period.

### 50 INSURANCE

- 50.1 Without prejudice to any rights or obligations of a Party under the Contract or at law, the Contractor takes out and maintains in force for the Term and for the period of time over which the Contractor has continuing liabilities under this Contract, with reputable and substantial insurers with a UK branch, the following insurances, to be evidenced by certificates of insurance made available to RWE within seven (7) days of request:

- (a) employer's liability insurance in the amount of at least £5,000,000 for any one occurrence or the amount required by Applicable Law, whichever is higher;

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- (b) public, product and environmental liability insurance including against liability to third parties for any death or personal injury and loss of or damage to any physical property arising out of or in connection with the carrying out of the Works in the amount of at least ten million pounds GB sterling (£10,000,000) for any one occurrence;
- (c) such other insurances as Applicable Law requires.

- 50.2 Without prejudice to any rights or obligations of a Party under the Contract or at law, the Contractor at all times complies with all terms and conditions of the insurance policies and the Contractor gives to RWE not less than thirty (30) days advance written notice of any lapse or risk of lapse, cancellation of or material change to the insurance cover from time to time in place.
- 50.3 Deductibles applying under any insurance are for the Contractor account where such deductibles relate to Loss for which the Contractor is responsible under the Contract.
- 50.4 The Contractor gives to RWE (and procures that its Personnel gives) all such reasonable assistance and necessary information and documentation for the purpose of making or processing claims under the insurances.
- 50.5 Where the Contractor receives insurance proceeds from the Contractor's insurers relating to an insured event under this Contract, the Contractor pays to RWE such sums as are claimed from and/or are due and payable to RWE from such insurance proceeds and/or uses them solely to replace or rectify any associated Default.
- 50.6 Where the Contractor fails to have or maintain insurance where it is required under this Contract, RWE may take out such insurance and Claim the cost from the Contractor or set off or deduct such cost from any sum due and payable to the Contractor.

### 51 EXCLUSIONS AND LIMITS OF LIABILITY

- 51.1 Without prejudice to any rights or obligations of a Party under the Contract or at law, each Party informs the other of any Default under the Contract and affords the other a reasonable opportunity (taking into account relevant circumstances) to correct such Default.
- 51.2 No Party excludes or limits liability for:
  - (a) death or personal injury caused by its negligence or the negligence of its Personnel;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Works Act 1982;
  - (d) any breach of this Contract that results from the wilful act or omission of a Party or its Personnel; or
  - (e) any liability which cannot by Applicable Law be excluded or limited.
- 51.3 Subject to condition 51.2, neither Party is liable to the other or to any other person for loss of direct or indirect profits or other economic or financial loss including business, contracts, revenues, goodwill, production, anticipated savings, indirect or consequential loss.
- 51.4 Subject to conditions 51.2 and 51.3 (and excluding any debt or liability for any indemnity which is expressed to have its own maximum aggregate debt or liability), the Contractor liability under the Contract (excluding its liability to repair or replace a Defect) does not exceed in aggregate the greater of: a) a sum equal to double the Fees; and b) £500,000 SAVE THAT in each case where any Contractor liability relates to an event which is insurable under the insurances required under this Contract, such maximum liability extends to the value of the minimum insured amount required as set out in condition 50 (*Insurance*).
- 51.5 Subject to condition 51.2 and 51.3, RWE liability under the Contract (excluding its liability to pay the Fee due and payable for Works Delivered and not cancelled or rejected and further excluding any debt or liability relating to an indemnity which is expressed to have its own maximum aggregate debt or liability) does not exceed the sum of £500,000.
- 51.6 Each Party takes such steps as it is reasonably practicable to do so to mitigate a Loss which it may suffer or incur and seek to claim under this Contract by way of an indemnity or otherwise.

### 52 FORCE MAJEURE

- 52.1 Subject to condition 52.2, neither Party is deemed to be in breach of the Contract or otherwise liable to the other by reason of any delay in performance or non-performance of any of its obligations under the Contract to the extent that such delay or non-performance is caused by an Event of Force Majeure.
- 52.2 The Party affected by the Event of Force Majeure immediately gives the other Party written notice of the nature and extent of the Event of Force Majeure and, subject to condition 7 (*Change Control*), takes such steps as are reasonably practicable in all the circumstances to prevent, mitigate and reduce to a minimum the adverse effect of any Event of Force Majeure.
- 52.3 If:
  - (a) a written notice in relation to an Event of Force Majeure is not withdrawn within one (1) month or such other longer period of time as RWE may determine; or
  - (b) Loss is incurred by RWE which exceeds in aggregate a sum equal to 50% of the Fee which would otherwise be due and payable under the Contract for the Term but for any disruption or suspension by an Event of Force Majeure (or any higher sum as RWE may determine),

then RWE may on written notice terminate the Contract on a no fault basis with immediate effect.

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52.4 Unless terminated under condition 52.3, when the Event of Force Majeure ceases, each Party, in consultation with each other, takes such steps as are reasonably practicable in all the circumstances to resume normal performance of their respective obligations under the Contract.

52.5 Each Party bears its own respective costs arising from an Event of Force Majeure.

#### 53 TERMINATION AT WILL

53.1 RWE may terminate the Contract at will at any time by giving the Contractor written notice.

#### 54 TERMINATION FOR DEFAULT

54.1 Without prejudice to any rights or obligations of a Party under the Contract or at law, a Party (**Non-Defaulting Party**) may terminate the Contract immediately (unless otherwise stated) by notice in writing to the other Party (**Defaulting Party**) if the Defaulting Party or any of its Personnel:

- (a) commits a material breach of the Contract and remains in material breach not less than thirty (30) days after being notified in writing of such breach and being requested to rectify it;
- (b) is in material breach of the Contract and, in the reasonable opinion of the Non-Defaulting Party, the breach is not capable of remedy;
- (c) is in persistent breach of any of the obligations under the Contract (whether or not such breaches are material in nature or are capable of being remedied or have been remedied at any time previously by the Defaulting Party. A persistent breach occurs where a Defaulting Party or its Personnel is in breach of any of its obligations (whether it is the same obligation or not) three (3) times in any six (6) month period or the Term (whichever is shorter);
- (d) subject to condition 41 (*Non Payment*) fails to pay any undisputed amount due under this Contract on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment (and such amount remains not in dispute);
- (e) passes a resolution or a petition is filed or an order is made for or in connection with the winding up of the Defaulting Party (otherwise than for the purpose of solvent amalgamation or reconstruction where the resulting entity assumes all of the obligations under the Contract of the Defaulting Party) or the Defaulting Party becomes subject to an administration order or an administrator, receiver or administrative receiver is appointed of all or part of the Defaulting Party's undertaking and assets;
- (f) suspends, ceases or threatens to suspend or cease to carry on its business or a substantial part of it or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (g) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with its creditors (other than for the sole purpose of a scheme for a solvent amalgamation or solvent reconstruction where the resulting entity assumes all of the obligations under the Contract of the Defaulting Party);
- (h) has a creditor or encumbrancer attach or take possession of or it becomes subject to a distress, execution, sequestration or other such process in relation to the whole or any part of its assets and such attachment or process is not discharged within fourteen days;
- (i) has an application made in court or an order is made in relation to it for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over it;
- (j) has a floating charge holder over its assets become entitled to appoint or has appointed an administrative receiver;
- (k) has a person become entitled to appoint a receiver over its assets or a receiver is appointed over its assets;
- (l) becomes insolvent (within the meaning of the Insolvency Act 1986) or makes or proposes to make any arrangement or composition with its creditors; or
- (m) suffers any analogous event to those set out in conditions (e) to (l) in any other jurisdiction.

54.2 If a right to terminate the Contract accrues to RWE pursuant to conditions (e) to (m) inclusive, RWE may, at its absolute discretion, allow the option to any relevant receiver or administrator of carrying out the obligations of the Contractor as agent on behalf of the Contractor, subject to the provision by the receiver or administrator of a guarantee or performance bond or other satisfactory security in the terms required by RWE for the performance of the Contractor obligations and/or to guarantee any sums payable to RWE in relation to the Contract or to any breach of it.

54.3 RWE may terminate the Contract if the Contractor:-

- (a) suffers a deterioration of its financial position to such an extent that in the opinion of RWE the capability of the Contractor adequately to fulfil its obligations under the Contract is placed in jeopardy.
- (b) or its Personnel refuses or neglects to comply with any reasonable and lawful directions of RWE;
- (c) or its Personnel commits any misconduct, negligence, fraud or other dishonesty or acts (or fails to act) in any manner which in



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the opinion of RWE:

- (i) brings or is likely to bring its Personnel, the Contractor, RWE or any RWE Affiliate into disrepute; or
  - (ii) harms the name of or is adversely prejudicial to the interests of RWE or any RWE Affiliate; or
  - (iii) affects the ability of the Contractor or any of its Personnel to carry out the Works.
- (d) an event occurs where an express right to terminate accrues as set out in these Conditions.
- (e) without reasonable excuse fails to proceed with or abandons all or part of the Works or otherwise plainly demonstrates the intention not to continue performance of its obligations under the Contract;
- (f) the Contractor fails to comply with any relevant health and safety policies or procedures of RWE or its Affiliates;
- (g) the Contractor subcontracts the whole of the Works or assigns, charges or transfers the Contract without the consent of RWE;
- (h) the Contractor fails to obtain and maintain insurance cover in accordance with condition 50 (*Insurance*); or
- (i) the Contractor has demonstrably been involved in unlawful restrictions of competition at RWE's expense.

54.4 Subject to condition 54.5, in any of the events or circumstances specified in condition 54.1 or 54.3 RWE may serve notice of Default on the Contractor allowing twenty-eight (28) days for the Contractor to remedy the event of default or, if such period is too short to remedy such event, to demonstrate to RWE reasonable satisfaction that the Contractor is remedying the relevant event of default and that such Default will not recur, failing which RWE is entitled to give further notice and terminate the Contract.

54.5 In the case of conditions 54.3 (a) (f), (g), (h) and (i), RWE may by notice terminate the Contract immediately.

54.6 The exercise or failure to exercise any rights to terminate this Contract is without prejudice to any other or future rights that a Party may have in this Contract or at law to terminate this Contract or to accept any breach of this Contract as having brought this Contract to an end (including, where relevant, a right to claim repudiatory damages).

## 55 CONSEQUENCES OF TERMINATION

55.1 Upon termination of the Contract:

- (a) the Contractor takes immediate steps to bring the Works to an end in an orderly manner and with all reasonable speed and economy; and
- (b) notwithstanding that the validity of such termination may be disputed by the Contractor, the Contractor immediately protects and secures the Works; and
- (c) immediately then leaves the Site; and
- (d) Delivers to RWE:
  - (i) the Plant and Materials that have been paid for and not yet Delivered; and
  - (ii) Drawings (whether in the course of preparation or completed); and
  - (iii) all RWE Materials and Confidential Information.

55.2 With respect to the obligation at condition 55.1(d), if the Contractor fails to do so, then RWE may, without prejudice to its other rights or remedies, enter the Contractor premises or those of its Personnel and take possession of them. Until they have been returned or delivered, the Contractor is solely responsible for their safe keeping and does not use them for any purpose not connected with the Contract and/or cessation of the Works.

55.3 Expiry or earlier termination of the Contract does not:

- (a) affect any rights or liabilities accrued as at the date of expiry or earlier termination;
- (b) prejudice other rights or remedies (under these conditions or otherwise); or
- (c) affect the coming into force or the continuation in force of any provisions which expressly or by implication are intended to come into force or continue in force on or after the termination or expiry (including conditions 1 (*Definitions and Interpretation*), 34 (*Defects*) 42 (*Set Off*), 46 (*VAT*), 47 (*Tax and other Liabilities*), 48 (*Risk*), 48 (*Title*), 50 (*Insurance*), 51 (*Exclusions and Limits of Liability*), 55 (*Consequences of Termination*), 60.1 (*TUPE*), 71 (*Confidentiality*), 61 (*Contractor Use of RWE Materials*), 62 (*Ownership of Drawings*), 64 (*IPR Indemnity*), 71 (*Data Protection*), 84 (*Records*) 81 (*Right of Audit*), 84 (*Adequacy of Damages*), 92 (*Third Party Rights*), 93 (*Group Benefit*), 94 (*Notices*) 98 (*Waivers*), 99 (*Cumulative Remedies*), 101 (*No Partnership*), 102 (*Entire Agreement*), 106 (*Governing Law*) which, in each case, remain in force.

## 56 TERMINATION PAYMENT NO DEFAULT

56.1 Except where RWE terminates for Contractor Default, if either Party terminates the Contract pursuant to a contractual right to do so, RWE pays to the Contractor:

- (a) the Fee as are due and payable (but unpaid) as at the date of termination; and
- (b) any cost or expense already contractually committed to and directly incurred by the Contractor on the reasonable expectation that

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the Contract would not terminate prior to the expiry of its Term, in each case PROVIDED THAT the Contractor provides on request documentary evidence of such cost and expense and PROVIDED FURTHER THAT RWE does not pay to the Contractor any sum that exceeds ninety per cent (90%) of the value of the Fee which would have been due and payable had the Contract not terminated early.

56.2 Save to the extent expressly set out in condition 56, RWE has no liability to the Contractor for any other sums including any loss of profit, loss of contracts, loss of revenue, loss of anticipated profits any indirect or consequential losses arising out of or in connection with expiry or termination.

#### 57 TERMINATION CONTRACTOR DEFAULT

57.1 Where RWE terminates this Contract for Contractor Default:-

- (a) RWE is under no obligation to make further payment to the Contractor;
- (b) RWE may itself carry out and complete the Works and/or employ and pay Others to do so;
- (c) upon completion of the Works, RWE ascertains and notifies the Contractor of the cost to it of completing the Works and if such amounts, when added to the Fee due and payable to the Contractor for Works Delivered on or before termination exceed the total amount of the Fee that would have been payable to the Contractor had early termination not occurred and on due and proper completion of the Works, then the Contractor, subject to condition 51 (*Exclusions and Limits of Liability*) pays to RWE the amount of such excess; and
- (d) whether or not the Works are completed, the Contractor pays to RWE the sum equivalent to any payments contractually due and payable to third parties and any other direct Losses incurred by or on behalf of RWE because RWE relied on due and proper completion of the Works.

#### 58 TERMINATION IN PART

58.1 In any of the circumstances in this Contract in which RWE may terminate the Contract, RWE may instead terminate the Contract in respect of part only of the Works and the Contract continues in respect of the remaining supply.

#### 59 EXIT PLAN

59.1 On any early termination of this Contract, the Contractor co-operates fully with RWE to ensure an orderly migration of the Works to RWE or, at RWE's request, a New Contractor.

59.2 The Contractor provides all necessary Drawings in sufficient time prior to termination for RWE to instruct a New Contractor and/or take back the Works internally as the case may be.

#### 60 REMOVAL OF CONTRACTOR EQUIPMENT

60.1 On any expiry or earlier termination, SAVE WHERE such termination relates to Contractor Default, the Contractor may remove all Contractor Equipment which is on the Site in continuing compliance with Site rules, safety procedures and access rights and if it does not then RWE may use or dispose of them as it deems fit to do so.

#### 61 CONTRACTOR USE OF RWE MATERIALS

61.1 RWE Materials, Specification and other information submitted by or on behalf of RWE to the Contractor remains the property of RWE.

61.2 The Contractor does not, without the consent of RWE, use, copy or communicate RWE Materials, the Specification or other information submitted by or on behalf of RWE to a third party unless necessary for and to the extent only as required to fulfil the purposes of the Contract.

61.3 RWE gives no warranty in relation to the use by the Contractor or any Contractor Personnel of them.

#### 62 OWNERSHIP OF DRAWINGS

62.1 Subject to condition 62.2, all Drawings are and become the property of RWE and are Delivered to RWE upon the completion of the relevant Works or otherwise on request.

62.2 The Contractor grants and/or procures the grant to RWE of a perpetual, irrevocable, assignable, fully paid up, royalty free, transferable and capable of sub-license, non-exclusive right and licence to use Contractor Background IPR and all Contractor Tools in each case that the Contractor embeds in or supplies with any Drawings or that are otherwise used in connection with the Works to the extent required for RWE and its Permitted Persons to fully and completely use, enjoy and commercially exploit the Works in the usual course of business of RWE (**Licence**).

62.3 Subject to condition 62.4, the Licence includes the right to:

- (a) access, store, use, reproduce, copy, modify, develop derivative works, share, distribute, display, perform (including publicly and/or digitally), display (including publicly) and transmit the Drawings in any media;

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(b) license, sublicense, transfer or assign its right and licence in the Drawings.

62.4 The Licence permits such use and access to such Drawings by:

- (a) RWE, its Affiliates and their respective Personnel; and
- (b) any third party providing Works to RWE and/or to any of its Affiliates PROVIDED THAT such third party is only permitted to use and have access to Contractor Background IPR and all Contractor Tools for the purposes of performing such Works for that person.

### 63 IPR INFRINGEMENT

63.1 Any IPR infringement by a Party or its Personnel is a material breach or a breach of a material obligation of these Conditions and the non-infringing Party accrues a right to terminate for Default.

### 64 IPR INDEMNITY

64.1 The Contractor indemnifies the Indemnified Parties in full and on demand from and against all Loss suffered or incurred by an Indemnified Party by reason of:

- (a) any use by the Contractor or its Personnel of any RWE Background IPR, the RWE Materials, the Drawings or other IPR belonging to or licensed to an Indemnified Party other than to the extent expressly licensed in this Contract; or
- (b) any claim, action or litigation in respect of any alleged or actual infringement of any Third Party IPR which arises directly or indirectly from the possession or use of any Drawings or Works or any part of any Drawings or Works (**Third Party IPR Claim**).

64.2 Each Party notifies the other of any alleged Third Party IPR Claim immediately upon becoming aware of any such claim.

64.3 RWE does not make any admission as to liability or agree to any settlement of or compromise any Third Party IPR Claim without the prior written consent of the Contractor which consent is not unreasonably withheld, conditioned or delayed.

64.4 The Contractor may, on its written request and at its own expense and on providing adequate security to RWE for any liability under the indemnity, take conduct of or settle all negotiations and litigation arising from any Third Party IPR Claim and RWE, at the Contractor's request and expense, gives the Contractor reasonable assistance in connection with any such negotiations and litigation.

64.5 If any Third Party IPR Claim is made or in the Contractor reasonable opinion is likely to be made against it or RWE and without prejudice to any rights or remedies RWE may have, the Contractor promptly and at its own expense either:

- (a) procures for RWE and/or any RWE Affiliate the right to continue using the Drawings (or any part of them) and/or the Works in accordance with this Contract; or
- (b) modifies or replaces the infringing Drawings or Works (or any part of them) so as to avoid the infringement or alleged infringement and as if they were Defective and so as to comply with condition 34.434.4; or
- (c) pay to RWE all sums as set out at condition 34.5 (*Making good Defects*) as if the Works were Defective.

### 65 COLLATERAL WARRANTIES

65.1 If so requested by RWE, the Contractor executes a collateral warranty in favour of any person nominated by or on behalf of RWE who has an interest in the Works or the Site (for example a New Contractor or a prospective purchaser of the Site, the Works or any part of any of them) in each case, on such terms as may be reasonably acceptable to RWE.

65.2 If so requested by RWE, the Contractor procures that any sub-contractor who provides Works executes a collateral warranty in favour of RWE or in favour of any person nominated by or on behalf of RWE who has an interest in the Works or the Site (for example a New Contractor or a prospective purchaser of the Site, the Works or any part of any of them) in each case, on such terms as may be reasonably acceptable to RWE.

65.3 This condition extends beyond the expiry or earlier termination of the Contract.

### 66 CONTRACTOR PERSONNEL

66.1 The Contractor ensures that:

- (a) no relationship of employer and employee is created as between RWE and the Contractor and/or any of the Contractor's Personnel; and
- (b) there is no contract between RWE and any Contractor Personnel;

66.2 Prior to any Personnel providing the Works, the Contractor, to the extent lawful, ensures that each member of Personnel satisfies any checks or vetting requirements which is appropriate according to Good Industry Practice or which are reasonably notified by RWE to the Contractor. Such vetting requirements include: checking identities, rights to work in the UK, references, qualifications, records and checks from the Disclosure and Barring Service, FCA compliance, NIS Regulations and driving licences. The Contractor keeps records of such checks and promptly shows the records to RWE if RWE asks to see them.

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- 66.3 The Contractor does not (without RWE prior written consent) use any Personnel to carry out the Works who, to the Contractor's knowledge, having made all reasonable enquiries in accordance with condition 66.2, is convicted of any crime involving violence or threat of violence, theft or other dishonest conduct, drugs or controlled substances, computer-related crimes or similar crimes which create an increased risk to persons or property.
- 66.4 The Contractor ensures that all Personnel:
- (a) comply with RWE local security arrangements including the right to be searched and to be tested for drugs and/or alcohol; and
  - (b) carry out their duties so as to cause minimum disruption to RWE business operations.
- 66.5 The Contractor makes appropriate PAYE deductions for tax and national insurance contributions from the remuneration which the Contractor, as an employer, pays to Personnel.
- 66.6 The Contractor indemnifies RWE and RWE Affiliates on a full indemnity basis against any Loss suffered or incurred by RWE and RWE Affiliates as a result of any failure by the Contractor and/or its Personnel to comply with the obligations under this condition or any associated Applicable Law.
- 66.7 Any breach of this condition is a material breach and RWE may terminate this Contract for Contractor Default.

### 67 CONDUCT AT SITE

- 67.1 RWE is committed to providing a safe, healthy and productive working environment for all Personnel and visitors. This includes ensuring that all Personnel are fit to carry out their jobs safely and effectively in a working environment which is free from alcohol and drug misuse.
- 67.2 RWE operates a rolling programme of random drinks and drug testing. RWE reserves the right to conduct searches for alcohol or drugs, including but not limited to searches of site accommodation or vehicles on the Site.
- 67.3 Any alcohol or drugs found as a result of a search are confiscated and the relevant Contractor Personnel are expelled from the Site.
- 67.4 RWE has the right to refuse to admit, itself remove or procure the removal from the Site any person whom, in the opinion of RWE, is either: not a fit and proper person to be at the Site (whether or not a drugs or alcohol test is requested); or not in a fit condition to be at the Site (whether or not a drugs or alcohol test is requested); or fails to act in accordance with this Contract or in accordance with the reasonable expectations of RWE in relation to the performance of this Contract; or is not conducting themselves appropriately, is incompetent or negligent or brings RWE or any RWE Affiliate into disrepute; or does not have the appropriate qualifications or for whom evidence of appropriate qualifications, security or other vetting checks has not been supplied or, if supplied, have lapsed or otherwise changed; or fails to take a drug and/or alcohol test when requested to take such a test by the Contractor; or fails a drug and/or alcohol test; or breaches RWE's policy on smoking and/or in non-compliance of any notice prohibiting smoking at the Site and/or the Health Act 2006 and associated regulations and/or any other health and safety related Applicable Law. RWE may require that such person does not supply Works again and/or may in any event request that the Contractor Representative is replaced.
- 67.5 The Contractor removes or procures removal from Site any individual when instructed to do so pursuant to this condition.
- 67.6 The Contractor is responsible for any consequent costs.
- 67.7 RWE may without liability suspend or stop all or any part of the supply of Works if it believes the working processes being used breach the requirements of this Contract, are unsafe or pose a risk to persons or property.

### 68 RECORDS AND REPORTING

- 68.1 The Contractor keeps and procures that its Personnel keep records of all acts and things done in the supply of the Works (including but not limited to all monitoring and testing procedures and other measures taken to ensure the safety of the Works) and at RWE's request makes them available for inspection and/or supplies copies to RWE.
- 68.2 The Contractor has in place an accident reporting procedure in compliance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 and reports all accidents, incidents or near-misses (whether or not death or personal injury or other damage is caused) to RWE so RWE can make full and accurate notices as it is required to do so by Applicable Law.
- 68.3 The Contractor notifies RWE of any Serious Incident immediately by telephone and in the case of any other accident, incident or near-miss, notifies RWE no later than 10 am on the Business Day immediately following the incident taking place.
- 68.4 The Contractor has in place and implements a suitable accident investigation procedure.
- 68.5 The Contractor promptly supplies copies of all investigation reports following the conclusion of any investigation.
- 68.6 The Contractor immediately notifies RWE if any Site is the subject of a visit or inspection by a regulatory body or the subject of any enquiry made in writing.
- 68.7 The Contractor supplies RWE with all details of that visit, inspection or enquiry and promptly supplies RWE with copies of all related correspondence.
- 68.8 The Contractor notifies RWE immediately following receipt of any prosecution, improvement notice, written warning or other correspondence received from the Health & Safety Executive, the Environment Agency, any local authority or the police which relates to any Safety Incidents involving goods of the same or a similar type to those supplied under the Contract or sold by the Contractor.

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### 69 ENVIRONMENT

- 69.1 Without prejudice to the general obligation to comply with Applicable Law, the Contractor:
- (a) complies with all Environmental Law relevant to this Contract and the supply of the Works; and
  - (b) promptly provides evidence of compliance when reasonably requested to do so by RWE; and
  - (c) satisfies all reasonable requests by RWE for information regarding the Environmental impact of the supply of the Works.
- 69.2 The Contractor does not introduce or cause to be introduced any substances debris or materials onto any land (including land adjacent to or near the Site or Work Areas) or into any drainage system on or adjacent to the Site or Work Areas or into any stream, river, lake or other body of water which may pollute or contaminate the same or constitute a hazard to the environment.
- 69.3 In the event of any contamination arising from the supply of the Works, the Contractor, so far as it is reasonably practicable to do so, ensures that such contamination is contained within its Work Areas at the Site by appropriate means to enable safe removal and disposal from there.
- 69.4 The Contractor informs RWE immediately upon discovery of any contamination.
- 69.5 The Contractor provides to RWE its proposals for remedial action as soon as it is reasonably practicable to do so after discovering or being informed of any such contamination.
- 69.6 Subject to the approval of RWE and the relevant statutory authority, as soon as it is reasonably practicable in all the circumstances, at its own expense the Contractor alters, repairs or replaces any affected Works, Work Areas and any other affected areas of the Site and any other contaminated property or contamination and/or otherwise remedies a breach of this condition.
- 69.7 The Contractor indemnifies and keeps RWE and its Affiliates fully indemnified immediately on demand against any Loss suffered or incurred by, claimed from or awarded against RWE or its Affiliates as a result of a breach of this condition or any breach of Environmental Law.
- 69.8 Where the Contractor is given adequate opportunity to address the potential contamination or to remediate an actual contamination and has in either case failed to do so, the Contractor substantially fails to comply with its obligations and is in material breach of this Contract and RWE accrues a right to terminate this Contract for Default.

### 70 TRESPASS AND NUISANCE

- 70.1 The Contractor carries out the Works to minimise any nuisance, trespass on and/or noise caused to any adjoining landowners, third parties and/or to any person with an interest in or access over the Site including any nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway or other interference with the rights and activities of any adjoining or neighbouring landowner, tenant or occupier or any statutory authority in each case arising out of providing the Works.
- 70.2 The Contractor assists RWE in defending any relevant action or legal proceedings by any third party relating to its obligations in condition 70.1 or any breach of them.
- 70.3 If the Contractor commits a breach of this condition and/or causes and/or contributes to any nuisance or trespass, the Contractor:-
- (a) immediately notifies RWE; and
  - (b) subject to the approval of RWE and the relevant statutory authority, as soon as reasonably practicable, at its own expense alters, repairs or replaces any affected property and/or otherwise remedies the breach; and
  - (c) the liability and/or debt of the indemnifying Party under this condition is limited to the sum of ten million pounds sterling (£10,000,000).
- 70.4 The Contractor indemnifies and keeps RWE and its Affiliates fully indemnified immediately on demand against any Loss suffered or incurred by, claimed from or awarded against RWE or its Affiliates as a result of a breach of this condition or any trespass or nuisance.
- 70.5 Where the Contractor is given adequate opportunity to address potential trespass or nuisance or to remediate an actual trespass or nuisance and has in either case failed to do so, the Contractor substantially fails to comply with its obligations and is in material breach of this Contract and RWE accrues a right to terminate this Contract for Default.

### 71 CONFIDENTIALITY

- 71.1 Except as and to the extent expressly permitted in this condition and condition 61 (*Contractor Use of RWE Materials*) and 62 (*Ownership of Drawings*), each Party treats as strictly confidential and does not use or disclose to any third party any Confidential Information.
- 71.2 The restriction in condition 71.1 does not apply to the extent a Party discloses or uses Confidential Information:
- (a) via its Permitted Persons so as to perform and comply with its obligations and/or exercise its rights under this Contract PROVIDED THAT it does so on a confidential basis;
  - (b) as required by Applicable Law or any securities exchange or regulatory or governmental body to which it is subject wherever situated;
  - (c) in communication with its professional advisers, auditors and bankers PROVIDED THAT it does so on a confidential basis;



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- (d) which has come into the public domain through no fault of that Party;
- (e) which was previously disclosed to it without any obligation of confidence; or
- (f) to which the other Party has given its consent in writing.

- 71.3 Each Party ensures that all Permitted Persons are made aware of the confidential nature of any Confidential Information disclosed to them and are bound by obligations of confidentiality no less onerous than those contained in this Contract.
- 71.4 Each Party is primarily liable for any onward disclosure of any Confidential Information by Permitted Persons.
- 71.5 The obligations of the Parties under this condition 71 survive the expiry or earlier termination of the Term for a period of two (2) years.
- 71.6 Neither Party advertises or publicly announces the existence of this Contract or its subject matter without the other Party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.
- 71.7 Each Party defends and indemnifies the other from and against any Losses incurred as a result of or in connection with a breach by a Party, its Affiliates or its Personnel of this condition.
- 71.8 A breach of this condition is a material breach and/or a breach of a material obligation and a Party accrues a right to terminate this Contract for Default.

## 72 MARKETING AND ADVERTISING

- 72.1 The Contractor may not, without RWE's prior written consent use:

- (a) any information concerning this contract; or
- (b) photographs of RWE's sites, facilities or personnel

in each case for reference or marketing purposes.

- 72.2 The Contractor may not use RWE's trade names, trademarks or logos or those of the RWE Group either individually or in combination with the Contractor's trade names or trade names of others.

## 73 DATA PROTECTION

- 73.1 Each Party acknowledges that it acts in a capacity of data controller and may disclose to each other personal data which is limited in scope to contact details of respective Personnel who will be managing the performance of this Contract.
- 73.2 The personal data so shared is to be used only for the purpose of satisfying each Party's respective obligations and receiving respective benefits under this Contract and only during the Term or to continue to receive the benefit of rights and enforce remedies that extend beyond the Term.
- 73.3 Each Party ensures that the nature of the data and purpose of data sharing and use set out in condition is a permitted use of its Personnel's personal data as set out and published in its respective privacy notice.
- 73.4 Each Party complies with and procures compliance with obligations imposed on data controllers contained within data protection related Applicable Law in force from time to time, including publishing and complying with respective privacy notices.
- 73.5 Neither Party processes personal data on behalf of the other Party nor appoints a third party processor to process such personal data.
- 73.6 Neither Party exports personal data outside of the UK (unless to the EEA) or outside of the EEA.
- 73.7 Each Party warrants that it has in place and maintains and applies appropriate technical and organisational measures, processes and procedures to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of personal data.
- 73.8 On expiry or earlier termination of the Contract, each Party securely returns to the other or destroys all personal data shared and/or in a Party's possession or control.
- 73.9 Each Party indemnifies and keeps the other Party and its Affiliates fully indemnified immediately on demand against any Loss suffered or incurred by, claimed or awarded against the indemnified Party, its Affiliates or Personnel in each case as a result of a breach of this condition or any breach of the UK data protection related Applicable Law in force from time to time by the indemnifying Party, its Affiliates or Personnel.
- 73.10 Each Party's respective maximum liability and/or debt to each other under this condition is the sum of one million pounds GB sterling (£1,000,000) in aggregate.
- 73.11 Any breach of this condition is a material breach and entitles a Party to terminate this Contract for Default.

## 74 INFORMATION SECURITY AND CRITICAL INFRASTRUCTURE

- 74.1 RWE may ask the Contractor (and the Contractor may already have done so) from time to time to complete a self-declaration form relating to information security and critical infrastructure protection (such as the RWE Conditions of Information Security and Data Protection Questionnaire and where relevant, the Data Protection Agreement). The Contractor warrants that its answers are and remain true and accurate. Any breach of this warranty or false declaration is a material breach of the contract and RWE may terminate for Contractor default.
- 74.2 The Contractor does not access and does not permit anyone to access RWE's computing systems without RWE's express written

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authorisation.

- 74.3 Where authorised by RWE in advance and in writing, RWE may provide the Contractor with access to RWE's computing systems.
- 74.4 Where RWE provides such access the Contractor employs anti-virus procedures and complies with IT policies and procedures that align with RWE's security requirements.
- 74.5 The Contractor may use any access granted to it only to deliver the goods/services and any such access must be through RWE's agreed security gateways and/or firewalls.
- 74.6 RWE may terminate the Contractor's access to RWE's systems at any time without notice to the Contractor.
- 74.7 The Contractor immediately notifies RWE of any actual or threatened security incidents or security breaches that may affect RWE's systems in any way or lead to unauthorised access to RWE's systems.
- 74.8 Any breach of this condition is a material breach and RWE may terminate any contract with the Contractor for Contractor default.

### 75 BUSINESS CONTINUITY

- 75.1 The Contractor has in place and reviews regularly a suitable business continuity plan in relation to general day-to-day service disruptions and disaster recovery affecting either the Contractor or RWE business in each case relevant to the Contractor obligations under this Contract and which, when implemented, seeks to prevent, remove, reduce or mitigate any risk associated with a service disruption and/or disaster.
- 75.2 In the event of a business interruption or disaster, the Contractor implements its business continuity and/or disaster recovery plan and keeps RWE informed of its implementation.

### 76 CORPORATE RESPONSIBILITY

- 76.1 The Contractor does not and procures that its Personnel do not engage in any activity, practice or conduct which could constitute, facilitate or cause (in whole or in part) an infringement of the fundamental principles and rights stated in the 'Global Compact Initiative Of The United Nations' in the areas of human rights, labour standards, the environment and anti-corruption (at [www.unglobalcompact.com](http://www.unglobalcompact.com)).
- 76.2 The Contractor ensures that it has, operates and maintains throughout the Term suitable policies and procedures to prevent the infringement of the fundamental principles and rights referred to in condition 76.1 by the Contractor or any of its Personnel.
- 76.3 RWE and its Affiliates operate the 'RWE Code of Conduct' and are committed to its procurement policy on corporate responsibility at [HTTPS://WWW.GROUP.RWE/EN/INVESTOR-RELATIONS/CORPORATE-GOVERNANCE/CODE-OF-CONDUCT](https://www.group.rwe/en/investor-relations/corporate-governance/code-of-conduct)
- 76.4 The Contractor warrants that each of the statements set out in the its response to the corporate responsibility questionnaire are true and accurate and that the Contractor operates consistently with the RWE Code of Conduct and the RWE procurement policy on corporate responsibility.
- 76.5 The Contractor further acknowledges that RWE is induced and enters into this Contract in reliance upon these statements.

### 77 RESPONSIBILITIES AS AN EMPLOYER

- 77.1 The Contractor complies and procures that its Personnel complies with all Applicable Law relating to labour or employment law, including laws relating to discrimination, equality, employment health, safety and welfare and allows to all Personnel all their rights at law.
- 77.2 The Contractor warrants to RWE that all its employees performing the Contract are eligible to work in the UK and hold all necessary work permits.
- 77.3 Without prejudice to the general obligations at condition 77.1, 77.2 or otherwise to comply with Applicable Law, in relation to the Personnel employed by the Contractor under this Contract, the Contractor warrants that it:
  - (a) has effective procedures to verify the age of employees at the time they are recruited;
  - (b) keeps adequate age documents of employees, such as ID copies and personnel records;
  - (c) complies with local legal requirements in relation to the minimum age of employees;
  - (d) employs employees under the age of 18 only on non-hazardous or daytime work;
  - (e) allows employees to leave the place of work after working hours;
  - (f) treats all employees in a humane manner, including not subjecting a worker to physical or verbal abuse;
  - (g) treats all employees in an acceptable manner in relation to their personal documents, including not requiring employees to lodge deposits or original documents such as ID papers and training certificates;
  - (h) treats all employees in an appropriate manner over access to and from the place of work; and
  - (i) ensures that all employment is voluntary;
  - (j) procures compliance with the Working Time Regulations 1998.

- 77.4 The Contractor shall at all times during the term of the Contract, properly enforce such policies and procedures and shall carry out periodic monitoring of its compliance with such policies and procedures on an annual or more frequent basis.

- 77.5 The Contractor shall, at the Company's request, promptly provide to the Company all such policies and procedures and sufficient

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evidence so as to satisfy the Company (acting reasonably) that such policies and procedures are properly enforced and such periodic compliance monitoring is taking place.

77.6 In the event that the Contractor engages any third party in relation to any activity connected with this Contract (including, without limitation, where the Contractor sub-contracts any work to any third party), it shall ensure that provisions equivalent to this condition 77 are included within the contract or terms of engagement under which that third party is appointed to carry out the relevant activity connected with this Contract

## 78 MODERN SLAVERY

78.1 The Contractor, to the best of its knowledge warrants, represents and undertakes that:

(a) neither the Contractor nor any of its Personnel has:

- (i) committed an offence under the Modern Slavery Act 2015 (**MSA Offence**); or
- (ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015, or;
- (iii) is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

(b) it complies with the Modern Slavery Act 2015 and the associated obligations under this Contract;

(c) it notifies RWE immediately in writing if it becomes aware or has reason to believe that it or any of its Personnel have breached or potentially breached any modern slavery associated obligations under this Contract, such notice to set out full details of the circumstances concerning the breach or potential breach of Contractor obligations.

## 79 CORPORATE AND EMPLOYER RESPONSIBILITY INFRINGEMENTS

79.1 If the Contractor becomes aware of a potential or actual breach by the Contractor of its corporate responsibility requirements referred to at condition 76.1 (*Corporate Responsibility*) or the employer responsibility requirements of condition 77 (*Responsibilities as an Employer*) or 78 (*Modern Slavery*) then the Contractor notifies RWE of the breach or potential breach and take steps to rectify the breach or potential breach.

79.2 RWE uses appropriate means to establish the validity of such breach or potential breach including pursuant to condition 85 (*Right of Audit*) and if validated, without prejudice to any rights or obligations under this contract, RWE may without prejudice to any rights or obligations under this Contract:

- (a) issue a warning to the Contractor to provide as soon as reasonably practicable a detailed action plan to address the potential breach or where necessary to remediate the actual breach and which, if appropriate, are implemented immediately; and/or
- (b) suspend this Contract until the potential breach is addressed or where necessary the actual breach is remediated.

79.3 Where the Contractor is given adequate opportunity to address the potential breach or to remediate the actual breach and has in either case, in RWE opinion failed to do so, the Contractor is in material breach of this Contract and RWE accrues a right to terminate this Contract for Contractor Default.

79.4 The Contractor indemnifies RWE from and against all Losses suffered or incurred by, claimed from or awarded against RWE and/or any of its Affiliates in consequence of any breach of the corporate responsibilities in condition 76.1 (*Corporate Responsibility*) or the employer responsibility requirements of condition 77 (*Responsibilities of an Employer*) or 78 (*Modern Slavery*) or any breach of related Applicable Law.

## 80 BRIBERY AND CORRUPTION

80.1 If either Party or any of their respective Personnel:

(a) offers, promises or gives; or agrees to give to; or agrees to promise to any person in each case any gifts or consideration of any kind as an inducement or reward for either:-

- (i) doing (or not doing) or having done (or not done) any action in relation to the entry into this Contract; or
- (ii) for showing or not showing favour or disfavour to any other person in relation to this Contract; and/or

(b) commits any offence or engages in any activity, practice or conduct which could constitute, facilitate or cause (in whole or in part) the commission of an offence or gives any fee or reward, the receipt of which could constitute or is an offence under:

- (i) Bribery Act 2010;
- (ii) sub-section 2 of section 117 of the Local Government Act 1972;
- (iii) Prevention of Corruption Acts 1889-1916;
- (iv) any legislation creating offences in respect of fraud;

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- (v) common law creating offences in respect of fraud; or
- (c) defrauds or attempts to defraud the other Party; or
- (d) enters into this Contract or any other contract with the other Party, its Affiliates or its Personnel in connection with which commission is paid or is agreed to be paid by or on behalf of a Party or to that Party's knowledge, in each case unless before the relevant contract is entered into, particulars of any such commission and of the terms and conditions of any such contract for such payment are notified to the other Party; or if acts or omissions similar to any of those listed above are done by any person in relation to this Contract on behalf of either Party or any of their Affiliates or Personnel (whether with or without the knowledge of the Party),

then in each case that Party is in material breach of this Contract and the non-defaulting Party accrues a right to terminate for Default.

80.2 Each Party, at all times during the Term:

- (a) maintains adequate procedures to prevent the commission of any act or omission described in this condition by the Party or on the Party's behalf or by any person associated with the Party;
- (b) properly enforces such procedures; and
- (c) carries out periodic monitoring of the Party's compliance with such procedures on an annual or more frequent basis.

80.3 Without prejudice to a Party's rights and/or obligations under this Contract, a Party, at the other Party's request, promptly provides details of all such procedures and sufficient evidence so as to satisfy the other Party (acting reasonably) that such procedures are properly enforced and such periodic compliance monitoring is taking place and makes such records available for a period of at least six (6) years after the expiry of the Term or earlier termination.

80.4 The Contractor procures that provisions equivalent to the preceding conditions are included within each subcontract under which a sub-contractor is appointed.

80.5 Each Party indemnifies the other from and against all Losses suffered or incurred by, claimed from or awarded against the non-defaulting Party and/or any of its Affiliates in consequence of any breach of this condition or any breach of related Applicable Law.

80.6 The liability and/or debt of the indemnifying Party under this paragraph is subject, in aggregate, to a maximum sum of one million pounds GB sterling (£1,000,000)

80.7 A failure by either Party to comply with any obligation in this condition is a material breach of this Contract and the non-defaulting Party accrues a right to terminate for Default.

## 81 SANCTIONS

81.1 The Contractor warrants that neither the Contractor nor any of the Contractor's group companies nor, to the best of the Contractor's knowledge, any of the Contractor's directors or officers is:

- (a) a person against whom **sanctions** have been imposed;
- (b) owned or controlled by a person against whom **sanctions** have been imposed;
- (c) located in or has been registered in or has its registered office in, a country or territory against which **sanctions** applicable to itself or its Government have been imposed (currently but not limited to: Cuba, Iran, North Korea, Syria, the Crimea region, Donetsk region and Luhansk region).

81.2 The Contractor complies with all Sanctions and export control requirements applicable to it and its business activities as far as actions in connection with this contract are concerned.

81.3 The Contractor does not sell, supply or transfer items received from RWE to third parties if this results in the Contractor or RWE violating any applicable Sanctions or export control regulations.

81.4 The Contractor does not act or omit to act so as to result in RWE violating any applicable Sanctions or export control regulations.

81.5 The Contractor immediately informs RWE in writing if the Contractor becomes aware of any event or matter which may result in a violation of applicable Sanctions or export control regulations by the Contractor or by RWE relating to the contract.

81.6 The Contractor indemnifies RWE and RWE Group against all loss incurred or suffered by RWE and/or RWE Affiliates as a result of a breach by the Contractor or the Contractor's staff of this condition.

81.7 Any breach of this condition is a material breach and RWE may terminate this contract for Contractor Default.

## 82 WARRANTIES

82.1 The Contractor warrants that:

- (a) it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation;
- (b) it has legal capacity to enter into this Contract and ability to carry out the Works and perform its obligations under this Contract and has taken all necessary action to authorise that execution, delivery and performance;
- (c) the entering into and/or fulfilment of this Contract does not violate, conflict, breach or contravene any Applicable Law or

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constitutional requirement or any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

- (d) it is not relying upon any representations of RWE other than those expressly set out in the Contract;
- (e) it has negotiated, entered into and executed the Contract as principal (and not as agent or in any other capacity, fiduciary or otherwise).
- (f) it has and will maintain all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract and in respect of the Works;
- (g) subject to condition 62 (*Ownership of Drawings*), it Delivers good marketable title free from encumbrances on all Works, Plant and Material and Drawings supplied;
- (h) it passes on the benefit to RWE of all relevant third party warranties or guarantees to RWE in relation to the Works.

### 83 CHANGE OF LAW

83.1 In the event that any legal or other regulatory requirement either:

- (a) changes or varies the ability of a Party to operate as envisaged by this Contract; or
- (b) otherwise adversely impacts the Works or the Fee or the commercial environment within which this Contract is entered into; or
- (c) which renders some or all of the activities of a Party in connection with this Contract illegal or unlawful and no reasonably practicable action of that Party can make such activities legal or lawful,

then in each case, the Parties shall seek to agree changes to the Conditions, the Works and/or the Fee to accommodate such change under condition 7 (*Change Control*) so as to seek to achieve the same or similar balance of commercial objectives as are set out in the Contract.

### 84 RECORDS

84.1 For the term of this Contract and for a period of at least six years from expiry or earlier termination of this Contract, the Contractor maintains:

- (a) full and accurate records in accordance with generally accepted UK accounting principles of all charges, prices, costs and expenses associated with and/or invoiced in respect of the supply of Works and compliance with all obligations under this Contract including all processing of data, including personal data, under this Contract; and
- (b) other such records relating to the supply of Works as may be necessary to trace the supply chain of such Works and to enable RWE to determine the Contractor compliance with this Contract and in particular its provisions relating to confidentiality, IPR, data protection, corporate responsibility, employer responsibility, system access, sanctions, bribery and modern slavery.

### 85 RIGHT OF AUDIT

85.1 During the Term and for a period of at least three (3) years after, RWE and its authorised representatives and advisors may from time to time at the frequency and on giving notice which in each case is reasonable in the circumstances, access and enter the premises of the Contractor and inspect and audit (or procure the inspection or audit) of the premises and any records, information, documents and/or accounting methods and in each case, in any media in order that RWE may check, validate and/or ascertain compliance by the Contractor and/or its Personnel with the terms of this Contract and with any Applicable Law in relation to the supply of the Works in each case including quality assurance, technical, health and safety, Environmental, ethical, security or financial audits.

85.2 The Contractor co-operates in providing access and information during such inspection or audit and procures the co-operation of its Personnel.

### 86 DISREPUTE

86.1 The Contractor does not use RWE's information or do anything that brings RWE's name or RWE Group's name into disrepute or damages or conflicts with RWE's or RWE Group's reputation, goodwill or business interests.

### 87 ANTI-TRUST

87.1 Where a Contractor acts in Default relating to any unlawful restraint of competition or any other breach of anti-trust or anti-competitive Applicable Law in each case prior to, during the Term or on expiry or earlier termination of this Contract, the Contractor pays to RWE by way of liquidated damages and without affecting other rights and obligations the sum equivalent to 15% of the aggregate Fees.

### 88 CONFLICT OF INTEREST

88.1 The Contractor:

- (a) informs RWE at once if the Consultant is approached by any third party to carry out any work which, if accepted by the Consultant, is reasonably likely to lead to a conflict of interest; and



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- (b) (subject always to third party confidentiality restrictions) notifies RWE of the actual or potential conflict of interest; and
- (c) the Consultant takes such steps as are reasonably required by RWE to ensure that the conflict of interest is prevented and/or otherwise appropriately addressed.

#### 89 TUPE

- 89.1 Each Party acknowledges and agrees that the Works constitute activities carried out in connection with single specific events or are tasks of short term duration and without a dedicated work force and as such their commencement or cessation do not constitute relevant transfers under TUPE.
- 89.2 Notwithstanding condition 89.1, the Contractor holds harmless and fully indemnifies and keeps RWE, its Affiliates and any new supplier of Works similar to the Works (**New Contractor**) indemnified against any and all losses which RWE, its Affiliates and any New Contractor may incur arising out of or in connection with:
  - (a) any claim or allegation relating to the employment and/or dismissal of any person whose employment transfers or is alleged to transfer to RWE, its Affiliates and/or a New Contractor by virtue of TUPE on any commencement and/or cessation of Works; and
  - (b) any failure on the part of the Contractor to comply with Regulation 11 and/or 13 of TUPE.

#### 90 ESCALATION

- 90.1 Without prejudice to condition 106 (*Governing Law*), if an issue that needs resolving between the Parties arises out of or in connection with the Contract, whether or not it is a dispute, the Parties shall, within 21 days of a written notice of the issue being received by a Party (**Dispute Notice**), seek to resolve it through negotiations between the Parties' senior representatives who have the respective authority to resolve it.

#### 91 ADEQUACY OF DAMAGES

- 91.1 Without prejudice to any rights or obligations of a Party under the Contract or at law, the Contractor acknowledges and agrees that damages alone may not be an adequate remedy for any breach of these Conditions. Accordingly, RWE may invoke the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the Contract.

#### 92 THIRD PARTY RIGHTS

- 92.1 Subject to condition 93 (*Group Benefit*), a person who is not a party to this Contract may not enforce this Contract under the Contract (Rights of Third Parties) Act 1999.
- 92.2 A New Contractor may enforce condition 60 (*TUPE*).
- 92.3 Subject to conditions 93.1 and 92.2, no express term of the Contract or any term implied under it is enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to it.

#### 93 GROUP BENEFIT

- 93.1 To the extent to which any Works supplied under this Contract are for the benefit of an Affiliate, that Affiliate may enforce the terms of this Contract subject to and in accordance with the Conditions and the Contracts (Rights of Third Parties) Act 1999.
- 93.2 Any direct Loss that is suffered by any RWE Affiliate as a result of a breach of the Contract or any tort or statutory duty in relation to it is recoverable by RWE as a direct Loss and is not and is not deemed to be an indirect Loss merely because the Loss is suffered by an RWE Affiliate and not by RWE or by RWE alone.

#### 94 NOTICES

- 94.1 Any notice to be given to a Party under the Contract is in writing signed by or on behalf of the Party giving it and is delivered personally or sent by email or sent by recorded delivery in each case to the addresses of the Party set out in the Order or if none are stated in the Order, to such other address as a Party may otherwise notify to the other. Either Party may, by a notice given in accordance with this condition 94.1, change its address for the purposes of this condition.
- 94.2 A notice is be deemed to be served:
  - (a) at the time of delivery if delivered personally; or
  - (b) at the time of delivery if delivered via email to at least two (2) addressees (PROVIDED THAT no out of office or other indication of non-receipt is received); or
  - (c) two (2) Business Days after posting in the case of an address in the United Kingdom and five (5) Business Days after posting for any other address.

#### 95 ASSIGNMENT

- 95.1 Subject to condition 95.2, neither Party assigns, novates or otherwise transfers any of its rights and/or obligations under the Contract without the other Party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

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95.2 RWE may on notice assign the benefit of the Contract to any other RWE Affiliate.

#### 96 SUBCONTRACTING

96.1 The Contractor does not subcontract the whole of its obligations under the Contract.

96.2 Unless expressly permitted by RWE in the Order or in this Contract, the Contractor does not sub-contract or delegate any of the Works to any third party without RWE prior written consent.

96.3 The Contractor is primarily liable and responsible for all work, acts, omissions and defaults of any sub-contractor or other Personnel (in each case whether authorised or not) as fully as if they were work, acts, omissions or defaults of the Contractor.

#### 97 VARIATION

97.1 Subject to condition 7 (*Change Control*), no purported variation of the Contract is effective unless it is in writing, expressed to be an amendment to this Contract and signed on behalf of each Party.

#### 98 WAIVERS

98.1 Any Party may, in whole or in part, release, compound, compromise, waive or postpone, in its absolute discretion, any liability owed to it or right granted to it in the Contract without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.

98.2 No act or omission of a Party is or is deemed to be a waiver of a right unless expressly notified in writing.

#### 99 CUMULATIVE REMEDIES

99.1 The rights, powers and remedies conferred on any Party by the Contract and the remedies available to any Party are cumulative and are additional to any right, power or remedy which it may have under Applicable Law or otherwise.

#### 100 COSTS AND EXPENSES

100.1 Each Party bears its own costs and expenses incurred in the preparation, execution and implementation of the Contract.

#### 101 NO PARTNERSHIP

101.1 Nothing in the Contract creates or is deemed to create a partnership, association, joint venture, trust or other co-operative entity between the Parties nor to constitute the Contractor as agent of RWE or otherwise entitle the Contractor to have authority to bind RWE or any RWE Affiliate in respect of any matter.

#### 102 ENTIRE AGREEMENT

102.1 The Contract sets out the entire agreement and understanding between the Parties in respect of the subject matter of the Contract.

102.2 Each Party acknowledges that it enters into the Contract in reliance only upon the representations, warranties and promises specifically contained or incorporated in the Contract and, save as expressly set out in the Contract, neither Party has any liability in respect of any representation, warranty or promise made prior to the Commencement Date unless it was made fraudulently.

#### 103 INVALIDITY

103.1 To the extent that any condition of this Contract is found by any court or competent authority to be invalid, unlawful or unenforceable, that condition does not affect the enforceability of the remainder of the Contract.

103.2 If any condition of this Contract is so found to be invalid or unenforceable but would be valid or enforceable if some part of the condition were amended or deleted, the condition in question applies with such modification(s) as may be necessary to make it valid and enforceable to achieve the original commercial intent of the condition unless any other amendment is agreed between the Parties under the condition 7 (*Change Control*) or 90 (*Variation*).

#### 104 ELECTRONIC SIGNATURE

104.1 Electronic signature to the Contract or changes to it by authorised representatives in accordance with the Contract is as conclusive of the Contractor's and RWE's respective intentions to be bound by the Contract or amendments to it as if signed by hand.

#### 105 COUNTERPARTS

105.1 The Order may be executed in any number of counterparts, each of which when executed constitutes a duplicate original. All the counterparts, together with the Conditions, constitute one contract.

105.2 Transmission of an executed counterpart of the Order including an electronically signed counterpart (but for the avoidance of doubt not just a signature page) by e-mail (in PDF, JPEG or other agreed format) or by any other RWE designated electronic delivery process takes effect as delivery of an executed counterpart of the Order.

105.3 No counterpart is effective until each Party executes and delivers at least one counterpart as described in condition 105.2.

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### 106 GOVERNING LAW

- 106.1 The Contract and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it is governed by the laws of England and Wales.
- 106.2 Save to the extent set out at condition 86 (*Escalation*), each Party irrevocably agrees that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the Contract.

### 107 DEFINED TERMS

<b>Accept (Acceptance)</b>	has the meaning set out at condition 2.2 or, in relation to a Change Request or Claim, acceptance in writing by or on behalf of RWE of a quote relating to a Change Request or Claim.
<b>Affiliate</b>	with respect to a person an entity (including any individual, corporation, partnership, limited liability company, association or trust) controlling, controlled by or under common control with that person.
<b>Applicable Law</b>	all common law, laws, statutes, regulations, orders, rules, guidance, directions, judgments, directives, bye-laws, industry agreement, determination, consent, licence, permit, order notice, recording, registration or judgement in each case in force from time to time applicable to or issued by any statutory undertaking which has jurisdiction with regards to: a Party, the Contract, the nature and type of Works to be supplied under it and/or the Site.
<b>associated with</b>	has, in condition 80.2, the meaning set out in section 8 of the Bribery Act 2010.
<b>Background IPR</b>	IPR of a Party which existed on or before the Commencement Date and is not created in relation to the Works or this Contract.
<b>Business Day</b>	a day (other than a Saturday, Sunday or a public holiday in England) when the banks in London are open for business.
<b>Claim</b>	a claim from the Contractor to RWE for loss, cost, expense, addition to the Fee and/or an extension of time to complete the Works or a claim from RWE to the Contractor for any sums payable under the Contract.
<b>Commencement Date</b>	the date of Acceptance.
<b>Completion</b>	has the meaning set out at condition 30.1.
<b>Completion Certificate</b>	is the certificate in a form agreed by RWE, signed and dated for and/or on behalf of RWE and which confirms that Completion has occurred and the Completion Date.
<b>Completion Date</b>	the date that Completion occurs as set out in the Completion Certificate.
<b>Conditions (Condition, condition)</b>	these conditions of contract.
<b>Confidential Information</b>	information received or obtained as a result of entering into or performing the Contract which relates to the provisions or subject matter of the Contract or the negotiations relating to the Contract and including: the Order, the Specification, these Conditions, any information relating to a Party's technology, technical processes, business or financial or other affairs or customers or suppliers or those of a Party's Affiliates, any RWE Materials or any other material of a confidential nature (either marked as such or which, by its nature, can reasonably be considered to be confidential) in each case which a Party (or its Personnel or Affiliates) receives from the other Party (or its Personnel or Affiliates) or any other person acting on a Party's behalf or which is either expressly or

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impliedly or otherwise gleaned by a Party, its Affiliates or Personnel.

<b>Contract</b>	has the meaning set out at condition 2.3.
<b>Contractor</b>	the entity which is named as the supplier of the Works in the Order.
<b>Contractor Equipment</b>	all equipment, plant, machinery, computer hardware and software, apparatus, materials, articles, consumables and things of all kinds that the Contractor uses so as to provide the Works other than Plant and Materials, Contractor Tools and RWE Equipment.
<b>Contractor Representative</b>	the competent person employed by and nominated by the Contractor who is authorised to act on behalf of and bind the Contractor under the Contract and who is notified to RWE from time to time.
<b>Contractor Tools</b>	excluding Drawings, any: documents, information, knowledge, techniques, procedures, routines and methods including all Intellectual Property Rights in each of them; and that in each case are pre-existing as of the Commencement Date; and which have been developed by the Contractor or its Personnel in the Contractor regular course of business and used by the Contractor in the provision of the Works and not just for the purpose of carrying out the Works under this Contract.
<b>Default</b>	a breach of contract, tort (including negligence) or breach of statutory duty.
<b>Defect (Defective)</b>	defects, shrinkages or other faults, discrepancies, errors or omissions in the design, materials or workmanship of the Works (other than a design made, furnished or specified by RWE and for which the Contractor has in writing disclaimed responsibility); or Works which do not comply with the Contract, the Order, Applicable Law, the Specification or any condition.
<b>Defects Liability Period</b>	the period of time set out in the Order or the Specification and described as such or in the absence of any, the period of thirty-six months from the Completion Date.
<b>Defect Notice</b>	has the meaning set out at condition 34.3.
<b>Delivery (Deliver, Delivered)</b>	delivery of any Plant and Materials to the Work Areas or any supply of Drawings or other deliverables and includes all tools and documentation (e.g. user manuals, health and safety data) relevant to the Works and their use.
<b>Drawings</b>	all deliverables, results, documents, products and materials developed by or on behalf of the Contractor or its Personnel as part of or in relation to the Works in any form or media, including studies, drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
<b>Environment</b>	any and all living organisms (including man), ecosystems, property and the media of air (including air in buildings, natural or manmade structures, below or above ground), water (including drains and sewers), land (including under any water as described above and whether above or below the surface) and “ <b>Environmental</b> ” is construed accordingly.
<b>Environmental Law</b>	any Applicable Law whose breach can give rise, whether immediately or not, to criminal, civil or administrative, damages, sanctions or penalties for the failure to meet obligations relating to the presence, release, spillage, treatment, handling, deposit, escape or other mode of existence of any substance, the carrying out of any activity, or the existence of any condition or any phenomenon which has or could have a detrimental impact on the Environment and which in any such case has as its primary purpose or effect the protection of the Environment generally or in any particular locality.

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<b>Event of Force Majeure</b>	Act of God, explosion, lightning, tempest, flood, fire, terrorism, war, hostilities, act of public enemy, invasion, revolution or riot or any other event which arises from a cause beyond a Party's reasonable control and which is not reasonably foreseeable as at the Commencement Date PROVIDED THAT the following are not Events of Force Majeure: (i) a strike by or lockout or other industrial dispute or trade dispute involving the Contractor or any of its Personnel; or (ii) non-supply of equipment, materials or machinery by any supplier to the Contractor; or (iii) the Contractor failure to hire suitably qualified Personnel or labour; or (iv) mechanical or electrical breakdown or failure of equipment, machinery or plant owned by or supplied to the Contractor. Covid 19 pandemic is itself not or is not deemed to be an event of force majeure because it is foreseeable as of the Commencement Date. Measures to address Covid 19 are included in the Contract. If measures required by Applicable Law or government instruction to address Covid 19 materially change after the Commencement Date, that change could constitute an event of force majeure. Any other pandemic not associated with or derived from Covid 19 is an event of force majeure.
<b>Fee(s)</b>	the price or the rates for the supply of the Works in the amounts and payable at the frequency as set out in the Order.
<b>final date for payment</b>	has the meaning set out at condition 40.1.
<b>Fixed Price</b>	has the meaning set out at condition 37.1.
<b>Good Industry Practice</b>	the exercise of that degree of skill, diligence, prudence and foresight and the use of standards, practices, methods and procedures and operating practice which is reasonably and ordinarily expected to be expected to be exercised by an appropriately skilled, competent and professional operator of the appropriate discipline(s) complying with all Applicable Law engaged and experienced in the provision of works or services of a similar type, nature and complexity to the Works and under the same or similar circumstances as are anticipated by this Contract.
<b>Indemnified Party</b>	RWE, any RWE Affiliate and any of their respective Personnel.
<b>Intellectual Property Rights (IPR)</b>	means all trade-marks, service marks, trade names, logos get-up, patents, patentable rights inventions, registered and unregistered design rights, copyrights and neighbouring rights, semi-conductor topography rights, utility models, data and database rights, know-how (being confidential industrial and commercial information and techniques in any form including field notes, data collected, drawings, formulae, test results, reports, project reports and testing procedures, shop practices, instructions and training manuals, tables of operating conditions, specifications, tables, lists, show-how and advertising copy) and all other similar intellectual and industry property and proprietary rights existing under the laws of any country (whether or not any are registered or registrable) and all pending applications for and right to apply for or register in the same (present, future and contingent) and including all renewals, extensions, revivals and all related accrued rights of action;
<b>Location</b>	the location(s) of RWE's premises where the Works are to be performed (or where the Deliverables are to be Delivered) as set out in the Order and/or and any other location(s) as determined by RWE from time to time;
<b>Loss</b>	all loss or damage occurring to any property or injury or death to person and/or costs, loss, liabilities, debt, charges or expenses (including reasonable legal and other professional costs) incurred by a Party or any Indemnified Party including any actions, suits, fines, penalties, claims or demands.
<b>Materials</b>	RWE or RWE Affiliate or Permitted Persons' Confidential Information, IPR including Background IPR, specifications, drawings, sketches, models, prototypes, samples,



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tools, designs, technical information or data or other proprietary information (whether written, oral or otherwise and including personal data).

<b>Milestone</b>	any activities associated with the Works as designated as Milestones in the Specification, Programme, Order or otherwise as notified in writing by or on behalf of RWE.
<b>Milestone Date</b>	the date for completion of any Milestones as set out in the Specification, Programme, Order or otherwise as notified in writing by or on behalf of RWE.
<b>New Contractor</b>	has the meaning set out at condition 89.2.
<b>NIS Regulations</b>	Network and Information Systems Regulations 2018.
<b>Order</b>	the letter, purchase order, order or other written communication issued by RWE to the Contractor setting out details of the Works which are to be supplied by the Contractor to RWE, described as an order or purchase order and referring to these Conditions (and <b>Ordered</b> is construed accordingly).
<b>Others</b>	any RWE Personnel or personnel appointed for or on behalf of any statutory authority (other than the Contractor) with obligations to work for or on behalf of RWE or any statutory authority in each case on or around the Site whether or not in relation to the Works.
<b>Party, Parties</b>	together or severally as the context requires RWE and the Contractor.
<b>Permitted Persons</b>	persons who are directly concerned with the Works and/or the Site and whose knowledge is essential for the Works and/or the operation of the Site and to the extent strictly necessary for the Works and/or the operation of the Site and who are:- <ul style="list-style-type: none"><li>(a) a Party or a Party's Personnel;</li><li>(b) any of a Party's Affiliates or such Affiliates' Personnel;</li><li>(c) in relation to RWE, any statutory authority or any third party collaborating with and/or providing services to RWE and/or to any of its Affiliates in relation to the Works and/or the operation of the Site and Personnel of any of them; or</li><li>(d) a Party's or a Party's Affiliates' external professional advisors;</li><li>(e) a Party or a Party's affiliates' insurer, insurance broker, bank, financial institution, fund or funding entity and whom a receiving Party proposes or intends to involve in the financing of the Works.</li></ul>
<b>Personnel</b>	in relation to a person, its employees, staff, officers, agents, contractors, sub-contractors, representatives or workers.
<b>Plant and Materials</b>	plant, machinery, computer hardware and software, apparatus, materials, articles and things of all kinds to be provided to RWE under the Contract by or on behalf of the Contractor in relation to the Works and so as to comply with the Specification and other than Contractor's Equipment and Contractor Tools.
<b>Programme</b>	any timetable or programme or list of Milestones set out or referred to in the Order or as otherwise notified in writing by or on behalf of RWE;
<b>Rates</b>	has the meaning set out at condition 38.1 (a).
<b>Rejection Notice</b>	has the meaning set out at condition 29.1.

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<b>Risk Transfer Date</b>	the date of issue of the Completion Certificate.
<b>RWE</b>	the legal entity named as the contracting buying entity in the Order which is an Affiliate of RWE AG operating and registered within the UK.
<b>RWE AG</b>	RWE Aktiengesellschaft, (registered with the commercial register of the Local Court Essen under HRB 14525) whose registered office is at RWE Platz 1, 45141 Essen, Germany.
<b>RWE Group</b>	means RWE AG and all of its Affiliates from time to time.
<b>RWE Policy Document(s)</b>	any relevant rules, policies or standard techniques used by RWE and its Affiliates, the relevant RWE health and safety requirements for working on RWE sites, RWE Code of Conduct, RWE Privacy Notice and such other policies, regulations, procedures, notices and processes as RWE may notify to the Contractor from time to time, copies of which are available for inspection on request, on-line or at RWE offices.
<b>RWE Representative</b>	all or any one of the individuals identified as such on this Contract or as otherwise notified to the Contractor.
<b>Safety Incident</b>	an accident, incident or near-miss, whether or not death or personal injury or property damage is caused.
<b>Sanctions</b>	any economic or financial sanctions or trade embargoes implemented, administered or enforced by the European Union, its member states, the United Kingdom, the United Nations Security Council or the United States of America, unless they or compliance with them constitutes a violation of any Applicable Law relating to blocking ( <b>sanctions</b> ).
<b>Serious Incident</b>	a fatal accident or an accident involving a serious injury, such as an amputation, fracture, electrical shock or burn, loss of sight (temporary or permanent), or any injury resulting in admittance to hospital for more than 24 hours.
<b>Section</b>	a part of the Works which is capable of operating in isolation or which is otherwise described as a Section of the Works in the Specification.
<b>Site</b>	the site or sites at which the Works are required and as set out in the Order or subsequently agreed in writing between the Parties.
<b>Specification</b>	the user requirements and specification for the Works and, where required, for the Drawings in each case details of which are either: a) set out or identified in the Order; or b) otherwise notified or communicated to the Contractor and in each case which may include Tests on Completion and/or other tests and inspections which are required.
<b>Target Completion Date</b>	the date specified in the Order as the date by which the Works must be completed as such date may be varied in accordance with the Conditions.
<b>Term</b>	has the meaning set out at condition 4.1.
<b>Tests on Completion</b>	any tests or inspections set out in an Order or in the Specification or otherwise incorporated within the Contract which the Works must complete and demonstrate satisfaction with the Tests on Completion Criteria on or before the Target Completion Date.
<b>Tests on Completion Criteria</b>	Any criteria required to be satisfied and demonstrated in the Tests on Completion as set out and described as such in a Contract.

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<b>Third Party IPR</b>	any IPR belonging to or claimed as belonging to any third party.
<b>TUPE</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006.
<b>Works</b>	the works which are as described in the Order including delivery and installation of any Plant and Materials and together with Works which may be required in order to Deliver the Drawings and/or repair or replace any Defect.
<b>Work Areas</b>	any area within the Site on which the Works take place and that is allocated to the Contractor and which the Contractor uses so as to supply the Works.
<b>writing</b>	includes a) emails PROVIDING THAT at least two emails are sent using email addresses that are supplied for this purpose and PROVIDED FURTHER THAT no out of office or other indication of non-receipt is received); or b) any form of electronic communication agreed with RWE.