

MAGNOX LTD**CONDITIONS OF CONTRACT FOR PLANT HIRE****(M/PH/2021)****1. DEFINITIONS AND INTERPRETATION**

1.1. In the Contract (hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them:

- 1.1.1 The "**Amount Due**" shall mean the amount which Magnox states to be due to the Owner, in accordance with clause 13 (Payment).
- 1.1.2 The "**CONSI's**" means Magnox's "Contractor Site Instructions" as amended from time to time and available on the Magnox website.
- 1.1.3 The "**Conditions**" shall mean these conditions of contract for plant hire.
- 1.1.4 "**Confidential Information**" means the provisions of these Conditions and the Contract and all information which is secret or otherwise not publicly available (in both cases either in its entirety or in part) including commercial, financial, marketing or technical information, know-how, trade secrets or business methods in all cases whether disclosed orally or in writing before or after the date of the Contract.
- 1.1.5 The "**Contract**" shall mean the agreement between Magnox and the Owner including the Purchase Order for the hire of the Plant, these Conditions, any Special Conditions, the Specification, the CONSI's, the Owner's tender and any other document which Magnox and the Owner have expressly agreed in writing shall be incorporated into the Contract.
- 1.1.6 The "**Contract Price**" shall mean the prices stated in the Contract, exclusive of Value Added Tax, payable to the Owner by Magnox under the Contract for the full and proper performance by the Owner of its part of the Contract.
- 1.1.7 "**Data Protection Legislation**" shall mean: (a) the regulations on the protection of natural persons with regard to the processing of personal data and on the free movement of such data known as the General Data Protection Regulation (EU) 2016/679 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019; (b) the UK Data Protection Act 2018; (c) the Privacy and Electronic Communications Regulations 2003 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2020; and (d) further laws and statutory instruments relating to such regulations, data protection or privacy, all from time to time.
- 1.1.8 The "**Hire Period**" shall mean the period specified in the Contract commencing in accordance with the provisions of clause 6 (Hire Period) and any extension thereto in accordance with the Contract.
- 1.1.9 "**Magnox**" shall mean Magnox Ltd, its legal successors in title and assignees.
- 1.1.10 "**Magnox Safety Rules**" means the Magnox rules, policies and/or procedures relating to health, safety and welfare as amended from time to time.
- 1.1.11 The "**Operator**" shall mean any employee, sub-contractor or agent of the Owner supplied to operate the Plant.
- 1.1.12 The "**Owner**" shall mean the company, firm or person providing the Plant on hire and (where the context so permits) its legal successors in title, directors, agents, sub-contractors or permitted assigns.
- 1.1.13 The "**Plant**" shall mean the machinery, apparatus, materials, articles and things of all kinds specified in the Contract.

- 1.1.14 **"Purchase Order"** shall mean the document in which Magnox specifies the Plant for hire to be provided by the Owner, the Hire Period, and the Contract Price.
- 1.1.15 **"Regulators"** means the Health and Safety Executive (HSE), the Environment Agency (EA), the Scottish Environment Protection Agency (SEPA), the Office for Civil Nuclear Security (OCNS), the Scottish Executive, the Financial Services Authority (FSA) and Ofgem, the Pensions Regulator, the Pension Protection Fund and any replacement body assuming responsibility for the functions thereof, others specific to the Owner's obligations under this Contract and as applicable in the relevant jurisdiction (including in relation to international waters) where the Owner's obligations under this Contract are carried out and "Regulator" shall mean each or any one of them.
- 1.1.16 **"Regulatory Requirements"** means any legally enforceable requirement of any Regulator.
- 1.1.17 The **"Site"** shall mean the land and other places to which Plant is to be delivered and/or used for the purposes of the Contract.
- 1.1.18 **"Site Manager"** shall mean the Magnox employee responsible for managing the Site.
- 1.1.19 The **"Special Conditions"** shall mean the special conditions of contract, as set out in Schedule 1 to these Conditions.
- 1.1.20 The **"Specification"** shall mean the document describing the Plant and/or the works for which the Plant is to be used.
- 1.1.21 **"Statutory Requirement"** shall mean any statute, statutory instrument, directive, order, regulation or by-law of any transnational, national or other duly constituted authority and any treaty having direct force of law insofar as all or any are applicable.
- 1.2. In this Contract (unless inconsistent with the context or otherwise stated):
- (i) references to persons shall include individuals, bodies corporate, unincorporated associations and partnerships;
 - (ii) the masculine gender shall include the feminine and neuter and the singular number shall include the plural and vice versa;
 - (iii) headings are inserted for convenience only and shall not affect the construction or interpretation of this Contract;
 - (iv) references to clauses, schedules, appendices and annexures are references to clauses and schedules and annexures of this Contract;
 - (v) references to the parties shall include any assignee or successor in title thereto in accordance with this Contract; and
 - (vi) reference to any law, Act of Parliament or regulation made pursuant to any Act of Parliament shall mean such law, Act or regulation as from time to time amended or in the event of any law, Act or regulation being substituted therefore, such new law, Act or regulation.

2. PRECEDENCE OF DOCUMENTS

- 2.1. In the event of any conflict between the Purchase Order, these Conditions and any other document which forms part of the Contract, the Purchase Order shall prevail over these Conditions and these Conditions shall prevail over any other document which forms part of the Contract .

3. ENTIRE AGREEMENT

- 3.1. The Contract shall constitute the entire agreement between the parties and shall supersede all prior representations or agreements between the parties relating to the subject matter hereof.

4. OWNER TO SATISFY ITSELF FULLY

- 4.1. The Owner shall be deemed to have examined the Site, the means of access thereto and to have fully informed and satisfied itself of all relevant matters affecting the Contract and the Contract Price, which shall include for the provision by the Owner of all things of a permanent or temporary nature

insofar as the necessity for providing the same is specified in or to be reasonably inferred from the Contract.

5. GENERAL OBLIGATIONS

- 5.1. The Owner hereby warrants and undertakes to Magnox that the Plant shall at all times throughout the Hire Period be in good condition and shall be of the standard, and capable of achieving the output specified, in the relevant manufacturer's specification for such Plant and in any event it shall be capable of performing the work for which it is hired by Magnox as may be stated in the Specification. The Owner shall ensure that all Statutory Requirements and relevant Standard Codes of Practice (where applicable) concerning maintenance, testing and inspection applicable to the Plant have been and will be complied with and shall:
- (a) produce to Magnox the current certificate of inspection required under the Statutory Requirements, and
 - (b) indemnify Magnox against liability for breach of the Statutory Requirements or Codes of Practice.
- 5.2. Throughout the Hire Period, the Owner whilst on Magnox property shall conform with Magnox requirements relating to health and safety and in particular with Magnox Safety Rules and such matters as concern the safety, health and welfare of persons working on the Site. Magnox Safety Rules are available for inspection on the Site. Magnox shall have the right to require the immediate removal from Site of any person who fails properly to observe the provisions of this clause and such person shall not again be granted access to the Site without Magnox's prior written consent.
- 5.3. The Owner shall be responsible for the proper and safe loading and off-loading of the Plant at the Site and for the provision of all equipment and personnel necessary for this purpose unless otherwise undertaken by Magnox.
- 5.4. Throughout the Hire Period, the Owner shall have and maintain with insurers of good repute at its own cost such insurances in relation to the Plant as the Owner deems appropriate in order to meet its obligations under this agreement or in accordance with any Statutory Requirement.
- 5.5. The Owner shall not:
- (a) place, or allow any of its subcontractors or agents to place, any placard or signage on or at the works or Site, provided always that nothing in this clause 5.5(a) shall prevent the Owner from placing any placard or signage as may be required directly to comply with applicable health and safety laws or regulations;
 - (b) except as may be required by law, use (and shall procure that none of its subcontractors or agents shall use) any in any forum whatsoever any information ascertained, whether directly or indirectly, in respect of works hereunder; or
 - (c) permit any photographs or any other audio or image recording of the works or the Site and shall procure that none of its subcontractors or agents shall take any photographs or any other audio or image recording of the works of the Site.
- 5.6. The Owner hereby expressly recognises and agrees that contravention of any of the restrictions set out in clause 5.5 by the Owner could result in severe loss and or damage to Magnox and the Owner shall indemnify and hold Magnox harmless and indemnified and continue to do so for any and all losses, costs, claims, damages, demands or expenses caused by or arising therefrom whether direct or indirect, consequential or economic or for any loss of profits or opportunity whatsoever or howsoever.

6. HIRE PERIOD

- 6.1. The Hire Period in respect of each item of Plant shall, provided the Owner has supplied Magnox with the information required under clause 9.2, commence when the Plant is delivered to Site and is accepted by Magnox as being capable of operation. Subject to clause 6.2 below and clause 15 (Termination), the Hire Period shall expire at the end of the period specified in the Contract.
- 6.2. Magnox may extend the Hire Period of any of the Plant actually on the Site either:
- (a) by a period equal to the period for which the Plant had broken down and/or was not in compliance with the Contract; or

- (b) by a period equal to the period for which the Owner had failed to supply an Operator in accordance with clause 7.1 (Operator).

Any such extension of the Hire Period shall be at the rates and charges stated in the Contract.

- 6.3. Magnox may by agreement with the Owner extend the Hire Period for any of the Plant on the Site at the rates and charges stated in the Contract and shall confirm such extension in writing.
- 6.4. At the expiry or upon the termination in accordance with clause 15 (Termination) of the Hire Period, the Owner shall remove from the Site the Plant and any materials, stores and rubbish belonging to the Owner. The Owner shall at its own cost forthwith make good any damage or injury caused to the Site or any structures, equipment or plant on the Site as a result of removing the Plant.

7. OPERATOR

- 7.1. Where the Contract specifies that the Owner is to provide an Operator, such Operator shall be:
 - (a) available to operate the Plant;
 - (b) fully competent, skilled and experienced in the operation and use of the Plant and hold a current operating licence; and
 - (c) deemed to be an employee of the Owner and the Owner shall be responsible for all wages, contributions and other outgoings usually paid by an employer to and on behalf of this employee.
- 7.2. Magnox shall be at liberty to object to any Operator and require the Owner to remove such person from the Site if in the opinion of Magnox the Operator has misconducted themselves or is incompetent or negligent in the performance of their duties and such person shall not be again employed on any Site to which the Contract applies. The Owner shall promptly provide a replacement Operator.
- 7.3. If Magnox reasonably considers any replacement Operator supplied by the Owner to have misconducted themselves or to be incompetent or negligent in the performance of their duties, Magnox may provide a substitute Operator of its own and deduct the cost of such substitution from the Contract Price to be paid to the Owner and release the Owner from its obligations to supply an Operator in accordance with this clause 7.

8. STANDING TIME AND OVERTIME

- 8.1. If and when Magnox orders that Plant shall cease working and shall stand, the Operator shall remain on Site to comply with the orders of Magnox until otherwise instructed by Magnox.
- 8.2. Magnox may require an Operator to work overtime.

9. MAINTENANCE, BREAKDOWN AND REPLACEMENT OF PLANT

- 9.1. The Owner shall have reasonable access to the Plant to comply with its obligations under the Contract including but not limited to the routine maintenance, inspection, testing, and adjustment, and the repair, servicing, and replacing of the Plant all in accordance with the manufacturer's requirements. The Owner shall fulfil its obligations under this clause to suit the convenience of Magnox and in accordance with Magnox's reasonable requirements, including but limited to compliance with the Magnox Safety Rules.
- 9.2. The Owner shall provide Magnox in advance of the commencement of the Hire Period with a copy of the Plant manufacturer's fuelling and routine lubrication instructions.

Where the Plant is supplied without an Operator, unless otherwise agreed, Magnox shall be responsible for carrying out routine maintenance and lubrication in accordance with instructions as may be given to Magnox by the Owner.
- 9.3. If any item of Plant breaks down the Owner shall either:
 - (a) immediately replace such Plant with substitute Plant of the same type to the satisfaction of Magnox; or
 - (b) immediately repair or adjust such Plant,

except insofar as any breakdown or the need for repair or adjustment has been caused by the negligence of Magnox or of its employees or agents, no payment shall be due or payable to the Owner for such Plant until it is replaced or repaired and is capable of operation.

- 9.4. Without the prior consent of Magnox, the Owner shall not carry out the routine maintenance, inspection, testing and adjustment of the Plant at any time or times when the Plant is working or is required for work by Magnox.
- 9.5. If the Owner fails to maintain the Plant or to repair or replace the Plant in accordance with this clause 9, Magnox may require the Owner to remove the Plant and Magnox may hire replacement Plant from any other source. The Owner shall not deliver repaired or substitute Plant to the Site without prior agreement from Magnox.
- 9.6. If the Owner fails to remove the Plant in accordance with clause 9.5, Magnox shall be at liberty to remove the Plant at the Owner's risk and expense and to charge storage therefor.
- 9.7. Where Magnox has hired substitute Plant in accordance with clause 9.5, the Owner shall pay or allow to Magnox the cost of such hire and any expenses incurred by Magnox thereby, credit being given to Magnox for the hire charges that would have been payable under the Contract but for the Owner's failure under clause 9.5.

10. LIABILITY FOR LOSS OR DAMAGE TO PLANT

- 10.1. The Owner shall be liable for any loss or damage to the Plant during the Hire Period except to the extent that such loss or damage is caused by the negligence of or breach of Contract by Magnox.

11. NOTICE OF ACCIDENTS

- 11.1. As soon as is reasonably practicable, notice shall be given to the Owner by Magnox if Plant is involved in any accident resulting in injury, loss or damage to persons or property.

12. LIABILITY FOR ACCIDENTS AND DAMAGE

- 12.1. The Owner shall indemnify and keep indemnified Magnox in respect of and against all actions, suits, claims, demands, costs, losses, charges and expenses (including legal expenses) suffered or incurred by Magnox in connection with:
 - (a) the death of or injury to any person arising out of or as a result of the Contract except to the extent that such shall have arisen out of or been caused by any breach of the Contract by or any negligence of Magnox;
 - (b) all damage or injury to any property arising out of or caused by:
 - (i) any breach of the Contract by the Owner; and/or
 - (ii) negligence of the Owner, its employees, directors, sub-contractors or agents.
- 12.2. Nothing in the Contract shall exclude or limit the Owner's liability under clause 12.1(a) or for any fraud or fraudulent misrepresentation.
- 12.3. The liability of the Owner to Magnox in respect of damage or injury to any property of Magnox arising out of any one act or default by the Owner shall not exceed the Contract Price or one million pounds (£1,000,000), whichever is the greater.
- 12.4. Upon the execution of the Contract, the Owner shall (but without limiting its obligations and responsibilities) fully insure at its own cost against the risks detailed in this clause 12. Such insurance shall be effected with an insurer of good repute and when so required by Magnox the Owner shall produce the policy and receipts for the current premiums for inspection. If the Owner fails to insure in accordance with this clause, Magnox shall be entitled to affect and keep in force such insurance and may deduct the amount of any premium from any sums due or which become due to the Owner hereunder.
- 12.5. Notwithstanding any other terms of the Contract, Magnox's total liability for any loss and damage whatsoever and howsoever caused (including but not limited to such loss and damage caused by or arising from breach of Contract, tort including negligence or statutory duty) shall in all circumstances be limited in the aggregate to the Contract Price.

13. PAYMENT

- 13.1. Unless otherwise provided by the Contract, at the completion of each calendar month the Owner may make an application for payment together with sufficient information to substantiate the payment sought.
- 13.2. Magnox shall issue a certificate of payment detailing the amount which Magnox states to be due ("**Amount Due**") and any reference numbers or information that are required to be stated on the invoice and shall notify the Owner of the difference (if any) between the Amount Due and the sum claimed in the application for payment issued under clause 13.1.
- 13.3. The Owner shall be at liberty to issue an invoice for the Amount Due and Magnox shall make payment to the Owner at the end of a thirty (30) calendar day period from the date on which the relevant invoice is regarded as valid and undisputed in accordance with the requirements of this clause 13.
- 13.4. The Contract Price is deemed to exclude VAT.
- 13.5. To the extent that VAT is properly chargeable under the Contract, Magnox shall pay VAT in addition to payments otherwise due, upon receipt of a valid VAT invoice issued in accordance with the Finance Act 1972 or any later enactment thereof.
- 13.6. If payment under this clause 13 shall be improperly delayed by Magnox for more than fourteen (14) days, interest on the Amount Due for the period of delay at two percent (2%) above the prevailing National Westminster Bank plc's base rate shall be added to the Contract Price.
- 13.7. The Owner shall keep and make available for inspection by Magnox accurate records of the Plant hired and the periods during which it was working, standing or incapable of use because of breakdown, repairs and failure to provide an Operator. The Operator shall submit to Magnox for signature time record sheets on a daily or weekly basis as required by Magnox together with a copy for Magnox. Where the Contract does not provide for an Operator to be supplied by the Owner, Magnox shall provide the Owner with a weekly statement showing the number of hours worked by the Plant and the number of hours during which the Plant was standing or incapable of use.
- 13.8. Payment of Fixed Charge
- (a) Subject to paragraph (b) below and unless otherwise specified in the Contract, fifty percent (50%) of the fixed charge (if any) shall become due to the Owner on commencement of the Hire Period and the remaining fifty percent (50%) on the termination or expiry of the Hire Period.
 - (b) If on the termination or expiry of the Hire Period the Plant is moved directly from the Site to another site of Magnox and a further Hire Period commences forthwith, the fixed charges due on termination of the first Hire Period and on the commencement of the second Hire Period shall both be reduced by fifty percent (50%).
- 13.9. Working Time
- Subject to any express provision in the Contract to the contrary, payment for working time shall be made only in respect of periods during working hours when Plant is working in accordance with the instructions of Magnox.
- 13.10. Standing Time
- Subject to any express provision in the Contract to the contrary, the Owner shall be paid for standing time during normal working hours ordered by Magnox.
- 13.11. Overtime
- Overtime additions to working day rates shall, where provided for in the Contract, be paid in respect of any period beyond the working day during which, on instructions from Magnox, Plant is required to work or remain ready for work.

14. MAGNOX'S OBLIGATIONS

- 14.1. Magnox shall not sub-let or lend the Plant or any part thereof to any third party without the prior written consent of the Owner which consent shall not be unreasonably withheld or delayed.

- 14.2. The Owner may affix its plate or mark to the Plant and Magnox shall not remove, deface or cover up the plate or mark.

15. TERMINATION

- 15.1. Magnox shall be entitled to terminate the Contract at any time upon giving reasonable notice to the Owner. For the purposes of this clause 15.1, reasonable notice shall not be less than thirty (30) days' notice.
- 15.2. Where Magnox terminates the Contract pursuant to clause 15.1 above, the Owner shall be entitled to recover from Magnox costs reasonably and actually incurred and arising directly from termination of the relevant contract. For the avoidance of doubt, the Owner shall not be entitled to recover any payment in respect of loss of anticipated profits, loss of opportunity or consequential losses.
- 15.3. Either party may terminate this Contract immediately if the other party:
- (a) commits a material breach of its obligations under the Contract which is incapable of remedy;
 - (b) commits a material breach of its obligations under the Contract which is capable of remedy and fails to remedy it or persists in such breach after thirty (30) days of having been required in writing to remedy or desist; or
 - (c) becomes bankrupt or insolvent or (being a company) makes an arrangement with its creditors or has a receiver or administrator appointed or commences to be wound up .
- 15.4. Magnox may terminate this Contract by written notice with immediate effect if the Owner or any persons associated with it (as defined in the Bribery Act 2010) or other persons who are performing services or providing goods in connection with this Contract (in all cases whether or not acting with the Owner's knowledge) breaches clause 18 (Anti-bribery and Corruption).
- 15.5. Magnox may terminate this Contract by written notice with immediate effect if the Owner or any persons associated with it or other persons who are performing services or providing goods in connection with this Contract (in all cases whether or not acting with the Owner's knowledge) breaches clause 20 (Anti-slavery and Human Trafficking Law and Policies).
- 15.6. Without prejudice to any other right under this Contract, Magnox may at its discretion either terminate the Contract or suspend any works hereunder if the Owner substantially fails to comply with health, safety and environmental legislation, Regulatory Requirements and/or the requirements of the Specification in so far as they relate to health, safety and the environment. For the avoidance of doubt, such termination or suspension (as the case may be) shall in no circumstance amount to a compensation event and the Contract procedures on termination and payment for a substantial failure on the part of the Owner to provide the works or to comply with its obligations under the Contract shall be applied accordingly. If, in the case of the works having been suspended, the Owner has failed to remedy such breach to Magnox's satisfaction within seventy-two (72) hours of the works being suspended, Magnox shall be entitled to terminate the Contract and the Contract procedures on termination and payment for a substantial failure on the part of the Owner to provide the works or to comply with its obligations under the Contract shall be applied accordingly.
- 15.7. Provided that the hire of the Plant under the Contract has not been terminated by reason of any breach or act of repudiation by the Owner, Magnox shall pay to the Owner hire charges up to the date of termination.
- 15.8. If the hire of the Plant under the Contract is terminated by Magnox by reason of any breach or act of repudiation by the Owner, Magnox shall not be liable to make any further payments to the Owner until all costs arising out of the termination (including but not limited to the cost of hiring substitute Plant from any other source) have been ascertained. If such amount when added to the monies paid to the Owner before the date of termination exceeds the total value which would have been paid at the expiry of the Hire Period, the difference shall be a debt payable to Magnox by the Owner.

16. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Contract is for the sole benefit of the parties to the Contract. Terms that make reference to third parties are not to be construed as terms purporting to confer a benefit upon such third parties. It is not the intention of the parties to this Contract that any term hereof should be enforceable by anyone other than the parties to the Contract (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise).

17. ASSIGNMENT

It is acknowledged and agreed that Magnox may at any time assign, novate, transfer or part with any of its rights or obligations under this Contract to a successor or successors of Magnox. The Owner will cause execution and/or completion of all documents necessary therefore and shall not unreasonably delay executing the documentation necessary to effect any such assignment, novation, transfer or parting with or sub-contract.

18. ANTI-BRIBERY AND CORRUPTION

18.1. The Owner shall comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

19. DATA PROTECTION

19.1. Magnox and the Owner acknowledge that for the purposes of the Data Protection Legislation, Magnox is the data controller and the Owner is the data processor of any personal data (where data controller and data processor have the meanings set out in the Data Protection Legislation).

19.2. Each of Magnox and the Owner shall comply with their respective obligations under the Data Protection Legislation.

20. ANTI-SLAVERY AND HUMAN TRAFFICKING LAWS AND POLICIES

20.1. In performing its obligations under this Contract, the Owner shall comply with its obligations under the Modern Slavery Act 2015.

21. CONFIDENTIALITY

21.1. Notwithstanding the terms of any confidentiality or non-disclosure agreement which may be entered into between Magnox and the Owner, each Party shall keep and procure to be kept secret and confidential all Confidential Information belonging to the other party disclosed or obtained as a result of the relationship of the parties under this Agreement and shall not use nor disclose the same save for the purposes of the proper performance of this Agreement or with the prior written consent of the other party.

21.2. The Parties may disclose Confidential Information to an employee, consultant, sub-contractor or agent to the extent necessary for the performance of the Contract provided such disclosure is subject to obligations equivalent to those set out in these Conditions. Each Party shall use its best endeavours to procure that any such employee, consultant, sub-contractor or agent complies with such obligations. Each Party will be responsible to the other party in respect of any disclosure or use of such Confidential Information by a person to whom disclosure is made.

21.3. The obligations of confidentiality in this clause 21 do not extend to any Confidential Information which the Party that wishes to disclose or use can show:

- (a) is or becomes generally available to the public other than as a result of a breach of the obligations of confidentiality under these Conditions;
- (b) was in its written records prior to the date of the Contract and not subject to any confidentiality obligations;
- (c) was or is disclosed to it by a third party entitled to do so;
- (d) the Parties agree in writing is not Confidential Information or may be disclosed; or
- (e) is required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction.

22. NOTICES

22.1. Any notices sent by a Party under the Contract must be in writing and sent by recorded delivery to the registered office address of the other Party. Notice by email is deemed to be in writing, provided that such email is delivered to the email address specified in the Contract and/or Purchase Order.

23. ANTI-TERRORISM CRIME & SECURITY ACT 2001

- 23.1. The Owner's attention is drawn to the provisions of the Anti-Terrorism Crime and Security Act 2001, particularly Section 79, which makes it an offence intentionally or recklessly to make a disclosure of information which might prejudice the security of a nuclear site or of nuclear material where that material is held on such a site, or is being transported to or from such a site or is being carried on board a British ship. The Owner shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed on any work in connection with the Contract have notice that these statutory provisions apply to them and will continue to apply after completion or earlier determination of the Contract.

24. SITE PASSES

- 24.1. Strict control of access passes issued to all persons employed by the Owner who require access to Site is imperative and the Owner should implement an effective system to ensure that all such passes are returned or extended on or before the date of expiry, or returned at the time that any such person no longer requires access to the Site for the purposes of the Contract, whichever is the earlier.

25. COMPETENCE

- 25.1. The Owner shall ensure that its employees and those of any sub-contractors employed by the Owner are physically fit, sufficiently qualified by training and experience and have a sufficient understanding of the English language to carry out the work assigned to them.

26. DRUGS AND ALCOHOL POLICY

- 26.1. Magnox reserves the right to require the Owner's employees to undertake at Magnox expense a drugs and/or alcohol test. Where the Owner's employee fails a drugs or alcohol test, refuses to take such a test, or has been caught in possession of, distributing, or selling illicit drugs, Magnox may require the Owner to exclude the individual from the site and replace them with a person of equivalent skills and competences.
- 26.2. Before the commencement of a drugs and/or alcohol test, the Owner's employees shall disclose to the collecting officer whether they have been on any medication that could be relevant to the test.
- 26.3. Magnox requires that Owner's staff who, within the terms of the Contract, will be granted unescorted access to work at Magnox sites, must have been declared 'NEGATIVE' by an accredited Medical Reporting Officer reporting on a drug and/or alcohol test conducted by a duly accredited test laboratory. The test must have been performed as soon as possible prior to commencement of work on a Magnox site, although for workers who frequently work at nuclear licensed sites, evidence of a test conducted within six (6) months of the Owner's staff member reporting for duty at the Magnox site will be deemed acceptable. The Owner should produce a copy of the certified test result for inspection by a Magnox contract manager on request.

27. CORPORATE SEARCH POLICY

- 27.1. Magnox shall have the right to conduct a search of: (i) any of the Owner's personnel; (ii) the Owner's and visitors' vehicles and bags, when the Owner and visitors require access to and egress from the Site; and (iii) goods and materials which are required to be off loaded at Site in accordance with Magnox's obligations under the Nuclear Industry Security Regulations 2003 and in accordance with the Corporate Search Policy. Details of the Corporate Search Policy are available upon request to the relevant Site Manager.
- 27.2. The Owner hereby acknowledges and agrees that when requiring access to or egress from the Site that it shall comply with and shall ensure that any employees or agents of the Owner comply with the Corporate Search Policy. Where the Owner, its employees or agents fail or refuse to comply with the request of the Civil Nuclear Constabulary ("CNC") or the applicable Site security to carry out a search, or where a search provides a Positive Search (as defined in clause 10.3 below), access onto the Site will be denied and in seeking egress from the Site, such person shall be refused future access and/or where necessary, may be detained whilst the incident is escalated to involve the local police,

law enforcement or the CNC, as appropriate.

27.3. **“Positive Search”** for the purposes of this clause shall mean any evidence which might give reasonable grounds to believe:

- (a) that there is, or has been, an attempted introduction of weapons, explosives or other items which could be used to carry out or aid malicious threats or activities at the Site or in connection therewith;
- (b) that there is, or has been, an attempted unauthorised removal from the Site of:
 - (i) nuclear material;
 - (ii) other radioactive material;
 - (iii) sensitive nuclear information; or
 - (iv) any assets; or
- (c) that items discovered have been used in the commission of an arrestable offence.

“Nuclear material” and “sensitive nuclear information” shall have the meanings ascribed by the provisions of the Anti-Terrorism, Crime and Security Act 2001.

27.4. Any additional costs incurred by the Owner as a result of a Positive Search or refusal to comply with a search request shall be borne by the Owner. No amendment will be made to the programme as a result of any delay caused by refusal of a search, or a Positive Search.

27.5. Searches conducted in accordance with this clause shall be carried out in a manner that is commensurate with the prevailing alert state at the Site at which the search is being carried out.

28. **LAW AND LANGUAGE OF CONTRACT**

The Contract is governed by English Law and the Owner and Magnox hereby submit to the exclusive jurisdiction of the English Courts. The language of the Contract shall be in English.

SCHEDULE 1 - SPECIAL CONDITIONS OF CONTRACT**1. MEETINGS**

The Owner shall attend meetings as required by Magnox. These may include inaugural, progress or other contractual meetings.

2. SOFTWARE

- 2.1. The Owner shall indemnify and keep indemnified Magnox against any losses, costs or damages incurred or suffered as a result of the spread of a computer virus or against any legal proceedings arising out of use of illegal software, including but not limited to the breach of any intellectual property right.
- 2.2. The Owner shall ensure that all hardware and software to be brought onto the Site has been scanned using a Magnox computer virus checker. Magnox shall be entitled to refuse access to the Site for the software and the persons concerned until this requirement has been complied with to Magnox's reasonable satisfaction.

3. DATE AWARE CONFORMITY

- 3.1. The Owner guarantees that all date aware components, hardware and software supplied by it under this Contract will correctly process all dates within the year range 1900 to 2100, as defined in the British Standards Institution definition of Year 2000 Conformity Requirements (DISC PD2000-1), such guarantee to take precedence over all other warranties offered by the Owner, whether express or implied.

4. IONISING RADIATIONS

- 4.1. In the event that there is work to be carried out within a Radiation Supervised Area, Radiation Controlled Area or Contamination Controlled Area, the Owner shall comply with and shall ensure that its sub-contractors and suppliers comply with the provisions of the Magnox "Special Supplementary Conditions of Contract applicable to Works subject to the Ionising Radiations Regulations 1999 (M/SSCIRR/2005)". For work in a Radiation Supervised Area or a Radiation Controlled Area, Part 1 of M/SSCIRR/2005 shall apply. For work in a Contamination Controlled Area, Parts 1 and 2 of M/SSCIRR/2005 shall apply.

5. SECURITY CLEARANCE

- 5.1. This clause 5 shall apply only where the services provided under the Contract are subject to security clearance.
- 5.2. Where this clause 5 applies, the Owner shall ensure that the Owner's employees and any sub-contractor's or supplier's employees have been security cleared by the agency (hereinafter referred to as the "**Vetting Agency**"), in accordance with the following procedures:
 - 5.2.1. the Owner shall submit to Magnox a basic check verification form and a criminal conviction declaration form for each person engaged in connection with the Contract;
 - 5.2.2. Magnox shall forward the completed forms to the Vetting Agency within seven (7) days of receipt; and
 - 5.2.3. subject to receiving satisfactory submissions and responses to its enquiries, if any, the Vetting Agency shall issue to Magnox a security clearance approval for access form for the person concerned.
- 5.3. Where the Vetting Agency notifies Magnox that security clearance has been refused for any person or persons, Magnox shall be entitled to refuse that person or persons access to the Site and the Owner shall cease to engage that person or persons on work connected with the Contract with immediate effect.
- 5.4. Magnox shall have no responsibility for the acts or omissions, if any, of the Vetting Agency. The Owner may correspond with the Vetting Agency and supply any further information requested by the Vetting Agency, where security clearance has been refused, but the decision of the Vetting Agency shall be final and conclusive.

- 5.5. Where security clearance cannot be obtained in the required timescale, Magnox may sanction escorted access by a suitably authorised employee of Magnox or an employee of the Owner authorised by Magnox who has received security clearance approval. All costs incurred by Magnox in providing escorted access or in removing any person or persons from the Site as a result of the Owner's failure to produce a valid security clearance approval shall be paid to Magnox by the Owner and may be deducted by Magnox from any payments due to the Owner or be recovered by Magnox from the Owner as a debt.
- 5.6. Subject to any requirement of the Magnox, the Owner shall not be required to obtain security clearance for employees who have received security clearance from the Vetting Agency less than three (3) years before the commencement of the Contract, save that renewal of the security clearance will be necessary once the three (3) year period of validity has expired.
- 5.7. Where the Owner has obtained Ministry of Defence "List X" status, formal security clearance through the process described in paragraph 5.2 shall not be required, provided that the Owner's security controller can provide proof of "List X" security clearance approval for that employee.