

1 Horse Guards Road
Westminster London
SW1A 2HQ

www.cabinetoffice.gov.uk

OFFICIAL – SENSITIVE

Expert Automation & Tooling Limited

Technology Centre, 30 Sayer Drive,
Coventry, England, CV5 9PF [REDACTED]
[REDACTED]
[REDACTED]

Date: 19 June 2020 Our ref: EXCO120620

Dear Sir,

Supply of Plant and associated Services

Following your proposal for the supply of plant suitable for the manufacture of face coverings from meltblown and spunbonded polypropylene capable of conforming to Type I, Type II and Type IIR standards and associated services including installation and warranty services to the Minister for the Cabinet Office as part of the Crown as represented by the Cabinet Office, we are pleased confirm our intention to award this contract to you.

The attached contract details ("**Order Form**"), contract conditions and the Schedules set out the terms of the contract between you and the Minister for the Cabinet Office as part of the Crown as represented by the Cabinet Office for the provision of the deliverables set out in the Order Form.

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the deliverables. Please confirm your acceptance of the Conditions by signing and returning the Order Form to [REDACTED] within 1 working day from the date of this Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number above in any future communications relating to this contract.

We will then arrange for the Order Form to be countersigned which will create a binding contract between us.

Yours faithfully,

The Short-form Contract 1 Project version 1.0 Model version 1.2

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Order Form

1. Contract

Reference

The Short-form Contract 2 Project version 1.0 Model version 1.2

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2. Commencement

Date

19 June 2020

3. Buyer The Minister for the Cabinet Office as part of the Crown as represented by the Cabinet Office

4. Supplier Expert Automation & Tooling Limited, a company registered in England and Wales under company number 03489117 with its registered office at Technology Centre, 30 Sayer Drive, Coventry, England, CV5 9PF.

5. The Contract The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached Short Form Terms ("**Conditions**") and schedules attached hereto ("**Schedules**").

The Parties agree that this Contract replaces any prior agreement between the Parties to supply the Deliverables, including, but not limited to, the Cabinet Office Terms and Conditions of Contract and all Supplier terms.

Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.

In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.

Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.

6. Deliverables and

Delivery

Plant Shortform Description: The Plant shall be suitable for the manufacture of face coverings from meltblown and spunbonded polypropylene capable of conforming to Type I, Type II, and Type IIR standards. The Plant shall conform to the Specification.

The Plant shall be Delivered by the Supplier to the Delivery Address(es) in accordance with the Conditions, the Specification, the Delivery Dates and the following instructions:

Packaging Instructions: As set out in Schedule 1 and as reasonably instructed by the Buyer from time to time.

Additional Delivery Instructions: As notified to the Supplier by the Buyer from time to time.

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Services The services to be performed by the Supplier shall conform to the Services Specification set out below and include:

(a) designing and manufacturing the Plant; (b) subject to the Buyer instructing the Supplier to do so, onward transporting the Plant within the UK in accordance with the Delivery instructions; (c)

assembling, testing and commissioning the Plant; (d) subject to the Buyer instructing the Supplier to do so, installing and ensuring full functionality of the Plant at the Producer Premises including any re-commissioning, calibration, testing and assembling that is required to do so; (e) providing appropriate Training to the Producers in accordance with the Specification; (f) providing appropriate storage of the Plant at the instruction of the Buyer until transportation to the Delivery Address(es); and (g) providing a Warranty Services for the Warranty Period, together the “**Services**”.

The Services shall be performed at the locations notified to the Supplier by the Buyer or its nominated third party.

7. Services

Specification

The Short-form Contract 3 Project version 1.0 Model version 1.2

OFFICIAL - SENSITIVE The specification of the Plant and the Services is as set out in Schedule 1 (Technical Requirements) and Schedule 2 (Timeline) (together the “**Specification**”).

8. Term The Term shall commence on the Commencement Date and the Expiry Date shall be the date twenty four (24) months after the final piece of Plant is Accepted by the Buyer, or a Representative of the Buyer terminated in accordance with the terms and conditions of the Contract.

9. Charges The total Charges for the Plant and all Services with the exception of the Warranty Services will be [REDACTED]

[REDACTED] exclusive of Value Added Tax, such payment to be divided into 3 separate payments as specified in Clause 5. **10. Payment** The Charges shall be invoiced and paid in accordance with this section 10

and Clause 5.

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All invoices must be sent, quoting a valid Purchase Order Number (PO Number), to:

[REDACTED]

By return of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.

If you have a query regarding an outstanding payment please contact our Accounts Payable department or a nominated contact as otherwise notified by the Buyer.

between 09:00-17:00 Monday to Friday (excluding public holidays).

11. Buyer Authorised Representative(s)

The Short-form Contract 4 Project version 1.0 Model version 1.2

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[REDACTED]

[REDACTED]

or, in their absence,

[REDACTED]

[REDACTED]

12. Address for notices

Buyer: Supplier:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

13. Supplier Repair

Contact Details

[REDACTED]
[REDACTED]
[REDACTED]

14. Key Personnel Buyer: [REDACTED]

Supplier: [REDACTED]

[REDACTED]
[REDACTED]

15. Procedures and Policies

The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check.

The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "**Relevant Conviction**"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables

Each Party agrees that for the purposes of executing this Contract an electronic signature shall demonstrate its intention to be legally bound by the terms of this Contract as if such electronic signature had been signed in ink by hand.

Please see next page for signature:

The Short-form Contract 5 Project version 1.0 Model version 1.2

Signed for and on behalf of the **Supplier** Signed for and on behalf of the **Buyer**

[REDACTED]

[REDACTED]

Date: 19th June 2020

[REDACTED]

[REDACTED]

17 July 2020 Signature:

Short form Terms

Recitals:

(A) The Cabinet Office requires the supply of ten production lines capable of the manufacture of Type I, II, and IIR face coverings.

(B) The parties are entering into this Contract in the spirit of collaboration for the benefit of both the Supplier and Cabinet Office, have created a clear definition and agreement for the design and supply of the production lines, and intend to manage their relationship through openness of communication, understanding and deliverability of the requirements of the Contract and Specification, in order to ensure the benefits of both Parties are met and the services are delivered in accordance with the agreed timescales and costs.

1. Definitions used in the Contract

In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

“Acceptance” means acceptance by the Buyer that the Plant conforms with its requirements including for the avoidance of doubt those requirements set out in the Specification, and **“Accept”** and **“Accepts”** shall be construed accordingly;

“Appendix” means an appendix to a Schedule and **“Appendices”** shall be construed accordingly;

“Buyer Cause” any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;

“Cancellation Charges”

means the cancellation charges set out in Schedule 3;

“Central Government Body”

means a body listed in one of the following sub- categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;

“Charges” means the charges for the Deliverables as specified in the Order Form;

“Compliance Officer”

means the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;

“Confidential Information”

means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party either before or after the date of this Contract and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

"Contract" means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form, these Conditions, and the Schedules;

"Controller" has the meaning given to it in the GDPR;

"Data Protection Legislation"

(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

"Deliver" means to hand over (or perform as appropriate) the Deliverables to the Buyer which shall include but not be limited to at the sole discretion and direction of the Buyer:

(a) unloading and any other specific arrangements agreed by the Parties in writing and in respect of the Plant shall include delivery, Installation, set-up and calibration of the Plant at the Producer Premises in accordance with the Specification; and/or

(b) making the Plant, or any part thereof as directed by the Buyer, suitably available at the Supplier Premises for collection and loading onto a delivery vehicle together with any necessary loading equipment as directed by the Buyer or a third party nominated by the Buyer,

and **"Delivered"**, **"Delivers"** and **"Delivery"** shall be construed accordingly;

"Deliverables" means the Plant and the Services as specified in the Order Form together with the Documentation;

"Delivery Address(es)"

means the location(s) to which the Supplier must Deliver the Plant and/or Services which may be the Producer Premises, the Supplier Premises; or any combination thereof as instructed by the Buyer;

"Delivery Date(s)" means the date(s) on which the Supplier must Deliver the Plant and/or Services as set out in the Timeline;

"Documentation" has the meaning ascribed to in Paragraph 1.7.2 of Schedule 1;

"Existing IPR" any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);

"Expiry Date" means the date for expiry of the Contract as set out in the Order Form;

"Face Covering(s)"

means face coverings manufactured by the Plant;

"Face Covering Standards"

means Type I, II and IIR face coverings made to be compliant BE EN 14683:2019 standards (or equivalent), with: (a) a finished size of 175 x 95mm (adult); (b) built in nose bridge and ear loops; and (c) provided in finished flow wrapped packaging, using the Raw Materials;

"FAT" means factory acceptance testing which shall occur at the Supplier's Premises in accordance with the Specification;

"FOIA" means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

"Force Majeure Event"

any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; iii) any failure of delay caused by a lack of funds; and iv) any delays, events, occurrences, circumstances, or causes arising from or connected to coronavirus (the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)) and/or COVID-19 (the official designation of the disease which can be caused by coronavirus);

"GDPR" the General Data Protection Regulation (Regulation (EU) 2016/679);

"Good Industry Practice"

standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

"Government Data"

the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Controller;

"Information" has the meaning given under section 84 of the FOIA;

"Information Commissioner"

the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;

"Insolvency Event"

in respect of a person: a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or g) being a "small company" within the meaning of section

382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or h) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;

“Installation” means the Supplier’s successful completion of all necessary steps required to set up a Production Line into full working order in the Producer(s)’s Premises including but not limited to the activities set out in Paragraph 6 of Schedule 1;

“Key Personnel” means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;

“LED” Law Enforcement Directive (Directive (EU) 2016/680);

“New IPR” any and all intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract (but for the avoidance of doubt shall not include the Supplier’s Existing IPR);

“Operator” has the meaning set out in Paragraph 4.2.1 of Schedule 1;

“Order Form” means the letter from the Buyer to the Supplier printed above these terms and conditions;

“Party” means the Supplier or the Buyer (as appropriate) and

“Parties” shall mean both of them;

“Plant” means the plant as set out in the Order Form to be supplied by the Supplier in accordance with this Contract;

“Personal Data” has the meaning given to it in the GDPR;

“Processor” has the meaning given to it in the GDPR;

“Producer” means a third party nominated by the Buyer that shall operate the Plant and receive the Deliverables on the Buyer’s behalf at the Buyer’s discretion;

“Producer Premises”

means the premises of one of more of the Producers as appropriate which shall be up to 5 separate locations within the United Kingdom as notified to the Buyer by the Supplier;

“Production Line” has the meaning set out in Paragraph 1.1 of Schedule 1;

“Purchase Order Number”

means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;

"Raw Materials" has the meaning set out in Paragraph 3 of Schedule 1;

"Regulations" the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;

"Request for Information"

has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);

"Site Acceptance Test" or "SAT"

has the meaning set out in Paragraph 5.3 of Schedule 1;

"Services" means the services to be supplied by the Supplier to the Buyer under the Contract as specified in the Order Form;

"Specification" means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;

"Step-in Event" means: (a) the Buyer has reasonable grounds for believing that the Supplier is unable to deliver the Deliverables, or that those Deliverables will be in material breach of the Specification;

(b) a Force Majeure Event occurs that materially prevents or materially delays the delivery of the Deliverables or any part thereof by the Supplier;

(c) the Supplier undergoes a change of control;

or

(d) a condition occurs that triggers the Buyer's right to terminate the agreement under Clause 11.4(a) (Termination);

"Supplier Staff" all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;

"Supplier" means the person named as Supplier in the Order Form;

"Supplier's Premises"

means the Supplier's premises as specified in the Order Form where the Supplier shall manufacture the Plant;

"Term" means the period from the Commencement Date set out in the Order Form to the Expiry Date unless the Contract is terminated or extended in accordance with its terms;

“Third Party Materials”

means those materials and/or intellectual property rights owned by a third party that are used by the Supplier in the manufacture of the Plant or delivery of the Services and/or other Deliverables;

“Timeline” means the operational timeline set out in Schedule 2 (Timeline) as may be updated by mutual agreement in writing of the Parties from time to time;

“Training” has the meaning given to it in Paragraph 4.2 of Schedule 1;

“Training Records”

has the meaning set out in Paragraph 4.5 of Schedule 1;

“Transport and Delivery Charges”

means the charges set out in Paragraph 2.4 of Schedule 3;

“Transport and Delivery Services”

has the meaning set out in Paragraph 11 of Schedule 1;

“UK” and “United Kingdom”

means the United Kingdom of Great Britain and Northern Ireland;

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

“Warranty Period” means a twenty four (24) month period for each Production Line commencing on the date such Production Line successfully completes its SAT;

“Warranty Services”

shall have the meaning set out in Paragraph 8 of Schedule 1;

“Workers” any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (<https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees>) applies in respect of the Deliverables;

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London; and

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

2.1 references to numbered “**Clauses**” are references to the relevant clause in these terms and conditions and “**Paragraphs**” are references to the relevant paragraph in a Schedule;

2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;

2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;

2.5 the singular includes the plural and vice versa;

2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and

2.7 the word ‘including’, "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

2.8 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;

2.9 In event of any conflict in the terms of the Order Form, these Conditions, the Schedules, and the Appendices to the Schedules, the order of precedence shall be as follows:

(a) the Order Form; then

(b) these Conditions; then

(c) the Schedules in the order in which they appear; and then

(d) the Appendices in the order in which they appear.

3. How the Contract works

3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.

3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.

3.3 The Supplier warrants and represents that any and all statements made and documents it

has submitted to the Buyer relating to the Deliverables are and remain true and accurate.

4. Supplier's Obligations

4.1 All Deliverables

(a) The Supplier must provide the Deliverables: (i) in accordance with the Specification; (ii) to a professional standard; (iii) using reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) on the dates agreed; and (vii) that comply with all law.

(b) The Supplier must provide the Deliverables with a warranty against all obvious defects for the Warranty Period in accordance with Clause 4.2(a).

(c) If the Deliverables do not conform with the Specification or if the Supplier is otherwise in breach of its warranties under this Contract the Buyer shall be entitled to terminate the Contract and/or invoice the Supplier for the value of the Deposit and/or Balance (if the Balance has been paid) and the Supplier shall pay such invoice within 30 days of receipt.

4.2 Plant Clauses

(a) All Plant which the Supplier Delivers must be new and subject to manufacturer warranty granted by the Supplier for the benefit of the Buyer. Delivery by the Supplier shall not be complete until the Buyer confirms its Acceptance.

(b) Title in the Plant shall transfer from the Supplier to the Buyer upon payment by the Buyer of the Second Milestone Payment. The Supplier shall appropriately store all Plant until the Delivery Date(s) and shall ensure all Plant stored at the Supplier's premises after the Buyer has paid the Second Milestone Payment shall be clearly marked by the Supplier as "Property of Her Majesty's Government" and in accordance with any further instructions given to it by the Buyer. The Supplier shall allow the Buyer and/or its third-party representatives unrestricted access to the Supplier Premises for the purposes of accessing the Plant stored by the Supplier after the Second Milestone Payment has been paid by the Buyer including for the avoidance of doubt to retrieve the Plant upon termination of the Contract.

(c) Risk in each Production Line shall:

(i) rest with the Supplier until such Production Line is Delivered, whereupon it shall transfer to the Buyer;

(ii) if it has not transferred to the Buyer, transfer to the Buyer during the Step-in Period; and

(iii) if upon termination of this Contract the Plant is situated on the Supplier's premises after title has passed under Clause 4.2(b) above, remain with the Supplier until the Plant has been removed by or at the instruction of the Buyer or its nominated third party.

(d) The Supplier must Deliver the Plant on the Delivery Date(s) and, where applicable, to the Delivery Address(es) during the Buyer's working hours. Time shall be of the essence for Delivery of the Plant and failure by the Supplier to adhere to the Delivery Dates shall entitle the Buyer to terminate this Contract on immediate written notice.

(e) The Supplier must provide sufficient and suitable packaging for the Plant to be Delivered safely and undamaged.

(f) The Supplier must Deliver the Plant with an attached delivery note that specifies the order number, type and quantity of Plant.

(g) The Supplier must provide all tools, equipment, information, and documented instructions the Buyer may need to make use of the Plant.

(h) Upon the discovery of any safety issue(s) and/or defects in or arising from the Plant including but not limited to inclusion by the Supplier of inadequate Third Party Materials within the Plant ("**Defective Plant**") that might endanger health, and/or or hinder performance or longevity of the Plant the Supplier shall:

(i) promptly notify the Buyer of such safety issue(s) and/or defects in the Defective Plant;

(ii) make and implement arrangements for the Defective Plant or the damaged or defective part(s) thereof to be collected from the Producer's Premises or any other such premises in which the Defective Plant is stored; and

(iii) indemnify the Buyer against the costs arising as a result of any such Defective Plant.

(i) The Buyer may cancel any order or part order of Plant prior to its payment of the Second Milestone Payment for any reason. If the Buyer exercises its right to cancel any order or part order of the Plant under this Clause 4.2(i) then it will pay the Supplier's reasonable and proven costs up to a total of the applicable Cancellation Charges within 30 days of such cancellation. provided always that the Supplier takes all reasonable steps to minimise these costs.

(j) The Buyer may terminate the Contract in whole or in part on immediate written notice or require the Supplier to, at the Supplier's cost, repair, replace, refund or substitute (at the Buyer's option and instruction) any Plant that the Buyer rejects upon its (or its nominated third party's) inspection of the Plant because it does not conform with this Clause 4.2 or the Specification. If the Supplier does not follow the instructions of the Buyer given under this Clause 4.2(j) it will

pay the Buyer's costs including repair or re-supply by a third party.

(k) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during Delivery of the Plant unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant, agent, or representative. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or Installation of the Plant by the Supplier then the Supplier shall indemnify the Buyer from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier.

4.3 Services Clauses

(a) Time is of the essence for performance of the Services and failure by the Supplier to perform the Services in accordance with the Timeline will be a default of the Contract and will entitle the Buyer to terminate the Contract on immediate written notice.

(b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the performance of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.

(c) The Buyer must provide the Supplier with reasonable access to its premises or procure reasonable access to the Delivery Address(es) where the Delivery Address(es) is/are the Producer Premises at reasonable times for the purpose of supplying the Services

(d) The Supplier must at its own risk and expense provide all tools and equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract. The Supplier will indemnify the Buyer against all any and all losses arising from damage to or loss of the Buyer's property caused by the Supplier's acts or omissions (including negligence).

(e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.

(f) The Supplier must take all reasonable care to ensure its performance of the Services does not disrupt the Buyer's operations, employees or other contractors.

(g) On completion of any Services, the Supplier is responsible for leaving the Producer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's or third-party premises or property, other than fair wear and tear.

(h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.

(i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so

does not stop it from using its other rights under the Contract.

4.4 Other Obligations

- (a) The Supplier shall obtain and maintain appropriate and sufficient insurance to cover its liabilities under the Contract.
- (b) The Supplier agrees that the Buyer may assign the Equipment Warranty and/or the Services and/or any part thereof to one or more of the Producers at its own discretion.

5. Pricing and payments

5.1 The Supplier shall be entitled to invoice the Buyer as follows upon the Supplier's successful achievement of the following milestones: (a) [REDACTED] of the Charges upon Acceptance by the Buyer of (i) technical drawings of the Plant; and (ii) the bill of materials for manufacture and procurement which shall be supplied by the Supplier in accordance with the Timeline;

(b) [REDACTED] of the Charges upon successful completion of FAT of the Plant as assessed and confirmed by the Buyer or the Buyer's appointed third party professional technical representative ("**Second Milestone Payment**"); and

(c) [REDACTED] of the Charges upon the Buyer's Acceptance of the final piece of Plant,

each a "**Payment Milestone**" and together the "**Payment Milestones**":

5.2 Where the Buyer requires the Supplier to provide the Transport and Delivery Services in accordance with Paragraph 11 of Schedule 1 the Supplier shall be entitled to invoice the Buyer for the Transport and Delivery Charges.

5.3 The Buyer must pay each valid, undisputed invoice it receives from the Supplier within [REDACTED] of receipt with the exception of an invoice for the Transport and Delivery Charges which the Buyer shall pay within [REDACTED] ("**Due Date**") in cleared funds to the Supplier's account stated in the Order Form. If the Buyer fails to pay a valid, undisputed invoice within [REDACTED] of the Due Date ("**Overdue Invoice**"), the

Supplier shall be entitled to withhold the Services until such Overdue Invoice has been paid.

5.4 A Supplier invoice is only valid if it:

- (a) includes all appropriate references set out in the Order Form including the Purchase Order Number and other details reasonably requested by the Buyer;
- (b) includes a detailed breakdown of Deliverables which have been delivered (if

applicable).

5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables at any time unless expressly permitted to do so under this Contract. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in Clause 34.

5.6 In the event that in the Buyer's sole opinion acting reasonably, the Plant or any part thereof is not fit for purpose and/or does not conform to the Specification ("**Unsatisfactory Plant**"), the Buyer may at its sole discretion reject the Unsatisfactory Plant and the Balance shall be reduced pro-rata and the Buyer shall not be liable to pay for the rejected Unsatisfactory Plant.

5.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if there is a dispute regarding an invoice.

5.8 The Supplier must ensure that all subcontractors are paid, in full, within [REDACTED] of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

5.9 The Supplier agrees that the Buyer shall only be liable for the costs and charges of the Buyer's agents and/or representatives and/or nominated third parties to the extent that such agents and/or representatives and/or nominated third parties act under the instruction of the Buyer.

6. The Buyer's obligations to the Supplier

6.1 If the Supplier fails to comply with the Contract as a result of a Buyer Cause:

(a) the Buyer cannot terminate the Contract under Clause 11 for reason of the Supplier's failure to comply with the Contract in respect of a breach arising as a result of a Buyer Cause;

(b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability from such obligations under this Contract as are affected by the Buyer Cause;

(c) the Supplier is entitled to reasonable additional time needed to deliver the Deliverables; and

(d) the Supplier cannot suspend the ongoing supply of Deliverables.

6.2 Clause 6.1 only applies if the Supplier:

(a) gives notice to the Buyer within 2 Working Days of becoming aware of the Buyer Cause;

- (b) demonstrates that the failure only happened because of the Buyer Cause; and
- (c) mitigates the impact of the Buyer Cause.

7. Record keeping and reporting

7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.

7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.

7.3 The Supplier must allow any auditor appointed by the Buyer access to the Supplier's premises in which the records are stored to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.

7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.

7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

- (a) tell the Buyer and give reasons why it considers itself unable to be able to provide the Deliverables;
- (b) propose corrective action;
- (c) provide a deadline for completing the corrective action.

7.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:

- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand; and
- (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

8. Supplier staff

8.1 The Supplier Staff involved in the performance of the Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice;
- (c) comply with all conduct requirements when on the Buyer's or its nominated third party's/ies' premises.

8.2 Where a Buyer decides one or more of the Supplier Staff is not suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative or make other suitable arrangements to ensure the Deliverables are provided to the standards required under this Contract and in accordance with the Timeline.

8.3 If requested by the Buyer, the Supplier must replace with a suitable alternative any person whose acts or omissions have caused the Supplier to breach this Clause 8.

8.4 The Supplier must provide a list of Supplier Staff needing to access the Producer Premises or the premises of the Buyer or its nominated third party/ies and say why such access is required.

8.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);
- (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
- (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

8.7 The Supplier shall not sub-contract any of its obligations under this Contract without the prior and express written consent of the Buyer, which shall not be unreasonably withheld or delayed. Where the Supplier engages a sub-contractor under or in connect with this Contract it shall remain fully liable for the acts and omissions of the sub- contractor and its staff as if they were the acts and omissions of the Supplier.

9. Rights and protection

9.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
- (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract;
- (g) it is not in one of the situations in 57(1) or 57(2) of the Regulations on the date of this Contract;
- (h) the Deliverables conform with the Specification and can be delivered in accordance within the Timeline;
- (i) Subject to its use in accordance with the Training and Documentation, and with the exclusion of failure due to natural wear-and-tear of the parts set out in Appendix 2 to Schedule 1 each Production Line shall (i) be in good, working condition for the Buyer's intended purpose; and (ii) continue to meet the requirements of the Specification, for the Warranty Period ("**Equipment Warranty**");
- (j) any and all Third Party Materials that it includes or incorporates into the Plant are of a suitable and appropriate standard of quality and it has the required rights to include such Third Party Materials in the Plant;
- (k) the Plant is capable of making Face Coverings which meet the Face Covering Standards at the rates and/or volumes set out in the Specification; and
- (l) it is not impacted by an Insolvency Event.

9.2 The Supplier acknowledges and understands that the Buyer has relied upon the Supplier's representations and warranties given in Clause 9.1 in entering into the Contract and paying the Charges and any part thereof.

9.3 The warranties and representations in Clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.

9.4 The Supplier indemnifies the Buyer against each of the following:

- (a) wilful and/or negligent misconduct of the Supplier, any of its subcontractors and/or Supplier Staff that impacts the Contract;
- (b) non-payment by the Supplier of any tax or National Insurance; and
- (c) any breach by the Supplier of its warranties under the Contract.

9.5 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.

9.6 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

9.7 All and any warranties provided by the Supplier either pursuant to Clause 4.1(b), forming part of the Equipment Warranty, or the Warranty Services in respect of a Production Line shall be provided at all times subject to the Producer which uses such Production Line:

- (a) completing all Training to the satisfaction of the Supplier: and
- (b) complying with all Documentation; and
- (c) ensuring that any person engaged by the Producer to either maintain or service the Production Line is sufficiently competent, appropriately trained and first approved by the Supplier, such approval not to be unreasonably withheld or delayed.

10. Intellectual Property Rights (IPRs)

10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub- licensees to both:

- (a) receive and use the Deliverables, subject to Clause 10.2;
- (b) use the New IPR.

10.2 The Buyer agrees that the licence, given to it by the Supplier in Clause 10.1, expressly excludes the right for the Buyer to reverse engineer the Plant.

10.3 The Supplier agrees that it has all requisite rights and/or consents to use the Third Party Materials in its delivery of the Deliverables and shall procure that the Buyer is granted a licence equivalent to that set out in Clause 10.1 above to make use of the Third Party Materials by the owner(s) of any and all intellectual property rights within the Third Party Deliverables.

10.4 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a non-exclusive, revocable licence for the Term of the Contract to use any Buyer Existing IPRs for the purpose of fulfilling its obligations under the Contract and a royalty-free, non-exclusive licence to use any New IPRs for the Term for the sole purpose of fulfilling its obligations under the Contract.

10.5 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

10.6 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in Clause 10 or otherwise agreed in writing.

10.7 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables including for the avoidance of doubt any of the Third Party Materials (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.

10.8 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:

(a) obtain for the Buyer the rights in Clauses 10.1 and 10.23 without infringing any third party intellectual property rights;

(b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

11. Ending the contract

11.1 The Contract takes effect on the Commencement Date and ends on the earlier of the Expiry Date or termination of the Contract in accordance with its terms or earlier if required by Law.

11.2 Not Used.

11.3 Ending the Contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 21 days' written notice. If the Buyer exercises its right to terminate under this Clause 11.3 then it will pay the Cancellation Charges within 30 days of receipt of a valid and undisputed invoice for such Cancellation Charges in accordance with Clause 5.

11.4 When the Buyer can end the Contract

(a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:

(i) there is a Supplier Insolvency Event;

(ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify in the Buyer's sole opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;

(iii) if the Supplier is in breach of any warranty as set out at Clause 9.1 or otherwise under this Contract, or is in material breach of any obligation which is incapable of remedy (for the avoidance of doubt this shall include a breach by the Supplier of its obligations under Clause 10 (Intellectual Property) or 15 (Confidentiality), or is capable of remedy and that breach is not remedied within 20 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;

(iv) there is a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;

(v) the Supplier fails to achieve any Payment Milestone;

(vi) if the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;

(vii) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;

(viii) the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.

(b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract.

(c) The Buyer may terminate the Contract in the circumstances set out in, and accordance with, Clauses 4.1(c); 4.2(d); 4.2(j); 4.3(a); 7.6(b); 26.3; 31.3; and any other Clauses which entitle the

Buyer to terminate this Contract.

(d) In respect of all rights which the Buyer to terminate this Contract, such rights shall also permit the Buyer to terminate in part in respect of any part of the Deliverables or combination thereof ("**Terminated Deliverables**"). In the event of such partial termination:

(i) Clauses 11.5 and/or 11.6 shall apply as applicable in respect of the Terminated Deliverables;

(ii) each instance of the term "terminate" or "terminated" in this Contract shall be read to include such partial termination in respect of such Terminated Deliverables; and

(iii) the Contract shall remain otherwise unaffected in respect of the non-terminated Deliverables.

11.5 What happens if the Contract ends

Where the Contract ends for any reason the following shall apply:

(a) any accumulated rights of the Parties are not affected;

(b) the Supplier must promptly delete or return the Government Data except where required to retain copies by law in which case it shall immediately notify the Buyer of the extent of its obligations to retain such Government Data;

(c) the Supplier must promptly return any of the Buyer's property (which for the avoidance of doubt includes: (i) the Plant and any accompanying documentation; (ii) Buyer Existing IPRs; and (iii) New IPRs) ("**Buyer's Property**") provided under the Contract which is in the possession of the Supplier and/or shall procure that the Buyer and/or its nominated third parties has the right to immediately enter any third party premises in which the Buyer's Property is held at the instruction or arrangement of the Supplier; and/or procure that the Buyer's Property is returned to the Buyer promptly by a third party nominated by the Buyer, at the instruction of the Buyer;

(d) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;

(e) the Buyer's payment obligations under the terminated Contract stop immediately;
and

(f) the following Clauses survive the termination of the Contract: 4.1(c) 6, 7.2, 9, 10, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses which are expressly or by implication intended to continue.

11.6 What happens if the contract is terminated for cause by the Buyer

If the Buyer terminates the Contract under Clause 11.4(a) or Clause 11.4(c) above all of the

following apply in addition to Clause 11.5 above:

(a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract; and

(b) the Supplier must promptly pay any monies owed to the Buyer, including for the avoidance of doubt any monies paid by the Buyer which have not been expended for Deliverables not yet provided, and any amounts that have been invoiced by the Buyer in accordance with Clause 4.1(c).

11.7 Partially ending and suspending the Contract

(a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.

(b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver any of the Deliverables.

(c) The Parties must agree (in accordance with Clause 24) any necessary variation required by Clause 11.7, but the Supplier may not either:

(i) reject the variation; or

(ii) increase the Charges, except where the right to partial termination is under Clause 11.3.

(d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 11.7.

12. How much you can be held responsible for

12.1 The total aggregate liability of the Parties shall be as follows:

(a) The Supplier's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) shall be limited to the total Charges paid and payable under the Contract; and

(b) The Buyer's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) shall be no more than the Charges paid to the Supplier under the Contract.

12.2 No Party is liable to the other for:

- (a) any indirect losses; or
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

12.3 In spite of Clause 12.1, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by law.

12.4 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.

13. Obeying the law

13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:

- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;

- (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;

- (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;

- (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.

13.3 If so directed by the Buyer, Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32.

14. Data protection

14.1 The Parties do not anticipate the transfer of Personal Data under this Contract with the exception of the business contact details of the representatives of each of the Parties shared for the purposes of agreeing and managing the Contract and discharging the Parties' obligations under the Contract.

14.2 The Parties shall each be a Controller of the Personal Data specified in Clause 14.1 above and shall each comply with their respective obligations under the Data Protection Legislation.

14.3 If the Parties determine that the Supplier shall be required to Process Personal Data under this Contract on behalf of the Controller the Parties shall enter into good faith negotiations with the intent of agreeing a separate data protection agreement which conforms with the requirements of the Data Protection Law.

14.4 The Supplier shall not Process any Government Data as a Processor unless and until a data protection agreement is agreed in accordance with Clause 14.3 in which case it shall only Process such Government Data in accordance with the terms of such data protection agreement.

15. Confidentiality

15.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;

- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 The Supplier acknowledges that the existence and content of this Contract is classified as Official Sensitive and as such the protection of Confidential Information relating to this Contract is of the utmost important. The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff to the extent required to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request and the Supplier shall procure that the Supplier Staff shall do so promptly.

15.4 The Buyer may also disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions including discharging any obligations determined by law;
- (d) where requested by Parliament;
- (e) under Clauses 5.8 and 16.

For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those

required in this Clause 15. 15.5 Information which is exempt from disclosure by Clause 16 is not Confidential Information.

15.6 The Supplier must not make any press announcement or publicise the Contract, any part of it or its content in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.

16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

- (a) comply with any Freedom of Information Act (FOIA) request;
- (b) comply with any Environmental Information Regulations (EIR) request.

16.3 The Buyer may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Buyer's sole decision, which does not need to be reasonable.

17. Invalid parts of the contract

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond your control

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:

(a) provides written notice to the other Party;

(b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either Party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under Clause 20.2 each party must cover its own losses.

21. Relationships created by the contract

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

22. Giving up contract rights

A partial or full waiver or relaxation of the terms of the Contract is only valid if it is stated to be a waiver in writing to the other Party.

23. Transferring responsibilities

23.1 The Supplier cannot assign the Contract without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

23.3 When the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

23.4 The Supplier can terminate the Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must

provide details of Subcontractors at all levels of the supply chain including:

- (a) their name;
- (b) the scope of their appointment;
- (c) the duration of their appointment.

24. Changing the contract

24.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Buyer is not required to accept a variation request made by the Supplier.

25. How to communicate about the contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

25.2 Notices to the Buyer or Supplier must be sent to their email address in the Order Form.

25.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Preventing fraud, bribery and corruption

26.1 The Supplier shall not:

- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
- (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.

26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in Clause 26.1 and any fraud by the Supplier Staff and/or the Supplier (including its shareholders, members and directors) in connection with the Contract

and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.

26.3 If the Supplier or the Supplier Staff engages in conduct prohibited by Clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may: (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this Clause.

27. Equality, diversity and human rights

27.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:

(a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

27.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

28. Health and safety

28.1 The Supplier must perform its obligations meeting the requirements of:

(a) all applicable law regarding health and safety;

(b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.

28.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

29. Environment

29.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

29.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

30. Tax

30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with Clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 30.2 or confirms that the Worker is not complying with those requirements;

(d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

31. Conflict of interest

31.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer.

31.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.

31.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

32. Reporting a breach of the contract

32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, Clause 13.1, or Clauses 26 to 31.

32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 32.1.

33. Step-in rights

33.1 Without prejudice to the Buyer's other rights and remedies under this contract and at law, if a Step-in Event occurs, the Buyer may to issue a written step-in notice, which shall include the following information ("**Step-in Notice**"):

(a) that the Buyer, or a third party appointed by it, or a combination thereof ("**Step- in Party**") intends to perform or manage the performance of part or all of the Services ("**Affected Services**");

(b) the details of the Step-in Event that has triggered the Step-in Notice;

(c) details of the Affected Services; and

(d) the actions that the Step-in Party intends to take ("**Step-in Actions**") and the date on which such actions will commence and end ("**Step-in Period**");

33.2 On receipt of the Step-in Notice the Supplier at no additional cost, provide, enable or procure access for the Step-in Party to:

- (a) any of the Supplier's premises or facilities that the Buyer requests;
- (b) any equipment and software that are used in the administration, management and provision of the Affected Services;
- (c) the Supplier Staff that are involved with the Affected Services; and
- (d) any know-how or knowledge relating to the Affected Services, for the sole purpose of enabling the Step-in Party to perform the Step-in Actions during the Step-in Period only.

33.3 Within 10 Working Days of receipt of the Step-in Notice, the Supplier shall submit to the Buyer a written plan setting out the measures the Supplier intends to take after the Step-in Period in order to restore the Affected Services to satisfy the requirements of the agreement ("**Step-out Plan**").

33.4 During the Step-in Period, the Supplier shall:

- (a) be relieved of its obligations to provide the Affected Services;
- (b) continue to provide the Services that are not the Affected Services, and shall inform the Buyer if the Affected Services will impact on its ability to deliver those other Services;
- (c) fully cooperate and provide all reasonable assistance at no additional charge to the Step-in Party for the sole purpose of enabling the Step-in Party to perform the Step-in Actions; and
- (d) use its best endeavours to ensure that the relevant Supplier Staff promptly follows the reasonable and lawful instructions of the Step-in Party in pursuance of the Step-in Actions.

33.5 If the Buyer is satisfied that the circumstances leading to the Step-in Event are no longer present and the Supplier has demonstrated in the Step-out Plan that it can resume responsibility for the Affected Services, the Buyer will issue a written notice to the Supplier that:

- (a) it requires the Supplier to resume performance of the Affected Services;
- (b) specifies the date on which the Supplier shall resume such performance; and
- (c) sets out the Step-in Actions that the Step-in Party actually took during the Step-in Period.

34. Resolving disputes

34.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.

34.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Buyer refers the dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- (a) determine the dispute;
- (b) grant interim remedies;
- (c) grant any other provisional or protective relief.

34.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of the Contract during any dispute.

35. Which law applies

This Contract and any issues arising out of, or connected to it, are governed by English law.

The Short-form Contract 37 Project version 1.0 Model version 1.2

OFFICIAL - SENSITIVE

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SCHEDULE 1 TECHNICAL REQUIREMENTS

A – Plant Specification

1. Technical Details of Production Lines

1.1 The Supplier will, subject to the Buyer's Acceptance of the Plant and at the Buyer's discretion, provide ten full production lines capable of manufacturing the Face Coverings ("Production Line(s)"), each of which shall be [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

h) suitable guarding to ensure compliance with the Supply of Machinery (Safety) Regulations 2008 ("**Health and Safety Requirements**");

1.1.2 material transfer to ear strap fixation element which will transfer the incomplete Face Covering from the cutting roller, separate the flow into two separate lanes and present the face coverings at the ear strap welding units. The Supplier shall ensure that this element has the appropriate guards in place in order to ensure compliance with the Health and Safety Requirements;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.6 Build Standards

1.6.1 All parts of the Plant will be protected against corrosion in the following

manner:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.7 CE Marking and Documentation

1.7.1 Upon Delivery the Supplier shall supply to the Buyer and/or the Producer(s) as instructed by the Buyer a Declaration of Conformity as required by the Supply of Machinery (Safety) Regulations 2008 for each Production Line.

1.7.2 The Supplier shall provide to the Buyer and the Producer(s) as instructed by the Buyer, the following:

a) two weeks after the Commencement Date, documents showing the overall dimensions of a Production Line and the sizes of each packaged Element;

b) upon Delivery, two soft copies (in PDF format) on CD ROM and one printed copy of a comprehensive documentation pack which includes the following:

(i) safety instructions;

(ii) installation instructions;

(iii) Operator's instructions including a comprehensive description of the Plant;

(iv) maintenance instructions including the technical competency of the person required to carry out each activity;

(v) mechanical layout drawings and parts lists;

(vi) recommended spare parts lists for both Supplier and Third-Party Materials as detailed in Appendix 2;

(vii) control schematics (electrical and pneumatic);

(viii) Control System software listings (which shall be provided on CD); and

(ix) Third Party Materials manuals and Specification data sheets;

c) two weeks prior to SAT a draft copy of the documents specified in Paragraph 1.7.2(a) above; and

d) the Training Records;

together the “**Documentation**”.

1.7.3 The Supplier shall mark the printed copy of the Documentation with the date of printing and shall clearly identify that its content is accurate only to the date of printing and does not account for any updates or improvements made by the Producers.

1.8 Services Connections

The Supplier will provide all details necessary for the Producer(s) to be able to provide suitably sized [REDACTED] in the Producers’ Premises as required to facilitate the final services connections to each Element of each Production Line within four weeks of the Commencement Date.

1.9 Operating Environment

1.9.1 The Plant shall be designed to operate in the following environmental conditions:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. Total Output Specification

2.1 Each Production Line shall be capable of producing:

2.1.1 Type I;

2.1.2 Type II; and

2.1.3 Type IIR;

flat ear loop disposable medical face masks and other similarly designed face coverings as instructed by the Buyer, which meet the Face Covering Standards and are wrapped in film.

2.2 Each Production Line shall be capable of operating at a rate of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2.3 The Supplier agrees that when operated in accordance with the Training and Documentation the Plant shall be capable of operating at an efficiency of no less than [REDACTED] (“**Minimum Efficiency**”) taking into consideration necessary changes of raw materials and/or consumables, and or necessary replacement of worn parts provided such wear is not caused by a breach by the Supplier of its warranties under this Contract (including for the avoidance of doubt the warranties set out in Clause 9.1) .

3. Material Specifications

3.1 The Plant shall be capable of making Face Coverings using the following materials at a minimum:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

the “**Raw Materials**”.

3.2 The Supplier confirms that:

3.2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B – Services Specification

4. Training and Technical Support

4.1 The Supplier shall notify the Buyer and the Producer(s) of the dates on which the Supplier intends to commence the commissioning and FAT of the Plant as soon as possible prior to such date, and shall collaborate effectively with the Producers to set appropriate dates for Training as required to ensure all Producers have completed Training prior to Delivery.

4.2 The Supplier shall provide at the Supplier Premises the following training to the Producers at a time convenient to the Producers in parallel with the commissioning and FAT of a Production Line at the Supplier Premises:

4.2.1 “**Operator Training**” to one member of Producer staff, the successful completion of which shall ensure such member of Producer staff is fully able to (a) use the Plant for its purpose including completing a successful SAT without intervention by the Supplier (as an “**Operator**”); and (b) train others to be Operators;

4.2.2 “**Technical Training**” to one member of Producer staff, the successful completion of which shall allow such member of Producer staff to (a) repair and maintain the Plant as required by the Documentation (as a “**Technician**”); and (b) train others to be Technicians,

together the “**Training**”.

4.3 The Training shall:

4.3.1 comprise both classroom and practical learning on a Production Line

4.3.2 be co-ordinated with the commissioning schedule of the Production Line which the Supplier shall deliver in accordance with the Timeline; and

4.3.3 shall be fully completed prior to FAT,

and the Buyer shall procure that the appropriate staff are made available for Training.

4.4 Successful completion of the Operator and Technical Training shall allow Operators and Technicians to self-sufficiently complete a successful SAT by fulfilling their respective roles.

4.5 The Supplier will make thorough records of the Training provided at each Producer's Premises ("**Training Records**") and shall deliver such Training Records to the Buyer and relevant Producer within 5 days of successful completion of SAT. For the avoidance of doubt the Supplier shall not collect or process any personal data on behalf of the Buyer in its generation of the Training Records.

5. Testing

5.1 The Supplier shall manufacture and/or provide to the Buyer all necessary Plant, materials and components for the effective set up, testing (including FAT and SAT), use, and maintenance of the Production Lines as set out in the Contract and as necessary to produce the Face Coverings for the Term and any Warranty Period.

5.2 Factory Acceptance Test ("FAT")

5.2.1 The Supplier shall complete a FAT at the Supplier's Premises for each complete Production Line prior to Delivery in the presence of the Buyer and/or its appointed third party representative.

5.2.2 The FAT shall ensure that the Plant:

a) fulfils all of the Buyer's requirements including for the avoidance of doubt all:

(i) electrical;

(ii) mechanical;

(iii) identification;

(iv) health and safety;

(v) CE and other certification;

(vi) documentation;

(vii) risk analyses;

(viii) programme evaluation; and

(ix) connectivity,

requirements;

b) is capable of achieving the Minimum Output Rate; and

c) produces Face Coverings of sufficient quality to meet the Face Covering Standards.

5.2.3 The FAT will consist of 2 stages:

[REDACTED]

[REDACTED]

5.3 Site Acceptance Test (“SAT”)

5.3.1 A Site Acceptance Test (SAT) will be carried out by the Producers to the satisfaction of the Buyer and/or its attending third party representative on each Production Line at the Producer Premises.

5.3.2 The SAT will consist of a 5 consecutive shifts on each Production Line where the Plant will be required to demonstrate its capability to consistently deliver the required Minimum Efficiency or above and Face Covering Standards . During each SAT the Production Line will be operated by Operators and any minor breakdowns for which repair instructions are included within the Training and Documentation will be resolved by Technicians. The Supplier will provide supervision throughout the SAT to witness the trial and should there be a need, assist the Operators and Technicians.

5.3.3 If the Operators are unable to successfully complete the SAT without intervention and require the Supplier to provide assistance the SAT shall end and the Operators shall commence a new SAT in accordance with this Paragraph 5.3.

5.3.4 SAT shall not be considered complete until the Operators and Technicians have successfully completed SAT without intervention from the Supplier and the requirements of the SAT checklist set out in Appendix 4 to this Schedule 1 have been met to the satisfaction of the Buyer and/or its appointed third party representatives.

6. Installation and Commissioning

6.1 Upon notification by the Buyer to the Supplier of the Delivery Date(s), the Parties shall enter into good faith negotiations as to the most appropriate dates for Supplier to perform the services set out in Paragraph 6.2 below.

6.2 On no less than 5 Working Days' notice given by the Buyer, the Supplier shall install, set up, calibrate, commission, and connect each Production Line so that it is usable and fully functional at the relevant Producer Premises.

6.3 The Supplier shall provide all necessary equipment, tools and materials to ensure it is able to comply with its obligation under Paragraph 6.2 above.

7. Quality Control

7.1 The Supplier shall ensure that, subject to:

7.1.1 operating the Production Line as instructed in the relevant Operators' instructions included within the Documentation;

7.1.2 using the Raw Materials, not less than [REDACTED] of Face Coverings produced by the Production Line(s) will be compliant in all respects with Face Covering Standards and otherwise in the Contract and shall be usable for the Buyer's purposes.

7.2 Each Production Line shall detect all Face Coverings that do not comply with the Face Covering Standards ("**Defective Face Coverings**") and upon detection of a Defective Face Covering shall automatically halt production and display a clear warning message on the applicable Element HMI to allow the manual removal of such Defective Face Covering by an Operator prior to the Defective Face Covering reaching the Flow Wrapping Element.

8. Warranty and Repair Services

8.1 Warranty Services

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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C – Service Levels, Reporting, and Health and Safety Requirements

9. Health and Safety

Pursuant to its obligations under the Health and Safety Regulations the Supplier shall provide:

9.1 a detailed risk assessment for each Element of the Plant;

9.2 a list of residual risks of each Element following the Supplier's risk mitigation activities;
and

9.3 a technical file for the Plant detailing all of the instructions for use.

10. Reporting

10.1 Project Delivery

Starting on the Commencement Date the Supplier will provide a weekly progress report to the Buyer showing:

10.1.1 Percentage achievement of Deliverables in accordance with the Timetable;

10.1.2 Percentage of orders placed for necessary Third Party Materials; and

10.1.3 Percentage of in-house manufactured items completed.

10.2 Post-SAT

Starting immediately after the completion of SAT of a Production Line, the Supplier shall provide in relation to that Production Line a monthly report which sets out the following information:

10.2.1 Warranty Service Support Requests

a) Date and Time Request Made;

b) Date and Time Acknowledged; and

c) Date and Time Service Carried Out.

10.2.2 Technical and Breakdown Support Requests

a) Date and Time Request Made;

b) Date and Time Acknowledged; and

c) Date and Time Issue Resolved.

10.3 Service Levels

10.3.1 The Supplier's failure to comply with an obligation under Paragraph 8.1.4 above shall be a **"Service Level Failure"**. If the Supplier commits any three Service Level Failures within any [REDACTED] period it shall promptly pay to the Buyer a **"Service Level Failure Compensation Payment"** as calculated in Paragraph 10.3.2 below.

10.3.2 The Service Level Failure Compensation Payment shall be calculated by the Buyer taking into consideration its:

a) costs (including but not limited to payment of penalties and claims);
and

b) losses (including but not limited to loss of profit),

incurred due to and/or which arise as a result of and/or which are attributable to, the Supplier's Service Level Failure.

10.3.3 Any one Service Level Failure Compensation Payment shall not exceed [REDACTED] [REDACTED] which the Parties agree is a genuine pre-estimate of the likely costs incurred and losses suffered by the Buyer as a result of and/or due to and/or resulting from the Supplier's Service Level Failure.

10.3.4 The Parties agree that the obligation on the Supplier to pay Service Level Failure Compensation Payments is reasonable to protect the legitimate interests of the Buyer.

D – Optional Services

11. Transport, Off Loading, Siting

11.1 The Buyer may on 21 days' written notice, inform the Supplier that one or more of the Delivery Address(es) shall be one or more of the Producer Premises. Upon receipt of such notification the Supplier shall contact the relevant Producer(s) and provide all reasonable assistance to the Producer in order to assist the Producer to develop its **"Layout Plan"** which shall include but not be limited to:

11.1.1 the appropriate position for each Element of the Production Line(s) within the Producer Premises; and

11.1.2 a safe route to bring each Element into the Producer Premises.

11.2 Where a Delivery Address is a Producer Premises the Supplier shall:

11.2.1 safely transport the Plant to the relevant Producer Premises and offload and position each of the Elements of the Production Line as detailed in the relevant Layout Plan;

11.2.2 provide all necessary equipment (including for the avoidance of doubt lifting equipment) to appropriately offload, install, test and calibrate the Plant; and

11.2.3 remove all packaging waste from the Producer Premises,

together the **“Transport and Delivery Services”**.

11.3 The Supplier may invoice the Buyer for the Transport and Delivery Services in accordance with Clause 5.2 of the Conditions.

SCHEDULE 1 APPENDICES

The following documents shall be incorporated hereto in the order and titled as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OFFICIAL – SENSITIVE

SCHEDULE 2 TIMELINE

[REDACTED]

SCHEDULE 3 CHARGES

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]