

Thalia Standard Terms and Conditions of Purchase

These Conditions come into force on the issue of a purchase order by Thalia and cancel and supersede any terms or conditions of the Vendor.

1. INTERPRETATION AND DEFINITIONS

1.1 Interpretation:

- (a) Where Construction Operations are included in the Contract and the Purchaser and the Vendor have not already entered into an agreement in respect of their rights and obligations, these Conditions shall apply to the extent that they are not inconsistent with clauses 26 to 30 below.
- (b) Any reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, re-enacted or replaced and all statutory instruments, orders or any other subordinate legislation made pursuant to it.

1.2. In these Conditions:

"CDM Regulations" shall mean the Construction (Design and Management) Regulations 2015.
"CIS Regulations" shall mean the Income Tax (Construction Industry Scheme) Regulations 2005 as amended by The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2024 and any future amendments.
"Codes" shall mean as defined by clause 20.1.5.
"Commencement Date" shall mean the date stated in the Purchase Order.
"these Conditions" shall mean the terms and conditions contained herein.
"Construction Operations" shall mean construction operations within the meaning of this term in Section 105 of Part II of the Construction Act including any temporary works.
"Construction Act" shall mean Part II of the Housing Grants, Construction and Regeneration Act 1996.
"Contract" shall mean these Conditions, the Purchase Order and the documents listed therein.
"Data Protection Legislation" shall mean as defined by clause 33.1.
"Contract Expiry Date" shall mean the date stated in the Purchase Order.
"Goods" shall mean the goods described in the Purchase Order (including any replaced goods and spare parts) and the term "Goods" shall whenever the context permits include any work or services performed under the Contract by the Vendor or any of its sub-contractors in connection with or incidental to the Goods or the Works.
"Health and Safety Plan" shall mean any part or parts of the construction plan that relates to health and safety (and any development thereof) by the Purchaser during the progress of the Works) which are applicable to the Construction Operations.
"IR35 Contractor" shall mean the Vendor's persons or any individual engaged either directly by the Vendor (or via any other intermediary or intermediaries) through a PSC.
"Main Contract" shall mean a contract between the Purchaser and the Owner and/or the contract between either the Purchaser or the Owner and the Ultimate Client pursuant to which this Contract may be placed (or ultimately placed).
"Mandatory Policies" shall mean the Purchaser's business policies and codes listed in Schedule 1 as amended by the Purchaser from time to time.
"Method Statement" shall mean the Vendor's proposed safe system of work or method of carrying out the Construction Operations prepared in accordance with the Health and Safety Plan and with any further requirements of the Purchaser including requirements to ensure the health and safety of any persons that may be involved in the Works.
"Owner" shall mean the person or firm or company for whom the Purchaser has undertaken to execute the Works or any part thereof.
"Personal Data" as defined in Data Protection Legislation.
"Place of Delivery" shall mean the address for delivery of the Goods specified on the Purchase Order.
"Practical Completion" shall mean the practical completion of the Works under the Main Contract or as otherwise determined by the Purchaser.
"Price" shall be the sum stated in the Purchase Order or such other sum as may be payable by the Purchaser to the Vendor for the Goods in accordance with the terms of this Contract. The Price shall be exclusive of Value Added Tax which shall be added at the appropriate rate on any taxable transaction.
"PSC" shall mean a limited company or partnership which meets the conditions specified in sections 610 or 61P (as applicable) of Income Tax (Earnings and Pensions) Act 2003 ("ITEPA"), or which is otherwise an entity the purpose of which is to supply an individual's services to a business.
"Purchase Order" shall mean a document headed "Purchase Order", together with any amendment thereto signed by or on behalf of the Purchaser, and issued to the Vendor.
"Purchaser" shall mean the Thalia Waste Management Limited group company named in the Purchase Order, which is a party to the Contract, with the other party being referred to as the "Vendor".
"Relevant Transfer" shall mean as defined by clause 37.1.
"reverse charge applying" (or similar) shall mean any case where the recipient of a supply for VAT purposes, or a member of a VAT group of which the recipient of the supply is a member, is required to account to HM Revenue & Customs for the VAT chargeable in respect of the supply pursuant to section 55A of the Value Added Tax Act 1994 and the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019.
"the Scheme" shall mean the Scheme for Construction Contracts (England and Wales) Regulations 1998 or the Scheme for Construction Contracts (Scotland) Regulations 1998, as appropriate.
"Site" shall mean the site of the Works as more particularly described in the Main Contract or in the Purchase Order (as applicable).
"Specification" shall include the description of the Goods set out in the Contract, any specifications and drawings forming part of the Contract and any samples or patterns referred to in the Contract.
"Statutory Requirements" means any Act of Parliament and, to the extent applicable, any Act of the Scottish Parliament, any instrument, rule or order made under any Act of Parliament or, to the extent applicable, any Act of the Scottish Parliament, and any regulation or bylaw of any local authority or of any statutory undertaker which has any jurisdiction with regard to the Goods and/or the Construction Operations or with whose systems the same are or will be connected including any statutory provisions and any decisions of a relevant authority under the statutory provisions which control the right to develop the Site in connection with which the Goods and/or the Construction Operations are to be provided.
"Time for Completion" shall mean the period or date(s) for completion of the Construction Operations identified in the Contract.
"Trade Restrictions and Sanctions" shall mean as defined by clause 36.1.
"TUPE" shall mean as defined by clause 37.1.
"Ultimate Client" means the local authority with whom either the Purchaser or the Owner has entered into a contract for the provision of, amongst other things, waste treatment services.
"Variation" shall mean any variation in the design, materials or method of manufacture of the Goods or substitution of other parts for any proprietary or special parts ordered by the Purchaser.

"Vendor" shall mean the person or firm or company to whom the Purchase Order is issued.

"Works" shall mean the works for and in connection with which the Goods are required.

2. CONDITIONS APPLICABLE

- 2.1 These Conditions (together with other terms and conditions expressly agreed in writing between the Vendor and the Purchaser) shall apply to all orders for the supply of Goods by the Vendor to the Purchaser to the exclusion of all other terms or pre-printed standard terms, including any terms or conditions which the Vendor may purport to apply under any sales, offer, acceptance or counter-offer or similar document, whether or not expressly contained or referred to in the Vendor's offer, acceptance, acknowledgment or delivery. Dispatch of the Goods from the Vendor to the Purchaser or the commencement of any Works shall, without limitation, be deemed to be conclusive evidence of acceptance of these Conditions.
- 2.2 No person has any authority on behalf of the Purchaser to agree to any variation of or addition to these Conditions, unless such variation or addition is expressed in writing and specifically agreed and signed on behalf of the Purchaser by a director or other person duly authorised by the Purchaser.
- 2.3 The Vendor shall comply with the Mandatory Policies and all applicable Statutory Requirements.

3. QUANTITY

- 3.1 It is a condition of the Purchase Order that the Vendor delivers the exact quantity of Goods specified in the Purchase Order. Any increase in quantity will only be authorised by a further order.
- 3.2 If the Vendor delivers a quantity less than the quantity specified in the Purchase Order, the Purchaser may (at its absolute discretion) elect to:
 - (a) refuse to take delivery of or reject the Goods and the Purchaser shall have no liability for any payment; or
 - (b) take delivery of and keep the lesser quantity of Goods or any part thereof and pay for them at the rate specified in the Purchase Order, in which event the Vendor shall indemnify the Purchaser against all costs, losses, damages and expenses suffered or incurred by the Purchaser as a result of or in connection with the delivery of such lesser quantity of Goods.
- 3.3 If the Vendor delivers a quantity greater than the quantity specified in the Purchase Order, the Purchaser may (at its absolute discretion) elect to:
 - (a) accept and pay for all the Goods delivered at the rate specified in the Purchase Order; or
 - (b) accept and pay for the quantity specified in the Purchase Order and reject the excess Goods.

4. PRICE AND PAYMENT

- 4.1 Unless otherwise agreed in writing by the Purchaser, the Price shall include as appropriate:
 - (a) secure and proper packaging acceptable to the Purchaser;
 - (b) the cost of delivery to the Place of Delivery; and
 - (c) any taxes, customs, duties, levies, charges or other costs payable in connection with the manufacture and delivery of the Goods to the Place of Delivery, save that the Price shall be exclusive of Value Added Tax.
- 4.2 The Purchaser including any associate company of the Purchaser reserves the right to set off any sums in respect of which the Vendor or any company which is either a subsidiary of the Vendor within the meaning of s.736 of the Companies Act 1985 or which is an associate company of the Vendor may be indebted or in default to the Purchaser whether or not in connection with the sale or supply of Goods. For the purposes of this clause 4.2 only, "associate company" shall mean any:
 - (a) company which directly or indirectly owns or holds more than 50% of the share capital or voting interests of the Vendor; or
 - (b) company in which more than 50% of the share capital or voting interests are owned or held directly or indirectly by the Purchaser falling within sub-paragraph (a) of this clause 4.2.
- 4.3 Subject to clause 4.4, the Vendor shall not invoice the Purchaser until performance of the Contract has been completed.
- 4.4 Where the Purchase Order covers a series of distinct orders for the supply of Goods over a long period (i.e. exceeding 1 month), the Vendor shall submit an invoice in respect of each distinct order on completion of the supply to which that order relates. In the event of any disagreement as to whether an invoice should be issued and/or the scope of any invoice, the Purchaser's decision shall be final.
- 4.5 Unless the Purchase Order otherwise provides, payment of amounts correctly invoiced by the Vendor shall, subject to Sub-clauses 4.2 and 4.6, be made sixty (60) days following the end of the month in which the invoice is received.
- 4.6 Failure by the Purchaser to make any payment by the due date shall entitle the Vendor to simple interest at 3% over the Base Rate of the Bank of England which is current at the date the payment became due which shall be the Vendor's sole remedy in respect of late payment.
- 4.7 No payment made by the Purchaser shall in any way be construed as acceptance of any of the Goods supplied or work or services performed by the Vendor or any of its sub-contractors and no payment shall in any way impair or restrict any rights or remedies the Purchaser may have under the Contract or otherwise for and in connection with the supply of the Goods and/or the performance of work and/or services under the Contract by the Vendor or any of its sub-contractors.
- 4.8 The Vendor will work with the Purchaser to implement electronic trading wherever possible to minimise transaction costs in the purchase order to payment cycle.

5. DELIVERY, INSPECTIONS AND TESTING

- 5.1 The Goods shall be securely and properly packed by the Vendor so as to survive transit to the Purchaser's stated destination in good condition, to resist pilferage, distortion, corrosion, contamination or other damage with lifting points clearly identified and, if applicable, in accordance with any instructions given by the Purchaser and delivered to the Place of Delivery. The Goods shall be clearly labelled and addressed and all delivery notes and subsequent correspondence shall quote the number of the Purchase Order. The Vendor shall be responsible for unloading Goods from the vehicle of the Vendor at the Place of Delivery.
- 5.2 The packaging and labelling of the Goods shall comply in all respects with any requirements of any Statutory Requirements which may be in force at the times when the Goods are supplied. All marking and labelling of the Goods as particularly required by the Purchaser shall be carried out by the Vendor.
- 5.3 Hazardous goods must have prominent warnings compliant with Statutory Requirements in English and any other language as may be specified in the Purchase Order on all packing and documents.
- 5.4 If from an initial inspection, it appears that any of the Goods are in any way damaged, the Purchaser shall inform the Vendor providing details of the damaged Goods and the nature of the damage. The Purchaser shall not be obliged to accept delivery of any damaged Goods and the Vendor shall forthwith, if requested by the Purchaser, remove the damaged Goods and supply undamaged Goods.

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- 5.5 It is a condition of the Contract that the Vendor shall, subject to the provisions of clauses 7 and 8, deliver the Goods at the date and/or within the time or period stated in the Purchase Order.
- 5.6 If the Goods or any part thereof are not delivered by the due date and/or time, the Purchaser may at its option and without prejudice to any other rights or remedies it may have, either:
- refuse to take delivery of or reject the Goods or any part thereof as it may choose, and the Purchaser shall have no liability for the payment thereof and shall be entitled to terminate the Contract immediately; or
 - purchase the unsupplied Goods elsewhere and recover any difference in price from the Vendor as a debt or set it off against any monies owing to the Vendor whether in connection with this Purchase Order or otherwise; or
 - take delivery and subject to clause 10 keep the Goods or any part thereof as it may choose, in which event the Vendor shall indemnify the Purchaser against all costs, losses, damages and expenses suffered or incurred by the Purchaser as a result of or in connection with such late delivery.
- 5.7 In the absence of specific delivery instructions or programme being incorporated in the Purchase Order, the Vendor shall upon request provide the Purchaser with its estimated delivery date(s). Once agreed, the delivery date(s) shall be binding on the Vendor.
- 5.8 Delivery in instalments or separate consignments shall be permitted only with the prior consent of the Purchaser and such permission, if given, shall not entitle the Vendor to claim payment prior to delivery of the whole of the Goods, unless otherwise expressly agreed in writing by the Purchaser or where clause 4.4 applies.
- 5.9 The Purchaser shall make available to the Vendor such assistance in unloading as has been specified in the Contract (if any) and is confirmed by the Vendor to the Purchaser in writing seven (7) days prior to delivery of the Goods. The Goods shall not be treated as having been delivered to the Place of Delivery until they are safely unloaded and taken over by the Purchaser.
- 5.10 Where the Contract is silent on storage requirements for the Goods then the Vendor warrants that the Goods may be stored without deterioration in the open on the ground whilst in the condition general to the Place of Delivery.
- 5.11 The Vendor shall clear any packaging and debris from the Place of Delivery resulting from the delivery and leave the Place of Delivery in a clean and orderly state.
- 5.12 The Vendor shall adhere to all security regulations and procedures of the Owner and / or the Purchaser and / or the Ultimate Client (as applicable). The Purchaser reserves the right to search all vehicles and personal possessions brought to the Place of Delivery or its vicinity.
- 5.13 Without prejudice to any of the Vendor's obligations under the Contract the Vendor and its sub-contractors shall at all times allow persons duly authorised by the Purchaser to enter upon the premises where any of the Goods are being manufactured or any work in connection therewith is being carried out and shall provide such programmes, schedules, reports and other information as the Purchaser may require to monitor the progress of the Goods and to satisfy the Purchaser that all practicable measures have been and are being taken to meet the due date and/or time of delivery or that the obligations contained in these Conditions are being observed. The Vendor shall afford to the Purchaser all reasonable facilities and assistance which shall be free of cost to the Purchaser unless specifically agreed in writing to the contrary.
- 5.14 Notwithstanding any inspection or test made by the Purchaser, the Vendor shall inspect and test the Goods at their expense before delivery. The Vendor shall give at least seven (7) days' notice to the Purchaser of its intention to carry out such inspection or test and the Purchaser shall be entitled to attend.
- 5.15 The Purchaser may reject the Goods or part of them if the Purchaser considers that they are not in accordance with the Contract or are otherwise defective or inferior in quality of material, workmanship or design or which do not comply with Statutory Requirements.
- 5.16 If the Goods or part of them are rejected by the Purchaser, the Vendor shall replace the defective Goods unless in the opinion of the Purchaser they can be made fit for use by methods other than replacement. The Vendor shall then re-inspect and test the Goods in the presence of the Purchaser. The Vendor shall supply at their expense such certificates of analysis, test, inspection or origin as the Purchaser or any public authority may require.
- 5.17 The cost of
- any additional inspection or testing of the replaced or repaired Goods;
 - the cost of any further inspection or testing of other Goods as may be reasonably required by the Purchaser having due regard to the nature of the defect found in the Goods being replaced or repaired; and
 - the cost of collecting the Goods from and returning them to the Purchaser, shall be borne by the Vendor.
- 5.18 Any inspection, test, checking or approval by or on behalf of the Purchaser (or any failure to inspect, test, check, approve or make any complaint to the Vendor) shall in no event be construed as acceptance of any of the Goods supplied or work or services performed by the Vendor or any of its sub-contractors and shall in no way relieve the Vendor from any obligation or liability under the Contract or otherwise.
- 5.19 Where by reason of its obligations contained in clause 12 or otherwise the Vendor has carried out or arranged for the carrying out of testing and examination of Goods to be sold hereunder for the purpose of ensuring that they are safe and without risks to health at the times mentioned above, the Vendor shall provide the Purchaser where appropriate on or before delivery of the Goods with proper documented results of such tests or examinations or, in default thereof, certificates issued by a duly qualified and authorised person that the tests and examinations proved satisfactory.
- 6. RISK AND TITLE**
- 6.1 All risk of loss, damage or destruction of Goods remains with the Vendor until delivery in accordance with the Contract. In no circumstances shall the risk of damage to or loss or destruction of the Goods pass to the Purchaser prior to delivery of the Goods to the Place of Delivery.
- 6.2 Title to the Goods shall pass to the Purchaser on there being appropriated to the Contract or on delivery of or on payment for the Goods or any such part whichever is the sooner. Any Goods for which the Purchaser has paid but which have not been delivered shall be clearly identified as the property of the Purchaser and stored in safe and suitable conditions and in accordance with any instructions given by the Purchaser which may include issue of a vesting certificate by the Vendor in a form acceptable to the Purchaser in favour of the Purchaser, the Owner or any other party, as directed by the Purchaser.
- 6.3 Where the Purchaser collects the Goods from the Vendor, the Goods shall become the property of the Purchaser on the earlier of (i) the time at which title would pass in accordance with clause 6.2, and (ii) upon being loaded by the Vendor onto the vehicle of the Purchaser. The signature of the Purchaser on the delivery note shall serve as proof of delivery but shall not be evidence that the Goods comply with the requirements of the Contract.
- 6.4 Where the Purchaser or the Owner issues for use in connection with the Contract materials or other items free of charge to the Vendor (including without prejudice to the generality of the foregoing the Specification, plans, drawings, designs, samples,

patterns, dies, moulds, gauges, equipment, material and computer programmes, whether by way of free issue or not), whether for incorporation in the Goods or not, such materials and other items shall be and remain the property of the Purchaser or the Owner as the case may be, and the Vendor shall:

- unless within three (3) working days from receipt thereof the Vendor notifies the Purchaser in writing to the contrary setting out appropriate details, be deemed to have satisfied itself as to the suitability of such materials and other items for their intended use and to have received same in good order and condition and in the quantities specified in the Contract;
- bear the risk of loss of or damage to such items and be generally responsible and accountable to the Purchaser therefore in accordance with clause 6.4 hereof;
- affix and keep affixed a clear sign upon each such item indicating that it is the property of the Purchaser or the property of the Owner, as the case may be;
- not without the Purchaser's prior written consent use or allow the use of any such items for any purpose whatsoever, other than the supply of the Goods and the carrying out of any associated work under the Contract; and
- upon completion by performance or termination of the Contract, or earlier at the Purchaser's request, (i) return to the Purchaser all such items together with any scrap or surplus arising from free-issue materials and/or other items or (ii) pay or credit to the Purchaser the amount obtained from the sale by competitive tender of such scrap or surplus, as the Purchaser may at its option have decided.

7. STORAGE

If the Purchaser is not able to accept delivery of the Goods on the agreed date for delivery:

- The Vendor shall at its own risk (but subject to reimbursement as provided in clause 7.3) if the Purchaser so requests, store the Goods at suitable premises, advising the Purchaser beforehand of the particulars of such proposed storage;
- The Vendor shall insure the Goods for their full replacement value on 'all risks' terms acceptable to the Purchaser in the joint names of the Vendor and the Purchaser and shall notify the Purchaser of such insurance cover;
- Subject to receiving a certificate of insurance in a form acceptable to the Purchaser, the Purchaser shall reimburse the Vendor in respect of its reasonable storage charges and additional insurance premiums so incurred or paid; and
- The Purchaser shall specify a new date for delivery of the relevant Goods.

8. VARIATIONS

- The Vendor shall not make any Variations without the prior written consent of the Purchaser.
- The Purchaser shall have the right at any time by notice in writing to direct the Vendor to add to or omit, or otherwise vary the Goods (including without limitation any required changes in any drawings, the Specification, instructions or directions) (a "Direction") and the Vendor shall carry out such Variations and be bound by the same terms and conditions so far as applicable, as though the said Variations were stated in the Contract.
- If, in the opinion of the Vendor any such Direction is likely to prevent the Vendor from fulfilling any of its obligations under the Contract, the Vendor shall within five (5) working days from the receipt of the Purchaser's Direction so notify the Purchaser and the Purchaser shall within a reasonable time, and in any event within (2) working days decide whether or not the same shall be carried out and shall confirm the Direction in writing and modify the said obligations to such an extent as in the Purchaser's reasonable opinion may be justified to effect the Direction. Until the Purchaser so confirms the Direction it shall be deemed not to have been given. If the Vendor fails to notify the Purchaser in accordance with this clause 8.3 the Vendor shall be deemed to have agreed the Direction and forfeit any right to modification of any of its obligations under the Contract by reason of or in connection with the aforementioned Purchaser's Direction.
- The Vendor shall within five (5) working days of receipt of a Purchaser's Direction advise the Purchaser in writing of its estimate of the adjustment to the Price (if any) applying the relevant rates and prices in accordance with clause 8.5 below and, where applicable, any adjustment to the Time for Completion.
- Any adjustment to the Price arising as a result of any Variation shall be ascertained and determined by reference to the rates and prices in the Contract insofar as applicable and shall be subject to the provision of acceptable supporting documentation.
- Should the Purchaser be unable to agree the adjustment to the Price or rates for a Variation the parties shall refer the matter for resolution in accordance with clause 23 (Disputes).
- Variations shall be confirmed by amendment to the Purchase Order, signed by or on behalf of the Purchaser and issued to the Vendor.
- If any act of prevention by the Purchaser causes the Vendor to be unable to deliver the Goods by the relevant date specified in the Contract for delivery, the Purchaser shall by written notice to the Vendor adjust the date by such period as is, in the Purchaser's opinion, reasonable in the circumstances.

9. QUALITY

- To the extent that the Vendor is responsible for design the Price includes all costs related to design including the cost of professional indemnity insurance cover as required by clause 18.2(f).
- All Goods shall be new and shall, on delivery to the Purchaser, be of satisfactory quality, fit for their intended purpose and where applicable in accordance with the Purchaser's Specification, and of first class materials, workmanship and design and to the satisfaction of the Purchaser and the Owner.
 - Where Goods constitute work or services, the Vendor shall exercise the highest standard of skill and care to be expected of a professional carrying out work or services of the type, scale and complexity of the Goods in the performance of its obligations.
 - All Goods shall comply in all respects with the terms of the Contract and all warranties or representations given or made on behalf of the Vendor or implied in law. For the avoidance of doubt, any express warranty or guarantee given by the Vendor shall extend to parts and labour and shall apply until (at the earliest, and without prejudice to any longer warranty or guarantee specified in the Purchase order) the expiry of a period of twenty-four (24) months from the date the Works (incorporating the Goods) are completed, accepted and put into use by the Purchaser or Owner.
 - Where Goods constitutes design of any sort the Vendor shall exercise all the reasonable skill, care, diligence and prudence to be expected of an appropriately qualified, skilled, competent and experienced professional designer or consultant engaged in those activities for works of a similar nature, scope and complexity of the Goods and under the same or similar circumstances.
- The Goods shall be free from defects in materials, design and workmanship and comply in all respects with the requirements of all Statutory Requirements in force at the times when the Goods are supplied including, but not limited to appropriate British Standards (or European equivalent) and, where applicable, the Construction Products Regulations 2013 (as amended).

Thalia Standard Terms and Conditions of Purchase

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- 9.4 Where the Purchase Order specifies Goods to be supplied by reference to sample, then the Goods shall comply with that sample as well as the remaining provisions of this clause.
- 9.5 The Goods shall be of the description stated in the Purchase Order.
- 9.6 The Vendor shall satisfy itself that it understands the Purchaser's requirements in order to comply with the obligations contained in clauses 9.2 to 9.4 above and also to prevent delay caused by any work which may be necessary to meet the Purchaser's requirements. The cost of any such work shall be borne by the Vendor.
- 9.7 The Vendor shall operate a quality system in accordance with the relevant parts of BS EN ISO 9001 or equivalent.
- 9.8 Without prejudice to the provisions of clause 5, the Vendor shall at its own expense carry out such inspections and tests of the Goods as may be required for the purposes of ensuring that the Goods are:
- (a) safe and without risks to health when properly used; and
 - (b) in full compliance with the Contract.

10. DEFECTS

- 10.1 If, on inspection or test (whether at any time prior to or after delivery), in manufacture or use, any Goods are found to be faulty in quality, damaged, defective or not to comply with these Conditions (including Goods damaged in transit), the Purchaser may, at its option:
- (a) reject the whole or any part of the Goods in which event any payment previously made therefor shall be refunded to the Purchaser;
 - (b) require the Vendor at its own cost either to replace the Goods or to rectify any defect;
 - (c) undertake or procure at the risk and expense of the Vendor the replacement of the Goods or the rectification of any defect; or
 - (d) the Purchaser may at its entire discretion and subject to reasonable compensation agree to accept in writing the non-compliant Goods.
- The 24 months period specified in clause 9.2(c) (and any longer period specified in the Purchase Order) shall, in respect of Goods replaced or rectified as aforesaid, be renewed from the date such replaced or rectified Goods are put into use by the Owner.
- 10.2 In addition to its remedies under clause 10.1, the Purchaser shall be indemnified by the Vendor against all direct and consequential loss, damages, costs, charges, expenses or claims (including without limitation any claims by third parties) arising by reason of any failure of the Goods to comply with clauses 9.2 to 9.5 or any other terms of the Contract whether express or implied by statute, common law, custom or otherwise or by reason of any act or omission of the Vendor, its employees, agents or sub-contractors in the performance of the Contract.
- 10.3 Where the Purchaser requires the Vendor to rectify a defect, the provisions of clauses 5.16 to 5.18 governing the re-inspection and testing of the replaced or re-fitted Goods shall apply.

11. ASSIGNMENT AND SUB-CONTRACTING

- 11.1 The Vendor shall not sub-contract or assign the whole or any part of this Contract or otherwise deal with the benefit thereof without the prior written consent of the Purchaser. Any consent given by the Purchaser under the foregoing provisions of this clause 11.1 shall not relieve the Vendor from any obligation or liability under this Contract.
- 11.2 When the Purchaser has consented to the placing of sub-contracts, copies of each sub-contract or sub-order shall be sent to the Purchaser immediately after they are issued unless the Purchaser has specifically requested or approved in writing otherwise.
- 11.3 The Purchaser shall without consent from the Vendor have the right to assign or charge the whole or any part of this Contract or the benefit or burden thereof to any other party.
- 11.4 The Purchaser may at any time direct the Vendor to terminate the whole, or any part of, any sub-contract in the event that such sub-contractor has committed any act, omission or default which is in breach of the Mandatory Policies or which causes a material breach of the terms of this Contract.

12. HEALTH AND SAFETY

- 12.1 The attention of the Vendor is drawn to the obligations imposed by the Health and Safety at Work etc Act 1974 and subordinate regulations (as amended) on designers, manufacturers, importers, vendors, erectors and installers of articles and substances for use at work to ensure, so far as is reasonably practicable, that such articles and substances are so designed, constructed or installed to be safe and without risks to health at all times when they are being set, used, cleaned, maintained, handled, processed, stored or transported.
- 12.2 Without prejudice to the obligation contained in clause 5.18 above, before delivery of the Goods to the Purchaser, the Vendor shall provide to the Purchaser in connection with the Goods information about the use for which such Goods have been designed and tested, and about any conditions necessary to ensure that when installed, commissioned and put to use the Goods will be safe and without risks to health.
- 12.3 Where in the performance of the Vendor's obligations under this Contract the Vendor, its sub-contractors, tradesmen or artisans intend either to supply to the Purchaser, or to use any product which may or does contain a substance or substances which is or are hazardous to health within the meaning of Regulation 2(1) Control of Substances Hazardous to Health Regulations 2002 (as amended), the Vendor shall supply to the site manager at the Place of Delivery at the time of delivery full details both of such product and/or such substance in duplicate forthwith including but not limited to material data sheets and where relevant, COSHH data sheets relating to all materials equipment goods, articles or things brought onto the Place of Delivery.
- 12.4 In supplying such details the Vendor will include in relation to both the product and the substance, without limitation, details of any assessment or monitoring which has been carried out and any data concerned with information or training.
- 12.5 The Vendor shall in addition supply promptly, but no later than (7) seven days following the Purchaser's written request, any other supporting documentation or information relating to the product or substance which the Purchaser may reasonably request.
- 12.6 In considering whether any product contains a substance which falls within the above Regulations, the Vendor shall include any substance which may be comprised in the product and which may be released either by cutting, grinding, spreading or burning the product or by mixing or using the product with other products or by any other means.

13. SUSPENSION

The Purchaser shall, by notice in writing to the Vendor, be entitled to suspend this Contract. If the Vendor shall be delayed in the performance of any of its obligations under this Contract by any suspension order (other than a suspension order given by reason of the Vendor's own breach of this Contract) then, any reasonable and demonstrable additional cost or expense directly and unavoidably incurred by the Vendor as a result of such order shall be added to the Price. The Purchaser, however, shall in no event be liable to the Vendor for any loss of profit, loss of use or loss of trading revenue, whether arising in connection with or as a result of such suspension or otherwise.

14. TERM AND TERMINATION OF THE CONTRACT

- 14.1 This Contract shall be effective from the Commencement Date and shall, subject to any early termination in accordance with the terms of this Contract, terminate on the Contract Expiry Date.
- 14.2 In addition and without prejudice to the Purchaser's right to terminate this Contract under these Conditions, the Purchaser shall have the right at its sole discretion to terminate this Contract at any time prior to discharge of the Contract by performance by giving notice in writing to the Vendor under this clause.
- 14.3 The Purchaser shall have the right to terminate the Contract forthwith if:
- (a) the Vendor is in breach of any of the obligations set out in these Conditions or in the Purchase Order and (if the breach is capable of being remedied) has not remedied such breach to the complete satisfaction of the Purchaser within (7) seven days (or within such longer period as the Purchaser may have agreed in writing) after notice thereof in writing;
 - (b) the Vendor, not being a body corporate, becomes bankrupt, or compounds or makes any arrangements with its creditors, or commits any act of bankruptcy, or if the Vendor, being a body corporate, goes into liquidation, whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation while solvent) or has a receiver and/or manager or administrative receiver appointed of its undertaking or assets or any part thereof, or has a monitor appointed or any document is filed at court to obtain or apply for a moratorium or order is made for a moratorium to come into force;
 - (c) there is a change of control of the Vendor (within the meaning of section 1124 of the Corporation Tax Act 2010);
 - (d) work under the Main Contract is suspended or abandoned, or the Main Contract is frustrated or terminated;
 - (e) the Purchaser's employment under the Main Contract is determined;
 - (f) work under the Main Contract is varied in such a way that the Goods are no longer required by the Purchaser;
 - (g) the Vendor fails to comply with the Mandatory Policies;
 - (h) the Vendor breaches its obligations pursuant to clause 20 (Ethical Conduct), clause 32 (Anti Tax Avoidance) or clause 34 (IR35).
- 14.4 Termination of this Contract for any reason shall be without prejudice to the rights and remedies of either party accrued up to and including the date of such termination.
- 14.5 Unless the Purchaser's termination notice otherwise provides, upon receipt of such notice the Vendor shall promptly cease any further work (except in respect of any part not terminated by the Purchaser) and shall instruct its sub-contractors, if any, to similarly do so, and shall comply with all reasonable instructions from the Purchaser in regard to termination.
- 14.6 The Vendor hereby agrees that notwithstanding anything contained elsewhere in this Contract to the contrary, whether expressly or by implication, the Vendor's sole remedy in the event of termination pursuant to clauses 14.2 and 14.3 is to receive payment from the Purchaser of:
- (a) such part of the Price as represents the value of the Goods (if any) completed, delivered and accepted in accordance with the terms of this Contract prior to the date of receipt of such termination notice, less any monies previously received under this Contract;
 - (b) any direct costs and expenses reasonably and necessarily incurred by the Vendor in complying with the provisions of clause 14.4 as substantiated to and agreed by the Purchaser; or
 - (c) in lieu of (a) and (b) such sum as the Purchaser and the Vendor may agree as full and final settlement. The Purchaser, however, shall in no event be liable to the Vendor for any loss of profits, loss of use, or loss of trading revenue, whether arising in connection with or as a result of such termination or otherwise.
- 14.7 The provisions of clauses 4 (Price and Payment), 9 (Quality), 10 (Defects), 14 (Term and Termination of the Contract), 15 (Patents, Copyright etc.), 16 (Confidentiality), 17 (Liens and Claims), 18 (Indemnity and Insurance), 20 (Ethical Conduct), 21 (Governing Law and Jurisdiction), 22 (The Main Contract), 23 (Disputes), 27 (Price and Payment for Construction Operations), 33 (Data Protection) and 35 (Notices) shall remain in effect notwithstanding any discharge by performance, termination or suspension of this Contract.

15. PATENTS, COPYRIGHT ETC.

- 15.1 The Vendor warrants that the supply by the Vendor and the use by the Purchaser, the Owner or the Ultimate Client or any other user of the Goods and / or any documents supplied by the Vendor does not and will not infringe the intellectual property rights of any third party, whether in the form of letters patent, trade or service marks, registered designs, unregistered designs, copyright or any other similar right and the Vendor shall indemnify the Purchaser, the Owner and the Ultimate Client against all claims, demands, damages, penalties, costs, expenses or liability arising as a result of the breach of this warranty by the Vendor.
- 15.2 Subject to any rights in any designs, drawings and other documents supplied to the Vendor, for the purposes of this Contract, by the Purchaser, all intellectual property rights shall remain vested in the Vendor, but the Purchaser has an irrevocable, royalty-free, non-exclusive licence, with the full right to sub-licence to others, to copy, use, amend and to reproduce the designs and content of it for any purpose relating to the Works (including in relation to the Main Contract) including, without limitation, the construction, completion, maintenance, letting, sale, promotion, advertisement, reinstatement, refurbishment and repair of the Works (including in relation to the Main Contract). Such licence shall enable the Purchaser and any other licensees.
- to use such design for the extension of the Works (including in relation to the Main Contract) but shall not include a licence to reproduce the designs contained in them for any extension of the Works (including in relation to the Main Contract). The Purchaser's licence to use the intellectual property rights carries the right to grant sub-licences and is transferrable to third parties without the Vendor's consent.

16. CONFIDENTIALITY

- 16.1 The Vendor shall not publish any information in connection with the Works, or the Contract, or the Goods supplied or to be supplied hereunder without the prior written consent of the Purchaser.

Thalia Standard Terms and Conditions of Purchase

These Conditions come into force on the issue of a purchase order by Thalia and cancel and supersede any terms or conditions of the Vendor.

- 16.2 The Vendor shall keep the terms of the Contract and all information provided to it by the Purchaser confidential and will not disclose the same to any other party except as required by the provisions of the Contract or where required to do so by applicable law.
- 16.3 The Vendor acknowledges that the Ultimate Client may be subject to the requirements of the Freedom of Information Act 2000 ("FOIA"). Where requested by the Purchaser, the Vendor shall promptly provide to the Purchaser the relevant information which it holds on behalf of the Ultimate Client, to enable the Purchaser to respond to any request for information under the FOIA received by the Purchaser and/or the Owner.

17. LIENS AND CLAIMS

The Vendor shall indemnify and hold the Purchaser, the Owner and the Ultimate Client harmless from all liens and other encumbrances against the Goods or any property belonging to or in the possession of the Purchaser or the Owner or the Ultimate Client on account of debts or claims alleged to be due from the Vendor or its sub-contractors to any person, including sub-contractors, and on behalf of the Purchaser the Owner or the Ultimate Client and in the Purchaser's, the Owner's or the Ultimate Client's name, as the case may be, shall defend at its own expense any claim or litigation in connection therewith and shall follow any reasonable instructions issued by the Purchaser, the Owner or the Ultimate Client in connection therewith.

18. INDEMNITY AND INSURANCE

- 18.1 The Vendor shall indemnify and hold the Purchaser harmless against any direct, indirect or consequential loss, damage, liability charge, expense (including legal expenses), costs or claims suffered by or brought against the Purchaser arising from the Goods supplied or any work carried out by the Vendor under the Contract whether in respect of injury or death of any person including employees of the Vendor or of damage to any property or in the performance of the Contract by the Vendor or resulting from any defect in the Goods except to the extent that such loss, damage, liability, costs or claims arise from any negligence on the part of the Purchaser, its employees, employees or agents.
- 18.2 The Vendor shall at its own expense effect and maintain for so long as the Vendor has any liability under or arising out of the Contract:
- (a) such insurances as the Vendor may be required to effect and maintain by law;
 - (b) "all risks" insurance for the full replacement value of the Goods and other items while they remain at the Vendor's risk;
 - (c) insurance in respect of liability for death of or injury to third parties or loss of or damage to third party property for the amount specified in the Purchase Order or, if none, an amount of not less than £10,000,000, any one occurrence, unlimited in the aggregate;
 - (d) adequate insurance for such other of the Vendor's insurable obligations under the Contract (including in particular in obligations under clauses 7 and 8) as a prudent and competent person entering in the Contract would effect and maintain;
 - (e) product liability insurance with a limit if indemnity not less than £10,000,000 each and every claim or series of claims arising out of the same incident; and
 - (f) to the extent that the Vendor is carrying out any design, professional indemnity insurance with a limit of indemnity not less than £5,000,000 each and every claim,
- and, where applicable to the policies of insurance, such policies shall not have exclusions for "care, custody or control".
- 18.3 All insurances shall be provided by a reputable UK insurer and the Vendor shall provide the Purchaser upon request with details of all insurance cover for the time being held by it in relation to the Goods and the Vendor's obligations under the Contract.

19. NO WAIVERS

No failure on the part of the Purchaser at any time or from time to time to enforce or to require the strict adherence and performance of any of the terms, conditions and provisions of this Contract shall constitute a waiver of such terms, conditions or provisions and/or affect or impair such terms, conditions or provisions in any way or the right of the Purchaser at any time to avail itself of such remedies as it may have for each and every breach of such terms, conditions or provisions.

20. ETHICAL CONDUCT

- 20.1 The Vendor represents, warrants and undertakes to the Purchaser that:
- 20.1.1 in carrying out its responsibilities under this Contract, neither it nor any of its officers, employees, directors or agents directly or indirectly offers, promises, pays or gives, or authorises any offer, promise, payment or gift of money or anything else of value to any person, either as an improper inducement to make, or as an improper reward for making, any decision favourable to the interests of the Purchaser or the Vendor;
 - 20.1.2 neither it nor any of its officers, employees, directors or agents has any connection with the Owner, the Ultimate Client or the Purchaser nor any of the Owner's, the Ultimate Client's or the Purchaser's officers, employees, directors or agents that has not been disclosed to the Purchaser;
 - 20.1.3 neither it nor any of its officers, employees, directors or agents has committed or will commit any offence under any legislation creating offences in respect of fraudulent acts or any offence at common law in respect of fraudulent acts,
 - 20.1.4 the information in relation to the matters referred to in clauses 20.1.1, 20.1.2 and 20.1.3 provided to the Purchaser following any request from the Purchaser is complete, accurate and not misleading; and
 - 20.1.5 in carrying out its responsibilities under this Contract, the Vendor and its officers, employees, directors or agents shall comply with the Mandatory Policies and codes of conduct relating to anti-bribery and corruption ("the Codes") copies of which have either been provided to the Vendor or the Vendor has been provided with the relevant information to be able to access the Codes on the Purchaser's website here: [Thalia policies](#)
- 20.2 The Vendor represents, warrants and undertakes to the Purchaser that it and its officers, employees, directors and agents shall comply in all respects with the Employment Relations Act 1999 (Blacklists) Regulations 2010. If the Purchaser becomes aware of what it determines in good faith to be a breach of the above representation and warranty the Purchaser is entitled to terminate the employment of the Vendor under this Contract, and any other agreement between the parties, with immediate effect.
- 20.3 The Vendor shall at all times comply with its requirements under the Modern Slavery Act 2015 (as it may be amended) and shall comply in all regards with any reasonable instruction it may be issued by the Purchaser in this regard. In the event of breach of the Vendor's obligation under this clause, the Purchaser may without prejudice to any other rights it may have terminate the Contract forthwith in accordance with the provision of clause 14.3(a) hereof and any payments already made to the Vendor under the Contract shall be returned to the Purchaser forthwith.

- 20.4 In performing its obligations under the Contract, the Vendor ensures that each of its sub-contractors complies with:
- 20.4.1 all applicable laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
 - 20.4.2 the Purchaser's anti-slavery policy or equivalent located in Schedule 1 or on the Purchaser's website as amended from time to time (the "Anti-Slavery Policy").
- 20.5 The Vendor undertakes warrants and represents that neither it nor any of its officers, directors or employees has:
- 20.5.1 been convicted of any offence involving slavery and human trafficking; nor
 - 20.5.2 been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 20.6 The Vendor shall implement due diligence procedures for its own sub-contractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 20.7 The Vendor shall notify the Purchaser as soon as it becomes aware of:
- 20.7.1 any breach, or potential breach, of the Anti-Slavery Policy; or
 - 20.7.2 any actual or suspected slavery or human trafficking within its supply chains; or
 - 20.7.3 being the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 20.8 The Vendor shall:
- 20.8.1 maintain a complete set of records to trace the supply chain of all equipment, plant, materials and services provided to the Vendor in connection with this Contract; and
 - 20.8.2 implement annual sub-contractor audits, either directly or through a third party auditor to monitor compliance with the Anti-slavery Policy, the first of which shall be completed within six (6) months of the date of this Contract.
- 20.9 The Vendor shall implement a system of training for its employees to ensure compliance with the Anti-Slavery Policy.
- 20.10 The Vendor shall keep a record of all training offered and completed by its employees to ensure compliance with the Anti-Slavery Policy and shall make a copy of the record available to the Purchaser on request.
- 20.11 The Vendor shall indemnify the Purchaser against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Purchaser as a result of any breach of Anti-Slavery Policy by the Vendor or its supply chains.
- 20.12 The Purchaser may terminate this Contract with immediate effect by giving written notice to the Vendor if the Vendor commits a breach of the Anti-slavery Policy or fails to notify in accordance with clause 20.7.

21. GOVERNING LAW AND JURISDICTION

- 21.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall in all respects be construed and governed by the laws of England and Wales.
- 21.2 Subject to clause 23 or unless stated otherwise within this Contract, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matters or formation (including non-contractual disputes or claims).

22. THE MAIN CONTRACT

- 22.1 The Main Contract is held at the Purchaser's offices and has been made available to the Vendor for inspection before the date of this Contract. By entering into this Contract the Vendor is deemed to confirm that it has knowledge of the requirements in the Main Contract insofar as they relate to the Goods. Appropriate extracts of the Main Contract may be viewed, by appointment, during normal office hours.
- 22.2 Save insofar as expressly provided in the Contract, the Vendor shall carry out its obligations under this Contract in such a way that no act or omission of the Vendor in relation thereto shall constitute, cause or contribute to any breach by the Purchaser of any of its obligations under the Main Contract and the Vendor shall assume and perform all the obligations under the Main Contract in relation to the Goods. The Vendor shall indemnify and hold harmless the Purchaser against and from:
- 22.2.1 any breach, non-observance or non-performance by the Vendor or its officers, employees or agents of any provisions of the Main Contract; and
 - 22.2.2 any act or omission of the Vendor or its officers, employees, directors, sub-contractors or agents which involves the Vendor in any liability to the Purchaser under the provisions of the Main Contract.
- Nothing herein is to be construed as creating any privity of contract between the Vendor, the Owner or the Ultimate Client.
- 22.3 The Vendor shall provide the Owner and/or the Ultimate Client and such other parties as having an interest in the Main Contract (including, without limitation funders, purchasers, tenants, landlords, the Ultimate Client and regulators) with a collateral warranty in such form as may be prescribed by that third party which may include step-in rights. Such collateral warranty shall afford the Vendor access to any defence and limitation as may be available to the Vendor under this Contract (save for set-off or counterclaim). The Vendor acknowledges that compliance by the Vendor with the obligations set out in this Clause 22.3 shall be a condition precedent to any payment in respect of the supply of Goods and/or any work and/or services to which the Vendor would otherwise be entitled under this Contract.

23. DISPUTES

- 23.1 Without limiting either party's rights under clause 23A below, if a dispute arises in relation to any aspect of this Contract, the matter shall be referred to a senior representative or director (as identified) of each party who shall, within fourteen (14) days of written notice from either party to the other, meet and consult in good faith and shall use all reasonable endeavours to resolve the dispute.
- 23.2 If the parties fail to reach agreement within ten (10) working days of the meeting, then the dispute shall be finally determined by the English Courts.
- 23.3 Where the dispute concerns Construction Operations it shall be dealt with in accordance with clause 23A.

23A. ADJUDICATION

- 23A.1 This clause shall apply to Construction Operations only.
- 23A.2 If any dispute or difference arises under this Contract, either party may refer it to adjudication in accordance with the provisions of Part I of the Scheme which are hereby incorporated into these Conditions. The adjudicator nominating body shall be TECSA.

Thalia Standard Terms and Conditions of Purchase

These Conditions come into force on the issue of a purchase order by Thalia and cancel and supersede any terms or conditions of the Vendor.

24. ENTIRETY OF AGREEMENT

This Contract shall constitute the entire agreement between the Vendor and the Purchaser on the subject matter hereof and shall cancel and supersede all prior communications, representations (other than fraudulent representations), warranties, stipulations, undertakings, understandings and agreements (whether written or oral) between the Vendor and the Purchaser other than as expressly included in this Contract.

25. RIGHTS OF THIRD PARTIES

Save for rights of the Owner and / or Ultimate Client to enforce any indemnities in their favour, a person who is not one of the parties to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract but this shall not affect any right or remedy of a third party which exists or is available apart from that Act.

26. COMMENCEMENT, PROGRESS AND COMPLETION OF CONSTRUCTION OPERATIONS

26.1 This clause shall apply to Construction Operations only.

26.2 The Vendor shall commence the Construction Operations within (7) seven days of an instruction to proceed and shall complete the Construction Operations within the Time for Completion subject only to such extension of time as the Purchaser may allow pursuant to clause 26.3.

26.2A The Vendor shall carry out the Construction Operations:

- (a) in compliance with Statutory Requirements;
- (b) in compliance with all Mandatory Policies;
- (c) in compliance with the Main Contract (any applicable performance requirements and the provision of information and records);
- (d) in compliance with standards (including ISO 9001);
- (e) in compliance with any applicable Site rules;
- (f) in compliance with the Purchaser's reasonable instructions;
- (g) in cooperation with the Purchaser and/or any other contractors / sub-contractors;
- (h) in accordance with progress of the Works;
- (i) using good industry practice;
- (j) not using or specifying any deleterious materials; and
- (k) with that degree of skill, care, prudence and foresight and operating practice which would reasonably be expected from time to time of a skilled and experienced provider of services similar to the Works under the same or similar circumstances as contemplated by the Contract.

26.3 Upon it becoming reasonably apparent that the progress of the Construction Operations or any part thereof is delayed the Vendor shall forthwith give written notice of the cause of the delay to the Purchaser and shall give particulars of the expected effects thereof and shall estimate the extent of the expected delay in the completion of the Construction Operations.

26.4 If in the Purchaser's opinion the completion of the Construction Operations is likely to be or has been delayed beyond the Time for Completion or beyond any extended periods previously fixed under this clause by reason of:

- (a) any Variation;
- (b) breach of this Contract or other act of prevention by the Purchaser; and/or
- (c) circumstances (except delay on the part of the Vendor) for which the Purchaser is entitled to receive an extension of time for completion under the Main Contract,

then the Vendor shall be entitled to such extension of the Time for of the Construction Operations as may in all the circumstances be fair and reasonable and such extended time for completion shall be the Time for Completion of the same and this clause shall be read and construed accordingly, provided that:

- (i) in any case to which clause 26.4(c) applies the Vendor shall not be entitled to any extension of time unless it has submitted a notice and particulars of the event giving rise to its claim to the Purchaser in such time as shall enable the Purchaser to comply with the terms of the Main Contract in relation to the submission of notices and particulars and, in any such case, the extension shall not in any event exceed the extension of time relating to the Vendor's claim for an extension of time to which the Purchaser becomes entitled under the Main Contract; and
- (ii) the Vendor shall not be entitled to any extension of time and/or to the reimbursement of any additional cost and/or expense to the extent that, in respect of any delay, the delay is concurrent with another matter for which the Vendor is responsible (regardless of which delay arose first and regardless of which delay is considered to be the more dominant).

26.5 The Vendor acknowledges that any breach by it of this Contract may result in the Purchaser committing breaches of and being liable in damages under or in relation to the Main Contract and/or other agreements, contracts and sub-contracts entered into by the Purchaser in relation to the Works, and/or may cause further loss and/or expense to the Purchaser in connection with the Works, and all such damages, loss and expense are agreed to be within the contemplation of the parties hereto as being the probable results of any such breach by the Vendor.

26.6 The Vendor shall notify the Purchaser when it considers that Practical Completion of the Construction Operations has been achieved and shall supply the results of any tests or inspections to the Purchaser with the notification. Within two weeks of this notification the Purchaser shall either:

- (a) notify the Vendor in writing that Practical Completion of the Construction Operations has been achieved and the date upon which it has been achieved; or
- (b) notify the Vendor that Practical Completion as they relate to the Construction Operations have not been achieved and state the reasons for its decision.

27. PRICE AND PAYMENT FOR CONSTRUCTION OPERATIONS

27.1 This clause shall apply to Construction Operations only, and clauses 4.1 and 4.3 to 4.6 shall not apply to Construction Operations.

27.2 The first application for payment (which shall be submitted to the Purchaser not sooner than the last Friday of the calendar month during which the Construction Operations commence on site, or if agreed, off site provided the Construction Operations relate thereto), interim and final applications for payments shall be made in accordance with the following provisions:

- (a) The Vendor shall make applications for payment in the form of prepared statements (hereinafter called "Valuation Statements") detailing the sum the Vendor considers will become due on the Due Date and the basis upon which it is calculated and the Valuation Statements shall be in such form and contain such details as the Purchaser may reasonably require;

- (b) The Valuation Statements shall be submitted to the Purchaser, not more frequently than each month and no later than seven (7) days before the date by which the Purchaser is to submit applications for payment under the Main Contract or other date specified by the Purchaser in the Purchase Order (the date by which the Purchaser is to submit applications for payment under the Main Contract or other date specified by the Purchaser in the Purchase Order hereinafter called "Specified Date");

- (c) Not used.

- (d) Within twenty-eight (28) days of the Specified Date, payment shall become due to the Vendor in respect of its Valuation Statement ("Due Date");

- (e) Subject to clauses 22.3, 27.3 and 34, the final date for payment under this Contract shall be seven (7) days after the Due Date ("Final Date for Payment").

- (f) Not later than five (5) days after the Due Date, the Purchaser shall give notice to the Vendor specifying the sum due and the basis upon which that sum was calculated ("Payment Notice"). It is immaterial that the sum referred to in the Payment Notice may be zero.

- (g) In relation to each payment to the Vendor for any Construction Operations made under the Contract:

- a. the Vendor shall, within five (5) days following the issue by the Purchaser of a Payment Notice (or, if the Purchaser fails to issue a Payment Notice, within five (5) days following the last date on which the Purchaser was entitled to issue a Payment Notice), issue to the Purchaser an appropriate and valid VAT invoice in respect of such supply, including (unless notice has been given under clause 27(i)) a statement that the reverse charge applies to the supply; and
- b. subject to the Vendor complying with clause 27(g)(a) and the Purchaser giving notice pursuant to clause 27(i) that the reverse charge does not apply to a supply, the Purchaser shall, in addition, be obliged to pay to the Vendor the amount of any VAT properly chargeable in respect of such supply.

- (h) Not later than one day before the Final Date for Payment, the Purchaser may give notice of intention to pay less specifying the sum considered to be due at the date that the notice is given and the basis upon which that sum is calculated (Payless Notice). The notice referred to in clause 27.2(f) may suffice as a notice of intention to pay less provided it contains the information required by this clause 27.2(h).

- (i) In the event that the Purchaser becomes aware that the reverse charge does not apply to a supply under the Contract, the Purchaser shall make a written notification to this effect to the Vendor with, or not later than the issue of, the Payment Notice (or, if the Purchaser fails to issue a Payment Notice, as soon as possible following the last date on which the Purchaser was entitled to issue a Payment Notice) relating to such Construction Operations.

27.3 The Vendor shall not commence work on the Site and shall not be entitled to payment hereunder unless and until the Vendor shall have provided to the Purchaser satisfactory evidence of the following:

- (a) insurance cover to be taken out and maintained by the Vendor in accordance with clause 18;
- (b) Method Statement in a form which is acceptable to the Purchaser; and
- (c) full details of the anticipated labour, plant and operatives the Vendor intends to use to complete the Construction Operations, provided that no comment relating to, acceptance or approval of this information shall constitute acceptance by the Purchaser that the Vendor's proposed resources are sufficient for the carrying out and completing the Construction Operations within the Time for Completion.

27.4 Retention which may be deducted and retained by the Purchaser (hereinafter called "Retention") shall be ascertained as follows:

- (a) Where the Construction Operations have not reached Practical Completion, then the Purchaser may deduct and retain the percentage specified in the Purchase Order of the gross value of the Construction Operations calculated in accordance with the Contract;
- (b) Where the Construction Operations have reached Practical Completion the Retention which the Purchaser may deduct and retain shall be one half of the amount that would have been deductible under clause 27.4(a) if the Construction Operations had not reached Practical Completion;
- (c) Subject to there being no defects in the Construction Operations on the date of the expiry of the Defects Liability Period of the Main Contract or other Defects Liability Period specified in the Purchase Order, the balance of any retention deducted and retained by the Purchaser shall be included in the next interim payment following the expiry of such Defects Liability Period;
- (d) If there are any defects in the Construction Operations on the date of the expiry of the Defects Liability Period such defects shall be stated in a list issued by the Purchaser to the Vendor. The balance of any retention deducted and retained by the Purchaser shall be included in the next interim payment following the making good of all such defects on such date as may be agreed (which agreed date shall be confirmed in writing by the Purchaser to the Vendor) or as may be determined by adjudication or, in the absence of such agreement or determination, following the issue of the certificate of completion of making good defects under the Main Contract;
- (e) Notwithstanding any other provision of this clause 27.4, the Vendor shall have no proprietary right or other interest (whether at law or in equity) in or over the Retention, except as unsecured creditor, and the Purchaser shall owe no fiduciary obligation to the Vendor in relation to the Retention.

27.5 Agreement on measurement of work and final account may be subject to the approval of and agreement of the Owner's agent and/or the quantity surveyor named in the Main Contract. The Vendor when requested by the Purchaser shall provide such information as is necessary to obtain the agreement of the quantity surveyor named in the Main Contract, to any measurements or other information comprised in the final account. The Vendor shall be deemed to have accounted within the Price for this, and payment of the final account shall be conditional upon the Vendor complying with this provision.

28. CIS REGULATIONS

28.1 This clause shall apply to Construction Operations and Plant with Operators only.

Prior to commencement of any Construction Operations on Site, the Vendor shall present CIS details to the Purchaser as follows: details of the Vendor's HMRC Unique Taxpayers Reference (UTR), if a Limited Company, or Limited Liability Partnership ("LLP") and the Companies House Registration Number (CRN). If the Vendor is not a Limited Company or LLP the National Insurance Number (NINO) relating to the HMRC Unique Taxpayers Reference (UTR) must be provided. The Purchaser has a verification details form which can be used by the Vendor to provide these details.

28.2 No payment of any kind shall be made by the Purchaser to the Vendor unless and until the Vendor complies with clause 28.1. and the relevant Tax details have been verified as correct to the Purchaser by Her His Majesty's Revenue & Customs (HMRC) in accordance with Section 74 of the Finance Act 2004, with instructions to the Purchaser to pay gross, or under deduction

Thalia Standard Terms and Conditions of Purchase

These Conditions come into force on the issue of a purchase order by Thalia and cancel and supersede any terms or conditions of the Vendor.

of tax at the current instructed rate from that part of the payment to the Vendor which is not shown by the Vendor to represent the direct cost to the Vendor or to any other person of materials used or to be used in carrying out the construction operations under the Contract.

29. PLANT HIRE

The CPA Model Conditions 2011 shall also apply to all items of plant hired in under the Purchase Order and where these Conditions are in conflict with the CPA Model Conditions 2011 these Conditions shall prevail.

30. CDM REGULATIONS AND BUILDING REGULATIONS 2010

- 30.1 This clause shall apply to Construction Operations only including temporary works.
- 30.2 The Vendor shall comply with the CDM Regulations and, if applicable Building Regulations 2010 and assist and co-operate with other duty holders including the Principal Contractor and the Principal Designer named under the Main Contract or as otherwise identified so as to enable the Client, Principal Contractor and the Principal Designer to carry out their respective duties under the CDM Regulations.
- 30.3 If the Vendor undertakes temporary works, they shall have appointed a Designated Individual (DI) whose role is to ensure compliance with Code of Practice BS 5975:2019.

31. SEVERABILITY

If any provision of this Contract shall be declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions

32. ANTI TAX AVOIDANCE

- 32.1 The Vendor hereby warrants and confirms to the Purchaser that:
- 32.1.1 it and its employees and other associated persons have not and will not engage in any activity, practice, conduct or thing which would (or the omission of which would) constitute:
- 32.1.1.1 a UK tax evasion offence within the meaning of section 45(4) of the Criminal Finances Act ("CFA") 2017 ("UK Tax Evasion Offence");
- 32.1.1.2 a foreign tax evasion offence within the meaning of section 46(5) of the CFA 2017 ("Foreign Tax Evasion Offence"); and/or
- 32.1.1.3 the facilitation of a UK Tax Evasion Offence or Foreign Tax Evasion Offence within the meaning of sections 45(5) or 46(6) of the CFA 2017 (a "Facilitation Offence"); and
- 31.1.1 it and (where applicable) its associated persons have carried out and will carry out periodic assessments of the risk of one or more of it and its employees and other associated persons committing a Facilitation Offence and that it and (where applicable) its other associated persons will maintain effective anti-facilitation of tax evasion procedures, including prevention procedures within the meaning of sections 45(3) and 46(4) of the CFA 2017, which conform with all applicable laws, regulations and statutory guidance issued or approved under or related to the CFA 2017.
- 32.2 The Vendor:
- 32.2.1 complies with any of the Purchaser's tax compliance policies (as may be notified in writing to the Vendor and all applicable laws, statutes, regulations, guidance, relevant industry code, or accepted practice relating to tax or preventing a UK Tax Evasion Offence, Foreign Tax Evasion Offence or Facilitation Offence as is updated from time to time;
- 32.2.2 immediately notifies the Purchaser in writing on becoming aware of, or suspecting, any failure to comply with any provision of this clause 32;
- 32.2.3 upon the written request of the Purchaser certifies to the Purchaser in writing signed by an officer of the Vendor, compliance with this Cause 32, in such form as the Purchaser requires; and
- 32.2.4 promptly provides such supporting evidence of compliance with this clause 32 as the Purchaser requests at any time.
- 32.3 The Vendor ensures that any of its associated persons who are performing work and/or services for or on behalf of the Vendor in connection with this Contract do so only on the basis of written terms (including warranties) equivalent to those applying to or given by the Vendor in this clause 32. The Vendor is directly liable to the Purchaser for any breach by such persons of those terms (including warranties).
- 32.4 For the purpose of this clause 32, the meaning of prevention procedures and whether a person is associated with another person is determined in accordance with sections 44(4), 44(5), 45(3) and 46(4), as applicable of the CFA 2017 (and any guidance issued under section 47 of that Act).
- 32.5 The Vendor hereby agrees to fully indemnify the Purchaser in respect of any losses, damages, fines, penalties, charges or other costs which the Purchaser or any associated person(s) or other entity within the Purchaser's group companies suffers in the event that the Vendor is in breach of this clause 32.
- 32.6 Breach of this clause 32 is deemed to be a material breach of this Contract.

33. DATA PROTECTION

- 33.1 The Vendor agrees that, in relation to performing its obligations under this Contract, it will comply with all relevant legislation and regulations including but not limited to:
- 33.1.1 the Data Protection Act 2018 (including the Data Protection principles),
- 33.1.2 all amendments to the Data Protection Act 2018,
- 33.1.3 the General Data Protection Regulation ("GDPR") and any legislation that replaces or converts or implements that into domestic law and
- 33.1.4 any regulations or requirements made by any governmental authority or equivalent body, together, the "Data Protection Legislation".
- 33.2 The parties anticipate that the Purchaser shall act as a controller and the Vendor shall act as a processor. The parties acknowledge and agree that the information set out in Schedule 2 is an accurate description of (a) the subject matter and duration of the processing; (b) the nature and purpose of the processing; (c) the type of Personal Data being processed; and (d) the categories of data subjects. Any term used in this clause 33 which is given a meaning in the Data Protection Legislation shall be construed according to its respective meaning.
- 33.3 The Vendor agrees to use the Personal Data and special category Personal Data, for the purposes of performing its obligations under this Contract only. Unless required by law, the Vendor must:

- 33.3.1 keep the Personal Data strictly confidential;
- 33.3.2 not publish the Personal Data;
- 33.3.3 not give the Personal Data to anyone else unless authorised by the Purchaser (including any sub-processors);
- 33.3.4 only give access to the Personal Data to officers, employees, representatives, agents or sub-contractors who need to know or use it and ensure that each of its officers, employees and partners meet and are bound by written confidentiality provisions; and
- 33.3.5 not copy, distribute or commercially exploit the Personal Data.
- Such personal and sensitive personal data may include information about children and data subjects with criminal convictions.
- 33.4 The Vendor agrees to comply with any relevant code of conduct relating to the supply of Goods and/or the carrying out of work and/or services that has been approved by the Information Commissioner's Office in addition to any statutory requirement.
- 33.5 The Vendor shall ensure that only such of its officers, employees, representatives, sub-contractors or agents who may be required by it to assist in meeting its obligations under this Contract shall have access to the Personal Data. The Vendor shall ensure that all its officers, employees, representatives, sub-contractors or agents used to provide the supply of Goods and/or work and/or services have undergone appropriate and suitable training in the law of data protection and in the care and handling of Personal Data.
- 33.6 The Vendor agrees to indemnify and keep indemnified the Purchaser against all costs, expenses (including legal and other professional fees and expenses), losses, damages and other liabilities of whatever nature (whether contractual, tortious or otherwise) suffered or incurred by the Purchaser and arising out of or in connection with any breach by the Vendor, its officers, employees, representatives, agents or sub-contractors, of its obligations under this Contract.
- 33.7 The Vendor warrants that it will:
- 33.7.1 process the Personal Data only to the extent and in such manner as is necessary for the purposes specified in this Contract, and only on the Purchaser's written instructions from time to time,
- 33.7.2 process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments (including Data Protection Legislation),
- 33.7.3 take and maintain appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data (in order to comply with the security obligations in Data Protection Legislation),
- 33.7.4 ensure any sub-processors (as agreed in writing with the Purchaser) comply with the obligations set out in this clause 33. The Vendor further warrants that it is responsible for any processing conducted by the sub-processor(s),
- 33.7.5 assist the Purchaser, where instructed, to comply with any requests from Data Subjects exercising their rights under the Data Protection Legislation (including their rights to access their information, rectify, erase or object to the processing of their personal data),
- 33.7.6 assist the Purchaser, where instructed, to (i) carry out a data protection impact assessment, and (ii) comply with its obligations under Article 36 of the GDPR,
- 33.7.7 keep a record of the processing it carries out under this Contract,
- 33.7.8 assist the Purchaser with its security and data breach obligations in respect of the Personal Data, including notifying the Purchaser without undue delay (and in any event within twenty-four (24) hours) if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of any Personal Data (including a personal data breach, as defined in the GDPR), and otherwise assist the Purchaser to comply with its obligations under Articles 32 - 34 of the GDPR,
- 33.7.9 at the Purchaser's option, return or delete the Personal Data or any of it at the end of the term of this Contract, except as required by law, and
- 33.7.10 promptly inform the Purchaser if, in the opinion of the Vendor, the Purchaser's instructions breach member state or EU law, and/or it is required by Statutory Requirements or EU law to act other than in accordance with the Purchaser's instructions.
- 33.8 The Vendor will allow its data processing facilities, procedures and documentation to be submitted for scrutiny by the auditors of the Purchaser upon written request and reasonable notice in order to ascertain compliance with relevant laws and the terms of this Contract.

34. IR35

- 34.1 Unless specifically authorised by the Purchaser in writing to do so, the Vendor shall ensure (and shall ensure that all or any other third parties ensure on behalf of the Vendor), that none of the Vendor's persons will be supplied or otherwise allowed to be utilised in the undertaking of any supply of Goods and/or carrying out of work and/or services in relation to the Works if they are an IR35 Contractor.
- 34.2 Where, as per clause 34.1 above, the Purchaser provides written authorisation to the Vendor that an IR35 Contractor can be utilised in the undertaking of supply of Goods and/or carrying out of work and/or services, prior to the IR35 Contractor commencing the same, the Vendor shall provide (and shall ensure that all or any other third parties provide on behalf of the Vendor) all such information and documentation as is reasonably required by the Purchaser to make a determination as to whether the IR35 Contractor would be regarded for Income Tax purposes as an employee of the Purchaser under Part 2 Chapter 10 of ITEPA.
- 34.3 In the event that the Purchaser determines that an IR35 Contractor has been supplied or otherwise engaged save where specifically authorised by the Purchaser in writing, it will be considered that there has been a material breach of this Contract. The Vendor shall pay all Corporation Tax, Income Taxes, National Insurance Contributions, VAT and other taxes, duties, levies, charges and contributions (and any interest or penalties thereon) whatsoever properly payable by the Vendor in respect of payments to the Vendor's persons. In particular, and without limitation, the Vendor shall comply with any requirement to make deductions of Income Tax and National Insurance Contributions at source and to pay employer National Insurance Contributions and Apprenticeship Levy in respect of each and any of the Vendor's persons.
- 34.5 The Vendor shall indemnify the Purchaser and keep the Purchaser indemnified in full against any and all expense, liability, costs, claims, loss and proceedings of any kind and character howsoever arising in connection with any breach by the Vendor of this clause 34. The Vendor shall also indemnify the Purchaser and keep the Purchaser indemnified in full against any liability of the Purchaser to account for deductions of Income Tax, and/or employee National Insurance Contributions, or to make payment of employer National Insurance Contributions or Apprenticeship Levy (and in each case against any

Thalia Standard Terms and Conditions of Purchase

These Conditions come into force on the issue of a purchase order by Thalia and cancel and supersede any terms or conditions of the Vendor.

liability of the Purchaser to pay interest or penalties in respect of such sums), in respect of services provided by, or payments made to or in respect of, any Vendor's persons, in each case regardless of whether or not the Purchaser has or is deemed by HM Revenue & Customs to have complied with its own obligations under Chapter 10 of Part 2 Income Tax (Earnings and Pensions) Act 2003 or otherwise.

- 34.6 The Vendor acknowledges that compliance by the Vendor with the obligations set out in this clause 34 shall be a condition precedent to any payment in respect of the supply of Goods and/or carrying out of Construction Operations to which the Vendor would otherwise be entitled under this Contract. Without prejudice to any rights or remedies otherwise available to the Purchaser under this Contract or at law, in the event that the Vendor fails to comply with the obligations set out in clause 34 and the Purchaser incurs liability, loss or damages as a result, the Purchaser shall be entitled to deduct such liability, loss or damages incurred in respect of such failure from any sums otherwise due to the Vendor notwithstanding any previous course of dealing.

35 NOTICES

Any notice required to be given or served by either party to the other party pursuant to this Contract shall be delivered personally or by first class pre-paid post to the relevant address as set out in the Purchase Order or to such other address or facsimile number as either party may have notified in writing to the other party by not less than five (5) working days' prior notice.

36 SANCTIONS COMPLIANCE

- 36.1 The Vendor acknowledges that certain goods or services similar to the Goods that are provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export, making available and/or transfer, directly or indirectly, of such goods, and/or the provision of related services, to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions (the "Trade Restrictions and Sanctions"), which might include applicable export control and economic sanctions, rules and regulations relating to the cross-border movement of goods or technology or the provision of services, including but not limited to: the economic sanctions regulations administered by the U.S. Office of Foreign Assets Control, the U.S. Export Administration Regulations, the U.S. International Traffic in Arms Regulations, the UK Export Control Act of 2002 and all related orders in effect from time to time, and equivalent measures.

- 36.2 The Vendor shall comply with all Trade Restrictions and Sanctions in the supply of Goods and otherwise in the performance of its obligations under this Contract, and shall ensure that nothing it does or fails to do puts or is reasonably likely to put the Purchaser in breach of any Trade Restrictions and Sanctions.

The Vendor warrants now and on a daily basis hereafter that neither it nor any entity within its group or otherwise affiliated with it, is a party listed as a specially designated terrorist, Specially Designated National, and/or Blocked Person (as those terms are defined in relevant legislation in the United States of America) or party which otherwise appears on any list maintained by the U.S. Treasury Department Office of Foreign Assets Control, U.S. Commerce Department Bureau of Industry and Security, U.S. State Department, or equivalents in the European Union or United Kingdom.

- 36.3 The Vendor shall indemnify the Purchaser against all costs, losses, damages and expenses suffered or incurred by the Purchaser as a result of or in connection with any breach by the Vendor of clauses 36.1 to 36.3 above, and any such breach shall be deemed a material breach of this Contract.

36.4 TUPE

The Vendor agrees and warrants that none of its employees, agents, contractors or other workers will transfer to the Purchaser (or any group entity of the Purchaser or other affiliated entity) by operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any equivalent legislation ("TUPE") (a "Relevant Transfer"). If TUPE applies or there is otherwise a Relevant Transfer, the Vendor shall indemnify the Purchaser against all costs, losses, damages and expenses suffered or incurred by the Purchaser as a result of or in connection with the same.

SCHEDULE 1 – MANDATORY POLICIES

The Purchaser policies, as amended from time and, as set out here: [Thalia policies](#)

SCHEDULE 2 - DATA PROTECTION

The subject matter and duration of the processing	Personal Data and requests for action raised by individuals involved with the delivery of this Contract, the Owner and/or the Ultimate Client, residents, and customers throughout the term of this Contract
The nature and purpose of the processing	Personal Data and requests for action raised by individuals involved with the delivery of the Goods and/or Works, the Owner and/or the Ultimate Client, regulators, residents, and customers shall be processed for purposes relating to the provision of the Goods and/or Works
The type of Personal Data being processed	Personal details (including names, date of birth, NI numbers), images (including CCTV, dash and/ or body cameras), contact details (including addresses, telephone numbers (including mobile numbers), e-mail addresses, vehicle registrations), financial information (including payment details), health information (including details of medical conditions / information)
The categories of data subjects	Employees (including permanent, former, volunteers, agents, temporary workers) and representatives of either Party or sub-contractors, customers / clients,

Thalia Standard Terms and Conditions of Purchase

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	members of the public, regulators, and other individuals whose Personal Data is processed as part of the Goods and/or Works.
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[Guidance: this table must be completed to explain certain matters relating to the personal data that will be processed under the subcontract. This will be the case even where the only personal data to be handled is contact details for the personnel performing the services.]

Guidance is as follows:

- Subject matter – will be related to the purpose of the subcontract.
- Duration – this will usually be the duration of the subcontract, ending on either the expiry of the subcontract or (if a clause has been added to the subcontract dealing with deletion of data, for example because it is required by the *main contract*) deletion of the data.
- Nature and purpose of the processing – set out the reasons for processing, e.g. names of occupants may need to be processed if the subcontract involves carrying out work at residential properties.
- Type of personal data – provide details of the categories of personal data rather than go into specifics, e.g. personal details, contact information, financial information, health information.
- Categories of data subjects – set out the categories of people whose data will be processed, e.g. employees, former employees, local residents, customers, tradesmen.]