

1. DEFINITIONS

A "Contract" shall mean the contract between CIL and the Contractor consisting of the Order and documents mentioned thereon.

A Contractor shall mean the person, firm or company, to whom the CIL order, has been issued;

A Good or A Service shall mean the goods and/or services to be provided as specified on the Order.

A Purchaser Order shall mean the CIL order specifying that these conditions apply to it.

A Premise shall be the location to where the Goods or Services shall be delivered or performed.

CIL shall mean the Commissioners of Irish Lights, Harbour Road, Dun Laoghaire, Co. Dublin.

2. TIME OF PERFORMANCE

2.1 Time is of the essence of the Contract and failure to deliver the Goods or Services to the Premises within the time on the Order shall be a fundamental breach of contract.

2.2 In the event of failure to deliver by the due date CIL may at its option release itself from any obligation to accept and pay for the Goods or Services and / or cancel all or part of the Order, in either case without prejudice to its other rights and remedies herein.

2.3 The Contractor shall provide CIL with such reports on progress with the Order as CIL may from time to time require.

3. VARIATION

CIL reserves the right by notice in writing to modify the quality or quantity of the Goods or Services. Any alteration to the price of the Contract as a result shall be agreed in writing between CIL and the Contractor.

4. STATUS OF CONTRACTOR

4.1 The relationship between the Contractor and CIL shall be deemed for all purposes to be that of an independent contractor.

4.2 In carrying out the Contract the Contractor shall be acting as principal and not as agent of CIL. Accordingly:

(a) the Contractor shall not (and procure that his servants and agents do not) say or do anything that might lead any other person to believe that the Contractor is acting as agent of CIL;

(b) nothing in this Contract shall impose any liability on CIL in respect of any liability incurred by the Contractor to any other person, but this shall not be taken to exclude or limit any liability of CIL to the Contractor that may arise by virtue of either a breach of this Contract or any negligence on the part of CIL, its staff or agents.

4.3 Notwithstanding Clause 12.1 in the event that CIL under current or future legislation is found liable for further income tax, and/or national insurance contributions in respect of payments made by CIL under this Contract such income tax, and/or national insurance shall be deducted from any sums due to the Contractor under this Contract. If this Contract has come to an end for any reason by the time CIL receives the demand for such income tax, or national insurance contributions the Contractor hereby acknowledges liability in connection with such demand.

5. SUB-CONTRACTING

5.1 The Contractor shall not sub-contract any of his duties or responsibilities under this Contract without the consent of CIL.

5.2 Sub-contracting shall not relieve the Contractor of any obligation or duty attributable to him under this Contract.

5.3 Where CIL consents to the placing of sub-contracts, a copy of each sub-contract shall be sent by the Contractor to CIL immediately it is issued.

6. QUALITY & FITNESS FOR PURPOSE

6.1 Goods shall be of satisfactory quality and free from defects in material or workmanship. If the purpose for which the Goods are required is made known to the Contractor expressly or implicitly the Goods shall be fit for that purpose.

6.2 Goods shall conform to all statutory requirements and in all respects to any particulars specified in the Order or any variation thereto.

6.3 In the absence of a specification or sample, all goods shall be within the normal limits of industrial quality.

7. DELIVERY

7.1 Goods shall be delivered to the place named on the Order. Any access to premises and any labour and equipment that may be provided by CIL in connection with delivery shall be provided without acceptance by CIL of any liability whatsoever.

7.2 Where any access to the Premises is necessary in connection with delivery or installation, the Contractor and his sub-contractors shall at all times comply with the reasonable requirements of CIL.

8. PROPERTY & RISK

In the case of Goods property and risk shall without prejudice to any other rights or remedies of CIL herein contained remain with the Contractor until delivery to the Premises.

9. LOSS OR DAMAGE IN TRANSIT

In the case of Goods the Contractor shall on the day of dispatch of any consignment send CIL a goods advice note which shall contain all relevant information about the consignment including a date for delivery. The Contractor shall free of charge and as quickly as possible either repair or replace (as CIL shall elect) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to CIL provided that:

(a) in the case of damage to such Goods in transit CIL shall within 30 days of delivery give notice to the Contractor that the Goods have been damaged;

(b) in the case of non-delivery CIL shall within 21 days of the notified date of delivery give notice to the Contractor that the Goods have not been delivered.

10. LABELLING & PACKING

10.1 Goods shall be packed and marked in a proper manner and in accordance with CIL instructions and any statutory requirements and any requirements of the carriers.

In particular Goods shall be marked with the Order Number and the weight; the name of the contents shall be clearly marked on each container and all containers of hazardous goods (and all documents relating thereto) shall bear prominent and adequate warnings.

10.2 All packaging materials will be considered non-returnable and will be destroyed unless the Contractor's advice note states that such materials will be charged for unless returned. CIL accepts no liability in respect of the non-arrival at the Contractor's premises of empty packages returned by CIL.

11. INSPECTION REJECTION & GUARANTEE

11.1 In the case of Goods the Contractor shall permit CIL or its authorised representatives to make inspections or tests it may reasonably require and the Contractor shall afford all reasonable facilities and assistance free of charge at his premises. No failure to make complaint at such inspection or tests and no approval given during or after such tests or

inspections shall constitute a waiver by CIL of any rights or remedies in respect of the Goods.

11.2 CIL may by written notice to the Contractor reject any of the Goods which fail to meet the requirements specified by CIL. Such notice shall be given within a reasonable time after delivery of the Goods concerned. If CIL shall reject any of the Goods pursuant to this Condition CIL shall be entitled (without prejudice to his other rights and remedies; either:

(a) to have the Goods concerned as quickly as possible either repaired by the Contractor or (as CIL shall elect) replaced by the Contractor with Goods which comply in all respects with the requirements specified herein; or

(b) to obtain a refund from the Contractor in respect of the Goods.

The guarantee period applicable to the Goods shall be 12 months from putting into service or 18 months from delivery whichever shall be the shorter. If CIL shall within such guarantee period or within 30 days thereafter give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use or due to erroneous instructions by the Contractor, the Contractor shall (without prejudice to any other rights and remedies which CIL may have) as quickly as possible remedy such defects (whether by repair or replacement as CIL shall elect) at no cost to CIL.

11.3 Any Goods rejected or returned by CIL as described in these Conditions shall be returned to the Contractor at his risk and expense.

12. PRICE & PAYMENT

12.1 The price of the Goods or Services shall be as stated on the Order and may only be varied with the written agreement of CIL at its absolute discretion. In the case of individuals the fees for labour shall be paid net of income tax deducted at the standard rate unless the individual provides written proof from the Inland Revenue or the Inland Revenue states that he or she may be paid free of any such deduction.

12.2 Unless otherwise agreed in writing by CIL, payment will be made within 30 days of receipt of the Goods or Services or the correct invoice therefor, whichever is the later.

12.3 Value Added Tax, where applicable, shall be shown as a strictly net extra charge.

13. TAX CLEARANCE CERTIFICATE

Where payments are likely to exceed €10,000 in any 12 month period a Tax Clearance Certificate will be required.

14. FREE-ISSUE MATERIALS

Where the Client for the purpose of the Contract issues materials free of charge to the Contractor, such materials shall be and remain the property of the Client. The Contractor shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Contractor shall notify the Client of any surplus materials remaining after completion of the Services and shall dispose of them as the Client may direct. Waste of such materials arising from bad workmanship or negligence of the Contractor or any of his servants, agents or sub-contractors shall be made good at current market rates.

15. AUDIT

The Contractor shall keep and maintain until two years after completion of the Contract records to the satisfaction of CIL of all expenditures which are reimburseable by CIL and of the hours worked and costs incurred by the Contractor or in connection with any employees of the Contractor paid for by CIL on a time charge basis. The Contractor shall on request afford CIL such access to those records as required by CIL in connection with the Contract.

16. HEALTH & SAFETY

The Contractor shall ensure that all necessary tests and examinations are made prior to delivery of the Goods or Services to ensure that they are safe and without risk to the health or safety of persons using same and that he has made available adequate information about the use for which the Goods or Services are intended and about any conditions necessary to ensure that when put to use the Goods or Services will be safe and without risk to health.

17. CORRUPT GIFTS & PAYMENTS

The Contractor shall not offer or give or agree to give, to any employee or representative of CIL any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Contract with CIL or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract.

18. INDEMNITY & INSURANCE

18.1 The Contractor shall indemnify CIL, its servants and agents against all actions, claims, demands, costs and expenses incurred by or made against CIL, its servants or agents in respect of any loss or damage or personal injury (including death) which arises out of or in connection with this Contract.

18.2 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Contractor (in respect of which the indemnity in Condition 18.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of CIL, or any its servants or agents); the indemnity contained in Condition 18.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of CIL, its servants or agents.

18.3 The Contractor shall have in force and shall require any sub-contractor to have in force:

(a) employer's liability insurance in accordance with any legal requirements for the time being in force, and

(b) public liability insurance for such sum and range of cover as the Contractor deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than €1,000,000 for any one incident and unlimited in total, unless otherwise agreed by CIL in writing.

18.4 The policy or policies of insurance referred to in Condition 18.3 shall be shown to CIL whenever requested, together with satisfactory evidence of payment of premiums.

19. INTELLECTUAL PROPERTY RIGHTS

19.1 In the case of Services all reports and other documents and materials and the copyright or similar protection therein arising out of the performance by the Contractor or his sub-contractors of his duties hereunder are hereby assigned to and shall vest in CIL absolutely.

9.2 Where the Contractor uses existing intellectual property of which he is the owner in the provision of the Goods or Services he hereby grants CIL a licence to use the same and shall notify CIL in writing of all such rights. The Contractor shall indemnify CIL against all losses, costs and expenses, including legal fees on an indemnity basis, incurred by CIL in using such rights.

19.3 The provisions of this Condition 19 shall apply during the continuance of this Contract and after its termination howsoever arising.

20. FORCE MAJEURE

Neither party shall be liable for failure to perform its obligations under the Contract if such failure results from circumstances which could not have been contemplated and which are beyond the party's reasonable control. Industrial disputes and failures by sub-contractors are not force majeure hereunder.

21. INSOLVENCY

If the Contractor becomes insolvent or bankrupt or (being a company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purpose of reconstruction), CIL may, without prejudice to any other of its rights, terminate the Contract forthwith by notice to the Contractor or any other person in whom the contract may have become vested.

22. NOTICES

Any notice given under or pursuant to the Order shall be sent to the address of CIL or the Supplier given on the Order or to such other address as the party may by notice to the other substitute therefor. Notices may be served personally or by post or by prepaid registered or recorded delivery post or transmitted by facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form. Letters shall be deemed served 48 hours after posting and facsimiles on despatch.

23. ARBITRATION

All disputes, differences or questions between the parties to the Contract with respect to any manner or thing arising out of or relating to the Contract, other than a matter or thing as to which the decision of the Client is under the Contract to be final and conclusive, and except to the extent to which special provision for arbitration is made elsewhere in the Contract, shall be referred to the arbitration of two persons one to be appointed by the Client and the other by the Contractor of their Umpire in accordance with the provisions of the Arbitration Acts 1954 and 1980 or any modification or re-enactment thereof.

24. HEADINGS

The headings in these Conditions are for ease of reference only and shall not affect their interpretation.

25. GOVERNING LAW

These Conditions shall be governed by and construed in accordance with the law of the Republic of Ireland and the Contractor hereby irrevocably submits to the jurisdiction of the Irish Courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

PROCUREMENT SECTION
COMMISSIONERS OF IRISH LIGHTS,
HARBOUR ROAD,
DUN LAOGHAIRE
CO. DUBLIN