

General Conditions (GC)

The **General Conditions (GC)** shall be used without any modification. The **Particular Conditions (PC)** complement the GC by specifying data and contractual requirements linked to the special circumstances of the recipient country and the project.

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A. General

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them.

- (a) **"Consultant"** means the legally-established professional consulting firm or entity named in **Part A – Contract Data (CD) of PC**, which provides professional services to the Purchaser, for the supervision of the procurement of the Goods and Related Services. The Consultant also facilitates communications, negotiation, and agreement between the Purchaser and the Supplier on any matters arising from the Contract.
- (b) **"Contract"** means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract documents referred to therein.
- (c) **"Contract Price"** means the price payable by the Purchaser to the Supplier as specified in the Contract Agreement.
- (d) **"Final Destination"** means the place where the Goods and Related Services are to be delivered to, **as specified in the Contract Data (CD) of PC**.
- (e) **"GC"** means the present General Conditions.
- (f) **"Goods"** means all of the commodities, raw materials, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (g) **"JICA"** means the Japan International Cooperation Agency.
- (h) **"PC"** means the Particular Conditions, which consists of **Part A - Contract Data (CD) and Part B - Payment Schedule (PS)**.
- (i) **"Related Services"** means the services incidental to the supply of the Goods, such as installation, adjustment, training, and other such obligations of the Supplier under the Contract, excluding inland transportation and other services required to convey the Goods to their place of delivery.
- (j) **"Schedule of Requirements"** means documents consisting of the General Requirements, the Technical Specification, and other documents, which form part of the Contract, and specifying the Scope of Supply defined in this GC Clause 11.

2. Corrupt or Fraudulent Practices

2.1 The Supplier is required to comply with JICA's policy in regard to corrupt and fraudulent practices as declared in the Acknowledgement of Compliance with Guidelines for Procurement under Japanese ODA Grants submitted in the Technical Bid of the Supplier.

3. Interpretation

3.1 In the Contract, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and vice versa;
- (c) "day" means calendar day; and
- (d) "written" or "in writing" means hand-written, type-written, printed or

electronically made, and resulting in a permanent record.

4. Amendment

- 4.1 No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, including the Consultant, shall be written in the language **specified in the PC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the language specified under GC Sub-Clause 5.1 and all risks of the accuracy of such translation, for documents provided by the Supplier.

6 Joint Venture, Consortium or Association

- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind and act on behalf of the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.

7. Notices

- 7.1 Any notice given by one party to the other pursuant to the Contract shall be in writing and delivered against receipt to the address **specified in the PC**.
- 7.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 7.3 All notices between the parties shall be delivered to the Consultant simultaneously.

8. Governing Law

- 8.1 The Contract shall be governed by and interpreted in accordance with the laws of Japan, **unless otherwise specified in the PC**.

9. Settlement of Disputes

- 9.1 If the Purchaser considers himself to be entitled to any payment under any Clause of the present Conditions or otherwise in connection with the Contract, and/or any other compensations, the Purchaser, or the Consultant shall give a notice and particulars to the Supplier.
- 9.2 If the Supplier considers himself to be entitled to any additional payment under

any Clause of the present Conditions or otherwise in connection with the Contract, and/or any other compensations, the Supplier shall give a notice to the Purchaser and the Consultant, describing the event or circumstance giving rise to the claim.

- 9.3 The notice of either party shall be given as soon as practicable and no longer than fifty-six (56) days after either party became aware, or should have become aware, of the event or circumstances giving rise to the claim. If either party fails to give notice of a claim within such period, the party shall not be entitled to additional payment and/or compensation.
- 9.4 Either party shall specify the Clause or basis of the claim, and shall include substantiation of the amount to which the party considers himself to be entitled. Within forty-two (42) days after receiving a claim, or within such other period as may be agreed between the parties, the other party shall respond to the claim with approval, or disapproval and detailed comments.
- 9.5 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any claim hereabove, and other disagreement or dispute arising between them under or in connection with the Contract.
- 9.6 In case any claim, disagreement, or dispute between the parties arising out of or in connection with the Contract cannot be settled amicably in accordance with GC Sub-Clause 9.5 above, either the Purchaser or the Supplier, being supported by the Consultant, may request JICA to offer its suggestion for resolution of any disagreement or dispute between the parties in writing, with copies to the other party and the Consultant. Such a request shall state that it is given under this GC Sub-Clause 9.6.
- 9.7 JICA may, in its sole discretion, require and request additional information and/or documentary evidence relating to the disagreement or dispute from the parties, giving them a reasonable time to reply, and the parties shall promptly comply with all such requirements and requests. Each party shall bear the cost and expenses it incurs in complying with such requirements and additional requests from JICA.
- 9.8 JICA will endeavor to provide the parties with its suggestion for resolution of the disagreement or dispute in writing within eighty-four (84) days of its receipt of such request, based on the information and/or documentary evidence submitted to it by the parties. The parties acknowledge and agree that JICA will not bear any responsibility or liability arising from or related to any such expression of views or suggestion.
- 9.9 If either party is dissatisfied with JICA's suggestion for resolution of the disagreement or dispute, then either party may, within twenty-eight (28) days after receiving the suggestion, give a notice of its dissatisfaction to the other party and to JICA indicating the basis for its dissatisfaction and intention to commence arbitration in accordance with GC Sub-Clause 9.11. Such notice shall state that it is given under this GC Sub-Clause 9.9. Neither party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this GC Sub-Clause 9.9.
- 9.10 If no notice of dissatisfaction is given by either party within twenty-eight (28) days after the parties' receipt of JICA's suggestion, then the suggestion shall become final and binding upon both parties, unless both parties agree otherwise.

9.11 Arbitration shall be conducted as an international arbitration with proceedings administered by the Japan Commercial Arbitration Association (JCAA) and conducted under the arbitration rules of JCAA by one arbitrator appointed in accordance with the said arbitration rules. The place of arbitration shall be in Japan, and the arbitration shall be conducted in English.

9.12 Notwithstanding the commencement of arbitration or other actions taken to resolve any disagreement or dispute herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Purchaser shall pay the Supplier any undisputed amount due the Supplier under the Contract.

10. Assignment

10.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under the Contract, except with prior written consent of the other party.

B. Scope of Supply

11. Scope of Supply

11.1 The Goods and Related Services to be supplied shall be as specified in the **Schedule of Requirements**.

11.2 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining completion of the Supplier's obligations under the Contract as if such items were expressly mentioned in the Contract.

12. Schedule of Delivery and Completion

12.1 The delivery of the Goods and the completion of the Related Services shall be in accordance with the schedule **specified in the PC**.

13. Supplier's Responsibilities

13.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GC Clause 11, and the schedule, as per GC Clause 12.

14. Purchaser's Assistance

14.1 Whenever the supply of the Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

15. Performance Security

15.1 The Supplier shall, within twenty-eight (28) days of the receipt of the notification

letter of acceptance of its bid, provide a performance security for the performance of the Contract in the amount **specified in the PC**, issued by a Japanese financial institution in format acceptable to the Purchaser.

15.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

15.3 The Performance Security shall be delivered to and remain in the custody of the Consultant, and shall be returned to the Supplier not later than twenty-eight (28) days following the date on which the Supplier's performance obligations under the Contract, including any warranty obligations, have been completed.

16. Copyright

16.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

17. Confidential Information

17.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract.

17.2 The obligation of a party under GC Sub-Clauses 17.1 above, however, shall not apply to information that the Purchaser or Supplier needs to share with the Consultant and/or JICA.

17.3 The provisions of this GC Clause 17 shall survive completion or termination, for whatever reason, of the Contract.

18. Specifications and Standards

18.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under the Contract shall conform to the technical specifications and standards mentioned in the **Schedule of Requirements** and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the **Schedule of Requirements**. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the

Purchaser.

19. Packing and Documents

19.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their Final Destination. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' Final Destination and the absence of heavy handling facilities at all points in transit.

19.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, and any other instructions ordered by the Purchaser.

20. Insurance

20.1 The Goods and Related Services supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, delivery, installation, adjustment, and other services required to deliver the Goods to the Purchaser.

21. Transportation

21.1 Responsibility for arranging transportation of the Goods to the Final Destination shall be in accordance with the applicable Incoterms **specified in the PC** or in the manner **specified in the Contract**.

C. Payment

22. Contract Price

22.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the Contract Price unless modified by a Contract amendment.

23. Terms of Payment

23.1 The Purchaser shall make payments in Japanese Yen to the Supplier **in accordance with the Part B – Payment Schedule (PS) of the PC**, which provides the terms and conditions, amount payable, and required documents for each payment.

23.2 **If so indicated in the PC**, partial payments shall be acceptable for shipments or deliveries, in case the Goods are shipped or delivered in multiple shipments or deliveries.

24. Taxes and Duties

24.1 It has been confirmed that customs duties, internal taxes and other fiscal levies assessed in the country of the Purchaser payable by the Supplier under the Contract are exempted and/or borne by the Government of the Purchaser's

country (hereinafter referred to as “the Recipient” in this clause), based on the Note Verbale exchanged between the Government of Japan and the Recipient. The Supplier shall bear and pay any other taxes, duties, levies and charges assessed on the Supplier, which are not exempted or borne by the Recipient based on the said Note Verbale, in connection with the delivery of all Goods and the provision of the Related Services in accordance with the Contract.

24.2 The Purchaser shall use its best efforts to enable the Supplier to benefit from the said Note Verbale to the maximum allowable extent.

25. Liquidated Damages

25.1 Except as provided under GC Clause 31, if the Supplier fails to deliver any or all of the Goods and/or to perform the Related Services by the delivery and completion period in accordance with GC Clause 12, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, an amount equivalent to zero point one percent (0.1%) of the price of the delayed Goods and Related Services for each day of delay until actual delivery and completion, up to a maximum deduction of ten percent (10%). Once the maximum deduction is reached, the Purchaser may terminate the Contract pursuant to GC Clause 33.

D. Finishing the Contract

26. Inspections and Tests

26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services in accordance with the nature, frequency and procedures specified in the Contract to verify that the characteristics and performance of the Goods and Related Services comply with the technical specifications, codes, and standards under the Contract.

26.2 The inspections and tests may be conducted on the premises of the Supplier or the manufacturers of the Goods, at the point of delivery, and/or at the Final Destination. Subject to GC Sub-Clause 26.3, if conducted on the premises of the Supplier or the manufacturers, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished by the Supplier at no charge to the Purchaser.

26.3 The Purchaser and/or the Consultant shall be entitled to attend the tests and/or inspections referred to in GC Sub-Clause 26.2, provided that the Purchaser and/or the Consultant shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Consultant. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser and/or the Consultant to attend the test and/or inspection.

26.5 The Supplier shall provide the Consultant with a report of the results of any such test and/or inspection.

26.6 The Purchaser may reject any Goods and Related Services or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods (or parts thereof) and Related Services or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GC Sub-Clause 26.4.

26.7 The Supplier agrees that neither the execution of a test and/or inspection of the Goods and Related Services or any part thereof, nor the attendance by the Purchaser and/or the Consultant, nor the issue of any report pursuant to GC Sub-Clause 26.5, shall release the Supplier from any warranties or other obligations under the Contract.

26.8 Pre-shipment inspection of the Goods supplied from abroad shall be conducted by an inspection agency assigned by the Consultant before each shipment. The Supplier shall provide reasonable assistance to the agency in the pre-shipment inspection.

27. Delivery of the Goods and Completion of the Related Services

27.1 When all the Goods or any part thereof have been delivered to the Final Destination, the Supplier shall request the Purchaser to issue a Receipt of the Goods concerned. The Purchaser, supported by the Consultant, shall do so upon confirming that the Goods concerned have been delivered to the Final Destination.

27.2 When all the Related Services or any part thereof have been completed, the Supplier shall request the Purchaser and the Consultant to issue a Certificate of Completion for the Related Services concerned. The Consultant shall issue the Certificate upon confirming on site that the Related Services concerned have been completed, and the Purchaser shall approve it.

28. Warranty

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GC Sub-Clause 18.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the Purchaser's country.

28.3 **Unless otherwise specified in the PC**, the warranty shall remain valid for twelve (12) months after the Goods (or any parts thereof) and Related Services concerned as the case may be, have been delivered to and accepted at the Final Destination with the Certificate of Completion in accordance with GC Sub-Clause 27.2, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, of the Goods concerned, whichever period concludes earlier.

28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within a reasonable period, expeditiously repair or replace the defective Goods (or parts thereof) and Related Services, at no cost to the Purchaser. If the defects are caused by improper operation or maintenances of the Purchaser, or normal wear and tear, then the Supplier shall not be responsible for such defects.

28.6 If having been notified, the Supplier fails to remedy the defect within a reasonable period, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

29. Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

(a) the installation of the Goods by the Supplier or the use of the Goods in the Purchaser's country; and

(b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods (or any part thereof) and Related Services other than for the purpose indicated by or to be reasonably inferred from the Contract.

29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may, at its own expense and in the Purchaser's name, conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

30. Limitation of Liability

30.1 Except in cases of criminal negligence or willful misconduct,

(a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use,

loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and

- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

31. Force Majeure

- 31.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 31.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 31.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 31.4 If the delivery of the Goods and/or the completion of the Related Services are substantially prevented for a continuous period of ninety (90) days by reason of Force Majeure, then either party may propose the other party that the Contract be terminated. The conditions of the termination shall be settled based upon mutual agreement by direct negotiations between them. The termination of the Contract in accordance with this GC Sub-Clause 31.4 shall not be valid unless it is in writing, is dated, expressly refers to the Contract, is signed by a duly authorized representative of each party thereto, and is verified by JICA.

32. Extensions of Time

- 32.1 If at any time during performance of the Contract, the Supplier should encounter conditions impeding timely delivery of the Goods or Related Services pursuant to GC Clause 12, the Supplier shall promptly notify the Purchaser and the Consultant in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier’s notice, the Consultant shall evaluate the situation and may at its discretion extend the Supplier’s time for performance and notify the Supplier and the Purchaser in writing.
- 32.2 Except in case of Force Majeure, as provided under GC Clause 31, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GC Clause 25, unless an extension of time is granted by the Consultant, pursuant to GC

Sub-Clause 32.1.

33. Termination

33.1 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part, if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption in competing for or in executing the Contract.
- (b) If the Supplier:
 - (i) fails to deliver any or all of the Goods and Related Services within the period specified in the Contract, or within any extension thereof granted by the Consultant pursuant to GC Clause 32 and the amount of the Liquidated Damages under GC Clause 25 reaches the maximum amount; or
 - (ii) fails to perform any other obligation under the Contract;
then the Purchaser may, without prejudice to any other rights it may possess under the Contract, give a notice to the Supplier stating the nature of the default and requiring the Supplier to remedy the same. If the Supplier fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Purchaser may terminate the Contract forthwith by giving a notice of termination to the Supplier that refers to this GC Sub-Clause 33.1.

In the event the Purchaser terminates the Contract in whole or in part, pursuant to this GC Sub-Clause 33.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

33.2 Termination for Insolvency

- (a) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

33.3 Termination for Convenience

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:

- (i) to have any portion completed and delivered at the Contract terms and prices; and/or
- (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.