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East Ltd and another
(Appellants) Citation:
[2017] UKSC 59 BLR 477 The
Supreme Court has held that

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a 'fitness for purpose' obligation contained within a schedule to a construction contract was to be given its natural effect and that it was not inconsistent with the other terms of the contract.

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...

These proceedings arise from the fact that the foundation structures of two offshore wind farms at Robin Rigg in

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the Solway Firth, which were designed and installed by MT Højgaard A/S (“MTH”), failed shortly after completion of the project. The specific issue to be determined is whether MTH are liable for this failure. 2.

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E.ON appointed MT Højgaard A/S (“MTH”) under a contract dated 20 December 2006 to design, build and install

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two offshore wind farms. Unfortunately, some of the turbines developed significant faults shortly after construction was completed and costly repairs were necessary.

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advanced technology; and we
insist on co-operation based
on curiosity, dialogue,
courage and enthusiasm.
About MT Højgaard. Knud
Højgaards Vej 7 2860 Søborg
Denmark

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This appeal arises from the fact that the foundation structures of two offshore wind farms at Robin Rigg in the Solway Firth, which were designed and installed by the respondent, MT Højgaard

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A/S (“MTH”), failed shortly after completion of the project. The dispute concerns who bears the remedial costs in the sum of €26.25m.

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MT Hojgaard v E.ON will have a significant impact on how employers and contractors approach their design obligations in construction and engineering contracts.

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In this case, the Supreme Court confirmed that: where a contractor/supplier has accepted an obligation to provide a specified output or performance level it will be bound to deliver it

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practical steps following
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The Facts During 2006 E.0n
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Robin Rigg East Limited
("E.0n") engaged MT Højgaard
A/S to design, fabricate and

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install sixty wind turbine
foundations for the Robin
Rigg offshore wind farm in
the Solway Firth.

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MT Højgaard Danmark vinder
udbud på værksteder til DSB
Hos MT Højgaard skaber vi de
rum, vi lever, arbejder og
bevæger os i. Vi kombinerer
vores praktiske viden med
avanceret teknologi og
insisterer på samarbejde,

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59 The judgment of the

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Supreme Court in MT Højgaard
A/S -v- E.ON Climate &
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East Ltd is concerned with
what the Court of Appeal
described as 'contract
documents of multiple
authorship, which contain

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much loose wording'.

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East Limited. Published 23
junio 2016. The Court of

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Appeal last year had to consider whether the employer or contractor under a design and build contract had assumed the risk for defects in the design of the foundations of 60 offshore wind turbines, and the

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consequent cost of remedial
works . . .

Allocation of Risk and
Fitness Purpose: MT Højgaard
A/S v . . .

MT Hojgaard A/S (“MTH”) was
contracted to design and

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build the Robin Rigg
Offshore Wind Farm in the
Solway Firth for what was
effectively two E.ON
entities (together “EON”).
The Court had to consider
(amongst other issues)
whether MTH gave, and

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therefore breached, a warranty that the foundations for the turbines would function for 20 years without replacement.

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