

PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS AND SERVICES – New Energy USA

PART A: STANDARD CONDITIONS

1 DEFINITIONS

“**ABC Law**” includes:

- (a) the *Foreign Corrupt Practices Act* of 1977, Pub L No 95-213, §78dd-1 1977 Stat 149;
- (b) the Bribery Act 2010 (UK) c 23;
- (c) any anti-corruption Law of a country other than the United States of America which applies to the Company (or any Co-Venturer), the Contractor or a Subcontractor from time-to-time in relation to this Contract.

“**ABC Law Violation**” means a situation where Contractor or a subcontractor has:

- (a) directly or indirectly offered, paid, solicited or accepted bribes in any form including facilitation payments; or
- (a) otherwise breached any ABC Law,

in connection with the subject matter of the Contract or Subcontract as the case may be.

“**Affiliate**” means, with respect to any person, any other person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such person and “control” means the power (whether directly or indirectly, through shares, by contract or otherwise) to control the affairs of such person generally and, in this regard, the right to exercise fifty per cent (50%) or more of the voting rights in such person, or to appoint or remove the majority of directors in such person, is deemed to be in “control” of such person, and “controls” and “controlled” are to be construed accordingly.

“**Anti-Bribery and Corruption Policy**” means the Anti-Bribery and Corruption Policy forming part of the Contract and located on the Website.

“**Authorisation**” means any authorisation, permit, consent, order, approval, resolution, licence, exemption, agreement, permission, notarisation, recording, filing, registration or requirement, from, issued by or made to any Governmental Authority.

“**Background Intellectual Property**” means:

- (a) in respect of the Company, Intellectual Property that is owned by or licensed to the Company independently of the Contract; and
- (b) in respect of the Contractor, Intellectual Property that is owned by or licensed to the Contractor (whether licensed to the Contractor by an Affiliate or otherwise) which exists prior to the date of the Contract, or is otherwise developed or acquired by the Contractor independently of the Contract, and which is used by the Contractor in the performance of the Work, or is otherwise made available to the Company under or in connection with the Contract.

“**Business Day**” means a day other than a Saturday, Sunday or any state or federal holiday on which commercial banks located in New York, New York are not open for business.

“**Claim**” means any and all costs, demands, legal proceedings, claims, actions, fines, penalties, obligations, damages, losses and liabilities of any nature (including reasonable legal costs), arising under any statute or in equity or at common law or otherwise at law of whatsoever nature.

“**Company**” means the entity issuing the purchase order and its successors and assigns.

“**Company Equipment**” means all equipment supplied by the Company to the Contractor, to use in the performance of the Work and which is specified in the Contract as “Company Equipment”.

“**Company Group**” means the Company, its Co-Venturers, its and their respective Affiliates and the foregoing’s respective agents, representatives, directors, officers and employees (including agency personnel), or, where the context so permits, any or each of the foregoing, but does not include any member of the Contractor Group.

“**Consequential Loss**” means:

- (a) consequential or indirect loss; and
- (b) loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit, loss of contract, however caused or arising whether by in contract, tort (including negligence), breach of duty or other legal doctrine or principle and whether or not foreseeable at the Effective Date.

“**Contract**” means the contract created between Company and Contractor by the issue of the purchase order and comprising these terms and conditions, the purchase order and all documentation accompanying the purchase order.

“**Contractor**” means the entity to whom the purchase order is issued and includes its successors and assigns as permitted under the Contract.

“**Contractor Group**” means the Contractor, its subcontractors (of any tier), its and their Affiliates and the foregoing’s respective agents, representatives, directors, officers and employees (including agency personnel), or, where the context so permits, any or each of the foregoing, but does not include any member of the Company Group.

“**Contractor Equipment**” means all tools and equipment that Contractor supplies or is required to supply for the performance of the Work in accordance with the Contract whether owned, leased or hired.

“**Corporate Code of Conduct**” means the supplier code of business conduct forming part of the Contract and located on the Website.

“**Co-Venturer**” means any other entity with whom the Company is or may be from time to time a Party to a joint operating agreement or unification agreement or similar agreement relating to the operations for which the Work is being performed and the successors in interest of such Co-Venturer or the assignees of any interest of such Co-Venturer.

“**Data Breach**” means where Personal Information is lost or interfered with or subjected to unauthorised access, acquisition, alteration, modification, use, destruction, or disclosure or otherwise is misused.

“Data Privacy Laws” means all laws, regulations, orders, rules, principles or other binding obligations relating to data protection, the processing of Personal Information and/or privacy in force from time to time that apply to either the Company or the Contractor in any of the jurisdictions in which they operate or conduct business, including (but not limited to):

- (a) the General Data Protection Regulation (EU) (2016/679) (GDPR), and
- (b) any U.S. state privacy law (e.g., the California Consumer Privacy Act, the Colorado Privacy Act, the Texas Data Privacy and Security Act, etc.),

as may be modified or replaced.

“Default” means a breach by a Party of its obligations under this Contract.

“Delivery” means the Goods are received by the Company at the Delivery Point and accepted by the Company as provided in Clause 41.

“Delivery Date” means the date(s) upon which the Goods must be delivered as specified in Section 1 - Form of Agreement.

“Delivery Point” means the location specified in the Section 1 - Form of Agreement.

“Effective Date” means the date on which the Parties entered into the Contract.

“Goods” means the goods to be provided in accordance with this Contract.

“Good Industry Practices” means the practices that would be adopted by, and the exercise of that degree of care, skill, diligence, prudence and foresight that reasonably would be expected from, a competent contractor in the international energy industry experienced in performing work similar in nature, size, scope and complexity to the Work, and under conditions comparable to those applicable to the Work, where such work is subject to, and such contractor is seeking to comply with, the standards and codes specified in the Contract or (to the extent that they are not so specified) such national or international standards and codes as are most applicable in the circumstances, and the applicable Law.

“Governmental Authority” means a governmental department, authority, instrumentality or agency having jurisdiction over the relevant matter and includes any governmental department, authority, instrumentality or agency that replaces that Governmental Authority in its jurisdiction over that matter.

“Government Official” has the meaning given to it in the Anti-Bribery and Corruption Policy.

“Insolvency Event” means the relevant person becoming bankrupt or making a composition or arrangement with its creditors or an order for the winding-up of such person being made, or (except for the purposes of a solvent amalgamation or reconstruction) a resolution for its voluntary winding-up being passed or a provisional liquidator, receiver, examiner, administrator or manager of its business or undertaking being appointed or presenting a petition or having a petition presented, applying for an administration order to be made, or possession being taken by or on behalf of the holders of any debenture secured by a floating charge of any property comprised in or subject to the floating charge, or any equivalent act or thing being done or suffered under any Law applicable to the relevant person.

“Intellectual Property” means any invention, patent or application for a patent, design (registered or unregistered), trademark (registered or unregistered), name, copyright (including future copyright), circuit layout, trade secret, know-how, proprietary information or other right in respect of any data, information, process, work, material or method.

“Law” means any of the following which is in force from time to time:

- (a) any treaty, statute, directive, ordinance, rule, order, decree, or regulation, in each case, of any nation, state, jurisdiction, intergovernmental or supranational organisation, or of any political subdivision of the foregoing, including any binding requirement, instruction, direction, order, Authorisation, warrant, franchise or scheme of a Governmental Authority or other body of competent jurisdiction; and
- (b) any notices, guidance notes, circulars and codes of practice issued, made or published under or in connection with any of the foregoing.

“Longstop Audit Date” means the date which is seven (7) years after the later of:

- (a) the date of a final non-appealable judgment in any proceedings relating to any dispute referred to in Clause 33; and
- (b) the date of termination of the Contract.

“Modern Slavery Law” means any law pertaining to exploitative practices including slavery, servitude, forced labour, human trafficking, debt bondage, child labour and other slavery-like practices.

“Modern Slavery Law Violation” means a situation where a Contractor or Subcontractor has, in connection with the subject matter of the Contract or Subcontract (as the case may be), breached any Modern Slavery Law.

“New Intellectual Property” means any Intellectual Property that arises out of, or is created in the course of, the performance of the Contract.

“Other Contractors” means contractors of the Company (other than Contractor) and also subcontractors (of any tier) of such other contractors who are providing work or services in the vicinity of the Worksite or in relation to any project or activity related to the Work.

“Party” means either the Company or the Contractor, and **“Parties”** means the Company and the Contractor.

“Personal Injury” includes personal injury, death or disease.

“Personal Information” means information relating to an identified or identifiable natural person which is an individual who can be identified, directly or indirectly, in particular by reference to certain information, such as a name, identification number or an online identifier. For the purposes of this contract, Personal Information includes opinions and comments which relate to that individual, as well as any factors specific to the physical, physiological, genetic, mental, economic, racial, political, religious, sexual orientation, criminal, financial, cultural or social identity of that individual. Information is Personal Information regardless of whether the information is true or whether it is recorded in a material form.

“Pollution” means any liquid or non-liquid pollutant or waste substance of whatsoever nature, including any hazardous substances.

“Restricted Person” means any person or entity that is identified on any applicable restricted party list issued by a Governmental Authority, and also includes, without limitation any person:

- (a) that is, or is directly or indirectly owned or controlled by a person that is, or has an Affiliate, director, officer, employee, contractor, agent,

branch or representative which is or is directly or indirectly owned or controlled by a person that is, listed on any list of restricted persons maintained by any national or supra national body or agency with jurisdiction over a Party or its Affiliates or a Co-Venturer, including but not limited to U.S.' consolidated screening list, a searchable version of which can be found at https://build.export.gov/main/ecr/eg_main_023148 as may be updated, amended or superseded from time to time;

- (b) acting or having express or ostensible authority to act on behalf of any of the persons listed in paragraph (a) above; or
- (c) with which any Party under this Contract, its Affiliates or a Co-Venturer is prohibited from dealing or otherwise engaging in any transaction pursuant to any Sanctions or any other applicable Law.

"**Sanctions**" means any sanctions, restrictions or designations imposed under any laws or regulations of the European Union, the U.S., the United Kingdom, or any other country with jurisdiction over the Contract, a Party under this Contract, its Affiliates or a Co-Venturer.

"**Site Rules**" means all rules, regulations, directives and policies notified by the Company from time to time which are intended to be of general application to persons at a Worksite location controlled or managed by the Company.

"**Taxes**" means all taxes, duties and imposts levied or assessed by any government or Governmental Authority.

"**VAT**" means valued added tax or similar tax on goods or services, including sales, use, excise and similar taxes, that is levied by any Governmental Authority of the Country.

"**Website**" means the webpage located at http://www.woodside.com.au/supplying_to_woodside/Pages/General-Information-for-Suppliers.aspx.

"**Work**" means all the work (including the provision of all Goods, services and Contractor Equipment) that the Contractor is required to carry out in accordance with the provisions of the Contract.

"**Worksite**" means the site or place where the Work is to be performed.

2 INDEPENDENT CONTRACTOR

The Contractor is an independent contractor. The Contractor is not the Company's agent in any way and has no authority to, and will not purport to, represent or bind the Company in any way or do anything else that would or might obligate the Company to third parties, without the Company's prior written consent. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR WILL INDEMNIFY COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF, IN CONNECTION WITH, OR INCIDENT TO ANY MEMBER OF THE CONTRACTOR GROUP'S INDEPENDENT CONTRACTOR STATUS AS PROVIDED IN THIS CLAUSE 2, INCLUDING ANY EMPLOYMENT-RELATED CLAIM FOR, OR ATTEMPT BY ANY MEMBER OF THE CONTRACTOR GROUP, ANY OF THEIR RESPECTIVE PERSONNEL, OR ANY OF THEIR RESPECTIVE SPOUSES, HEIRS, EXECUTORS, ADMINISTRATORS, OR PERMITTED ASSIGNS, AS THE CASE MAY BE, TO SEEK FROM ANY MEMBER OF THE COMPANY GROUP ANY BENEFITS OR SUMS ACCORDED TO ANY MEMBER OF THE COMPANY GROUP, INCLUDING BUT NOT LIMITED TO ADDITIONAL COMPENSATION OR REMUNERATION, WORKER'S COMPENSATION, DEATH OR DISABILITY INSURANCE, VACATION, OR SICK PAY, OR ANY CLAIM ALLEGING ANY PERSONNEL OF ANY MEMBER OF CONTRACTOR GROUP ARE EMPLOYEES OF COMPANY GROUP.

3 STATUS OF COMPANY

- (a) The Company enters into this Contract for itself; provided that the Company may also enter into this Contract as agent for and on behalf of the Co-Venturers.
- (b) Notwithstanding Clause 3(a) if the Company enter into this Contract as agent for and on behalf of the Co-Venturers, then:
 - (i) the Contractor agrees to look only to the Company for the due performance of this Contract and nothing contained in this Contract will impose any liability upon, or entitle the Contractor to commence any proceedings against, any Co-Venturers;
 - (ii) the Company is entitled to enforce this Contract on behalf of all Co-Venturers as well as for itself. For that purpose the Company may commence proceedings in its own name to enforce all obligations and liabilities of the Contractor and to make any claim which any Co-Venturers may have against the Contractor; and
 - (iii) all losses, damages, costs (including legal costs) and expenses recoverable by the Company pursuant to this Contract including the losses, damages, costs (including legal costs) and expenses of the Company, the Co-Venturers and its and their respective Affiliates except that such losses, damages, costs (including legal costs) and expenses will be subject to the same limitations or exclusions of liability as are applicable to the Company or the Contractor under this Contract. Any and all limitations of the Contractor's liability set out in this Contract represent the aggregate cumulative limitation of the liability of the Contractor to the Company, the Co-Venturers and its and their respective Affiliates, solely arising pursuant to the terms of the Contract.

4 REPRESENTATIVES

The Company and the Contractor will each appoint a representative, who will be authorised to represent them respectively in all matters relating to the Contract, and will notify the other Party of its appointed representative.

5 TERM

The Contractor must commence the Work on the date or within the period specified in the Contract and continue to perform the Work for the period specified in or determined in accordance with the Contract.

6 VIENNA CONVENTION

The Parties have agreed to exclude the application of the United Nations Convention on the Contracts for the International Sale of Goods to the Contract.

7 CONTRACTOR TO PERFORM THE WORK

The Contractor must:

- (a) perform the Work (which includes all work expressly described in the Contract and all work reasonably inferable from such express

description) in a safe and workmanlike manner, in accordance with all applicable Laws and Good Industry Practices, and otherwise in accordance with the requirements of the Contract;

- (b) provide all personnel, materials, resources, Contractor Equipment, facilities and other things necessary to perform the Work in accordance with the Contract;
- (c) ensure all Contractor Equipment is in good working order and suitable for use in connection with the Work;
- (d) obtain all Authorisations required for the performance of the Work; and
- (e) comply with all reasonable directions given by the Company in respect of the Contract and the Work.

8 REPERFORMANCE

- (a) The Contractor must, at its cost, reperform any Work which is defective or otherwise not in compliance with the requirements of the Contract upon notification by the Company at any time during the term of the Contract and:
 - (i) in respect of Work (excluding Goods) until the period ending 12 months after completion of the Work; and
 - (ii) in respect of Goods, pursuant to Clause 43.
- (b) If the Contractor fails to rectify defects in accordance with the timeframe reasonably required by the Company, the Company may arrange to have the defects remedied by alternative means and may recover the direct costs of doing so from the Contractor.

9 REPORTING AND RECORDS

- (a) The Contractor must:
 - (i) provide periodic reports on the performance and progress of the Work under the Contract with such frequency and in such format as the Company may reasonably require from time to time; and
 - (ii) keep full and accurate records relating to the performance of the Contract by both Parties (including all invoiced charges made by the Contractor and all transactions) for a period of not less than 7 years after the completion of the Work. The Company will be entitled to inspect and copy such records upon reasonable notice for the purposes of ensuring the Contractor's compliance with the Contract.
- (b) During the course of the Work and thereafter until the Longstop Audit Date, the Company or its duly authorised representative (including an external auditor appointed by the Company and any Governmental Authority) will have the right to audit at all reasonable times and, upon request, take copies of all of the Contractor's records (including data stored on computers), books, personnel records, accounts, correspondence, memoranda, receipts, vouchers, dockets and other documents of every kind (including that which is stored on computers) relating to all authorisations and permits obtained or held in respect of the Work and itemised invoices in respect of the costs of those authorisations and permits.

10 CONFIDENTIALITY AND INFORMATION SECURITY

- (a) The Contractor agrees that it will keep the Contract, any documentation which it receives in connection with the Contract and any information which it learns through the Company Group, in strict confidence and will not disclose the same to any third party without the written consent of the Company.
- (b) Notwithstanding paragraph (a) above, the Contractor may disclose confidential information to the Contractor Group to the extent necessary for the proper performance of the Contract, to obtain advice or insurance in relation to the Contract and to comply with all Laws, provided that prior to disclosure the Contractor shall obtain written undertaking of confidentiality no less restrictive than this Clause 10.

11 LAW

The Contractor must comply with all applicable Law and carry out its obligations under the Contract so as not to cause or contribute to any breach by the Company of any Law.

12 HEALTH SAFETY AND ENVIRONMENT

- (a) The Contractor is responsible for the management of health, safety and environmental issues related to and during the performance of the Contract. The Contractor must fully comply with all of the Company's health, safety and environmental requirements, all environmental and safety Law, Good Industry Practices and Authorisations.
- (b) The Company may at any time conduct an audit of the Contractor's compliance with any environmental and safety Law and any health, safety and environmental requirements of the Contract. The Contractor must cooperate with the Company (including any representative of a Governmental Authority in attendance) in the conduct of such audit, and provide information as and when requested by the Company.
- (c) The Contractor must perform the Contract in a manner that will prevent or minimise Pollution and damage to the environment at the Worksite and ensure that no Pollution emanates from Contractor Equipment in any manner not permitted under any Law. If any Pollution emanates from the Worksite, the Work or from Contractor Equipment, then the Contractor must immediately comply with the directions of the Company with regard to cleaning it up and preventing further Pollution.

13 CONTRACTOR PERSONNEL AND SUBCONTRACTORS

- (a) The Contractor must not, without the Company's prior approval, subcontract any part of the Work.
- (b) The Contractor must provide sufficient competent, experienced and appropriately qualified personnel to ensure performance and completion of the Work in accordance with the provisions of the Contract.
- (c) The Contractor must ensure that the supervisory personnel of the Contractor and of its subcontractors can read, write and speak fluent English.
- (d) The Contractor must ensure that all persons involved in the performance of the Work, at all times, hold the appropriate and valid work permits, stay permits, travel permits, employment passes, visas, licences, registrations and any other documents or permissions required for those individuals to lawfully perform the Work in the Country.

- (e) If the Company considers that any Contractor Group personnel is not able to lawfully perform the Work in the Country, is negligent or incompetent, or has failed or is failing to comply with any Law or the Site Rules or any other requirements of the Contract, the Company may require the Contractor to remove such personnel from the Worksite, and the Contractor must, at its cost, do so and replace such personnel without interruption to the Work.

14 EMPLOYEE AND INDUSTRIAL RELATIONS

The Contractor is responsible for managing its employee and industrial relations with, or in relation to, its personnel (including the employees of its subcontractors at every tier) and must do so using a high standard of skill, care and diligence and in accordance with the Law and Good Industry Practice. The Contractor must not hinder or adversely affect the employee and industrial relations of the Company or any other employer at the Worksite.

15 CUSTOMS PROCEDURES

- (a) When applicable, the Company and the Contractor must each apply to the applicable Governmental Authority for their respective import, export and re-import of materials, goods, tools, equipment and supplies required for the Contract.
- (b) The Contractor undertakes to import, export and re-import any items (including those which are sold to the Company) for the Work which are subject to customs control in such a way as to enable maximum advantage to be taken of customs procedures of relevant Governmental Authorities.
- (c) For the purpose of import duties exemptions, the Contractor must do everything reasonably necessary to ensure all conditions are met and obligations fulfilled to facilitate the obtaining of Free Trade Agreement (FTA) approvals where goods, equipment and/or inputs are manufactured in a country which is a signatory to an FTA with the United States of America. Specifically where FTA treatment is available and rules of origin requirements have been met, the Contractor must, and must ensure that its subcontractors (of any tier), obtain all required 'Certificates of Origins' in the approved formats, and any other documentation from the relevant Governmental Authorities in a timely manner and ensure its availability to the Company upon request.
- (d) The Contractor must pay and make payment at such times when due and payable, all import/export Taxes on materials, goods, tools, equipment and supplies required for the Contract and imported or exported by the Contractor. The Contractor will be responsible for ensuring that it holds the necessary import/export licences issued by the relevant Governmental Authorities prior to the commencement of the Work.

16 EXPORT CONTROLS AND SANCTIONS

- (a) The Contractor must comply with all applicable Law concerning the export and re-export of goods, and other foreign trade controls including (without limitation) under U.S. Australian, United Kingdom, European Union and other countries' Law restricting sales and transfers to other countries and parties of commodities, software or technical data.
- (b) Notwithstanding any other provision of the Contract to the contrary, the Contractor agrees that no commodities, software or technical data of U.S. origin or with U.S. origin content will be sold, exported, re-exported or transmitted except in compliance with all relevant U.S. government requirements.
- (c) The Contractor represents and warrants that neither the Contractor, nor any person or entity that owns, controls or is a director, officer or employee of the Contractor, is a Restricted Person.
- (d) Unless in receipt of an approval, licence or other authorisation from the relevant Governmental Authority, the Contractor must not:
- (i) lend, contribute or otherwise make available funds made available to it under, pursuant to or in connection with the Contract to any person that is a Restricted Person;
 - (ii) engage in, or be a party to, any transaction or activity with any person or entity that is:
 - (A) subject to and in violation of Sanctions or any applicable Law relating to export controls; or
 - (B) a Restricted Person to the extent that such transaction or activity is in violation of Sanctions or any applicable Law relating to export controls or might provide grounds for the Contractor, the Company, its Co-Ventures or any of their Affiliates to be listed on any list of Restricted Persons maintained by any national or supra national body or agency with jurisdiction over a Party or its Affiliates or a Co-Venturer; and
 - (iii) enter into any agreement, transaction or dealing that will result in a violation by any person of Sanctions.
- (e) The Contractor must provide, upon request by the Company, written certification that the Contractor has complied with the provisions of this Clause 16.
- (f) THE CONTRACTOR WILL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE COMPANY GROUP FROM AND AGAINST ANY PENALTY, FINE, CHARGE, OR OTHER IMPOST (INCLUDING INTEREST AND COSTS) IMPOSED ON THE COMPANY GROUP AS A RESULT OF A BREACH BY THE CONTRACTOR OF THIS CLAUSE 16.
- (g) The Contractor must ensure that the requirements of this Clause 16 form part of or are otherwise imposed on any party from which products or Work are procured, including the obligation to impose such terms (including this provision) on any Subcontractor.
- (h) If the Contractor or any of its Affiliates breaches any of the obligations in this Clause 16, then the Company may immediately terminate the Contract for breach, by giving written notice of termination to the Contractor.
- (i) In the event of termination in accordance with Clause 16, the Contractor shall be entitled to payment only for that part of the Work properly performed under the Contract, up to the date of termination.
- (j) Any right of termination under Clause 16 is additional to any other right of termination the Company may have, either in the Contract or at law.

17 PRIVACY

- (a) In respect of all Personal Information collected, received, or supplied by the Contractor under or in connection with this Contract ("Contract Personal Information"), the Contractor must (and ensure that its personnel and any subcontracts must):

- (i) comply with all applicable Data Privacy Laws;
- (ii) implement and assist the Company with implementing appropriate technical and organisational measures to ensure a level of security of the Contract Personal Information appropriate to the sensitivity of the Contract Personal Information;
- (iii) keep the Contract Personal Information confidential and secure and protect it from misuse, interference, and loss, and unauthorised access, modification, or disclosure;
- (iv) only use the Contract Personal Information in accordance with the Company's written instructions (including this Contract) for the sole purpose of performing its obligations under the Contract and will not use the Contract Personal Information for any other purpose;
- (v) notify the Company promptly (and in any event within 24 hours) after becoming aware that a Data Breach has occurred, is likely to have occurred, or is suspected to have occurred in respect of any Contract Personal Information. The Contractor must:
 - (A) promptly provide the Company with all details concerning the Data Breach, such as the nature of the Data Breach and the Personal Information compromised, and all information necessary to assist the Company in identifying the root cause of the Data Breach;
 - (B) promptly take all necessary steps to contain and mitigate the impact of the Data Breach;
 - (C) cooperate and comply with all reasonable directions of the Company in relation to the Data Breach, including in relation to any requirements to notify the occurrence of the Data Breach to any Governmental Authority or any affected individuals in accordance with applicable Data Privacy Laws;
- (vi) where requested by the Company, assist the Company in conducting appropriate risk assessments of any uses of Contract Personal Information and (where appropriate) consulting with any Governmental Authority and/or affected individual;
- (vii) upon receipt of any request or communication that the Contractor receives from any individual whose Personal Information is contained in the Contract Personal Information exercising their individual rights under applicable Data Privacy Laws or any request or communication that the Contractor receives from any Governmental Authority and/or other third party in connection with the Contract Personal Information:
 - (A) notify the Company promptly (and in any event within 72 hours) of any such request or communication;
 - (B) unless required to comply with the Contractor's own obligations under applicable Data Privacy Laws, not respond to the request or communication directly without the prior written consent of the Company;
 - (C) where appropriate, assist the Company respond to any such request or communication;
- (viii) promptly upon termination or expiry of the Contract or earlier if requested by the Company, return to the Company or permanently and securely destroy all Contract Personal Information (including copies) in its power, possession or control, except to the extent that retention is required by Law. The Contractor will certify in writing to the Company that it has deleted the Contract Personal Information within seven (7) days after it complete the deletion in each case;
- (ix) promptly after receipt of a request from the Company, make available to the Company all information necessary to demonstrate compliance with the obligations set out in this clause;
- (x) the Contractor must not disclose or transfer any Contract Personal Information to any other party or to allow any other party to access or use the Contract Personal Information during or after the term of the Contract unless the Contractor has: (i) obtained the Company's prior written permission to do so; and (ii) imposes binding contractual obligations on the other party in relation to its handling of Personal Information which are no less onerous than the obligations imposed on the Contractor under this Contract. The Contractor will remain responsible and liable to the Company for all acts and omissions of such other parties as if they were its own; and
- (xi) the Contract must not transfer, disclose, store, handle, provide access to, or process any of the Contract Personal Information outside of its jurisdiction without the prior written consent of the Company, except where doing so is required to comply with domestic law to which the Contractor is subject. If the Company gives its written consent, then the Contractor must comply with any requirements for cross-border transfers as required by applicable Data Privacy Laws.

18 CONTRACTOR'S INVESTIGATIONS

- (a) The Contractor will be deemed to have examined and taken into account all local and other conditions affecting the performance of the Work and all information which is relevant to the risks, contingencies and other circumstances which could affect its performance of the Work, whether provided by the Company or otherwise obtainable by the making of reasonable enquiries.
- (b) The Company gives no warranty of accuracy, sufficiency or completeness in relation to information provided to the Contractor and disclaims all responsibility for such information. The Company will not be liable to the Contractor, in contract or tort or under any Law or theory, for any inaccuracy in or inadequacy of information provided to the Contractor in relation to the Work.

19 INTELLECTUAL PROPERTY

- (a) Nothing in the Contract affects a Party's title to its Background Intellectual Property.
- (b) All New Intellectual Property relating to any Goods supplied by the Contractor under this Contract will vest in the Contractor. All other New Intellectual Property will vest in the Company as soon as the preparation, production or commencement thereof commences. In respect of all New Intellectual Property that will vest in the Company under this Contract, the Contractor warrants that it has all right, title and interest for any such New Intellectual Property created by Contractor's employees or its Subcontractors and has authority to assign all right, title and interest for such New Intellectual Property to Company.
- (c) The Contractor grants to the Company Group a royalty free, irrevocable, non-exclusive, perpetual, sub-licensable, transferable, world-wide licence to use, modify, adapt, copy and distribute (including electronically distribute) the Contractor's Background Intellectual Property and any Contractor New Intellectual Property for any purposes in connection with the Work. Where Company owns the New Intellectual Property, Company may use Contractor's Background Intellectual Property to exercise its rights in relation to the New Intellectual Property.
- (d) THE CONTRACTOR WILL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE COMPANY GROUP FROM AND AGAINST ALL CLAIMS FOR, OR ARISING OUT OF, ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF:

- (i) ANY OF THE INTELLECTUAL PROPERTY LICENSED BY THE CONTRACTOR TO THE COMPANY UNDER THIS CLAUSE 19 OR CONTAINED IN ANY INFORMATION SUPPLIED BY THE CONTRACTOR TO THE COMPANY; OR
 - (ii) ANY INTELLECTUAL PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE OBLIGATIONS OF THE CONTRACTOR UNDER THE CONTRACT.
- (e) The Company grants to the Contractor a royalty free, non-exclusive, non-transferable and sub-licensable worldwide licence to use the Company's Background Intellectual Property and New Intellectual Property for the sole purpose of performing its obligations under the Contract.

20 INSPECTION AND TESTING

The Company and all persons (including any of Company's Other Contractor's) notified by the Company to the Contractor have the right to carry out reasonable inspections and testing to ensure that the Work is in compliance with the Contract. The Contractor will render such reasonable assistance (including access to any premises at which the Work is being performed, including those of the Contractor and its subcontractors of any tier) as may be required to facilitate such inspections and testing.

21 VARIATIONS TO THE WORK

- (a) The Company has the right to issue instructions to the Contractor at any time to make any variations to the Work (including any additions or reductions to the scope of Work). Contractor must comply with Company's instruction without delay irrespective of whether any additional payment has been determined pursuant to Clause (b).
- (b) Any additional payment payable to the Contractor as a result of any variation will be valued at the appropriate rates and prices included in the Contract or, in the absence of any appropriate rates and prices, a fair valuation will be made by mutual agreement between the Parties, or (if such agreement is not reached within a reasonable period of time) as determined by the Company.
- (c) The Contractor is not entitled to any additional payment if the Company requests the Contractor to perform remedial work due to any defect or if the relevant variation is due to any default on the part of the Contractor.

22 RATES AND PRICES

Except as otherwise expressly provided in the Contract, the Company will pay the Contractor the prices specified in, or to be derived from the rates specified in, the Contract as the sole consideration for the Contractor's performance of its obligations under the Contract. The price which the Company has agreed to pay for the Work is exclusive of VAT but includes all other Taxes. The Contractor is responsible for all costs, expenses and liabilities incurred by the Contractor in connection with the performance of the Work.

23 INVOICING AND PAYMENT

- (a) As and when the Contractor becomes entitled under the Contract to apply for a payment, the Contractor must forward an invoice including satisfactory documentary evidence of the validity of the invoice and amounts claimed in the form required by the Company at the address for payment of invoices specified in Section 1 - Form of Agreement.
- (b) Unless otherwise stated, the Contractor will be entitled to render an invoice upon completion of the Work or, where performance of the Contract may exceed 30 days in duration, at the end of each calendar month in which the Contract is performed.
- (c) Subject to the Contractor's compliance with Clause 23(a) the Company will pay the Contractor any amount due by no later than thirty (30) days after receipt of a correctly prepared and adequately supported invoice from the Contractor.

24 TAXES

- (a) The Contractor will comply with all Laws relating to taxation.
- (b) The Contractor is responsible for and is deemed to have allowed for in the rates and prices any and all taxes, duties, levies, charges, and any associated interest or penalties, including income, profits, corporation taxes and taxes on capital gains, levied or imposed by any local and or national Governmental Authority in respect of the Work.
- (c) The Company will withhold from payments to the Contractor such amounts as are required to be withheld under the Laws of any Country (including all withholding tax, minimum taxes, gross receipts, deemed profit or deemed net profit taxes, deemed salary and wage taxes and tax in respect of turnover) and remit such payment to the Governmental Authorities.
- (d) The Company will furnish to the Contractor all available government receipts, or other evidence substantiating remittance to the taxing jurisdiction for all taxes withheld.
- (e) The Company will not be liable, and the Contractor will have no claims against the Company:
 - (i) in respect to any sum of money which would otherwise be payable to the Contractor under the Contract; and
 - (ii) which the Company has withheld from payment to the Contractor and paid in accordance with the provisions of any relevant Law, to the person, authority or establishment legally entitled to accept payment.
- (f) Within 30 days of the date the Contract has been signed, and prior to submission of any invoices under the Contract, the Contractor must provide the Company with evidence that the Contractor has registered the Contract with all relevant authorities (if any) and has paid all necessary stamping or registration charges and has otherwise done all things necessary to ensure the Contract is of full legal force and effect.
- (g) The Contractor must comply with such directions, provide such information and documents and complete and execute such documents as the Company reasonably requires for taxation related purposes.
- (h) The Parties agree that the rates and prices herein for any supply are stated exclusive of VAT which may become payable under the taxation Laws of the Country.
 - (i) Where VAT is payable under the Laws of the Country on any supply made under this Contract, the Parties making the supply will charge to the Parties receiving the supply, and the Parties receiving the supply will reimburse the supplier for, the VAT paid by the supplier to the relevant Governmental Authority, subject to the supplier issuing to the recipient a valid tax invoice or the equivalent, in

accordance with the Laws of the Country, for that supply.

- (j) If this Contract requires the Company to pay for, reimburse or indemnify the Contractor against any expense or liability ("Reimbursable Expense") incurred by the Contractor, the amount to be paid, reimbursed or indemnified is the amount of the Reimbursable Expense less any input tax credit to which the Contractor is entitled in respect of the Reimbursable Expense.

25 INDEMNITIES

Contractor General Indemnity

- (a) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR SHALL INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS, THE COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF, IN CONNECTION WITH, OR INCIDENT TO ANY PERSONAL INJURY OR DAMAGE TO OR LOSS OF PROPERTY, IN EACH CASE TO THE EXTENT CAUSED BY OR ARISING IN WHOLE OR IN PART OUT OF THE DEFAULT, NEGLIGENCE, BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE), WILFUL MISCONDUCT, OR FRAUD OF ANY MEMBER OF THE CONTRACTOR GROUP, INCLUDING IN CONNECTION WITH: (I) THE WORK; OR (II) THE CONTRACTOR'S PERFORMANCE OF ITS OBLIGATIONS UNDER THE CONTRACT.

Company General Indemnity

- (b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY SHALL INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS, EACH MEMBER OF THE CONTRACTOR GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF, IN CONNECTION WITH, OR INCIDENT TO ANY PERSONAL INJURY OR DAMAGE TO OR LOSS OF PROPERTY, IN EACH CASE TO THE EXTENT CAUSED BY OR ARISING IN WHOLE OR IN PART OUT OF THE NEGLIGENCE, BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE), OR WILFUL MISCONDUCT OR FRAUD OF THE COMPANY IN CONNECTION WITH THE COMPANY'S PERFORMANCE OF ITS OBLIGATIONS UNDER THE CONTRACT.

Indemnities in respect of Pollution

- (c) SUBJECT TO CLAUSES 25(a) AND 25(b), AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR WILL INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS, THE COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT, IN CONNECTION WITH, OR INCIDENT TO: (I) POLLUTION OCCURRING ON THE PREMISES OF THE CONTRACTOR GROUP, OR ORIGINATING FROM PROPERTY OF THE CONTRACTOR GROUP (INCLUDING THE CONTRACTOR'S EQUIPMENT), IN EACH CASE ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS CONTRACT; AND (II) ANY POLLUTION THAT IS: (A) BROUGHT ONTO, OR GENERATED AT, THE WORKSITE BY ANY MEMBER OF THE CONTRACTOR GROUP; OR (B) RELEASED AT, ON, UNDER, OR ADJACENT TO THE WORKSITE BY ANY MEMBER OF THE CONTRACTOR GROUP, REGARDLESS OF FAULT.
- (d) SUBJECT TO CLAUSES 25(a) AND 25(b), AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR WILL INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS, THE COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF, IN CONNECTION WITH, OR INCIDENT TO POLLUTION THAT ORIGINATES FROM THE COMPANY GROUP PROPERTY, OR THE EXACERBATION OF ANY EXISTING CONTAMINATION OF THE WORKSITE, TO THE EXTENT THAT THE DEFAULT, NEGLIGENCE, BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE), WILFUL MISCONDUCT, OR FRAUD OF ANY MEMBER OF THE CONTRACTOR GROUP CAUSED OR CONTRIBUTED TO SUCH POLLUTION OR EXACERBATION, IN EACH CASE UP TO THE AMOUNT OF US\$5 MILLION PER OCCURRENCE. THIS LIMIT WILL NOT APPLY TO THE EXTENT ANY SUCH CLAIMS ARISE OUT OF THE WILFUL MISCONDUCT OR FRAUD OF ANY MEMBER OF THE CONTRACTOR GROUP.

26 INSURANCE

- (a) The Contractor must take out and maintain all insurances required by Laws and in addition the following insurances:
 - (i) comprehensive general liability insurance with a limit of not less than \$5,000,000 per claim; the Contractor will ensure the liability policy:
 - (A) is endorsed to include Company and such other Parties as Company may nominate as additional insureds to the extent of liabilities assumed by the Contractor under the Contract; and
 - (B) provides a complete waiver by the insurer of all express or implied rights of subrogation against the Company and such other Parties as the Company may nominate;
 - (ii) workers compensation insurance and employer's liability insurance as required by Law. Where permitted by law and commercially available, the policy must be endorsed to include indemnity for the Company and such other Parties as the Company may nominate as principals;
 - (iii) motor vehicle third party liability insurance as required by Law, and motor vehicle third party property damage with an indemnity of not less than US\$1,000,000 for any one occurrence;
 - (iv) insurance covering the Contractor's own property, equipment, materials owned, hired leased or used by the Contractor for the purpose of this Contract; and
 - (v) any additional insurance required by any applicable Law.
- (b) The insurances required under this Contract are primary to, and without right of contribution from, any insurance or self insurance the Company may have.
- (c) In addition to the insurances to be obtained by the Contractor pursuant to Clause 26(a) the Contractor may obtain such additional insurances at its own cost as it deems necessary to cover its liabilities that it has assumed under this Contract.
- (d) Contractor must ensure that each insurance required under this Contract fully complies with all applicable Laws in the Country.
- (e) The Contractor will at the request of the Company provide for inspection copies of all insurance policies and certificates of currency in respect of the insurances required to be taken out by the Contractor.

27 TERMINATION FOR CONVENIENCE

- (a) The Company may at any time give written notice to the Contractor to terminate the Contract for the Company's convenience.
- (b) In the event of termination under this Clause 27, the Contractor will be entitled to payment as set out in the Contract for the part of the Work performed in accordance with the Contract up to the date of termination (the "Payment for Work Performed"), together with any such other payments and fees as may be set out in the Contract or, in the absence of any such provision, such direct costs which are reasonably and unavoidably incurred by the Contractor as a direct result of such termination and which are not allowed for in the Payment for Work Performed.

28 TERMINATION FOR DEFAULT

- (a) If the Contractor Defaults in any of its obligations pursuant to the Contract or an Insolvency Event occurs, the Company may by written notice terminate the Contract or all or any part of the Work. The Contractor will be liable to the Company for all additional costs reasonably incurred by the Company as a direct result of such Contractor's Default or Insolvency Event. In the event of such termination, the Contractor will be entitled to payment as set out in the Contract for the part of the Work performed in accordance with the Contract up to the date of termination, provided that such payment will not become due to the Contractor until the costs of completing the Work and all other costs arising as a result of such Contractor's Default or Insolvency Event have been finally ascertained.
- (b) Subject to the terms and conditions of, and any express limitations set forth in, this Contract, the Company may, in addition to any other remedies it has under this Contract or at law or in equity, seek to recover damages from the Contractor in connection with any Default.
- (c) Any termination under this Clause or any other provision of the Contract will be without prejudice to any accrued rights of either Party including any and all rights and remedies that Company may have for a breach of this Contract at law or in equity.

29 BUSINESS ETHICS

Code of Conduct

- (a) The Contractor must at all times comply with the Supplier Code of Business Conduct and the Anti-Bribery and Corruption Policy.

Contractor's warranties

- (b) The Contractor represents and warrants that, with respect to or in connection with the subject matter of the Contract:
 - (i) neither it nor any of its officers, directors, employees, related bodies corporate or agents have:
 - (A) offered, authorised, promised, given, solicited or accepted and none of the foregoing will offer, authorise, promise give, solicit or accept, to or from a Government Official or any other person, directly or indirectly, any payment, gift, service, thing of value or other advantage where such payment, gift, service, thing of value or other advantage would be an ABC Law Violation, and
 - (B) engaged in or allowed, and none of the foregoing will engage in or allow, any conduct which would constitute a Modern Slavery Law Violation; and
 - (ii) it will otherwise comply with the ABC Law and the Modern Slavery Law.

Subcontractors

- (c) Before the award of any subcontract, the Contractor must:
 - (i) procure a warranty in the same terms as set out in Clause 29(b) from such subcontractor in favour of Contractor;
 - (ii) conduct, or procure the conduct of, a due diligence on the proposed subcontractor's ability to comply with ABC Law and Modern Slavery Law that a reasonable and prudent contractor subject to the ABC Law and the Modern Slavery Law would conduct under the circumstances to a standard that is proportionate to the identified risk; and
 - (iii) conduct, or procure that each of its subcontractors conduct a due diligence on their proposed subcontractors that satisfies Clause 29(c)(ii).

Books and Records

- (d) The Contractor must:
 - (i) maintain adequate internal controls over all transactions in relation to the Contract;
 - (ii) properly record all transactions in relation to the Contract;
 - (iii) maintain accurate books and records in relation to each transaction for a period of no less than five years from the date of such transaction; and
 - (iv) procure each of its subcontractors to do the same.

Right of Termination

- (e) Subject to Clause 29(f) below, if Contractor or any of its subcontractors commits an ABC Law Violation or a Modern Slavery Law Violation then Company may terminate the Contract for breach, by giving written notice of termination to Contractor.
- (f) Company shall not terminate the Contract pursuant to Clause 29(e) above for an ABC Law Violation or a Modern Slavery Law Violation where the ABC Law Violation or the Modern Slavery Law Violation was committed by a subcontractor and Contractor terminates or procures the termination of the relevant subcontract as soon as reasonably practicable.
- (g) In the event of termination in accordance with Clause 29(e), Contractor shall be entitled to payment only for that part of the work properly performed as part of the Scope of Work, up to the date of termination, and Clause 28 applies.
- (h) Contractor must procure that each subcontract includes a termination clause as described in this Clause 29.
- (i) Any right of termination under this Clause 29 is additional to any other right of termination the Company may have, either in the Contract or at law.

Audit Rights

- (j) Company may, on reasonable notice and at its sole expense, conduct an audit of books and records referred to in Clause 29(d) for the purpose of verifying compliance with the terms of the Contract or to determine whether an ABC Law Violation or a Modern Slavery Law Violation has occurred.
- (k) Contractor agrees to obtain similar audit rights in each subcontract, so that for any subcontract that was entered into solely for the performance of the Contract, Company or Contractor may audit the books and records of the subcontractor, in the same manner as set out in this provision.

30 EXCLUSION OF CONSEQUENTIAL LOSS

- (a) Subject to Clause 30(b) below, neither Party is liable to the other for, and each Party hereby waives and releases the other from any Claim for, Consequential Loss arising from, relating to or in connection with this Contract.
- (b) Clause 30(a) will not apply:
 - (i) to benefit a Party (whether by indemnity, exclusion or otherwise) where there has been wilful misconduct or fraud on the part of such Party or the Contractor Group or Company Group as applicable;
 - (ii) in respect of any fine, penalty imposed or cost of criminal prosecution under any applicable Law;
 - (iii) a Party's indemnification obligations with respect to any third party;
 - (iv) to a Party's liability under Clause 10 (Confidentiality) and Clause 19 (Intellectual Property);
 - (v) to a Party's liability arising under its obligations under Clauses 15 (Customs) and 24 (Taxes);
 - (vi) to a Party's liability arising from its repudiation of this Contract.

31 LIMITATIONS ON LIABILITY

- (a) Subject to Clause 31(b) below, the Contractor's total cumulative liability to the Company will be limited to the sum specified in Section 1 - Form of Agreement or if not stated 100% of the Contract price.
- (b) The above limitation under Clause 31(a) will not apply to:
 - (i) any of the indemnities given by the Contractor under Clauses 19 and 25;
 - (ii) any liability of the Contractor to remedy defects;
 - (iii) liability of the Contractor under Clauses 10, 11, 15, 16 or 24 or for any fine or penalty imposed; or
 - (iv) any liability of the Contractor arising from fraud or fraudulent misrepresentation or wilful misconduct or arising from its repudiation of the Contract.
- (c) Any limitation of liability given by the Company to the Contractor under the Contract will include the Affiliates of the Contractor.
- (d) Any limitation of liability given by the Contractor to the Company under the Contract will include each member of the Company Group.

32 GOVERNING LAW AND JURISDICTION

- (a) The Contract and all questions arising in connection with it are governed by and will be construed in accordance with the laws of the State of New York. The Parties agree that any conflict of laws rule that may otherwise refer the interpretation of this Contract to the laws of another jurisdiction, will not apply to this Contract.
- (b) Any Party claiming that a dispute or controversy in connection with this Contract has arisen (Claimant) will give notice to the other Party identifying such dispute, controversy or claim and designating its representative in negotiations, being a senior officer of the Party with authority to settle the matter and the other Party will promptly give notice designating its representative in negotiation with similar authority (Notified Party).
- (c) The Parties agree that the resolution of any disagreement will escalate up the management chain in a timely manner and in the event that the issue is not resolved within 10 Business Days, it will be referred to senior officers for determination.
- (d) The senior officers of each Party will meet to seek to resolve the matter within 40 Business Days of the receipt by Notified Party of the notice described in Clause 32(b).
- (e) If any dispute arises under this Contract which cannot be resolved amicably, then such dispute shall be heard and determined exclusively by binding arbitration administered by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, except as modified herein.
 - (i) The arbitration hearing shall be held at a site in New York, New York, to be agreed to by a majority of the arbitrators on twenty (20) days' written notice to the Parties. The arbitration proceedings shall be held in the English language.
 - (ii) Unless the Parties can agree in writing on a single arbitrator within 10 days after the referral of the dispute to arbitration, then, within 10 Business Days thereafter, each Party shall notify the other Party in writing of the name of the arbitrator chosen by it to participate as a member of a three-member panel of arbitrators, which arbitrator must be an independent third party that is not separately employed or retained by such Party. If either Party fails to give the other Party timely notice of such appointment, then the Party who timely gave such notice shall be entitled to require that its arbitrator act as the sole arbitrator. If an arbitrator is timely appointed by each of the Parties, then the two named arbitrators shall select the third member of the arbitration panel within 10 days after they have both been appointed, and they shall promptly notify the Parties thereof. Each Party shall promptly notify the other Party and the Party-selected arbitrators in writing if the third arbitrator has any relationship to or affiliation with such Party, in which event another arbitrator shall be selected by the Party-selected arbitrators within 10 days after receipt of such notice. If the two initially appointed arbitrators cannot timely agree on a third arbitrator, then any Party may request that the American Arbitration Association select the third arbitrator. The arbitrators, to the extent possible, shall have experience and expertise in the subject matter involved in the dispute.
 - (iii) The arbitration hearing shall be concluded within 120 days after it is commenced unless otherwise ordered by a majority of the arbitrators on compelling grounds, and the award thereon or decision with respect thereto shall be made within 10 days after the close of the

submission of evidence. Arbitration demanded hereunder by any Party shall be final and binding on the Parties and may not be appealed except in the case of manifest error or impropriety in the arbitration proceedings.

- (iv) The Parties shall share the fees of the arbitrators and any filing fees equally.
- (v) The Parties hereby submit to the *in personam* jurisdiction of the state and federal courts located in New York, New York, and agree that any such court may enter all such orders as may be necessary or appropriate to enforce and/or to confirm any ruling or decision or any award rendered by the arbitration panel. Any court of law of Oklahoma, New York, or the United States of America shall enforce the decision of the panel of arbitrators (or single arbitrator, as applicable) in its entirety and only in its entirety; provided that if a court for any reason refuses to enforce any equitable remedies ordered by the arbitration panel, such refusal shall not affect any damage or attorney fee award made by the arbitration panel.

33 EXCLUSIVE JURISDICTION WAIVER OF JURY TRIAL

TO THE GREATEST EXTENT PERMITTED BE LAW, EACH OF THE PARTIES HERETO KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY RIGHT IT MAY NOW OR HEREAFTER HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED HEREIN, OR ARISING OUT OF, UNDER, OR IN RESPECT OF THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE PARTIES HERETO.

34 URGENT INTERLOCUTORY RELIEF

Nothing in Clauses 32 and 33 prevents a Party from obtaining injunctive, declaratory or other interlocutory relief from a court which may be urgently required.

35 NOTICES

- (a) Except as otherwise stated in the Contract, any notice in respect of the Contract must be given in writing and delivered by hand, or sent by email, fax or post to the relevant address specified in Section 1 - Form of Agreement and copied to such other office or offices of the Parties as are from time to time be nominated by them in writing to the other.
- (b) Any such notice will be effective:
 - (i) if delivered by hand, at the time of delivery;
 - (ii) if sent by email or fax, at the time of transmission unless transmitted after the close of normal business hours or on a non-Business Day, in which case it is effective on the next Business Day following the date of sending; or
 - (iii) if sent by post, on the third Business Day after the date of posting.

36 GENERAL

- (a) The Contractor will not be relieved from any responsibility, obligation or liability by any review, approval, authorisation, acknowledgement, test, inspection or the like, by the Company any person on its behalf or by any failure of the Company or any such person to do any of the foregoing.
- (b) The Contractor will be responsible under the Contract for all acts and omissions of the Contractor Group as if they were acts and omissions of the Contractor.
- (c) Title to the deliverables in the Work will vest in the Company as soon as preparation of those deliverables commences.
- (d) The Contractor must ensure that all items provided by the Contractor under the Contract are free from all liens, attachments, charges, other encumbrances and retention of title claims from any third party.
- (e) The Contractor may not assign the Contract or any part of it without the Company's prior written consent.
- (f) The Company is entitled, without the consent of the Contractor: (a) to assign this Contract or any part of it or any benefit or interest in or under it to any Co-Venturer (if applicable) or Affiliate of the Company; and (b) to collaterally assign the Contract or any part of it or any benefit or interest in or under it to any lender or other financing party providing financing to the Company or any of its Affiliates in connection with the project (and the Contractor shall negotiate and enter into a customary consent to assignment or direct agreement with the Company (and/or its Affiliates) and such lender or financing party in connection with any such collateral assignment). In addition the Company may make any such assignment to any other Third Party but only with the prior agreement of the Contractor which must not unreasonably be withheld or delayed.
- (g) The Contract constitutes the entire agreement between the Parties relating to the subject-matter hereof and supersedes all previous negotiations and communications.
- (h) The Contract may only be amended by written agreement between the Company and Contractor.
- (i) In the event of termination or expiration of the Contract, the provisions which are expressed or intended to survive such termination or expiration, including without limitation those pertaining to warranty, indemnities, audit, confidentiality, intellectual property, insurance, exclusion of consequential losses, limitation of liability, compliance, governing law and jurisdiction shall remain in full force and effect.

PART B: GOODS CONDITIONS

37 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Goods, whether in conjunction with the performance of other Work or otherwise, the conditions of this Part B apply in addition to all other terms and conditions of the Contract.

38 QUALITY AND STANDARD OF THE GOODS

The Contractor must ensure that the Goods:

- (a) meet the Company's requirements in respect the quality, quantity, workmanship and specifications as set out in the Contract and, to the extent that such requirements have not been set out in the Contract, in accordance with Good Industry Practices;

- (b) are new and free from faulty design and defects; and
- (c) are fit for the purposes specified in the Contract or, where no such purposes are specified, fit for its ordinary purposes.

39 PACKING AND DOCUMENTATION

- (a) The Contractor must ensure that the Goods are properly packed, secured and labelled in accordance with Good Industry Practices and to meet the requirements set out in the Contract.
- (b) The Contractor must provide to the Company by the Delivery Date all drawings, certificates and other documentation in the format and quantities specified in the Contract.

40 DELIVERY OF THE GOODS

- (a) The Contractor must deliver the Goods or make the Goods available to the Company at the Delivery Point by the Delivery Date.
- (b) If the Contractor is unable to deliver the Goods on the Delivery Date the Contractor must notify the Company at the earliest possible opportunity. The Company and Contractor will endeavour to agree a mutually acceptable revised Delivery Date. If the Company and the Contractor cannot agree, the Company will have the right to terminate the Contract pursuant to Clause 28.

41 ACCEPTANCE OF GOODS BY COMPANY

Acceptance of the Goods will be from the time that a duly authorised representative of the Company accepts the Goods, delivered or collected at the Delivery Point and where such Goods are not defective or damaged in any way and comply with the Contract.

42 RISK AND TITLE

- (a) Title to and property in the Goods immediately passes to the Company upon payment for, or Delivery of, the Goods, whichever occurs first, and the Goods must be appropriately marked and identified as the property of the Company.
- (b) The risk of loss of or damage to the Goods remains with the Contractor until Delivery to the Company in accordance with the Contract.

43 DEFECTS

- (a) The Contractor must, at its own cost, repair, replace or rectify any Goods (or any replacement Goods) which are defective or otherwise not in compliance with the requirements of the Contract during the period commencing on Delivery and ending 24 months later. The Contractor will not be responsible for the costs of remedying any defect to the extent that such defect was caused by the Company's failure to use the Goods in accordance with specific operating conditions set out in the Contract.
- (b) If the Contractor fails to rectify defects in accordance with the timeframe reasonably required by the Company, the Company may arrange to have the defects remedied by alternative means and may recover the direct costs of doing so from Contractor.

44 SPARES

During the operational life of the Goods or any plant or facility in which the Goods will be installed, the Contractor must give sufficient notice to the Company of its or its subcontractors' intention to cease manufacture or supply of any of the Goods or any component parts or replacements for the Goods, to enable Company to purchase such Goods, component parts or replacements.

45 HAZARDOUS SUBSTANCES

The Contractor must ensure that the Goods comply with Laws and to the extent that they contain toxic, corrosive or hazardous substances, the Contractor must ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions.