



GENERAL ADMINISTRATION SERVICES AGREEMENT

FOR OUTSOURCING SUPPLIER CALL CENTER

REFERENCE NUMBER [TBA]

TABLE OF CONTENTS

FORM OF AGREEMENT	2
ANNEXURE 1 SPECIAL CONDITIONS.....	7
ANNEXURE 2 GENERAL TERMS AND CONDITIONS.....	8
ANNEXURE 3 FORMS.....	68
ANNEXURE 4 SCOPE OF WORK.....	74
ANNEXURE 5 PRICING SCHEDULE.....	75
ANNEXURE 6 LIST OF AUTHORISED SUBCONTRACTORS.....	76
ANNEXURE 7 ICV IMPROVEMENT PLAN	77
ANNEXURE 8 COMPANY RESPONSIBILITIES	79
ANNEXURE 9 HSE REQUIREMENTS	80

FORM OF AGREEMENT

This **AGREEMENT** is made on the date of the later of the two signatures below, by and between:

- (1) ABU DHABI NATIONAL OIL COMPANY (ADNOC), a company established under the laws of ABU DHABI, and having its registered office address at P. O. BOX 898, ABU DHABI, UAE (the “**COMPANY**”); and
- (2) [INSERT LEGAL NAME OF THE CONTRACTOR], a company organised and existing under the laws of [insert jurisdiction], and having its registered office address at [insert address] (the “**CONTRACTOR**”).

The **COMPANY** and the **CONTRACTOR** will be referred to herein either individually as a “**PARTY**” or collectively as the “**PARTIES**”.

WHEREAS:

- (A) The **COMPANY** has requested the **CONTRACTOR** to perform all or any part of the **WORKS** described in ANNEXURE 4 (the “**SCOPE OF WORK**”).
- (B) The **CONTRACTOR** represents that it has the necessary capability, resources and experience to perform the **SCOPE OF WORK** and has agreed to do so on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual agreements set forth herein, the **PARTIES** hereby agree as follows:

1. GENERAL

The **AGREEMENT** sets out the terms and conditions upon which the **CONTRACTOR** shall perform any part of the **SCOPE OF WORK**, as applicable, during the **TERM** and the terms, conditions and **FEES** that will apply to the performance of any such **WORKS**.

2. AGREEMENT DOCUMENTS AND INTERPRETATION

- 2.1 In the **AGREEMENT**, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the **GENERAL TERMS AND CONDITIONS**.
- 2.2 The following documents (each an “**AGREEMENT DOCUMENT**”) shall together form the **AGREEMENT** and shall be read and construed as one agreement:
 - (a) this **FORM OF AGREEMENT**; and
 - (b) the following **ANNEXURES**:
 - (i) **ANNEXURE 1 - SPECIAL CONDITIONS**;
 - (ii) **ANNEXURE 2 - GENERAL TERMS AND CONDITIONS**;
 - (iii) **ANNEXURE 3 - FORMS**;
 - (iv) **ANNEXURE 4 - SCOPE OF WORK**;
 - (v) **ANNEXURE 5 - PRICING SCHEDULE**;

- (vi) ANNEXURE 6 - LIST OF AUTHORISED SUBCONTRACTORS;
- (vii) ANNEXURE 7 - ICV IMPROVEMENT PLAN;
- (viii) ANNEXURE 8 - COMPANY RESPONSIBILITIES; and
- (ix) ANNEXURE 9 - HSE REQUIREMENTS

2.3 Subject to Clause 2.4 of this FORM OF AGREEMENT, Article 1.3 of the GENERAL TERMS AND CONDITIONS and notwithstanding the subdivisions of the AGREEMENT DOCUMENTS into the separate parts listed above, every part of each AGREEMENT DOCUMENT shall be deemed to be supplementary to and complementary to every other part and shall be read with and into the AGREEMENT so far as it may be practicable to do so.

2.4 In the event that there is a conflict or ambiguity between the terms of this FORM OF AGREEMENT and the ANNEXURES or among the ANNEXURES, the order of precedence below shall prevail and shall guide the construction of any part of the AGREEMENT:

- (a) this FORM OF AGREEMENT;
- (b) ANNEXURE 1 - SPECIAL CONDITIONS;
- (c) ANNEXURE 2 - GENERAL TERMS AND CONDITIONS;
- (d) ANNEXURE 5 - PRICING SCHEDULE;
- (e) ANNEXURE 7 - ICV IMPROVEMENT PLAN;
- (f) ANNEXURE 9 - HSE REQUIREMENTS;
- (g) ANNEXURE 8 - COMPANY RESPONSIBILITIES;
- (h) ANNEXURE 4 - SCOPE OF WORK;
- (i) ANNEXURE 6 - LIST OF AUTHORISED SUBCONTRACTORS; and
- (j) ANNEXURE 3 - FORMS.

With respect to any ANNEXURE(S) listed in Clause 2.2 which are not otherwise listed in this Clause 2.4, in the event that there is a conflict or ambiguity, then such ANNEXURE(S) shall take the order of precedence in which they appear in Clause 2.2.

3. KEY PROVISIONS

The PARTIES have agreed that the key provisions set out below shall apply to the AGREEMENT.

1.	CALL-OFF ORDERS applicable?	NO
2.	COMMENCEMENT DATE	<i>NOTIFICATION OF AWARD DATE</i>

3.	COMPLETION DATE	3 Years from Commencement Date + 2 Years at COMPANY discretion at the same rates, terms and conditions.
4.	Expiry of TERM	SAME AS COMPLETION DATE
5.	KEY PERSONNEL	
6.	REPRESENTATIVES	CONTRACTOR REPRESENTATIVE, as defined in Article 8.1, shall be: [ADNOC to insert] COMPANY REPRESENTATIVE, as defined in Article 8.2, shall be: Muna Al Hosani, Manager Procurement Help Desk.
7.	DELAY LIQUIDATED DAMAGES	DELAY LIQUIDATED DAMAGES for delays to COMMENCEMENT DATE: Rate: NA Maximum amount of DELAY LIQUIDATED DAMAGES for delays to COMMENCEMENT DATE: NA DELAY LIQUIDATED DAMAGES for delays to COMPLETION DATE: Rate: %1 Maximum amount of DELAY LIQUIDATED DAMAGES for delays to COMPLETION DATE: %10 WEEKLY.
8.	FEES	AS PER ANNEXURE 5
9.	Invoicing	<i>Invoices shall be submitted through SAP Ariba system. No hard copies of invoices are accepted. Scan and submit your invoice through SAP Ariba system to allow Finance completing the payment process.</i> <i>Note: Kindly communicate ADNOC supplier enablement team via 8004455 for any issues.</i>
10.	PERFORMANCE BANK GUARANTEE	10% OF TOTAL VALUE
11.	Notice details	Notices to the COMPANY Address: [insert address] Tel: [insert telephone number] Fax: [insert fax number]

		Notices to the CONTRACTOR Address: [insert address] Tel: [insert telephone number] Fax: [insert fax number]
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For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 shall apply to the AGREEMENT, including this FORM OF AGREEMENT.

[Signature page follows]

IN WITNESS WHEREOF, the AGREEMENT [Ref. TBA] has been executed by duly authorised representatives of the PARTIES.

For and on behalf of:

ABU DHABI NATIONAL OIL COMPANY (ADNOC)

By: _____

Name:

Title:

Date:

For and on behalf of:

[INSERT CONTRACTOR NAME]

By: _____

Name:

Title:

Date:

ANNEXURE 1

SPECIAL CONDITIONS

The following SPECIAL CONDITIONS supplement and/or amend the GENERAL TERMS AND CONDITIONS. In the event of any inconsistency, ambiguity or conflict between the terms or interpretation of these SPECIAL CONDITIONS and the GENERAL TERMS AND CONDITIONS, the order of precedence in Clause 2.4 of the FORM OF AGREEMENT shall prevail and shall guide the construction of any part of the AGREEMENT.

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ANNEXURE 2

GENERAL TERMS AND CONDITIONS

1.	DEFINITIONS AND INTERPRETATION	10
2.	CALL-OFF ORDERS	19
3.	PERFORMANCE OF THE WORKS	20
4.	VARIATIONS	22
5.	DELAYS	26
6.	CONTRACTOR PERSONNEL	27
7.	HEALTH, SAFETY AND ENVIRONMENT	28
8.	REPRESENTATIVES	29
9.	COMPANY RESPONSIBILITIES	29
10.	REPRESENTATIONS AND WARRANTIES	29
11.	PAYMENT	30
12.	AUDIT	33
13.	TAXES AND DUTIES	33
14.	PERFORMANCE BANK GUARANTEE	35
15.	INTELLECTUAL PROPERTY RIGHTS.....	36
16.	COMPANY DATA.....	41
17.	SUBCONTRACTORS.....	43
18.	SUSPENSION.....	45
19.	TERMINATION	47
20.	EFFECTS, RIGHTS AND OBLIGATIONS ON EXPIRY OR TERMINATION	49
21.	CONFIDENTIALITY	52
22.	FORCE MAJEURE EVENT.....	54
23.	INSURANCE	56
24.	LIABILITY AND INDEMNITY	58
25.	ASSIGNMENT	63
26.	TERM AND SURVIVABILITY	63

27.	GOVERNING LAW AND DISPUTE RESOLUTION	63
28.	NOTICES	64
29.	CONFLICT OF INTEREST	64
30.	PUBLICITY	64
31.	ENTIRE AGREEMENT	65
32.	REPRESENTATIONS AS TO NO PAYMENTS, GIFTS AND LOANS.....	65
33.	MISCELLANEOUS.....	66

The provisions of these general terms and conditions, as may be amended from time to time (“**GENERAL TERMS AND CONDITIONS**”) shall apply as part of the AGREEMENT in accordance with Clause 2 of the FORM OF AGREEMENT.

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

For the purpose of the AGREEMENT, unless the context otherwise requires, the following expressions used herein shall have the following meanings:

“**ABU DHABI**” means the Emirate of Abu Dhabi (including its territorial waters).

“**ADNOC**” means Abu Dhabi National Oil Company.

“**ADNOC GROUP**” means ADNOC and each PERSON directly or indirectly CONTROLLED by ADNOC.

“**ADNOC GROUP SUPPLIER & PARTNER CODE OF ETHICS**” means the conduct policy for suppliers and partners of the ADNOC GROUP, as amended from time to time, which is available at www.adnoc.ae.

“**AED**” means United Arab Emirates Dirhams, the lawful currency of the UAE.

“**AFFILIATE**” means:

- (a) in relation to any PERSON (other than the ADNOC GROUP), any other PERSON that at the relevant time, directly or indirectly, CONTROLS, is CONTROLLED by or is under common CONTROL with, such PERSON; and
- (b) in relation to the ADNOC GROUP, each other member of the ADNOC GROUP.

“**AGREEMENT**” has the meaning given to that term in the FORM OF AGREEMENT.

“**AGREEMENT DOCUMENT**” has the meaning given to that term in the FORM OF AGREEMENT.

“**AMENDMENT**” has the meaning given to that term in Article 33.2.

“**ANNEXURES**” means the annexures to the FORM OF AGREEMENT.

“**ANNUAL ICV TARGET**” has the meaning given to that term in Article 3.2(b).

“**APPLICANT PARTY**” has the meaning given to that term in Article 15.3(c)(ii).

“**BUSINESS VENTURE**” has the meaning given to that term in Article 29.1.

“**CALL-OFF ORDER**” means a call-off order issued by the COMPANY in connection with the WORKS.

“**CIVIL CODE**” means the UAE Federal Law No.(5) of 1985 in respect of Civil Transactions, as may be amended and/or supplemented from time to time.

“COMMENCEMENT DATE” means the date specified in the FORM OF AGREEMENT or a CALL-OFF ORDER, as applicable, on which the CONTRACTOR shall commence the performance of the WORKS.

“COMPANY” has the meaning given to that term in the FORM OF AGREEMENT.

“COMPANY DATA” means the data, text, drawings, designs, reports, studies, calculations, machine-readable or computer generated information, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and in each case including, as applicable and without limitation, the data, well logs, pressure measurements, production test data, seismic survey data, test results, charts, reports, information drawings and other materials of whatever nature, whether raw, derived or processed, which:

- (a) are supplied to the CONTRACTOR by or on behalf of the COMPANY, including without limitation which:
 - (i) the COMPANY has acquired by seismic or geological surveys and characteristics, including but not limited to any hydrological, sea, seabed and subsurface information and bathymetric data; and/or
 - (ii) concern the COMPANY’s well and the wellbore, borehole, downhole, production, reservoir, geology and/or formations encountered in the well (including real time access to drilling unit data under the control of and/or provided to the CONTRACTOR); or
- (b) the COMPANY or COMPANY PERSONNEL create, generate, collect, process, store or transmit in connection with the AGREEMENT and/or the performance of the WORKS; or
- (c) the CONTRACTOR or CONTRACTOR PERSONNEL create, generate, collect, process, store or transmit for the COMPANY in connection with the AGREEMENT and/or the performance of the WORKS and which concern the COMPANY’s well and the wellbore, borehole, downhole, production, reservoir, geology and/or formations encountered in the well (including real time access to drilling unit data under the control of and/or provided to the CONTRACTOR).

“COMPANY EQUIPMENT” means apparatus, machinery and vehicles (if any) made available by the COMPANY for the use of the CONTRACTOR in the execution of the WORKS.

“COMPANY INDEMNIFIED PARTIES” means the COMPANY, its AFFILIATES, its CO-VENTURERS, its OTHER CONTRACTORS, and the COMPANY PERSONNEL, but shall exclude the CONTRACTOR INDEMNIFIED PARTIES.

“COMPANY REPRESENTATIVE” has the meaning given to that term in Article 8.2.

“COMPANY RESPONSIBILITIES” means the responsibilities of the COMPANY as set out in Article 9 and/or ANNEXURE 8, as applicable.

“COMPANY VARIATION REQUEST” has the meaning given to that term in Article 4.2(a).

“COMPLETION CERTIFICATE” means the certificate to be issued by the COMPANY to the CONTRACTOR confirming completion of the WORKS in accordance with Article 3.3(a)(ii).

“**COMPLETION DATE**” means the date specified in the FORM OF AGREEMENT or a CALL-OFF ORDER by which the WORKS under the AGREEMENT or a CALL-OFF ORDER, as applicable, are to be completed by the CONTRACTOR (if applicable).

“**CONFIDENTIAL INFORMATION**” has the meaning given to that term in Article 21.1.

“**CONSEQUENTIAL LOSS**” has the meaning given to that term in Article 24.9.

“**CONTRACTOR**” has the meaning given to that term in the FORM OF AGREEMENT.

“**CONTRACTOR EQUIPMENT**” means all apparatus, machinery, vehicles and other things required for the execution and completion of the WORKS and the remedying of any defects, but excludes COMPANY EQUIPMENT.

“**CONTRACTOR INDEMNIFIED PARTIES**” means the CONTRACTOR, the SUBCONTRACTORS and the CONTRACTOR PERSONNEL.

“**CONTRACTOR REPRESENTATIVE**” has the meaning given to that term in Article 8.1.

“**CONTRACTOR VARIATION REQUEST**” has the meaning given to that term in Article 4.3(a).

“**CONTROL**” means in relation to a PERSON:

- (a) the possession, directly or indirectly, of the power to vote fifty percent (50%) or more of the voting stock (other than directors’ qualifying shares or other *de minimis* holdings required by LAW to be held by other PERSON(S)) of such PERSON;
- (b) ownership, directly or indirectly, of fifty percent (50%) or more of the equity interests (other than directors’ qualifying shares or other *de minimis* holdings required by LAW to be held by other PERSON(S)) in such PERSON; or
- (c) having, directly or indirectly, the ability to direct or procure the direction of the management and policies of such PERSON, whether through the ownership of shares, by contract or otherwise,

and “**CONTROLS**” and “**CONTROLLED**” have corresponding meanings.

“**CO-VENTURER**” means any other PERSON with whom the COMPANY (or any of the COMPANY’s AFFILIATES) has or may have from time to time having any interest in a crude oil and/or gas exploration and/or production area pursuant to a concession agreement, field entry agreement, joint venture agreement or other similar agreement and which (together with the COMPANY or its AFFILIATES, as appropriate) is a direct or indirect beneficiary of the WORKS being performed, together with its assignees and successors in interest (each of which is itself considered to be a CO-VENTURER).

“**DAY**” means any calendar day.

“**DELAY LIQUIDATED DAMAGES**” means the delay liquidated damages payable in accordance with Article 5.

“**DISPUTE**” has the meaning given to that term in Article 27.2(a).

“**EARLY WORKS**” has the meaning given to that term in Article 26.2(a).

“**EFFECTIVE DATE**” has the meaning given to that term in Article 26.1.

“**EXITING PARTY**” has the meaning given to that term in Article 15.3(c)(iv).

“**FEES**” means those fees payable by the COMPANY to the CONTRACTOR for the provision of the WORKS, as set out in more detail in ANNEXURE 5.

“**FORCE MAJEURE EVENT**” means any event or circumstance or combination thereof occurring after the EFFECTIVE DATE:

- (a) the occurrence of which is not reasonably foreseeable as of the EFFECTIVE DATE; and
- (b) which is beyond the reasonable control of the PARTY affected by such event or circumstance and which such affected PARTY is unable to prevent or overcome (notwithstanding the reasonable care of the PARTY affected),

and shall include:

- (i) flood, lightning, storm, typhoon, tornado, earthquake, landslide, soil erosion, subsidence, washout, radioactive contamination (other than that caused by the use of radioactive sources by the CONTRACTOR, the COMPANY, SUBCONTRACTORS and/or OTHER CONTRACTORS in connection with the performance of either PARTY’s obligations under this AGREEMENT), or epidemic;
- (ii) war (whether declared or undeclared), blockade, insurrection, military uprising, or act of public enemies;
- (iii) revolution, rebellion, civil war, riot, civil disturbance, civil commotion, terrorist acts, seizure or act of sabotage, imposition by a GOVERNMENTAL AUTHORITY of sanctions, embargo or breaking off of diplomatic relations by a GOVERNMENTAL AUTHORITY; and
- (iv) trade or labour dispute, strike, lockout, industrial disturbance, except where limited to the CONTRACTOR PERSONNEL,

other than, in each case, to the extent caused by the PARTY seeking to rely on Article 22, or its AFFILIATES, SUBCONTRACTORS or PERSONNEL, and provided, in each case, that the event or circumstance in question satisfies the requirements of paragraphs (a) and (b) above.

The following events or circumstances shall not be or be deemed to be a FORCE MAJEURE EVENT even where they satisfy the requirements of paragraphs (a) and (b) above:

- (A) the unavailability of funds or non-payment of a sum of money by a PARTY or a THIRD PARTY;
- (B) financial hardship or the inability of the affected PARTY to make a profit or achieve a satisfactory rate of return in relation to or in connection with any activities undertaken pursuant to the AGREEMENT or otherwise;
- (C) the occurrence of any shortage of CONTRACTOR PERSONNEL, CONTRACTOR EQUIPMENT, materials or other resources, unless due to the events listed in subparagraphs (i) to (iv);

- (D) the occurrence of any inclement weather condition, other than as provided in paragraph (i) above;
- (E) failure to obtain or maintain any permit, license or consent, where such failure is due to the act or omission of the affected PARTY; and
- (F) failure or inability to perform where such failure is attributable to market prices or currency devaluation.

“FORM OF AGREEMENT” means the AGREEMENT DOCUMENT entitled FORM OF AGREEMENT executed between the PARTIES in connection with the WORKS to which these GENERAL TERMS AND CONDITIONS are appended.

“GENERAL TERMS AND CONDITIONS” means the terms and conditions set out in ANNEXURE 2.

“GOOD INDUSTRY PRACTICE” means, in relation to any undertaking or any circumstances, the exercise of the skill, care, diligence, prudence, foresight and judgement which would be expected from a suitably skilled, trained and experienced PERSON operating to the standard that would be expected of an internationally renowned and leading provider of works or services similar to the WORKS.

“GOVERNMENTAL AUTHORITY” means any political subdivision, agency, department, commission, board, bureau, court or other authority of ABU DHABI or the UAE, or any quasi-governmental or private body exercising, or purporting to exercise, any executive, legislative, judicial, administrative, police, regulatory or taxing authority or power of any nature in ABU DHABI or the UAE, or any company or instrumentality owned or controlled by any GOVERNMENTAL AUTHORITY.

“GOVERNMENT OFFICIAL” means any official, agent or employee of any GOVERNMENTAL AUTHORITY, political party or public international organisation, any candidate for political office, or any immediate relative (spouse, son, daughter, or parent) of any of the foregoing, including, without limiting the generality of the foregoing, any official, agent or employee of any company in which any GOVERNMENTAL AUTHORITY holds a majority or controlling equity interest (directly or indirectly), any official, agent or employee of any company which is in the process of being privatised in whole or in part, and any PERSON who is purporting to act in a private capacity, but who otherwise is a **“GOVERNMENT OFFICIAL”** within the meaning of this definition.

“GROSS NEGLIGENCE / WILFUL MISCONDUCT” means, with respect to a PERSON, any act or failure to act (whether sole, joint or concurrent) which was intended to cause, or which was in reckless disregard of, or wanton indifference to, harmful consequences which such PERSON knew, or should have known, such act or failure to act would have on the safety or property of another PERSON or on the environment.

“GST” means Gulf Standard Time.

“HSE” means health, safety and environment.

“ICV IMPROVEMENT PLAN” means the plan attached as ANNEXURE 7 detailing the in-country value to be achieved by the CONTRACTOR during the performance of the AGREEMENT.

“ICV PAYMENT” means the amount payable to the CONTRACTOR for achievement of the annual targets set out in the ICV IMPROVEMENT PLAN.

“INDEMNIFIED CLAIM” has the meaning given to that term in Article 24.5(a).

“INDEMNIFIED PARTY” means any PERSON seeking indemnity under the AGREEMENT.

“INDEMNIFYING PARTY” means any PERSON from whom an indemnity is sought under the AGREEMENT.

“INSOLVENCY EVENT” means, in respect of a PARTY, any of the following events:

- (a) any general assignment, settlement, or composition with or for the benefit of its creditors being entered into, by or in relation to such PARTY;
- (b) a supervisor, trustee, receiver, interim receiver, receiver and manager, custodian, administrator, administrative receiver (or other PERSON with similar powers) taking possession of or being appointed over or any distress, execution, garnishment, attachment or other process being levied or enforced (and not being discharged within twenty-one (21) DAYS) upon the whole or any material part of the assets of such PARTY;
- (c) such PARTY ceasing to carry on business or being or becoming insolvent or unable to pay its debts as they fall due;
- (d) a petition being presented (and not being discharged or adjourned for later hearing within twenty-one (21) DAYS or not being discharged on the first adjourned hearing) or a resolution being passed, or an order being made for the administration or the receivership, winding-up, bankruptcy, liquidation, or dissolution of such PARTY;
- (e) any order or judgement being made by a tribunal of competent jurisdiction restraining such PARTY’s ability to deal with all or a substantial portion of its assets and property; or
- (f) such PARTY suffering any similar event or act with similar effect under the LAW of any competent jurisdiction.

“INTELLECTUAL PROPERTY RIGHTS” means:

- (a) patents, trademarks, service marks, rights in design, trade names, trade secrets, copyrights and topography rights, database rights, rights in trade names and domain names, know-how, goodwill and the right to sue for passing off, secret formulae and processes, rights protecting goodwill and reputation, rights in and to confidential information and to disclose and use and protect the confidentiality of, confidential information (including know-how and trade secrets and rights in and to INVENTIONS, COMPANY DATA and CONFIDENTIAL INFORMATION howsoever arising) and all other intellectual property rights in each case whether registered or not;
- (b) applications and rights to apply for registration of any of them, together with any and all such registrations and other rights as may be granted pursuant to the same;
- (c) rights under licences and consents in relation to any of them; and/or
- (d) all forms of protection of a similar nature, or having equivalent, or similar effect to any of them which subsist or will subsist now or in the future anywhere in the world.

“INVENTION” means any invention, idea, discovery, development, improvement or innovation, whether or not patentable or capable of registration or of being maintained as a trade secret, or protectable as or by any form of INTELLECTUAL PROPERTY RIGHT, and whether or not recorded in any medium.

“INVOICE” has the meaning given to that term in Article 11.3(a).

“KEY PERSONNEL” means the CONTRACTOR’s key PERSONNEL as identified in the FORM OF AGREEMENT or a CALL-OFF ORDER.

“LAW” means all applicable laws including, but not limited to, treaties, statutes, decrees, edicts, codes, orders, instructions, judgements, rules, ordinances and regulations of any GOVERNMENTAL AUTHORITY.

“LETTER OF AWARD” means, where applicable, a letter of award executed by the PARTIES in connection with the WORKS.

“MATERIALS” means materials of any kind (including spare parts) provided by the CONTRACTOR for permanent incorporation into the equipment or assets of the COMPANY.

“NON-FILING PARTY” has the meaning given to that term in Article 15.3(h).

“OTHER CONTRACTORS” means the contractors and subcontractors who perform work or services for the COMPANY other than the CONTRACTOR and the SUBCONTRACTORS.

“PARTY” and **“PARTIES”** has the meaning given to those terms in the FORM OF AGREEMENT.

“PERFORMANCE BANK GUARANTEE” has the meaning given to that term in Article 14.1.

“PERFORMANCE BANK GUARANTEE RETURN DATE” has the meaning given to that term in Article 14.2.

“PERSON” means any individual, corporation, joint stock company, limited liability company, partnership, joint venture, association, trust, unincorporated organisation, GOVERNMENTAL AUTHORITY, or other entity, and **“PERSONS”** shall be construed on the same basis.

“PERSONNEL” means:

- (a) with respect to the COMPANY, the natural persons who perform work on behalf of the COMPANY, who may be employees (including agency personnel) of the COMPANY or otherwise supplied by its AFFILIATES, its CO-VENTURERS or its OTHER CONTRACTORS, and the respective officers, directors and invitees of any of the foregoing (**“COMPANY PERSONNEL”**); and
- (b) with respect to the CONTRACTOR, the natural persons who perform the WORKS on behalf of the CONTRACTOR, who may be employees (including agency personnel) of the CONTRACTOR or otherwise supplied by the CONTRACTOR, or supplied by a SUBCONTRACTOR, and the respective officers, directors and invitees of any of the foregoing (**“CONTRACTOR PERSONNEL”**).

“PREMISES” means any of the COMPANY INDEMNIFIED PARTIES’ or, as applicable, the CONTRACTOR INDEMNIFIED PARTIES’ headquarters, offices, sites, facilities or other premises.

“PRE-EXISTING INTELLECTUAL PROPERTY” means any INTELLECTUAL PROPERTY RIGHTS which:

- (a) is owned by or licensed to the PARTY concerned prior to the COMMENCEMENT DATE, or which exists prior to the COMMENCEMENT DATE but is owned by or licensed to the PARTY concerned (otherwise than by or pursuant to the terms of this AGREEMENT) after the

COMMENCEMENT DATE, or which is created or developed after the COMMENCEMENT DATE and is owned by or licensed to the PARTY concerned (otherwise than by or pursuant to the terms of this AGREEMENT) after the COMMENCEMENT DATE; and

- (b) in the case of the CONTRACTOR is identified in writing as being owned by or licensed to the CONTRACTOR on delivery of the same to COMPANY.

“PROPERTY” means:

- (a) in respect of the COMPANY INDEMNIFIED PARTIES, any movable or immovable property that is under the guardianship or control of one or more of the COMPANY INDEMNIFIED PARTIES whether owned, hired, rented, leased, chartered or otherwise;
- (b) in respect of the CONTRACTOR INDEMNIFIED PARTIES, any movable or immovable property that is under the guardianship or control of one or more of the CONTRACTOR INDEMNIFIED PARTIES whether owned, hired, rented, leased, chartered or otherwise; and
- (c) in respect of a THIRD PARTY, any movable or immovable property that is under the guardianship or control of that THIRD PARTY whether owned, hired, rented, leased, chartered or otherwise,

provided that, if a given PROPERTY is under the common guardianship or control of one or more of the COMPANY INDEMNIFIED PARTIES, the CONTRACTOR INDEMNIFIED PARTIES and/or a THIRD PARTY, it shall be deemed to be under the guardianship or control of the PERSON having de facto control over it.

“REPRESENTATIVES” has the meaning given to that term in Article 8.3.

“REVISED INVOICE” has the meaning given to that term in Article 11.4(b)(ii).

“SCOPE OF WORK” has the meaning given to that term in the FORM OF AGREEMENT.

“SPECIAL CONDITIONS” means the conditions set out in ANNEXURE 1.

“SUBCONTRACTOR” means any PERSON approved in writing by the COMPANY to whom execution of any part of the WORKS is subcontracted by the CONTRACTOR and any other subcontractors of any tier of such PERSON, and includes its legal successors and/or permitted assigns.

“TERM” means the period commencing on the EFFECTIVE DATE and expiring on the later of:

- (a) the date set out in the FORM OF AGREEMENT; and
- (b) the date of issuance of the COMPLETION CERTIFICATE or completion notice pursuant to Article 3.3.

“THIRD PARTY” means any PERSON other than the COMPANY or the CONTRACTOR. For the purposes of Article 24, COMPANY INDEMNIFIED PARTIES and CONTRACTOR INDEMNIFIED PARTIES shall be excluded from the definition of “THIRD PARTY”.

“UAE” means the United Arab Emirates.

“UAE VAT” means value added tax or similar charges in respect of transactions involving the sale or provision of goods and/or services and payable to any GOVERNMENTAL AUTHORITY in the UAE in accordance with the VAT LAW.

“**UNDISPUTED INVOICE**” has the meaning given to that term in Article 11.4(b)(i).

“**USD**” means the lawful currency of the United States of America, as may be modified from time to time.

“**VARIATION**” means a variation to the WORKS or the requirements for the WORKS, including any addition, increase, decrease, omission, deletion or removal to or from the WORKS in accordance with Article 4.

“**VARIATION ORDER**” means a written notice issued by the COMPANY to the CONTRACTOR:

- (a) requiring the CONTRACTOR to proceed with a VARIATION; and
- (b) confirming the details of any adjustment to the FEES and/or to the COMMENCEMENT DATE and COMPLETION DATE, if applicable.

“**VARIATION PROPOSAL**” has the meaning given to that term in Article 4.2(b).

“**VAT LAW**” means applicable LAWS of the UAE in relation to VAT, including “Federal Decree - Law No. (8) of 2017 on Value Added Tax”.

“**WORKS**” means the works and services to be performed under the AGREEMENT (including, where applicable, a CALL-OFF ORDER), as further described in the SCOPE OF WORK and which includes provision of the WORKS DOCUMENTATION (if any) and any other deliverables specified in the AGREEMENT.

“**WORKS DOCUMENTATION**” means any documents or information, in computer readable or written form, which the CONTRACTOR is required to provide as part of its obligations under the AGREEMENT.

1.2 INTERPRETATION AND CONSTRUCTION

In the AGREEMENT (unless the context otherwise requires or where it is expressly stated to the contrary):

- (a) words denoting the singular number only shall include the plural and vice versa; words denoting the masculine shall include the feminine and vice versa;
- (b) references to Clauses shall be construed as references to Clauses of the FORM OF AGREEMENT;
- (c) references to Articles shall be construed as references to Articles of these GENERAL TERMS AND CONDITIONS;
- (d) headings shall be for convenience of reference only and shall not affect the interpretation of any provision hereof;
- (e) the terms “**hereof**”, “**herein**”, “**hereby**”, “**hereto**” and similar words refer to the entire AGREEMENT and not to any particular Clause, Article or ANNEXURE or any other subdivision of the AGREEMENT;
- (f) the words “**include**” or “**including**” shall be deemed to be followed by “**without limitation**” or “**but not limited to**” whether or not they are followed by such phrases or words of like import;

- (g) references to “AGREEMENT” shall be construed as a reference to the AGREEMENT as amended, novated, modified or supplemented and in effect from time to time and shall include a reference to any document which amends, novates, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms;
- (h) references to dates and periods of time shall be construed in accordance with the Gregorian calendar;
- (i) references to laws, decrees, statutes, regulations, ordinances or other public instruments shall be construed as references to the same as they may have been, or may from time to time be, amended or re-enacted or in any other way modified from time to time and all instruments, orders, plans, regulations, by-laws, permissions and directions at any time made thereunder; and
- (j) any capitalised words, terms, phrases and abbreviations used exclusively in any ANNEXURE shall have the meanings set forth in such ANNEXURE.

1.3 CONFLICTS AND INCONSISTENCIES BETWEEN AGREEMENT DOCUMENTS

- (a) If there is any error, fault, conflict, ambiguity or discrepancy arising within the AGREEMENT DOCUMENTS that cannot be resolved by applying the order of precedence in Clause 2.4 of the FORM OF AGREEMENT, the PARTY discovering the same shall notify the other in writing promptly following its discovery and the COMPANY shall thereafter issue an instruction to the CONTRACTOR to resolve the inconsistency.
- (b) Any instructions by the COMPANY issued in accordance with Article 1.3(a):
 - (i) shall be rendered in writing within a reasonable time after the CONTRACTOR’s notice or the COMPANY’s discovery of the error, fault, conflict, ambiguity or discrepancy, as applicable; and
 - (ii) may give precedence to one provision in the AGREEMENT over another, where the two are inconsistent, notwithstanding that the CONTRACTOR has previously proceeded on the basis of a different interpretation of such provisions.
- (c) At all times, the CONTRACTOR shall proceed with the WORKS in accordance with the COMPANY’s instructions issued pursuant to Article 1.3(a) without delay or interruption, including in the event of disagreement between the PARTIES.
- (d) The CONTRACTOR warrants that, prior to entering into the AGREEMENT, it has inspected the AGREEMENT DOCUMENTS and confirmed to its satisfaction that they do not contain any inconsistency requiring the operation of Article 1.3(a). The CONTRACTOR hereby accepts the entire risk that Article 1.3(a) may be required to be operated (irrespective of the AGREEMENT DOCUMENT(S) in which the inconsistency arises, and irrespective of which PARTY was responsible for the preparation of such AGREEMENT DOCUMENTS). The CONTRACTOR shall comply with an instruction of the COMPANY issued pursuant to Article 1.3(a) without such instruction constituting a VARIATION. For the avoidance of doubt, the CONTRACTOR’s compliance with any such instruction shall not give rise to any entitlement to an extension of time, adjustment to the FEES or other relief, and any such entitlement is hereby expressly excluded.

2. CALL-OFF ORDERS

- 2.1 If the FORM OF AGREEMENT stipulates that CALL-OFF ORDERS are applicable:

- (a) no portion of the WORKS identified to be performed under CALL-OFF ORDERS in the SCOPE OF WORK shall be performed unless pursuant to CALL-OFF ORDERS;
- (b) the COMPANY may, at any time during the TERM, issue a CALL-OFF ORDER:
 - (i) on terms consistent with the pro-forma CALL-OFF ORDER attached as ANNEXURE 3-A;
 - (ii) for WORKS that are identified in the SCOPE OF WORK as capable of being called-off under the AGREEMENT; and
 - (iii) for a fixed duration expiring, or with a COMPLETION DATE occurring, on or prior to the expiry of the TERM,

provided that for the purposes of this Article 2.1(b), the TERM shall be deemed to expire on the date set out in the FORM OF AGREEMENT.

2.2 In the event that there is a conflict or ambiguity between the terms of the AGREEMENT and any CALL-OFF ORDER, the terms of the AGREEMENT shall prevail.

2.3 The COMPANY shall not have any obligation to enter into a CALL-OFF ORDER pursuant to Article 2.1 at any time during the TERM.

3. PERFORMANCE OF THE WORKS

3.1 GENERAL

- (a) The CONTRACTOR shall perform and complete the WORKS in accordance with the LAW, the AGREEMENT, GOOD INDUSTRY PRACTICE and, if applicable, the relevant CALL-OFF ORDER for the benefit of the COMPANY.
- (b) The CONTRACTOR shall commence the WORKS on the COMMENCEMENT DATE and shall perform the WORKS with due expedition and in a timely manner so as to meet any dates specified in the FORM OF AGREEMENT or any CALL-OFF ORDER for the performance of the WORKS and, if applicable, ensure the WORKS are completed by the COMPLETION DATE.
- (c) The COMPANY shall have the right at all times to supervise the performance of the WORKS by the CONTRACTOR. The supervision of the WORKS by the COMPANY shall not be deemed acceptance by the COMPANY of the WORKS and shall not relieve the CONTRACTOR of any of its obligations hereunder.
- (d) The CONTRACTOR shall not be entitled to increase the FEES or be relieved of any of its obligations under the AGREEMENT as a result of any lack of knowledge as to the nature of the WORKS to be performed or working conditions affecting the performance of the WORKS.
- (e) The CONTRACTOR shall notify the COMPANY in writing of any deficiencies, inaccuracies, omissions, contradictions or ambiguities which, in the CONTRACTOR's opinion, exist within any information provided to the CONTRACTOR by the COMPANY.
- (f) If the COMPANY becomes aware that the CONTRACTOR is in breach of any of its obligations under the AGREEMENT, the COMPANY shall notify the CONTRACTOR of such breach, and the CONTRACTOR shall use its best endeavours to remedy the breach.

3.2 IN-COUNTRY VALUE

- (a) The CONTRACTOR shall comply with the terms of the ICV IMPROVEMENT PLAN and confirms that the annual targets set out in the ICV IMPROVEMENT PLAN shall be achieved by the dates specified therein.
- (b) Upon achievement, partially or in full by the CONTRACTOR of the annual target set out in the ICV IMPROVEMENT PLAN for the particular year (“**ANNUAL ICV TARGET**”), the CONTRACTOR shall be entitled to payment of a portion of the ICV PAYMENT for that year calculated on a pro-rata basis based on the percentage of the ANNUAL ICV TARGET achieved, provided that the CONTRACTOR shall not be entitled to any ICV PAYMENT for any targets set out in the ICV IMPROVEMENT PLAN that have not been achieved by the date of completion of the WORKS.
- (c) In the event that the CONTRACTOR does not comply with the obligations set out in the ICV IMPROVEMENT PLAN then the CONTRACTOR shall notify the COMPANY and shall use its best endeavours to remedy the breach prior to completion of the WORKS. Any material failure by the CONTRACTOR to meet the targets set out in the ICV IMPROVEMENT PLAN shall be considered a material breach of the AGREEMENT and shall entitle the COMPANY to terminate the AGREEMENT in accordance with Article 19.1(a).

3.3 COMPLETION

- (a) Within fourteen (14) DAYS after completion of the WORKS:
 - (i) under a CALL-OFF ORDER, the COMPANY shall issue a completion notice to the CONTRACTOR; and
 - (ii) under the AGREEMENT, the COMPANY shall issue the COMPLETION CERTIFICATE to the CONTRACTOR.
- (b) Issue of the completion notice or COMPLETION CERTIFICATE shall not release the CONTRACTOR from any guarantees, warranties or other provisions of the AGREEMENT or under LAW that expressly or by nature extend beyond and survive such acceptance.

3.4 DISCREPANCIES, ERRORS AND DEFICIENCIES

- (a) The CONTRACTOR shall ensure that the WORKS, including the WORKS DOCUMENTATION, are free from discrepancies, errors and deficiencies. If either PARTY becomes aware of any such discrepancy, error or deficiency in the WORKS, it shall notify the other PARTY immediately. The COMPANY shall have the right, but not the obligation, at all times during the TERM, to examine the WORKS and the WORKS DOCUMENTATION and to reject any items that do not comply with the requirements of the AGREEMENT, provided that no such examination or lack thereof shall relieve the CONTRACTOR from any liability or obligation under the AGREEMENT.
- (b) If any discrepancy, error or deficiency in the WORKS is discovered during the TERM, the CONTRACTOR shall, with the COMPANY’s approval, without delay and at its own cost, rectify such discrepancy, error or deficiency or re-perform such WORKS.
- (c) In the event that the CONTRACTOR fails to address any discrepancy, error or deficiency within thirty (30) DAYS, or such other period as may be agreed between the PARTIES, after receiving notice from the COMPANY in accordance with Article 3.4(a), the COMPANY shall have the right to undertake the performance of the WORKS itself or appoint a THIRD PARTY, and the

CONTRACTOR shall be liable for all costs relating to such performance. In the event that the COMPANY takes over the performance of the WORKS or appoints a THIRD PARTY to do so under this Article 3.4(c), it shall notify the CONTRACTOR to cease any remedial work being undertaken in accordance with Article 3.4(b).

4. VARIATIONS

4.1 VARIATION PROCESS

Subject to Article 13.2, the CONTRACTOR shall only be entitled to adjustments to the FEES and/or the COMMENCEMENT DATE or COMPLETION DATE where:

- (a) there are circumstances which constitute a VARIATION; and
- (b) the provisions of this Article 4 have been complied with by the CONTRACTOR.

4.2 COMPANY VARIATION REQUEST

- (a) Without prejudice to the COMPANY's rights pursuant to Article 4.4(c), the COMPANY may, at its sole discretion, submit a written notice to the CONTRACTOR describing a proposed VARIATION and requesting the CONTRACTOR to submit a VARIATION PROPOSAL containing the information set out in Article 4.2(b) ("**COMPANY VARIATION REQUEST**").
- (b) Within fourteen (14) DAYS of receipt of the COMPANY VARIATION REQUEST (or any longer period as may be agreed between the PARTIES), the CONTRACTOR shall submit a statement to the COMPANY detailing the consequences of such requested VARIATION which shall include:
 - (i) a description of the proposed works to be performed;
 - (ii) the time required to implement the VARIATION;
 - (iii) any proposed changes to the COMMENCEMENT DATE, the COMPLETION DATE or any other dates in the AGREEMENT or CALL-OFF ORDER, as applicable;
 - (iv) any increase or decrease to the FEES, together with a breakdown of the CONTRACTOR's calculation of such increase and decrease;
 - (v) a confirmation as to whether and to what extent the CONTRACTOR is able to comply with the proposed VARIATION; and
 - (vi) identification of any other impact of the VARIATION on the WORKS,(the "**VARIATION PROPOSAL**").
- (c) Within a reasonable time following the COMPANY's receipt of a VARIATION PROPOSAL, the COMPANY may:
 - (i) approve the VARIATION PROPOSAL by issuing a VARIATION ORDER reflecting the terms of the VARIATION PROPOSAL, in which case the CONTRACTOR shall be obliged to proceed to implement the VARIATION;

- (ii) provide comments on or request additional information in relation to the VARIATION PROPOSAL, in which case the CONTRACTOR must amend the VARIATION PROPOSAL in accordance with the comments and re-submit it for approval, including any additional information that may have been requested by the COMPANY, within seven (7) DAYS of receiving the COMPANY's comments and/or requests, following which the process set out in this Article 4.2(c) shall be repeated; or
 - (iii) reject the VARIATION PROPOSAL.
- (d) If the CONTRACTOR fails to furnish the VARIATION PROPOSAL within the period specified in Article 4.2(b), or if the COMPANY rejects the VARIATION PROPOSAL pursuant to Article 4.2(c)(iii), the COMPANY may:
- (i) issue a VARIATION ORDER in accordance with Article 4.4(c); or
 - (ii) withdraw the COMPANY VARIATION REQUEST upon notice to the CONTRACTOR.

4.3 CONTRACTOR VARIATION REQUEST

- (a) Subject to Article 4.6, if, during the performance of the WORKS, the CONTRACTOR reasonably considers that any instruction received from the COMPANY or any development affecting the WORKS should be treated as a VARIATION, the CONTRACTOR may issue a written notice to that effect to the COMPANY, together, to the extent applicable, with the same information required for a VARIATION PROPOSAL listed in Articles 4.2(b)(i) to 4.2(b)(vi) (a "**CONTRACTOR VARIATION REQUEST**"). The burden for demonstrating that such COMPANY instruction or development constitutes a VARIATION shall be upon the CONTRACTOR. The CONTRACTOR must issue a CONTRACTOR VARIATION REQUEST under this Article 4.3 within fourteen (14) DAYS of the earlier of:
- (i) the date that it received the instruction; or
 - (ii) the date on which it became aware or ought to have become aware of the development,
- as applicable and, in any case, prior to proceeding with the instruction.
- (b) If the CONTRACTOR fails to issue a CONTRACTOR VARIATION REQUEST within the time period specified in Article 4.3(a), then any additional works carried out pursuant to such instruction or development shall not constitute a VARIATION, and the CONTRACTOR shall have no entitlement to claim any extension of any time, adjustment of the FEES or other relief in connection therewith.
- (c) The COMPANY may comment on or request additional information in relation to the CONTRACTOR VARIATION REQUEST, in which case the CONTRACTOR must amend the CONTRACTOR VARIATION REQUEST in accordance with the COMPANY's comments and re-submit it, including any additional information that may have been requested by the COMPANY, within seven (7) DAYS of receiving the COMPANY's comments and requests.
- (d) Within a reasonable time following the COMPANY's receipt of the CONTRACTOR VARIATION REQUEST pursuant to Article 4.3(a), or any amendments to or additional information for such CONTRACTOR VARIATION REQUEST pursuant to Article 4.3(c), where applicable, the COMPANY may:

- (i) approve the CONTRACTOR VARIATION REQUEST by issuing a VARIATION ORDER reflecting the terms of the CONTRACTOR VARIATION REQUEST, in which case the CONTRACTOR shall be obliged to proceed to implement the VARIATION;
- (ii) withdraw its instruction, where the CONTRACTOR VARIATION REQUEST is based on a COMPANY instruction; or
- (iii) reject the CONTRACTOR VARIATION REQUEST, in which case, subject to where Article 4.4(f)(i) applies, the CONTRACTOR shall be obliged to proceed with the implementation of the instruction or otherwise address the development without any VARIATION ORDER.

4.4 VARIATION ORDERS

- (a) In any VARIATION ORDER issued pursuant to Article 4, the COMPANY shall:
 - (i) with respect to the FEES determine the increase or decrease to the FEES as a consequence of the VARIATION by reference to the applicable rates specified in ANNEXURE 5, or where no rates in ANNEXURE 5 are applicable, with reference to rates as agreed by the PARTIES; and
 - (ii) with respect to the COMMENCEMENT DATE or COMPLETION DATE, determine adjustment(s) to the COMMENCEMENT DATE or COMPLETION DATE (and any other applicable dates) on account of the relevant VARIATION, which the COMPANY considers to be reasonable in the circumstances.
- (b) If the COMPANY issues a VARIATION ORDER pursuant to Articles 4.2(c)(i), 4.2(d)(i), or 4.3(d)(i), the CONTRACTOR shall have no right to claim that any adjustment of the FEES and/or the COMMENCEMENT DATE or COMPLETION DATE or other relief stated in such VARIATION ORDER is insufficient for the relevant VARIATION and any such entitlement is hereby expressly waived and excluded.
- (c) The COMPANY may issue a VARIATION ORDER in accordance with Article 4.4:
 - (i) without issuing a COMPANY VARIATION REQUEST;
 - (ii) if the CONTRACTOR fails to furnish the VARIATION PROPOSAL within the period specified in Article 4.2(b); or
 - (iii) notwithstanding any rejection, in whole or in part, of a VARIATION PROPOSAL pursuant to Article 4.2(c)(iii).
- (d) Subject to where Article 4.4(f)(i) applies, the CONTRACTOR shall be obliged to promptly implement and comply with any VARIATION ORDER issued pursuant to this Article 4.
- (e) If the CONTRACTOR disagrees with any determination made by the COMPANY pursuant to Article 4.3(d) or 4.4(a), the CONTRACTOR may, within sixty (60) DAYS of such determination, refer such disagreement for resolution in accordance with the dispute resolution procedures set out in Article 27. If the CONTRACTOR fails to dispute any such determination within such sixty (60) DAY period, such determination shall be final and binding upon the CONTRACTOR and the CONTRACTOR shall be deemed to have waived all of its rights to bring any claim against the COMPANY in respect of such determination.

- (f) Where the CONTRACTOR refers a disagreement for resolution pursuant to Article 4.4(e), the COMPANY shall issue to the CONTRACTOR a written notice:
- (i) cancelling the determination or VARIATION ORDER, as applicable, and instructing the CONTRACTOR to cease performing any works or services that are based on such determination or VARIATION ORDER, as applicable;
 - (ii) amending the determination or VARIATION ORDER, as applicable, to address the CONTRACTOR's concerns; or
 - (iii) confirming that the COMPANY's determination or VARIATION ORDER, as applicable, stands unamended,

and, unless and until the CONTRACTOR receives a notice from the COMPANY pursuant to Article 4.4(f)(i), the CONTRACTOR shall immediately proceed with and/or continue to perform (as applicable) any works or services that have arisen under such determination or VARIATION ORDER, provided always that the CONTRACTOR has the resources and technical capability to implement the VARIATION, as applicable, pending the outcome of the dispute resolution process.

4.5 CONSEQUENCES OF A VARIATION ORDER

- (a) The CONTRACTOR shall not proceed with any VARIATION unless and until the COMPANY issues a VARIATION ORDER pursuant to Articles 4.2(c)(i), 4.2(d)(i), 4.3(d)(i) or 4.4(c). For the avoidance of doubt, if the CONTRACTOR proceeds to implement a VARIATION without the COMPANY issuing a VARIATION ORDER, the CONTRACTOR does so entirely at its own risk and hereby waives any entitlement to claim that the instruction or development in question constitutes a VARIATION, or to any adjustments to the FEES, the COMMENCEMENT DATE and/or the COMPLETION DATE, or other relief.
- (b) No VARIATION ORDER shall:
 - (i) in any way invalidate the terms of the AGREEMENT;
 - (ii) relieve the CONTRACTOR from any of its responsibilities and/or obligations under the AGREEMENT, except as expressly provided in a VARIATION ORDER; or
 - (iii) prejudice the COMPANY's rights under the AGREEMENT or LAW.
- (c) If a VARIATION ORDER eliminates any part of the WORKS, the COMPANY:
 - (i) may carry out the relevant work either itself or by engaging one or more THIRD PARTIES; and
 - (ii) subject to Article 4.5(d), shall not be liable for any claim by the CONTRACTOR arising out of, or in connection with, the elimination of the part of the WORKS or the exercise by the COMPANY of its rights pursuant to Article 4.5(c)(i) or the corresponding adjustment(s) to the FEES, the COMMENCEMENT DATE or the COMPLETION DATE.
- (d) Where a VARIATION ORDER eliminates a portion of the WORKS and the FEES are to be reduced in proportion to the reduction in the WORKS, the CONTRACTOR shall be entitled to be paid:

- (i) any verified termination costs that have been incurred by the CONTRACTOR in terminating any subcontracts or cancelling any purchase orders placed specifically for the WORKS; and
- (ii) where the WORKS are reduced by more than twenty percent (20%) of the original WORKS, its demobilisation costs, at the rate(s) specified in ANNEXURE 5, and if no rates are specified in ANNEXURE 5, at rates to be agreed between the PARTIES.

4.6 NO ENTITLEMENT

- (a) The CONTRACTOR shall not be entitled to any adjustments to the FEES and/or the COMMENCEMENT DATE or COMPLETION DATE or other relief for any instruction, decision or act of the COMPANY which is made or given in order to ensure that the CONTRACTOR complies with any of its obligations under the AGREEMENT or, subject to 13.2, LAW and no such instruction, decision or act of the COMPANY shall constitute a VARIATION.
- (b) No change made necessary due to any default of the CONTRACTOR in the performance of the WORKS shall constitute a VARIATION and no such change shall entitle the CONTRACTOR to any adjustments to the FEES and/or the COMMENCEMENT DATE or COMPLETION DATE or other relief.

5. DELAYS

5.1 If:

- (a) DELAY LIQUIDATED DAMAGES are specified in the FORM OF AGREEMENT;
- (b) the CONTRACTOR fails to:
 - (i) commence the WORKS under the AGREEMENT or the applicable CALL-OFF ORDER on or before the applicable COMMENCEMENT DATE; and/or
 - (ii) complete the WORKS under the AGREEMENT or the applicable CALL-OFF ORDER on or before the applicable COMPLETION DATE; and
- (c) to the extent that the CONTRACTOR cannot demonstrate that such failure is attributable to the COMPANY,

the CONTRACTOR shall pay liquidated damages to the COMPANY in the amount set out in the FORM OF AGREEMENT for each DAY of delay up to the agreed maximum amount of liquidated damages per occurrence as set out in the FORM OF AGREEMENT (“**DELAY LIQUIDATED DAMAGES**”).

- 5.2 If the WORKS are not commenced within thirty (30) DAYS following the COMMENCEMENT DATE and/or are not completed within thirty (30) DAYS following the COMPLETION DATE, the COMPANY shall have the right to terminate the AGREEMENT or where applicable, any CALL-OFF ORDER, in accordance with Article 19.1(a) provided that in the event of such termination, the additional remedy period set out in Article 19.1(a) shall not apply.

- 5.3 The COMPANY may, without prejudice to the COMPANY’s other rights and remedies, deduct the sums owing to the COMPANY under this Article 5 from any FEES due and payable to the CONTRACTOR.

- 5.4 The payment of the sums owing to the COMPANY under this Article 5, shall not relieve the CONTRACTOR of its obligation to complete the WORKS under the AGREEMENT or the applicable CALL-OFF ORDER or to fulfil its other obligations under the AGREEMENT.
- 5.5 The PARTIES acknowledge and confirm that any DELAY LIQUIDATED DAMAGES provided for under this AGREEMENT shall be payable in the amounts specified in this AGREEMENT as an obligation of the CONTRACTOR, which is owed in consideration of the various rights that the CONTRACTOR derives hereunder, and as an alternative to the CONTRACTOR's performance of its obligations to commence the WORKS by the COMMENCEMENT DATE and/or complete the WORKS by the COMPLETION DATE.
- 6. CONTRACTOR PERSONNEL**
- 6.1 The CONTRACTOR shall provide CONTRACTOR PERSONNEL who are professional, skilled and experienced in the performance of the WORKS.
- 6.2 The CONTRACTOR and the CONTRACTOR PERSONNEL shall comply at all times with:
- (a) all LAWS;
 - (b) the COMPANY's rules, policies and procedures issued to the CONTRACTOR, including, but not limited to, PERSONNEL, security, transportation, health, safety and security requirements; and
 - (c) any instructions of the COMPANY or its employees and any reasonable conditions applicable to the CONTRACTOR as advised from time to time by the COMPANY.
- 6.3 The CONTRACTOR shall be responsible for arranging all approvals and documentation from any relevant GOVERNMENTAL AUTHORITIES for the CONTRACTOR PERSONNEL, including visas, work permits, security approvals, residence visas and immigration approvals for all CONTRACTOR PERSONNEL. The CONTRACTOR shall be liable for any tax, security or any other contributions payable to the appropriate GOVERNMENTAL AUTHORITIES in relation to the CONTRACTOR PERSONNEL.
- 6.4 Upon written request, the COMPANY shall assist the CONTRACTOR by providing the CONTRACTOR with letters to the relevant GOVERNMENTAL AUTHORITIES confirming the contractual relationship between the CONTRACTOR and the COMPANY.
- 6.5 The CONTRACTOR shall, if requested by the COMPANY, submit to the COMPANY for review and approval the curriculum vitae of the CONTRACTOR PERSONNEL. If the COMPANY provides notice in writing, the CONTRACTOR shall promptly remove from the performance of the WORKS, at the CONTRACTOR's own cost, any of the CONTRACTOR PERSONNEL who, in the COMPANY's opinion, are uncooperative, negligent, careless, unsuitable or unable to perform their obligations under the AGREEMENT.
- 6.6 Any CONTRACTOR PERSONNEL removed from the performance of the WORKS in accordance with Article 6.5 shall not be allowed to return to the performance of the WORKS and shall be replaced by a competent replacement immediately, at the CONTRACTOR's own cost, to avoid any disruption to the WORKS.
- 6.7 The CONTRACTOR shall, if applicable, provide the KEY PERSONNEL to perform the WORKS. Subject to Article 6.8, the CONTRACTOR shall not without the prior written consent of the COMPANY:

- (a) give notice to terminate, or terminate, the employment of any KEY PERSONNEL unless the CONTRACTOR can demonstrate that such KEY PERSONNEL have materially breached the terms of their employment contracts;
 - (b) withdraw any KEY PERSONNEL from or permit any KEY PERSONNEL to transfer away from the performance of the WORKS; or
 - (c) otherwise make changes to the KEY PERSONNEL.
- 6.8 In the event that the CONTRACTOR provides KEY PERSONNEL, the CONTRACTOR shall not be entitled to make any changes to the KEY PERSONNEL unless in the event that the individual:
- (a) resigns;
 - (b) undertakes maternity, paternity or long term medical leave;
 - (c) dies, suffers serious illness or bodily injury;
 - (d) is removed by the COMPANY pursuant to Article 6.5;
 - (e) is terminated from the employment of the CONTRACTOR due to a material breach of the terms of the individual's employment contract; or
 - (f) is prevented from working in the UAE by a GOVERNMENTAL AUTHORITY.

7. HEALTH, SAFETY AND ENVIRONMENT

- 7.1 The CONTRACTOR shall perform its obligations under the AGREEMENT (including those in relation to the WORKS) in accordance with:
- (a) all LAWS regarding HSE; and
 - (b) the HSE policies of the COMPANY whilst at any of the COMPANY's PREMISES and any HSE requirements specific to the WORKS as set out in ANNEXURE 9.
- 7.2 Each PARTY shall notify the other PARTY as soon as practicable of any HSE incidents or material HSE hazards at any of the COMPANY's PREMISES of which it becomes aware and which relate to or arise in connection with the performance of the WORKS. The CONTRACTOR shall instruct the CONTRACTOR PERSONNEL to adopt any necessary associated safety measures in order to manage any such material HSE hazards.
- 7.3 The CONTRACTOR shall actively pursue the highest standards with regards to HSE in accordance with GOOD INDUSTRY PRACTICE.
- 7.4 The CONTRACTOR shall take full responsibility for the adequacy, stability and safety of all its operations and methods necessary for the performance of the WORKS. If required by the COMPANY, the CONTRACTOR shall collaborate with the COMPANY to establish specific HSE requirements, documents and processes in relation to the WORKS.
- 7.5 Any material failure by the CONTRACTOR to meet any of the HSE requirements set out in the AGREEMENT or to satisfy the COMPANY's reasonable requirements with regard to the management of HSE risks in any material respect shall entitle the COMPANY to terminate the AGREEMENT or where applicable any CALL-OFF ORDER, with immediate effect in accordance with Article 19.3.

- 7.6 The CONTRACTOR shall co-operate with the COMPANY in providing an appropriate response to any emergency occurring at any of the COMPANY's PREMISES and shall immediately take such action as may be necessary to protect life and make safe property where such is in imminent peril.

8. REPRESENTATIVES

- 8.1 The CONTRACTOR shall designate a representative to be the focal point for all instructions and communications between the PARTIES in respect of the AGREEMENT (the "**CONTRACTOR REPRESENTATIVE**") as set out in the FORM OF AGREEMENT.
- 8.2 The COMPANY shall designate a representative to be the focal point for all instructions and communications between the PARTIES in respect of the AGREEMENT (the "**COMPANY REPRESENTATIVE**") as set out in the FORM OF AGREEMENT.
- 8.3 The PARTIES agree that the COMPANY REPRESENTATIVE and the CONTRACTOR REPRESENTATIVE (together, the "**REPRESENTATIVES**") shall be the focal points between the PARTIES for the purpose of giving and receiving information, instructions and other reports related to the WORKS. The REPRESENTATIVES shall have authority to represent the CONTRACTOR and the COMPANY for all matters relating to the day to day performance of the WORKS, provided always that this authority shall not extend to amending any of the terms or conditions of the AGREEMENT (unless such a REPRESENTATIVE is an authorised signatory of a PARTY).
- 8.4 The REPRESENTATIVES may, from time to time, delegate all of their responsibilities to a nominated deputy or deputies. The details and terms of such delegation shall be subject to prior written notification to the other PARTY. Information, instructions and decisions from such a nominated deputy shall be as if it had been provided by the REPRESENTATIVE that nominated such deputy.
- 8.5 Each PARTY may replace their respective REPRESENTATIVES at any time upon written notice to the other PARTY.

9. COMPANY RESPONSIBILITIES

The COMPANY shall, in a timely manner, perform the COMPANY RESPONSIBILITIES set out in ANNEXURE 8, including but not limited to allowing the CONTRACTOR access to the COMPANY's PREMISES to the extent necessary for the performance of the WORKS.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 The CONTRACTOR represents, warrants and undertakes to the COMPANY that:
- (a) it has been duly incorporated, organised and/or established and is validly existing under the laws of the jurisdiction of its incorporation, organisation or establishment (as the case may be);
 - (b) it has all requisite corporate power and authority to enter into the AGREEMENT and to carry out the transactions contemplated thereby;
 - (c) the AGREEMENT has been duly authorised by, and upon execution will constitute a valid and legally binding agreement enforceable against, the CONTRACTOR in accordance with its terms;
 - (d) it has and shall maintain all applicable licenses, consents and permissions required under applicable laws necessary to perform its obligations under the AGREEMENT;
 - (e) it shall comply with:

- (i) the ADNOC GROUP SUPPLIER & PARTNER CODE OF ETHICS, the relevant ADNOC GROUP codes of practice, policies and guidelines issued by ADNOC from time-to-time; and
 - (ii) any other applicable ADNOC GROUP standards or HSE requirements as may be specified in the AGREEMENT or communicated by the COMPANY to the CONTRACTOR prior to the EFFECTIVE DATE.
- (f) the WORKS shall be performed in accordance with the AGREEMENT, GOOD INDUSTRY PRACTICE and the LAW;
 - (g) the WORKS DOCUMENTATION (excluding any information or materials provided by the COMPANY to the CONTRACTOR) shall comply with the AGREEMENT, GOOD INDUSTRY PRACTICE and the LAW and shall not infringe any INTELLECTUAL PROPERTY RIGHTS of any THIRD PARTY;
 - (h) it complies, and will comply at all relevant times, with all the applicable laws, rules and regulations in the countries where it conducts business in connection with the performance of its obligations under this AGREEMENT or any CALL-OFF ORDER;
 - (i) it shall not undertake any WORKS in geographical areas used and set apart for places of worship, sacred buildings, burial grounds, nature reserves, military areas or areas of urban development, unless otherwise approved by the Government of ABU DHABI;
 - (j) it has adequate expertise, staffing and other resources necessary to meet its obligations under the AGREEMENT; and
 - (k) it shall ensure that each of the CONTRACTOR PERSONNEL shall, prior to such CONTRACTOR PERSONNEL performing any role or function pertaining to the WORKS, assign (insofar as permitted by law) and agree to assign by way of future assignment any and all INTELLECTUAL PROPERTY RIGHTS which they may conceive or devise or otherwise make or develop in the course of the performance of the WORKS or otherwise arising from the performance of the AGREEMENT, and shall thereafter promptly and effectively procure the assignment of such INTELLECTUAL PROPERTY RIGHTS, in order to enable the CONTRACTOR to comply with its obligations under and to give effect to Articles 15 and 16.

11. PAYMENT

11.1 FEES

- (a) In consideration for the CONTRACTOR performing the WORKS, the COMPANY shall pay the CONTRACTOR the FEES for the WORKS properly performed in accordance with the AGREEMENT.
- (b) The FEES are inclusive of, and intended to cover, all costs and disbursements incurred by the CONTRACTOR.
- (c) Unless otherwise provided for in the ANNEXURES or agreed between the PARTIES and incorporated into the AGREEMENT by way of AMENDMENT or VARIATION, the FEES shall remain fixed for the duration of the TERM.
- (d) For the avoidance of doubt, any FEES specified in the FORM OF AGREEMENT as an “estimate” are for reference purposes only and shall not confer any obligation on the COMPANY to make any payment to the CONTRACTOR.

11.2 CONDITIONS PRECEDENT TO PAYMENT

Subject to any other conditions precedent to the COMPANY's obligations to make any payments to the CONTRACTOR set out in the AGREEMENT, the COMPANY shall not be required to make any payments to the CONTRACTOR under the AGREEMENT, until:

- (a) the COMMENCEMENT DATE has occurred; and
- (b) the COMPANY has received the PERFORMANCE BANK GUARANTEE in accordance with Article 14.

11.3 INVOICES

- (a) The CONTRACTOR shall submit to the COMPANY detailed invoices together with all required supporting documentation listed below on the dates specified in the FORM OF AGREEMENT ("**INVOICES**"). INVOICES shall be submitted in one (1) original, clearly stamped "Original" and shall include:
 - (i) references to the AGREEMENT;
 - (ii) the reason for which payment or stage payments are required;
 - (iii) the necessary supporting documents to enable the COMPANY to determine the accuracy of the INVOICE;
 - (iv) the FEES payable together with any UAE VAT payable in accordance with Article 13.5;
 - (v) the WORKS for which payment is required, with references to the AGREEMENT and the relevant CALL-OFF ORDER(S);
 - (vi) any other additional amounts that may have become due to the CONTRACTOR under the AGREEMENT or otherwise;
 - (vii) any amounts that may have become due to the COMPANY under the AGREEMENT or otherwise, and which apply as a credit against the FEES payable to the CONTRACTOR;
 - (viii) the net amount claimed as payable by the CONTRACTOR or the net credit owing to the COMPANY, as applicable;
 - (ix) the bank details where payments are to be made;
 - (x) the official company stamp of the CONTRACTOR;
 - (xi) the signature of the CONTRACTOR REPRESENTATIVE; and
 - (xii) any invoicing requirements in relation to UAE VAT as may be notified by the COMPANY to the CONTRACTOR from time to time.
- (b) Subject to Article 11.4, the COMPANY shall pay any amounts due within thirty (30) DAYS of receipt of the corresponding INVOICE, provided always that any information or supporting documentation required by Article 11.3(a) has been provided by the CONTRACTOR.

- (c) Notwithstanding anything to the contrary in the AGREEMENT, payments made by the COMPANY shall not be considered as an acceptance of the WORKS or any part thereof, and shall not be considered as a waiver of the COMPANY's right subsequently to object to any INVOICE so paid.
- (d) Each INVOICE shall be issued by the CONTRACTOR, and paid by the COMPANY, in the currency indicated in the FORM OF AGREEMENT.
- (e) If the CONTRACTOR has not issued to the COMPANY an INVOICE within seven (7) DAYS after the date specified in the FORM OF AGREEMENT, the COMPANY may issue such INVOICE (including a self-billing invoice) and the provisions of this Article 11 shall apply mutatis mutandis.

11.4 DISPUTED INVOICES

- (a) In the event that the COMPANY disagrees with any aspect of any INVOICE issued by the CONTRACTOR under the AGREEMENT or with all or a portion of an amount that is claimed by the CONTRACTOR as payable, the COMPANY shall, within fourteen (14) DAYS of receipt of such INVOICE, be entitled to return the INVOICE to the CONTRACTOR together with a written notice setting out the reasons for the COMPANY's objection to the INVOICE. Subject to Articles 11.4(b) and 11.4(c) the COMPANY shall have no obligation to pay any amount disputed pursuant to a notice issued in accordance with this Article 11.4(a).
- (b) Upon receiving a notice pursuant to Article 11.4(a), the CONTRACTOR shall promptly provide to the COMPANY the following two (2) invoices:
 - (i) an invoice detailing the amounts which are not in dispute, if any, ("**UNDISPUTED INVOICE**"); and
 - (ii) a revised invoice in respect of the amount which the COMPANY has disputed, taking into account the COMPANY's objection ("**REVISED INVOICE**"). In the event that the CONTRACTOR requires further information from the COMPANY regarding the disputed portion of the INVOICE, the PARTIES shall meet to discuss and resolve the DISPUTE.
- (c) Subject to its right to dispute such INVOICES under Article 11.4(a), the COMPANY shall pay the UNDISPUTED INVOICE and the REVISED INVOICE within thirty (30) DAYS of the date of receipt of the same.
- (d) In the event that the COMPANY disagrees with any aspect of the REVISED INVOICE or with all or a portion of an amount that is claimed by the CONTRACTOR as payable, the PARTIES shall repeat the process set out in Articles 11.4(a) to 11.4(c).
- (e) The COMPANY shall be entitled to withhold or deduct from any amount due to the CONTRACTOR under the AGREEMENT any and all amounts due by the CONTRACTOR to the COMPANY and any costs or losses incurred by the COMPANY arising from any breach by the CONTRACTOR of the AGREEMENT. The PARTIES hereby expressly exclude the application of Articles 247 and 879 of the CIVIL CODE, to the fullest extent permitted by LAW, with the consequence that the CONTRACTOR shall not be entitled to suspend the WORKS or otherwise refrain from carrying out any of its obligations under the AGREEMENT in the event that any amount owing to the CONTRACTOR is reasonably disputed by the COMPANY.

- (f) The CONTRACTOR shall maintain complete and accurate records of the time spent and the materials used by the CONTRACTOR in performing the WORKS in such format as the COMPANY shall approve. The CONTRACTOR shall allow the COMPANY to inspect such records at all reasonable times on request.

12. AUDIT

12.1 Subject to Article 12.3, the COMPANY and its authorised representatives, agents or auditors shall have the right to audit, during business hours and upon reasonable notice, all books, records, accounts, correspondence, instructions, specifications, plans, drawings, receipts, policies and procedures and memoranda of the CONTRACTOR and any SUBCONTRACTOR in order to:

- (a) verify the accuracy of any reimbursable costs payable by the COMPANY;
- (b) verify the costs submitted by the CONTRACTOR in relation to any adjustments to the FEES;
- (c) verify the CONTRACTOR's and any SUBCONTRACTOR's compliance with the AGREEMENT and LAWS;
- (d) identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security;
- (e) identify or investigate any circumstances which may impact upon the financial stability of the CONTRACTOR;
- (f) verify the accuracy and completeness of any technical processes;
- (g) review the CONTRACTOR's quality management systems; and
- (h) review the CONTRACTOR's compliance with the COMPANY's HSE requirements.

12.2 The CONTRACTOR shall be responsible for ensuring that all such books, records, accounts, correspondence, instructions, specifications, plans, drawings, receipts, policies, procedures and memoranda of the CONTRACTOR and any SUBCONTRACTOR are preserved and made available at any time for audit, without any additional compensation therefor, for up to two (2) years from date of completion of the WORKS (as evidenced by issuance of the COMPLETION CERTIFICATE) or the termination of the AGREEMENT, whichever is earlier. The COMPANY and its authorised representatives, agents or auditors shall have the right to photocopy or otherwise reproduce, at their own cost, any such books, records, accounts, correspondence, instructions, specifications, plans, drawings, receipts and memoranda of the CONTRACTOR and its SUBCONTRACTORS.

12.3 The COMPANY's audit rights in this Article 12 shall apply provided always that the CONTRACTOR shall not be required to disclose:

- (a) information relating to any THIRD PARTY which is subject to a legally binding confidentiality agreement which would prohibit disclosure pursuant to this Article 12;
- (b) the identity of or information relating to the CONTRACTOR's other customers;
- (c) financial pricing information, except in relation to reimbursable costs as set out above; and
- (d) any information which is protected as a trade secret.

13. TAXES AND DUTIES

- 13.1 Subject to Article 13.5, the CONTRACTOR shall be liable for all taxes, imposts, duties, withholding taxes, charges or other assessments applicable to the WORKS.
- 13.2 If a change in the LAW in the UAE or ABU DHABI relating to taxes, imposts, levies, duties, withholding taxes, charges or other assessments of this nature (excluding to the extent based on the CONTRACTOR's inventory, revenue, income, profits/losses or cost of finance) comes into effect after the EFFECTIVE DATE and increases the CONTRACTOR's costs in performing its obligations under the AGREEMENT, the CONTRACTOR shall be entitled to an equitable adjustment to the FEES provided that the CONTRACTOR has used reasonable endeavours to mitigate its liability to pay such taxes, imposts, levies, duties, withholding taxes, charges or other assessments of this nature, in accordance with LAWS.
- 13.3 The CONTRACTOR shall be liable for all costs required for the CONTRACTOR to undertake business within the UAE, including any registration charges levied by any GOVERNMENTAL AUTHORITY of ABU DHABI.
- 13.4 The FEES do not include any allowance for, and are exclusive of, UAE VAT.
- 13.5 Where UAE VAT is applicable to any WORKS performed under the AGREEMENT, the CONTRACTOR:
- (a) subject to compliance with Article 11.3(a)(iv) and Article 13.5(b), is entitled to charge UAE VAT on the applicable supply at the applicable rates under the VAT LAW;
 - (b) shall include the UAE VAT amount as an additional line item on the applicable INVOICE; and
 - (c) shall do such other things and provide such other information and documents as may be reasonably required by the COMPANY to enable the COMPANY to claim an input credit or refund under the VAT LAW.
- 13.6 Where costs incurred by one PARTY are to be reimbursed or indemnified by the other PARTY under the AGREEMENT, the amount to be reimbursed or payable under the indemnity, as applicable, shall be calculated net of any input tax credits under the VAT LAW that the PARTY seeking reimbursement or indemnification is entitled to in respect of the cost incurred.
- 13.7 The CONTRACTOR shall not be liable for any customs duties levied in ABU DHABI on the CONTRACTOR EQUIPMENT and MATERIALS supplied by the CONTRACTOR (excluding construction equipment) imported solely for the performance of the WORKS under this AGREEMENT. The COMPANY shall, upon request by the CONTRACTOR, provide such reasonable documents and assistance to the CONTRACTOR as may be necessary for obtaining such customs duties exemption, provided however, as a condition precedent to such exemption, the CONTRACTOR shall comply with all requirements of the COMPANY's prescribed import procedures as may be revised from time to time, and in particular, without limitation:
- (a) all CONTRACTOR EQUIPMENT and MATERIALS to be imported into ABU DHABI shall be shipped in the name of the CONTRACTOR, as consignee, and shall be marked "FOR COMPANY". The Bill of Lading/Airway Bill and invoice shall incorporate the relevant COMPANY agreement number;
 - (b) the CONTRACTOR shall, forward to the COMPANY all particulars and details of every consignment with copies of the shipping documents as the COMPANY may require in sufficient time for the COMPANY, to give instructions regarding clearance and duty exemption;
 - (c) the COMPANY will advise the CONTRACTOR as to the document which the local customs authorities require for import of CONTRACTOR EQUIPMENT and MATERIALS. The

CONTRACTOR will deliver to the COMPANY such documents as early as possible, but not less than fourteen (14) DAYS before the arrival of such CONTRACTOR EQUIPMENT and MATERIALS; and

- (d) the CONTRACTOR has attempted to secure locally such items that are comparable in quality, price and suitability to those imported, but has failed to obtain them in the local market.

13.8 The exemption provided in Article 13.7 does not extend to:

- (a) any construction equipment, as well as, other CONTRACTOR EQUIPMENT and MATERIALS, which in the opinion of the COMPANY, are imported by the CONTRACTOR not for the sole purpose of carrying out the WORKS;
- (b) CONTRACTOR EQUIPMENT following the COMPLETION DATE, expiry or termination of the AGREEMENT, unless the CONTRACTOR EQUIPMENT will continue to be used for the performance of works for the ADNOC GROUP under a separate agreement; and/or
- (c) to personal effects of the CONTRACTOR or those of the CONTRACTOR PERSONNEL. Customs duties on such CONTRACTOR EQUIPMENT and personal effects shall be borne entirely by the CONTRACTOR.

13.9 The COMPANY will not entertain any requests for temporary customs duty exemption. The CONTRACTOR shall deal with and address such requests directly to the Abu Dhabi Customs Authorities. The COMPANY, however, shall upon request by the CONTRACTOR, issue a letter confirming duration of the AGREEMENT.

14. PERFORMANCE BANK GUARANTEE

14.1 If specified in the FORM OF AGREEMENT, within fourteen (14) DAYS from the date of execution of the AGREEMENT and as a condition precedent to any obligation on the COMPANY to make any payment under the AGREEMENT, the CONTRACTOR shall provide the COMPANY with an irrevocable and unconditional performance bank guarantee (the “**PERFORMANCE BANK GUARANTEE**”):

- (a) in the form set out in ANNEXURE 3-B ;
- (b) issued by a bank registered in the UAE and operating within the jurisdiction of the UAE Central Bank;
- (c) which expires on a fixed expiry date which is at least forty-five (45) DAYS after the later of:
 - (i) the COMPLETION DATE; or
 - (ii) expiry of the TERM; and
- (d) in the amount specified in the FORM OF AGREEMENT.

14.2 Subject to any outstanding calls and settlement of all claims in connection with any termination of the AGREEMENT (where applicable), the COMPANY shall return the PERFORMANCE BANK GUARANTEE to the CONTRACTOR within forty-five (45) DAYS of:

- (a) issuance of the COMPLETION CERTIFICATE; or
- (b) termination of the AGREEMENT,

(the “**PERFORMANCE BANK GUARANTEE RETURN DATE**”).

- 14.3 In the event that there is a change in the FEES of more than ten percent (10%), the CONTRACTOR shall procure that the value of the PERFORMANCE BANK GUARANTEE be increased or decreased proportionally.
- 14.4 The CONTRACTOR shall ensure that a valid PERFORMANCE BANK GUARANTEE is in place until the date which is at least forty-five (45) DAYS after the later of:
- (a) issuance of the COMPLETION CERTIFICATE; or
 - (b) expiry of the TERM.
- 14.5 If for any reason the PERFORMANCE BANK GUARANTEE is invalidated before the PERFORMANCE BANK GUARANTEE RETURN DATE, the CONTRACTOR shall, within fourteen (14) DAYS of the COMPANY issuing notice to the CONTRACTOR, provide a new PERFORMANCE BANK GUARANTEE for the same amount and on the same terms as the invalidated PERFORMANCE BANK GUARANTEE, subject to making any changes that may be necessary to avoid the cause of the invalidation arising again.
- 14.6 If the PERFORMANCE BANK GUARANTEE is due to expire prior to the PERFORMANCE BANK GUARANTEE RETURN DATE, the CONTRACTOR shall, forty-five (45) DAYS before the expiry date of the PERFORMANCE BANK GUARANTEE, extend the validity of the PERFORMANCE BANK GUARANTEE and submit such extended PERFORMANCE BANK GUARANTEE to the COMPANY.
- 14.7 In the event that the CONTRACTOR fails to comply with the obligations set out in Article 14.6 the COMPANY may, without limiting the COMPANY’s other rights under the AGREEMENT, call upon the PERFORMANCE BANK GUARANTEE and keep the proceeds of the PERFORMANCE BANK GUARANTEE as a cash deposit until the validity of the PERFORMANCE BANK GUARANTEE has been so extended.
- 14.8 If the COMPANY considers, in good faith, that:
- (a) the CONTRACTOR has breached its obligations under the AGREEMENT and the COMPANY has given the CONTRACTOR thirty (30) DAYS, or such other period which may be agreed between the PARTIES, to remedy such breach but such breach is not remedied by the CONTRACTOR within such reasonable period; or
 - (b) an INSOLVENCY EVENT has occurred in relation to the CONTRACTOR,
- the COMPANY may draw on the PERFORMANCE BANK GUARANTEE.
- 14.9 If the COMPANY receives a payment from the guarantor under the PERFORMANCE BANK GUARANTEE, and it is later found that the CONTRACTOR has not breached its obligations under the AGREEMENT or that an INSOLVENCY EVENT has not occurred with respect to the CONTRACTOR (as applicable), the COMPANY shall immediately reimburse the CONTRACTOR for such payment, after which the CONTRACTOR shall procure the reissuance of the PERFORMANCE BANK GUARANTEE to the COMPANY in accordance with Article 14.1. Upon such reimbursement, the COMPANY shall have no other liability to the CONTRACTOR in respect thereof, including, without limitation, for any bank charges or interest the CONTRACTOR may have paid as a consequence of the COMPANY’s draw on the PERFORMANCE BANK GUARANTEE.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 Each PARTY shall retain ownership of their PRE-EXISTING INTELLECTUAL PROPERTY and:
- (a) the COMPANY shall, at the CONTRACTOR's request and subject to any THIRD PARTY rights and restrictions, grant the CONTRACTOR a limited, royalty free, revocable, non-transferable and non-exclusive licence to use and copy the COMPANY's PRE-EXISTING INTELLECTUAL PROPERTY to the extent necessary for performing the WORKS; and
 - (b) the CONTRACTOR grants the COMPANY and its AFFILIATES a royalty-free, non-exclusive licence to use the CONTRACTOR's PRE-EXISTING INTELLECTUAL PROPERTY for the purpose of receiving, using, exploiting and otherwise obtaining the full benefit of the WORKS and of the COMPANY's rights and licences granted by or pursuant to the AGREEMENT, in each case solely to the extent that any such PRE-EXISTING INTELLECTUAL PROPERTY may directly or indirectly prevent or hinder the COMPANY from so doing.
- 15.2 All INTELLECTUAL PROPERTY RIGHTS in the WORKS DOCUMENTATION shall (insofar as permissible by law) vest in the COMPANY upon creation. From the date the relevant rights vest in the COMPANY in accordance with this AGREEMENT, the COMPANY grants the CONTRACTOR a limited, royalty-free, revocable, non-exclusive and non-transferable licence to use any INTELLECTUAL PROPERTY RIGHTS in the WORKS DOCUMENTATION for the sole purpose of providing the WORKS to the COMPANY.
- 15.3 Except as otherwise provided in Articles 16 and 15.2, if PERSONNEL of the COMPANY and/or the CONTRACTOR conceive or devise or otherwise make or develop, whether during the TERM of the AGREEMENT and in the course of the performance of the WORKS or otherwise arising from the performance of the AGREEMENT, any INVENTIONS or other matter in respect of which INTELLECTUAL PROPERTY RIGHTS are created or arise, the COMPANY and the CONTRACTOR agree that the right, title and interest in and to any such INVENTIONS and INTELLECTUAL PROPERTY RIGHTS shall be allocated as set forth below and that the following terms shall apply:
- (a) the COMPANY shall, as between the COMPANY and the CONTRACTOR, own all INVENTIONS and INTELLECTUAL PROPERTY RIGHTS conceived or devised or otherwise made or developed or created or arising by COMPANY PERSONNEL and, subject to Article 21 and Article 15.3(h), may take such steps as it may decide from time to time, at its expense, to prepare, file and prosecute patent application(s) or any other application(s) for any registered INTELLECTUAL PROPERTY RIGHTS and to maintain and defend any patents and other registered INTELLECTUAL PROPERTY RIGHTS issuing from any such application(s) and to use and exploit and otherwise obtain howsoever the full benefit of the same;
 - (b) the CONTRACTOR shall, as between the COMPANY and the CONTRACTOR, own all INVENTIONS and INTELLECTUAL PROPERTY RIGHTS conceived or devised or otherwise made or developed or created or arising by CONTRACTOR PERSONNEL and, subject to Article 21 and Article 15.3(h), may take such steps as it may decide from time to time, at its expense, to prepare, file and prosecute patent application(s) or any other application(s) for any registered INTELLECTUAL PROPERTY RIGHTS and to maintain and defend any patents and other registered INTELLECTUAL PROPERTY RIGHTS issuing from any such application(s) and to use and exploit and otherwise obtain howsoever the full benefit of the same;
 - (c) the COMPANY and the CONTRACTOR shall each have an equal, undivided share in the right, title and interest in and to any INVENTIONS and INTELLECTUAL PROPERTY RIGHTS that are conceived or devised or otherwise made or developed or created or arising jointly by COMPANY PERSONNEL and CONTRACTOR PERSONNEL and, in each case:

- (i) in the event that either PARTY believes that patent application(s) or any other application(s) for any registered INTELLECTUAL PROPERTY RIGHTS should be filed, the PARTIES shall co-operate and attempt in good faith to agree upon filing jointly owned application(s) in relation to the same;
- (ii) if and to the extent that either PARTY is unwilling to share or continue to share equally in payment of the costs for preparing, filing and/or prosecuting any jointly owned patent or other application for any registered INTELLECTUAL PROPERTY RIGHTS, then the other PARTY (for the purposes of this Article 15 the “**APPLICANT PARTY**”) may (upon giving sixty (60) DAYS prior written notice to the other PARTY, and subject always to Article 21 and Article 15.3(h)) prepare, file and/or prosecute (as the case may be) such application at its own cost and (insofar as permissible by the law of the jurisdiction in which such application is to be made) in its own name. In each such case, the other PARTY shall promptly, at the request of the APPLICANT PARTY, assign to the APPLICANT PARTY its right, title and interest in and to such of the INVENTION(S) and unregistered INTELLECTUAL PROPERTY RIGHTS as are the subject of such application, and in and to any such application as may be pending, and in and to the patents and other registered INTELLECTUAL PROPERTY RIGHTS issuing from any application which is the subject of this Article 15.3(c)(ii), and the other PARTY and its AFFILIATES shall have an irrevocable, non-exclusive, royalty-free licence, without the right to sublicense, to use any process or product (for its own and/or its AFFILIATES’ benefit), and/or to manufacture, import, export and/or keep any product for the purposes of such use (but not to sell or otherwise supply such product), and/or to manufacture, sell, import, export or otherwise supply, offer or keep any product which is obtained directly or indirectly by means of any such process or product, in each case by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf;
- (iii) the COMPANY and the CONTRACTOR each agree to co-operate fully in the preparation, filing and prosecution of any and all application(s) for patent(s) and other registered INTELLECTUAL PROPERTY RIGHTS made pursuant to this Article 15.3(c) whether or not such application(s) are jointly owned, and in any subsequent judicial or administrative proceedings involving such. Insofar as such application(s) or subsequent judicial or administrative proceedings relate to application(s) or patent(s) or other registered INTELLECTUAL PROPERTY RIGHTS which are at the relevant time owned (as between the COMPANY and the CONTRACTOR) by one PARTY only (or which are subject to the provisions of Article 15.3(c)(ii) and jointly owned pursuant to the said Article 15.3(c)(ii)), then the co-operation of the other PARTY (or, in the case of an application subject to the provisions of Article 15.3(c)(ii), the co-operation of the PARTY which is not the APPLICANT PARTY) shall be at the reasonable request and at the expense of the PARTY which is the owner (or, in the case of an application subject to the provisions of Article 15.3(c)(ii), shall be at the reasonable request and at the expense of the APPLICANT PARTY);
- (iv) the COMPANY and the CONTRACTOR each further agrees to pay its share of all necessary fees, costs and expenses (including as to professional fees and in relation to renewals and/or any judicial or administrative proceedings) to maintain and defend any jointly owned patent or other registered INTELLECTUAL PROPERTY RIGHTS in force throughout its full term; provided, however, that a PARTY (for the purposes of this Article 15 the “**EXITING PARTY**”) may elect to notify the other PARTY that it intends to discontinue payment of such fees, in which case the EXITING PARTY shall promptly assign its right, title and interest in and to such patent or other registered INTELLECTUAL PROPERTY RIGHTS (as the case may be) to the other PARTY,

retaining no interest therein including, without limitation, in relation to any licence or sublicense to the other PARTY or any THIRD PARTY, and the EXITING PARTY and its AFFILIATES shall have an irrevocable, non-exclusive, royalty-free licence, without the right to sublicense, for the remainder of the term of each such patent or other registered INTELLECTUAL PROPERTY RIGHTS, to use any process or product (for its own and/or its AFFILIATES' benefit), and/or to manufacture, import, export and/or keep any product for the purposes of such use (but not to sell or otherwise supply such product), and/or to manufacture, sell, import, export or otherwise supply, offer or keep any product which is obtained directly or indirectly by means of any such process or product, in each case by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf;

- (v) for the avoidance of doubt, for so long as and insofar as any patent(s) or other registered INTELLECTUAL PROPERTY RIGHTS are jointly owned by the COMPANY and the CONTRACTOR, the COMPANY and the CONTRACTOR each agree that they shall each have an irrevocable and non-exclusive right, and royalty-free licence with the right to sublicense, to use and exploit and otherwise obtain howsoever the full benefit of the same, including without limitation to use (for its own and/or its AFFILIATES' benefit) any process or product, and/or to manufacture, sell or otherwise supply, import, export and/or keep any product, and/or offer any process for use or offer any product, and/or to manufacture, sell, import, export or otherwise supply, offer or keep any product which is obtained directly or indirectly by means of any process or product, in each case by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf or by any sub-licensee except that neither PARTY may assign, or grant any mortgage or security over, its share (or any part thereof) of any such patent(s) or other registered INTELLECTUAL PROPERTY RIGHTS except on such terms as may be agreed in writing by the other PARTY;
- (vi) if and insofar as both PARTIES agree in writing that application(s) for any patent(s) or other registered INTELLECTUAL PROPERTY RIGHTS shall not be filed (and if and insofar as any such application(s) are unsuccessful), then subject always to Article 21, the COMPANY and the CONTRACTOR each agree that they shall each have an irrevocable and non-exclusive right, and royalty-free licence without the right to sublicense, to use such INVENTION(S) and unregistered INTELLECTUAL PROPERTY RIGHTS as are the subject of such agreement, in each case for its own and/or its AFFILIATES' benefit and by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf;
- (d) the CONTRACTOR agrees to grant the COMPANY and its AFFILIATES a non-exclusive, royalty free, irrevocable, worldwide licence under any patents and/or other registered or unregistered INTELLECTUAL PROPERTY RIGHTS (or any share in the right, title and interest therein) vesting in the CONTRACTOR pursuant to Article 15.3(b) and 15.3(c) above which pertain to any INVENTION or WORKS or other technology or works or services howsoever which are in whole or in part conceived, devised or otherwise made and/or developed using, or which otherwise arise or are derived from any:
 - (i) COMPANY DATA; and/or
 - (ii) CONFIDENTIAL INFORMATION of the COMPANY; and/or
 - (iii) Wellbore(s) or downhole(s) or wild well(s) or other part of any well(s) owned or operated by the COMPANY,

to use (for its own and/or its AFFILIATES' benefit) any process or product, and/or to manufacture, import, export and/or keep any product for the purposes of such use (but not to sell or otherwise supply such product), and/or to manufacture, sell, import, export or otherwise supply, offer or keep any product which is obtained directly or indirectly by means of any such process or product, in each case by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf;

- (e) for the avoidance of doubt, the CONTRACTOR agrees to grant the COMPANY and its AFFILIATES a non-exclusive, royalty free, irrevocable, worldwide licence under any registered or unregistered INTELLECTUAL PROPERTY RIGHTS (or any share in the right, title and interest therein) vesting in the CONTRACTOR pursuant to Article 15.3(b) and 15.3(c) above) which pertain to any data or other information supplied by the CONTRACTOR to the COMPANY pursuant to this AGREEMENT (including without limitation pursuant to Articles 3.1(a) and 3.1(e)) to use (for its own and/or its AFFILIATES' benefit) for any purpose in connection with this AGREEMENT, the purchase agreement (if applicable) and/or any other separate agreement between the COMPANY or its AFFILIATES and the CONTRACTOR or its AFFILIATES, and otherwise to enable the COMPANY to obtain the full benefit of this AGREEMENT;
- (f) the COMPANY agrees to grant the CONTRACTOR and its AFFILIATES a non-exclusive, royalty free, irrevocable, non-sublicensable, non-transferable, worldwide licence, under any patents or other registered or unregistered INTELLECTUAL PROPERTY RIGHTS vesting in the COMPANY pursuant to Article 15.3(a) above which were solely conceived, devised or otherwise made and/or developed in the course of the provision of the WORKS by the CONTRACTOR to the COMPANY, to use (for its own and/or its AFFILIATES' benefit) any process or product, and/or to manufacture, import, export and/or keep any product for the purposes of such use (but not to sell or otherwise supply such product), in each case by itself and/or its AFFILIATES and/or by its agents and subcontractors acting on its behalf;
- (g) except insofar as expressly provided by the AGREEMENT, neither PARTY shall use or exploit any rights, or grants to the other PARTY any rights or licences or sublicences, in each case to disclose or use or exploit howsoever any patents or other registered or unregistered INTELLECTUAL PROPERTY RIGHTS (including, for the avoidance of doubt, any and all rights in any INVENTIONS) which are the subject of this Article 15.3. Each of the PARTIES agrees that, at the request of the other PARTY, it shall enter into good faith negotiations with a view to granting to the other PARTY such rights and/or licences as it may request upon terms to be agreed between the PARTIES; and
- (h) the PARTIES each acknowledge that preparing, filing and/or prosecuting patent application(s) or any other application(s) for any registered INTELLECTUAL PROPERTY RIGHTS has the effect of disclosing CONFIDENTIAL INFORMATION. The COMPANY and the CONTRACTOR each agree that they shall, prior to filing any patent application or any other application for any registered INTELLECTUAL PROPERTY RIGHTS, give to the other PARTY (for the purposes of this Article 15, the "**NON-FILING PARTY**") written notice which contains a copy of each proposed application at least sixty (60) DAYS in advance of such application being made. If it appears to the NON-FILING PARTY that any patent application or any other application for any registered INTELLECTUAL PROPERTY RIGHTS contains any of the NON-FILING PARTY's CONFIDENTIAL INFORMATION, the other PARTY shall refrain from making such application until such time as the said CONFIDENTIAL INFORMATION becomes publicly known (otherwise than through a breach of this AGREEMENT) or the NON-FILING PARTY agrees in writing to the proposed application being filed.

- 15.4 The CONTRACTOR shall promptly disclose to the COMPANY any INVENTIONS which the CONTRACTOR, the CONTRACTOR PERSONNEL or its AFFILIATES conceive or make pursuant to Article 15.3(b) and Article 15.3(c).
- 15.5 For the avoidance of doubt:
- (a) the CONTRACTOR agrees that it shall not, except solely in the proper performance of the WORKS and with the written permission of the COMPANY, test any INVENTION or other technology or works or services or other matter in respect of which INTELLECTUAL PROPERTY RIGHTS may arise or be created howsoever using any wellbore(s), downhole or in the event of wild well(s) or other part of any well(s) owned or operated by the COMPANY; and
 - (b) the COMPANY and the CONTRACTOR may decide that they wish to jointly test any INVENTIONS which are conceived or made during the TERM of the AGREEMENT and in the course of the performance of the WORKS and/or otherwise to jointly develop INTELLECTUAL PROPERTY RIGHTS which may or may not be related to the WORKS. In any such case, the COMPANY and the CONTRACTOR shall enter into a separate technology collaboration agreement addressing each PARTY's obligations with respect to joint development costs, ownership and licensing rights of any registrable item or idea arising out of or invented during the term of that agreement as a direct or indirect result of joint cooperation between the COMPANY and the CONTRACTOR.
- 15.6 Except as set out in this Article 15 or in Article 16.7, and without prejudice to Article 15.3(c)(vi), neither PARTY shall acquire any right, title or interest in or to the INTELLECTUAL PROPERTY RIGHTS of the other PARTY and nothing in this AGREEMENT shall give rise to any obligation to convey such rights.
- 15.7 The CONTRACTOR shall ensure that:
- (a) it shall take all such steps and execute and procure the execution of all such assignments and other documents as the COMPANY may require to ensure that:
 - (i) all INTELLECTUAL PROPERTY RIGHTS which are to vest in the COMPANY pursuant to Articles 16, 15.2 and 15.3 vest in and belong to the COMPANY; and
 - (ii) the licences granted pursuant to Articles 15.1 and 15.3 are perfected;
 - (b) it shall not (except in accordance with this Article 15) register any WORKS DOCUMENTATION or INVENTION or other INTELLECTUAL PROPERTY RIGHTS in the name of the CONTRACTOR or any THIRD PARTY (including any of the CONTRACTOR's or any THIRD PARTY's officers, directors, employees, representatives, subcontractors, advisers and agents);
 - (c) in carrying out the WORKS, it shall not infringe any INTELLECTUAL PROPERTY RIGHTS owned by a THIRD PARTY; and
 - (d) the WORKS, the WORKS DOCUMENTATION and INVENTIONS shall not infringe any INTELLECTUAL PROPERTY RIGHTS owned by a THIRD PARTY whether by reason of the use or exploitation of any such WORKS DOCUMENTATION, INVENTION or otherwise.

16. COMPANY DATA

- 16.1 The PARTIES agree that all right, title and interest in and to the COMPANY DATA and INTELLECTUAL PROPERTY RIGHTS therein shall (insofar as permissible by law) vest in the COMPANY upon creation and that, save as expressly permitted by the AGREEMENT, the COMPANY shall have and retain the sole and exclusive right to disclose and use the COMPANY DATA. The CONTRACTOR hereby assigns and agrees to assign to the COMPANY any and all such right, title and interest in and to the COMPANY DATA and INTELLECTUAL PROPERTY RIGHTS therein as it may have and shall ensure that it shall take all such steps and execute all such assignments and other documents as the COMPANY may require to give effect to this Article 16.1.
- 16.2 The CONTRACTOR acknowledges that:
- (a) the COMPANY DATA is the sole property of the COMPANY;
 - (b) all INTELLECTUAL PROPERTY RIGHTS which may subsist in the COMPANY DATA vests in the COMPANY; and
 - (c) the COMPANY has and retains the sole and exclusive right to use the COMPANY DATA save to the limited extent set out in Article 16.3 below.
- 16.3 The COMPANY shall provide to the CONTRACTOR the COMPANY DATA which is in its possession insofar as required to perform the WORKS under this AGREEMENT. The COMPANY shall grant to the CONTRACTOR, for the sole purpose of performing the WORKS under this AGREEMENT, a limited, non-exclusive, non-sublicensable, revocable and non-transferable right to use the COMPANY DATA, including the right to store, load, process, modify and copy the COMPANY DATA. In relation to COMPANY DATA which is in the COMPANY's possession, the COMPANY shall provide to the CONTRACTOR only copies, and shall retain all originals and/or back-up copies. Any COMPANY DATA which the COMPANY may give to the CONTRACTOR shall be the best information available, but the COMPANY does not warrant (whether express, implied, statutory or otherwise) the completeness, accuracy or otherwise of such COMPANY DATA and the CONTRACTOR releases the COMPANY from all claims and liability arising out of or in connection with the foregoing.
- 16.4 The CONTRACTOR and the CONTRACTOR PERSONNEL shall:
- (a) not use or reproduce the COMPANY DATA in whole or in part in any form except as expressly permitted by the COMPANY in accordance with the AGREEMENT;
 - (b) if the CONTRACTOR stores any COMPANY DATA, keep such COMPANY DATA physically and technically separate from the data of its other customers and identify it as CONFIDENTIAL INFORMATION in accordance with GOOD INDUSTRY PRACTICE;
 - (c) ensure that no COMPANY DATA is transferred, transported or transmitted outside of the UAE without the prior written consent of the COMPANY;
 - (d) apply appropriate security procedures within the CONTRACTOR PREMISES and take all precautions necessary to preserve the security and integrity of the COMPANY DATA in accordance with GOOD INDUSTRY PRACTICE;
 - (e) ensure that no unauthorised THIRD PARTY obtains access to any COMPANY DATA or any information forming part of or being used in connection with the WORKS for any reason, including, without limitation, as a result of any act or omission of the CONTRACTOR or the CONTRACTOR PERSONNEL;
 - (f) ensure that the CONTRACTOR and the CONTRACTOR PERSONNEL do not corrupt, erase or otherwise alter the COMPANY DATA;

- (g) not disclose passwords supplied by the COMPANY to access the COMPANY's computers or data to any PERSON other than the CONTRACTOR PERSONNEL who need such passwords to perform the WORKS; and
 - (h) take all reasonable steps to avoid a breach of this Article 16.4 and, in case of a breach or suspected breach, immediately notify the COMPANY of such breach or suspected breach and take all steps to prevent it from occurring or reoccurring (as the case may be) and mitigate it.
- 16.5 If any COMPANY DATA is corrupted, lost, degraded or otherwise altered due to an act or omission of the CONTRACTOR or the CONTRACTOR PERSONNEL, or if the CONTRACTOR otherwise fails to fulfil its obligations under the AGREEMENT, the COMPANY may, at the cost and expense of the CONTRACTOR:
 - (a) require the CONTRACTOR to restore (or procure the restoration of) the COMPANY DATA as soon as practicable and, in any case, within five (5) DAYS of the COMPANY notifying the CONTRACTOR to do so; or
 - (b) itself restore (or procure the restoration of) the COMPANY DATA within five (5) DAYS of the COMPANY notifying the CONTRACTOR to do so.
- 16.6 Except as explicitly set out in this Article 16, the CONTRACTOR shall not acquire any right, title or interest in or to the COMPANY DATA, and nothing in this AGREEMENT shall give rise to any obligation to convey such rights.
- 16.7 The CONTRACTOR shall not (except insofar as expressly provided by the AGREEMENT) acquire any right, title or interest in any INTELLECTUAL PROPERTY RIGHTS which arise or are created as a result of, or in connection with the use of the COMPANY DATA by the CONTRACTOR or CONTRACTOR PERSONNEL (whether with or without other data) and any such INTELLECTUAL PROPERTY RIGHTS thereby arising or created shall solely and exclusively vest in the COMPANY upon their creation and the CONTRACTOR hereby assigns and agrees to assign them to the COMPANY.
- 16.8 Nothing in this Article 16 shall prevent either PARTY from using any techniques, methodologies, ideas or know-how gained from its performance of this AGREEMENT in the course of its normal business to the extent that this use does not result in an infringement of INTELLECTUAL PROPERTY RIGHTS (including any INTELLECTUAL PROPERTY RIGHTS the subject of Article 15) or in a disclosure of the other PARTY's CONFIDENTIAL INFORMATION.

17. SUBCONTRACTORS

- 17.1 The CONTRACTOR shall not subcontract the WORKS or any part thereof under the AGREEMENT without the prior written consent of the COMPANY. For the purposes of this Article 17.1, the COMPANY shall be deemed to have provided such prior written consent with respect to any SUBCONTRACTORS who are identified in ANNEXURE 6 as approved SUBCONTRACTORS.
- 17.2 All SUBCONTRACTORS shall be selected from the list of approved SUBCONTRACTORS set out in ANNEXURE 6.
- 17.3 Should there arise a need for additional SUBCONTRACTORS to be added to the list set out in ANNEXURE 6, the CONTRACTOR shall issue a written request to that effect to the COMPANY, which shall include:
 - (a) the name and address of the proposed SUBCONTRACTOR;
 - (b) the name and contact details of the proposed SUBCONTRACTOR's representative; and

- (c) the SUBCONTRACTOR's pre-qualification details.
- 17.4 No SUBCONTRACTOR may be added to the list set out in ANNEXURE 6 without the COMPANY's express approval, which the COMPANY shall have sole discretion to grant or withhold.
- 17.5 The approval of a SUBCONTRACTOR shall not relieve the CONTRACTOR of any of its obligations under the AGREEMENT, including those relating to the qualification and skill of the SUBCONTRACTOR, nor create any contractual relationship between the COMPANY and any SUBCONTRACTOR.
- 17.6 The CONTRACTOR shall be fully responsible for:
- (a) any part of the WORKS performed by its SUBCONTRACTORS; and
 - (b) any acts, omissions breaches or defaults of its SUBCONTRACTORS, as if they were the acts, omissions, breaches or defaults of the CONTRACTOR.
- 17.7 The CONTRACTOR shall compensate the COMPANY for any losses, damages and costs arising out of or in connection with the SUBCONTRACTOR's performance of the WORKS.
- 17.8 The CONTRACTOR shall ensure that any SUBCONTRACTORS used to perform all or any part of the WORKS or used to procure MATERIALS are:
- (a) to the extent required by LAW, registered and licensed by the relevant GOVERNMENTAL AUTHORITIES within ABU DHABI and the UAE;
 - (b) solvent; and
 - (c) sufficiently experienced to perform the relevant portion of the WORKS.
- 17.9 In its agreement with each SUBCONTRACTOR, the CONTRACTOR shall include express provisions:
- (a) by which the CONTRACTOR agrees to pay the SUBCONTRACTOR within thirty (30) DAYS from the date of receipt of a valid and undisputed invoice, or, where such invoice is valid but disputed, the CONTRACTOR shall pay any undisputed portion of such invoice within thirty (30) DAYS from the date of receipt; and
 - (b) by which the SUBCONTRACTOR shall undertake to:
 - (i) be bound by confidentiality undertakings not less stringent than the confidentiality provisions set out in Article 21 of this AGREEMENT;
 - (ii) preserve and protect the rights of the COMPANY under this AGREEMENT;
 - (iii) comply with LAW and all other matters which can in any way affect performance of the WORKS under this AGREEMENT or the costs associated with such performance;
 - (iv) comply with the ADNOC GROUP SUPPLIER & PARTNER CODE OF ETHICS and any other applicable COMPANY standards as may be specified in the AGREEMENT or communicated by the COMPANY to the CONTRACTOR from time to time;
 - (v) grant a fully-transferable license to the CONTRACTOR for all INTELLECTUAL PROPERTY RIGHTS in any WORKS DOCUMENTATION such that the

CONTRACTOR is able to comply with its obligations pursuant to Article 15.1 of this AGREEMENT;

- (vi) prevent the assignment, novation, transfer, or further subcontract of any of its rights, obligations or interests under the agreement with the CONTRACTOR without the prior written consent of the CONTRACTOR (which shall only be given if and when the CONTRACTOR obtains the COMPANY's prior written consent to such assignment, novation, transfer or further subcontracting);
- (vii) participate in any assignment, novation or transfer of rights, obligations or interests made by the COMPANY pursuant to Article 25.2; and
- (viii) accept that the CONTRACTOR shall have the right to assign its rights under its agreement with the SUBCONTRACTOR to the COMPANY in the event that the COMPANY terminates the AGREEMENT.

17.10 The CONTRACTOR shall be solely responsible for all payments to its SUBCONTRACTORS, and the CONTRACTOR shall save, indemnify, defend, release and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by its SUBCONTRACTORS against the COMPANY INDEMNIFIED PARTIES.

17.11 The CONTRACTOR shall provide copies of all subcontracts to the COMPANY upon request, excluding financial pricing information. Except in the case of subcontracts entered into prior to the date of this AGREEMENT, the CONTRACTOR shall, upon request of the COMPANY notify the COMPANY of the principal terms and conditions of all proposed subcontracts and shall provide copies of such proposed subcontracts to the COMPANY.

17.12 The CONTRACTOR shall diligently enforce, and shall take all reasonable steps to ensure that SUBCONTRACTORS diligently enforce, subcontracts for the benefit of the COMPANY. The CONTRACTOR shall diligently pursue any and all effective remedies available to it in relation to any breach by, or liability of, a SUBCONTRACTOR in relation to a subcontract.

18. SUSPENSION

18.1 COMPANY'S RIGHT TO SUSPEND FOR CONVENIENCE

The COMPANY shall have the right at any time, at its sole discretion and without cause, to suit the convenience of the COMPANY to suspend the performance of all or any part of the WORKS with immediate effect by providing notice in writing to the CONTRACTOR.

18.2 SUSPENSION FOR CONTRACTOR'S MATERIAL BREACH

Without prejudice to Article 18.1, if the CONTRACTOR commits a material breach of any of its obligations under the AGREEMENT or, where applicable, any CALL-OFF ORDER then the COMPANY shall have the right to suspend the performance of all or any part of the WORKS, and/or suspend the performance of all or any part of the COMPANY's obligations under this AGREEMENT or any CALL-OFF ORDER, with immediate effect by providing notice in writing to the CONTRACTOR, provided that such right of the COMPANY shall be in addition to its other rights and remedies under this AGREEMENT and LAW.

18.3 SUSPENSION FOR A FORCE MAJEURE EVENT

If either PARTY is prevented or delayed in the performance of its obligations under the AGREEMENT or any CALL-OFF ORDER by reason of a FORCE MAJEURE EVENT, provided that the relevant PARTY has satisfied the conditions of Article 22, and the COMPANY elects not to exercise its termination right pursuant to Article 19.2(c), the COMPANY, shall have the right at any time, at its sole discretion to suspend the performance of all or any part of the WORKS by providing notice in writing to the CONTRACTOR.

18.4 SUSPENSION MEASURES

With effect from any suspension of the WORKS pursuant to Articles 18.1, 18.2 and/or 18.3 and upon receipt of any such notice, the CONTRACTOR shall, unless instructed otherwise:

- (a) discontinue the performance of all or the part of the WORKS on the date and to the extent specified in the COMPANY's notice; and
- (b) during any such period of suspension, use its best efforts to safeguard and protect the WORKS and utilise the CONTRACTOR PERSONNEL in such a manner as to minimise any costs arising from or associated with the suspension.

18.5 FEES DURING SUSPENSION

If the WORKS are suspended in accordance with Articles 18.1, 18.2 or 18.3, the COMPANY shall be liable to pay the CONTRACTOR the FEES and costs in accordance with the following, provided always that the COMPANY shall not be liable for any CONSEQUENTIAL LOSS:

(a) Suspension for the COMPANY's Convenience

Subject to any express provisions in ANNEXURE 5 and/or the AGREEMENT to the contrary, if the WORKS are suspended in accordance with Article 18.1, the COMPANY shall not be liable for any FEES or costs arising from or in relation to such suspension period.

(b) Suspension for the CONTRACTOR's Material Breach

If the WORKS are suspended in accordance with Article 18.2, the COMPANY shall not be liable for any FEES or costs arising from or in relation to such suspension period.

(c) Suspension for a FORCE MAJEURE EVENT

If the WORKS are suspended in accordance with Article 18.3, the COMPANY shall not be liable to the CONTRACTOR for any FEES or costs arising from or in relation to such suspension period, except to the extent that such FEES or costs are:

- (i) expressly provided for in ANNEXURE 5;
- (ii) incurred by the CONTRACTOR as a result of the suspension by reason of a FORCE MAJEURE EVENT; and
- (iii) in all cases, incurred after a continuous period in excess of thirty (30) consecutive DAYS.

Notwithstanding anything to the contrary in ANNEXURE 5 and/or the AGREEMENT, the CONTRACTOR shall not be entitled to claim any FEES or costs if the WORKS are suspended in accordance with Article 18.3 and incurred prior to the thirty (30) consecutive DAYS in Article 18.5(c)(iii).

In accordance with Articles 18.5(a) and 18.5(c), any payments due to the CONTRACTOR shall be made only after submission to the COMPANY by the CONTRACTOR of detailed INVOICES in accordance with Article 11.3.

18.6 PERIOD OF SUSPENSION

- (a) Any suspension in accordance with this Article 18 shall remain in place until the earlier of the following occurrences:
 - (i) the COMPANY ends such suspension by providing written notice to the CONTRACTOR in accordance with Article 18.6(b) requiring it to resume performance of all or part of the suspended WORKS; or
 - (ii) the COMPANY terminates the AGREEMENT and/or any CALL-OFF ORDER (as applicable) in accordance with Article 19; or
 - (iii) the CONTRACTOR terminates the AGREEMENT and/or any CALL-OFF ORDER (as applicable) in accordance with Article 19.4; or
 - (iv) the expiry of the TERM.
- (b) The COMPANY may, by notice, instruct the CONTRACTOR to resume the suspended WORKS or part thereof and the CONTRACTOR shall promptly resume performance of the suspended WORKS or any part thereof as soon as practicable following receipt of notification to resume performance by the COMPANY and to the extent specified in the notice.

18.7 NO RIGHT TO SUSPEND

Notwithstanding any DISPUTE arising between the PARTIES, the CONTRACTOR shall not suspend the performance of any WORKS or any part thereof unless instructed by the COMPANY in accordance with this Article 18.

18.8 UAE FEDERAL LAW

The PARTIES' obligations under this AGREEMENT, and where applicable, any CALL-OFF ORDER, may not be suspended on any ground, or for any reason, except as set forth in this AGREEMENT. The PARTIES hereby expressly exclude, to the fullest extent permitted by LAW, the application of Article 247 and, where applicable, Article 879 of the CIVIL CODE. In the event of suspension of the whole or part of the AGREEMENT, the PARTIES shall not be relieved of any continuing obligations or liabilities under the provisions of the AGREEMENT.

19. TERMINATION

19.1 COMPANY'S AND CONTRACTOR'S RIGHT TO TERMINATE

Either PARTY shall be entitled to terminate the AGREEMENT or, where applicable, any CALL-OFF ORDER with immediate effect by written notice to the other PARTY for any one or several of the following reasons:

- (a) a material breach by either PARTY of any of its obligations under the AGREEMENT or, where applicable, any CALL-OFF ORDER, provided that such breach has not been remedied within thirty (30) DAYS of receipt of a written notice from the other PARTY;
- (b) an INSOLVENCY EVENT occurs in relation to the other PARTY; and/or

- (c) performance of this AGREEMENT or any of the transactions contemplated herein has become unlawful under the LAW.

19.2 COMPANY'S RIGHT TO TERMINATE

Without prejudice to Articles 19.1 and 19.3, the COMPANY shall have the right, but not the obligation, to terminate the AGREEMENT, or where applicable, any CALL-OFF ORDER, at such time or times the COMPANY may consider necessary by written notice for any one or several of the following reasons:

- (a) to suit the convenience of the COMPANY upon providing the CONTRACTOR with not less than thirty (30) DAYS' written notice in respect of terminating the AGREEMENT or with not less than fifteen (15) DAYS' written notice in respect of terminating a CALL-OFF ORDER;
- (b) if any activity occurs or any proceedings are taken with respect to the ultimate holding or parent company of the CONTRACTOR, in any jurisdiction to which such company is subject; and/or
- (c) either PARTY is prevented or delayed in the performance of its obligations under the AGREEMENT or a CALL-OFF ORDER (as applicable) by reason of a FORCE MAJEURE EVENT, provided that such PARTY has satisfied the conditions of Article 22, and the FORCE MAJEURE EVENT prevents or delays the performance of obligations under the AGREEMENT or a CALL-OFF ORDER (as applicable) for a continuous period of thirty (30) DAYS or more.

Unless the COMPANY specifically instructs the CONTRACTOR to the contrary, the CONTRACTOR shall complete all WORKS in progress which have commenced prior to the notice of termination until the CONTRACTOR has been released from operations under the AGREEMENT or any CALL-OFF ORDER, as applicable, by the COMPANY.

19.3 COMPANY'S RIGHT TO IMMEDIATE TERMINATION FOR BREACH

Without prejudice to Articles 19.1 and 19.2, and the COMPANY's other rights or remedies under the AGREEMENT, the COMPANY shall be entitled to terminate the AGREEMENT or, where applicable, any CALL-OFF ORDER, with immediate effect by written notice to the CONTRACTOR for any one or several of the following reasons:

- (a) the CONTRACTOR suspends or abandons the performance of the WORKS, or any part thereof (other than in accordance with Article 18 or Article 22);
- (b) the CONTRACTOR has assigned, transferred, charged or otherwise encumbered any of its rights, obligations, interests or benefits arising under the AGREEMENT or any CALL-OFF ORDER (as applicable), including without limitation in connection with any change in CONTROL in relation to the CONTRACTOR or any PERSON that acquires CONTROL of the CONTRACTOR, or purports to do any of the foregoing, other than in accordance with the AGREEMENT;
- (c) the CONTRACTOR has made clear through its conduct that it does not intend to perform the AGREEMENT or any CALL-OFF ORDER (as applicable); and/or
- (d) the circumstances contemplated by Article 7.5.

19.4 CONTRACTOR'S RIGHT TO TERMINATE FOR PROLONGED SUSPENSION

If the WORKS are suspended in accordance with Article 18.1, and if the COMPANY's instructions to resume the performance of the WORKS are not provided within a period of sixty (60) DAYS from the

date of suspension, the CONTRACTOR shall be entitled to terminate the AGREEMENT or the CALL-OFF ORDER, as applicable, upon sixty (60) DAYS' written notice to the COMPANY.

19.5 REMEDY OF THE CONTRACTOR'S BREACH

In the event the CONTRACTOR commits a breach of any of its obligations or warranties under the AGREEMENT or any CALL-OFF ORDER, as applicable, which has or is likely to affect its performance of the WORKS, which in the COMPANY's opinion is capable of remedy, the COMPANY shall give notice to the CONTRACTOR providing the details of such breach and the COMPANY's intent to terminate the AGREEMENT or CALL-OFF ORDER, as applicable, or the WORKS or any part thereof upon failure of the CONTRACTOR to remedy such breach within the time period stated in the notice. The CONTRACTOR shall, upon receipt of such notice, provide the COMPANY with its plan and schedule to remedy the breach in accordance with the written notice and the AGREEMENT and thereafter continuously proceed with action and shall take all commercially reasonable measures to remedy the breach. Notwithstanding the foregoing, if the CONTRACTOR fails to remedy the breach in accordance with the AGREEMENT within thirty (30) DAYS of receipt of a written notice from the COMPANY and/or fails or refuses to continue to take action satisfactory to the COMPANY in order to ensure that the matter complained of is remedied to the satisfaction of the COMPANY as soon as practicable, the COMPANY may issue a notice of termination and terminate immediately in accordance with the provisions of Article 19.1(a).

19.6 UAE FEDERAL LAWS

This AGREEMENT, and where applicable, any CALL-OFF ORDER, may not be terminated or otherwise ended by either PARTY on any ground, or for any reason, except as set forth in this Article 19. The PARTIES hereby expressly exclude, to the fullest extent permitted by LAW, the application of Articles 267 through 275 as well as, where applicable, Articles 886, 877, and 892 through 896 of the CIVIL CODE. For the avoidance of doubt, except as set forth in this AGREEMENT, the PARTIES hereby expressly exclude any requirements of notice, proportionality or the need to have recourse to a court or tribunal that may be provided for in the CIVIL CODE.

20. EFFECTS, RIGHTS AND OBLIGATIONS ON EXPIRY OR TERMINATION

20.1 CONTRACTOR'S OBLIGATIONS

With effect from the expiry or earlier termination of the AGREEMENT or, where applicable, the CALL-OFF ORDER, the CONTRACTOR shall:

- (a) take such actions as are necessary to safeguard and protect all WORKS;
- (b) cease to undertake any further work in respect of the WORKS under the AGREEMENT or where applicable, any CALL-OFF ORDER;
- (c) remove all CONTRACTOR EQUIPMENT from the immediate area in which the WORKS are being performed unless otherwise instructed by the COMPANY and ensure that CONTRACTOR EQUIPMENT and CONTRACTOR PERSONNEL and/or SUBCONTRACTORS are demobilised from the site and remove at its own cost and expense any surplus of materials, temporary facilities and/or material storage, wreck, debris or waste resulting from the WORKS as the COMPANY may direct;
- (d) cause to be delivered to the COMPANY:

- (i) all documents and materials, including without limitation any COMPANY DATA, provided to the CONTRACTOR by the COMPANY which relate to the WORKS provided under the AGREEMENT or the relevant CALL-OFF ORDER, as applicable;
 - (ii) all information and data relating to the performance of the WORKS performed up to the date of termination on an appropriate medium together with copies of all daily operational reports of the WORKS performed; and
 - (iii) the WORKS DOCUMENTATION (whether complete or incomplete) in relation to the WORKS provided under the AGREEMENT or the relevant CALL-OFF ORDER, as applicable, and any COMPANY EQUIPMENT under the CONTRACTOR's guardianship or control;
- (e) destroy or have destroyed any copies and reproductions of any documents, materials and WORKS DOCUMENTATION referred to in Article 20.1(d);
 - (f) perform (or procure the performance of) all further acts and obligations, and execute and deliver (or procure the execution and delivery of) such further documents as may be required by LAW or as the COMPANY may reasonably require, whether on or after the date of expiry or termination of the AGREEMENT or the CALL-OFF ORDER, as applicable, to implement and/or give effect to this Article 20 and the transactions contemplated by it;
 - (g) return or otherwise make available possession, care, custody and control of all COMPANY EQUIPMENT received by the CONTRACTOR from the COMPANY which are still in the CONTRACTOR's possession or control, in the same condition as when the CONTRACTOR received them (fair wear and tear excepted); and
 - (h) make every reasonable effort to minimise and mitigate costs incurred as a result of the expiration or termination of the AGREEMENT or the CALL-OFF ORDER, as applicable.

20.2 PAYMENT IN THE EVENT OF TERMINATION

- (a) If the AGREEMENT or any CALL-OFF ORDER is terminated by the COMPANY pursuant to Articles 19.1(a), 19.1(b), 19.2(b) or 19.3 the COMPANY:
 - (i) shall pay the CONTRACTOR for the portion of the WORKS under the AGREEMENT or the applicable CALL-OFF ORDER, as applicable, performed and completed prior to the date of termination, provided that the COMPANY shall not be liable to make any payments to the CONTRACTOR after termination until all costs, losses and damages of the kind referred to in Article 20.2(a)(ii) have been ascertained; and
 - (ii) may deduct, withhold, set-off or recover from or against any unpaid portion of any monies due or which become due to the CONTRACTOR or invoice the CONTRACTOR for any costs, losses and/or damages incurred by the COMPANY arising out of or in any way in connection with the termination and/or the reasons thereof, including any additional costs, any additional mobilising and demobilising costs, incurred in completing any outstanding WORKS by the COMPANY or a THIRD PARTY and/or correcting any defects in the WORKS under the AGREEMENT or the relevant CALL-OFF ORDER, as applicable.
- (b) If the AGREEMENT or any CALL-OFF ORDER is terminated by the COMPANY pursuant to Article 19.2(a) or by the CONTRACTOR pursuant to Articles 19.1(a), 19.1(b) or 19.4, subject to Article 20.2(c), the COMPANY shall pay the CONTRACTOR:

- (i) for the portion of the WORKS performed and completed prior to the date of termination, in conformity with the AGREEMENT or the relevant CALL-OFF ORDER, as applicable, provided that documentary substantiation of such costs are provided by the CONTRACTOR to the COMPANY; and
- (ii) the CONTRACTOR's proven costs incurred in relation to any of the following, provided that such costs were not already recovered by the CONTRACTOR prior to termination:
 - (A) demobilisation of the CONTRACTOR EQUIPMENT and CONTRACTOR PERSONNEL;
 - (B) works and services already commenced by the CONTRACTOR or SUBCONTRACTORS, for which cancellation cannot be made or can be made upon payment of cancellation fees, against documentary substantiation of such amounts; and
 - (C) cancellation fees for cancellation of subcontracts with SUBCONTRACTORS (excluding AFFILIATES of the CONTRACTOR),

however, the CONTRACTOR shall not be entitled to reimbursement of any loss or alleged loss of overheads, profit, business or opportunity or to further financial recovery as a result of the termination. Nothing in this Article 20.2(b) shall deprive the COMPANY of its right to recover any losses or damages incurred by the COMPANY arising out of or in connection with the correction of any defects in the WORKS.

- (c) Notwithstanding Article 20.2(b), the CONTRACTOR shall not be entitled to any payment under Article 20.2(b) unless the CONTRACTOR has provided all necessary supporting documents to enable the COMPANY to verify the request for such payment.
- (d) If the AGREEMENT or any CALL-OFF ORDER is terminated by the CONTRACTOR or the COMPANY pursuant to Article 19.1(c) or the COMPANY pursuant to Article 19.2(c), the COMPANY shall pay the CONTRACTOR for the portion of WORKS performed and completed prior to the date of termination under the AGREEMENT or the relevant CALL-OFF ORDER (as applicable).
- (e) The CONTRACTOR's entitlement to payment pursuant to Articles 20.2(a)(i), 20.2(b) or 20.2(d), as applicable, shall be the CONTRACTOR's sole and exclusive remedy under the AGREEMENT or LAW arising out of, or in connection with, the termination and the reasons for the termination of the AGREEMENT or CALL-OFF ORDER (as applicable).
- (f) The CONTRACTOR shall not be entitled to reimbursement of any loss or alleged loss of overheads, profit, business or opportunity or any other CONSEQUENTIAL LOSS or to further financial recovery as a result of termination of the AGREEMENT or any CALL-OFF ORDER, as applicable.

20.3 RETENTION OF DOCUMENTS

Notwithstanding Article 20.1, the CONTRACTOR shall be entitled to retain copies and reproductions of the documents, materials and work products referred to in Article 20.1(d) following any expiry or termination of the AGREEMENT to the extent:

- (a) required by the CONTRACTOR to comply with the LAW; or

- (b) contained in electronic files created pursuant to automatic archiving and back-up procedures in the ordinary course of business,

subject always to the provisions of Article 21.

21. CONFIDENTIALITY

21.1 For the purpose of this Article 21, “**CONFIDENTIAL INFORMATION**” shall mean:

- (a) all fiscal, commercial, financial, technical, operational or other information in whatever form (including, without limitation, information disclosed orally or electronically) pertaining to a PARTY, an AFFILIATE of a PARTY, or a CO-VENTURER, or the business (including any products or services, methods, processes, opportunities or activities howsoever arising) of any of them;
- (b) any information provided by any member of the COMPANY INDEMNIFIED PARTIES prior to the EFFECTIVE DATE for the purposes of evaluating the transactions contemplated by the AGREEMENT and/or in connection with the negotiations leading up to the execution of the AGREEMENT;
- (c) the AGREEMENT, and any drafts thereof or information contained therein; and
- (d) any discussions and negotiations between the PARTIES and documents pertaining to the AGREEMENT or the performance thereof, any related agreements between the PARTIES concerning the SCOPE OF WORK, including any pending or future AMENDMENTS or VARIATIONS thereto.

21.2 Subject to Articles 21.4, 21.5 and 21.6, each PARTY shall:

- (a) hold CONFIDENTIAL INFORMATION in strict confidence and shall not disclose or otherwise make it available to any PERSON without the written consent of the other PARTY;
- (b) save as expressly provided by Article 15, use CONFIDENTIAL INFORMATION solely for the purpose of performing its obligations under the AGREEMENT and/or pertaining howsoever to any related agreements between the PARTIES concerning the SCOPE OF WORK, including any pending or future AMENDMENTS or VARIATIONS thereto; and
- (c) keep CONFIDENTIAL INFORMATION securely and properly protected against theft, damage, loss and unauthorised access (including unauthorised access by electronic means) and shall use at least the same degree of care that it uses for its own confidential information of like kind, but no less than reasonable efforts to ensure that CONFIDENTIAL INFORMATION is kept confidential.

21.3 Each PARTY shall notify the other PARTY immediately upon becoming aware that the CONFIDENTIAL INFORMATION provided by that PARTY has been disclosed to, or obtained by, a THIRD PARTY (otherwise than as permitted by these GENERAL TERMS AND CONDITIONS) and shall take such steps as may reasonably be necessary to mitigate any adverse effects of such disclosure by that PARTY.

21.4 The obligations set out in Article 21.2, shall not apply to any information which:

- (a) at the time of supply by (or on behalf of) the relevant PARTY is in, or subsequently comes into, the public domain, except through breach of any of the undertakings set out in the AGREEMENT;

- (b) the PARTY can prove that it was known by, or already in the PARTY's lawful possession, prior to its disclosure by (or on behalf of) the other PARTY;
- (c) subsequently comes lawfully into the possession of the PARTY or any of its respective AFFILIATES from a THIRD PARTY who does not owe the relevant PARTY an obligation of confidence in relation to it;
- (d) was independently developed by the PARTY or any of its AFFILIATES without any reliance on any part of the CONFIDENTIAL INFORMATION; or
- (e) the PARTIES agree in writing is not confidential.

21.5 Notwithstanding Article 21.2, each PARTY may disclose CONFIDENTIAL INFORMATION:

- (a) to its directors, officers, employees to the extent such PERSON needs access to the CONFIDENTIAL INFORMATION for the purposes of or in connection with the AGREEMENT or the WORKS;
- (b) to an AFFILIATE, CO-VENTURER or SUBCONTRACTOR, to the extent such AFFILIATE, CO-VENTURER or SUBCONTRACTOR needs access to the CONFIDENTIAL INFORMATION for the purposes of or in connection with the AGREEMENT or the WORKS, and provided that the AFFILIATE, CO-VENTURER or SUBCONTRACTOR agrees in writing to abide by the same confidentiality obligations of such PARTY with respect to the CONFIDENTIAL INFORMATION;
- (c) to any technical consultant or professional adviser engaged by or on behalf of such PARTY or its AFFILIATES, to the extent access to the CONFIDENTIAL INFORMATION is required for the purposes of or in connection with the AGREEMENT, and provided that such technical consultant or professional adviser agrees in writing (unless such professional adviser is under a legal obligation of confidentiality):
 - (i) to abide by the obligations of such PARTY with respect to CONFIDENTIAL INFORMATION, including any applicable THIRD PARTY obligations;
 - (ii) to hold the CONFIDENTIAL INFORMATION in confidence and use it only for the express purpose for which the CONFIDENTIAL INFORMATION was provided;
 - (iii) to treat the CONFIDENTIAL INFORMATION in the same manner as if it were a party to the AGREEMENT; and
 - (iv) not to consent to the disclosure of the CONFIDENTIAL INFORMATION except with the prior written consent of the other PARTY;
- (d) to the extent necessary to enforce or defend its rights in legal proceedings, provided that the disclosing PARTY uses its reasonable commercial efforts to:
 - (i) disclose only that portion of the CONFIDENTIAL INFORMATION as is reasonably necessary for the disclosing PARTY's enforcement or defence of its rights in legal proceedings;
 - (ii) disclose only to those PERSONS reasonably necessary for the disclosing PARTY's enforcement of the AGREEMENT or defence of its rights in legal proceedings; and

- (iii) cooperate with the other PARTY to obtain a protective order or similar device to maintain the confidential status of the CONFIDENTIAL INFORMATION; and
 - (e) to the extent required by LAW (including, without limitation, any rule or regulation of any organised securities exchange, market or automated quotation system on which any of the disclosing PARTY's or its AFFILIATES' securities are listed or quoted), valid legal process or GOVERNMENTAL AUTHORITY, provided that the disclosing PARTY uses its reasonable commercial efforts to:
 - (i) provide the other PARTY with prompt notice of such requirement in order to enable the non-disclosing PARTY to:
 - (A) seek an appropriate protective order or other remedy; or
 - (B) consult with the disclosing PARTY with respect to taking steps to resist or narrow the scope of such request or requirement; and
 - (ii) disclose only that part of the CONFIDENTIAL INFORMATION as is required if such protective order or other remedy is not obtained.
- 21.6 Notwithstanding Article 21.2 the COMPANY may disclose CONFIDENTIAL INFORMATION to any PERSON who is a potential investor, provided that such PERSON agrees in writing (unless such PERSON is under a legal obligation of confidentiality):
- (a) to abide by the obligations of the COMPANY with respect to CONFIDENTIAL INFORMATION;
 - (b) to hold the CONFIDENTIAL INFORMATION in confidence and use it only for the express purpose for which the CONFIDENTIAL INFORMATION was provided;
 - (c) to treat the CONFIDENTIAL INFORMATION in the same manner as if it were a party to the AGREEMENT; and
 - (d) not to consent to the disclosure of the CONFIDENTIAL INFORMATION except with the prior written consent of the other PARTY.
- 21.7 Notwithstanding anything to the contrary in the AGREEMENT, the COMPANY may disclose the WORKS DOCUMENTATION for any purpose.
- 21.8 The CONTRACTOR acknowledges and agrees that any CONFIDENTIAL INFORMATION disclosed by the COMPANY INDEMNIFIED PARTIES will be disclosed on an "as is" basis, and the COMPANY INDEMNIFIED PARTIES makes no representation or warranty as to the accuracy of the CONFIDENTIAL INFORMATION or as to its satisfactory quality, fitness or suitability for the CONTRACTOR INDEMNIFIED PARTIES' purpose.
- 22. FORCE MAJEURE EVENT**
- 22.1 Neither PARTY shall be considered in default of the performance of its obligations under the AGREEMENT to the extent that performance of such obligations is prevented or delayed by a FORCE MAJEURE EVENT, provided that:
- (a) there is a causal relation between the prevention or delay claimed and the FORCE MAJEURE EVENT invoked;

- (b) the affected PARTY (defined as the PARTY claiming FORCE MAJEURE EVENT) notifies the other PARTY within seven (7) DAYS after becoming aware of the FORCE MAJEURE EVENT in writing, including the following information:
 - (i) the first date on which the affected PARTY is claiming prevention or delay of its obligations under the AGREEMENT by a FORCE MAJEURE EVENT;
 - (ii) the full particulars of the FORCE MAJEURE EVENT which the affected PARTY considers has caused or will cause delay or non-performance;
 - (iii) which obligations have been or will be impacted by the FORCE MAJEURE EVENT;
 - (iv) the causal link between the FORCE MAJEURE EVENT and the impact on the obligations under the AGREEMENT;
 - (v) the likely duration of the delay or non-performance;
 - (vi) the proposed steps to mitigate the effects of the FORCE MAJEURE EVENT; and
 - (vii) a best estimate of the time which will be required to remove, overcome or circumvent the FORCE MAJEURE EVENT;
 - (c) the affected PARTY has complied with Article 22.2; and
 - (d) the affected PARTY shall bear the burden of proving that a FORCE MAJEURE EVENT has occurred and that it is so affected.
- 22.2 A PARTY affected by a FORCE MAJEURE EVENT shall take all reasonable measures available (at its own cost) to overcome and mitigate the effects of such FORCE MAJEURE EVENT, including cooperating with the other PARTY to develop and implement a plan of remedial action and reasonable alternative measures to remedy the effects of such FORCE MAJEURE EVENT.
- 22.3 During any period of the FORCE MAJEURE EVENT, the CONTRACTOR shall use its best efforts to safeguard and protect the WORKS and utilise the CONTRACTOR PERSONNEL in such a manner as to minimise the costs associated with the FORCE MAJEURE EVENT.
- 22.4 Save as otherwise expressly provided in the AGREEMENT, the COMPANY shall make no payment of any FEES, prices, rates or payment of any other costs or compensation of whatever nature in respect of this AGREEMENT at all times during the period of the FORCE MAJEURE EVENT.
- 22.5 The affected PARTY shall not be entitled to rely on Article 22.1 in respect of the PARTY's performance under the AGREEMENT for any greater scope or longer duration than is required due to the relevant FORCE MAJEURE EVENT.
- 22.6 As soon as the relevant FORCE MAJEURE EVENT has ceased altogether or has lessened in its effect so as to allow the affected PARTY to resume all or any part of the obligations that has been prevented or delayed by the FORCE MAJEURE EVENT:
- (a) the affected PARTY shall notify the other PARTY of the same;
 - (b) the affected PARTY shall resume the performance of all or as much of such obligations; and

- (c) the CONTRACTOR, in cooperation with the COMPANY, shall prepare a revised program to include for rescheduling the WORKS so as to minimise the effects of the FORCE MAJEURE EVENT.
- 22.7 The COMPANY shall, at its sole discretion, have the right to extend the COMMENCEMENT DATE, the COMPLETION DATE and/or TERM, as applicable, for additional periods for which the performance of obligations under the AGREEMENT were prevented or delayed due to a FORCE MAJEURE EVENT, without any change to the FEES, prices, rates and the GENERAL TERMS AND CONDITIONS applicable to this AGREEMENT.
- 22.8 If any FORCE MAJEURE EVENT prevents or delays the performance of obligations under the AGREEMENT for a continuous period in excess of thirty (30) consecutive DAYS, the COMPANY shall either:
 - (a) suspend all or any part of the performance of the WORKS in accordance with Article 18.3; and/or
 - (b) without prejudice to Article 22.8(a), terminate the AGREEMENT in accordance with Article 19.2(c).
- 22.9 At any time during a suspension in accordance with Article 22.8(a), the COMPANY shall have the right to terminate the AGREEMENT in accordance with Article 19.2(c).

23. INSURANCE

- 23.1 In the event any CONTRACTOR PERSONNEL are performing WORKS in the UAE, without limitation to its obligations and responsibilities, the CONTRACTOR shall obtain and maintain Workmen's Compensation Insurance (Employer's Liability) with a limit of liability of not less than USD 1,000,000 per occurrence.
- 23.2 In the event any CONTRACTOR PERSONNEL are performing WORKS outside the UAE, without limitation to its obligations and responsibilities, the CONTRACTOR shall obtain and maintain Workmen's Compensation Insurance (Employer's Liability) or insurance coverage of a comparable nature in accordance with the applicable LAW and/or the contracts of employment of the CONTRACTOR PERSONNEL.
- 23.3 In the event the CONTRACTOR uses motor vehicles in the performance of the WORKS in the UAE, the CONTRACTOR shall obtain and maintain Motor Vehicle Third Party and Passenger Liability Insurance which shall be:
 - (a) as per the applicable LAWS of the UAE for death or injury to any THIRD PARTY; and
 - (b) for damage to PROPERTY of a THIRD PARTY with a limit of not less than USD 1,000,000 per occurrence.
- 23.4 Without limitation to its obligations and responsibilities, the CONTRACTOR shall obtain and maintain All Risk Insurance on CONTRACTOR EQUIPMENT covering the full value thereof.
- 23.5 The CONTRACTOR shall obtain and maintain Third Party Liability Insurance with a limit of not less than USD 10,000,000 per occurrence.
- 23.6 The CONTRACTOR shall ensure that all insurance policies provided by the CONTRACTOR shall:

- (a) be obtained on an additional insured basis in the names of the PARTIES, with the exception of the insurances required under Articles 23.1 and 23.2; and
- (b) contain a waiver of subrogation against its contractual principals which shall include the COMPANY INDEMNIFIED PARTIES,

to the extent of the liabilities assumed by the CONTRACTOR under the AGREEMENT.

- 23.7 Upon the COMPANY's request, CONTRACTOR shall provide the COMPANY with certificates of insurance or other documentary evidence, satisfactory to the COMPANY, of the insurance cover and conditions required under this Article 23 and the AGREEMENT. The COMPANY's acceptance of such evidence does not constitute a waiver, release or modification of the required insurance.
- 23.8 If at any time the COMPANY considers that any insurance certificate provided by the CONTRACTOR is not sufficient to evidence that such insurance policies have been obtained and maintained, the COMPANY may request, and the CONTRACTOR shall promptly provide, any further information the COMPANY requires to verify that such insurance policies have been obtained and maintained and/or an undertaking from the CONTRACTOR confirming that such insurance policies have been obtained and maintained. The COMPANY may take any steps necessary to ensure that the insurance policies shall remain in force throughout the TERM.
- 23.9 All deductibles or self-insured retentions that are applicable under insurance policies to be procured by the CONTRACTOR or which the CONTRACTOR is to require any SUBCONTRACTORS to procure under the AGREEMENT shall be for the account of and paid for by the CONTRACTOR and/or SUBCONTRACTORS, including any deductibles or self-insured retentions applicable to coverage of claims made against the COMPANY INDEMNIFIED PARTIES for which the CONTRACTOR is responsible.
- 23.10 If any insurance policy is cancelled, or if there is a material change which may affect the COMPANY's interest, or if the CONTRACTOR fails to effect or maintain any policy which it is required by the AGREEMENT to effect and maintain, the COMPANY may at its sole discretion effect and maintain any such insurance or additional insurance as the COMPANY shall consider necessary and recover the cost from the CONTRACTOR.
- 23.11 The CONTRACTOR shall require its SUBCONTRACTORS to obtain and maintain the same level of insurance as the CONTRACTOR is obliged to take out under the AGREEMENT for performing any part of the WORKS.
- 23.12 The CONTRACTOR's compliance with the insurance requirements set out in this Article 23 shall not be construed as limiting the CONTRACTOR's liability to the COMPANY and others as set out in Article 24. The CONTRACTOR shall save, indemnify, defend, release and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the COMPANY INDEMNIFIED PARTIES in respect of any shortfall in insurance cover it is obliged to obtain under the AGREEMENT or any failure to effect or maintain such insurances specified by the AGREEMENT or out of any act or omission, which invalidates the said insurances or in the event that liability for any loss or damage be denied by any underwriter, in all or in part, because of breach of said insurance requirements by the CONTRACTOR, to the extent of the liabilities assumed by the CONTRACTOR under the AGREEMENT.
- 23.13 If either PARTY becomes aware of any incident related to the WORKS and which is likely to give rise to a claim under the above insurances, they shall notify the other and both PARTIES shall co-operate fully in investigating the incident.

- 23.14 Any insurance arranged in accordance with this Article 23 shall be obtained in accordance with Article 26 of Federal Law No. (6) of 2007, as far as possible. However, the COMPANY may at its discretion accept insurance policies from other competent insurance companies provided that such insurance policies meet all other requirements mentioned in this Article 23.

24. LIABILITY AND INDEMNITY

24.1 LIABILITY FOR PERSONNEL

- (a) The CONTRACTOR shall indemnify and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the COMPANY INDEMNIFIED PARTIES in respect of death, illness of or injury to the CONTRACTOR PERSONNEL that arises out of or in connection with the performance or non-performance of the AGREEMENT by the COMPANY INDEMNIFIED PARTIES and/or the CONTRACTOR INDEMNIFIED PARTIES, except to the extent arising out of or in connection with the GROSS NEGLIGENCE / WILFUL MISCONDUCT of the COMPANY INDEMNIFIED PARTIES.
- (b) The COMPANY shall indemnify and hold harmless the CONTRACTOR INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the CONTRACTOR INDEMNIFIED PARTIES in respect of death, illness of or injury to the COMPANY PERSONNEL that arises out of or in connection with the performance or non-performance of the AGREEMENT by the COMPANY INDEMNIFIED PARTIES and/or the CONTRACTOR INDEMNIFIED PARTIES, except to the extent arising out of or in connection with the GROSS NEGLIGENCE / WILFUL MISCONDUCT of the CONTRACTOR INDEMNIFIED PARTIES.

24.2 LIABILITY FOR PROPERTY

- (a) The CONTRACTOR shall indemnify and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the COMPANY INDEMNIFIED PARTIES in respect of:
 - (i) loss of or damage to the PROPERTY of the CONTRACTOR INDEMNIFIED PARTIES that arises out of or in connection with the performance or non-performance of the AGREEMENT by the COMPANY INDEMNIFIED PARTIES and/or the CONTRACTOR INDEMNIFIED PARTIES; and
 - (ii) loss of or damage to the PROPERTY of the COMPANY INDEMNIFIED PARTIES that arises out of or in connection with the performance or non-performance of the AGREEMENT by the CONTRACTOR INDEMNIFIED PARTIES up to a maximum of USD 1,000,000 per occurrence,

in the case of each event, except to the extent arising out of or in connection with the GROSS NEGLIGENCE / WILFUL MISCONDUCT of the COMPANY INDEMNIFIED PARTIES.

- (b) The COMPANY shall indemnify and hold harmless the CONTRACTOR INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the CONTRACTOR INDEMNIFIED PARTIES in respect of any loss of or damage to the PROPERTY of the COMPANY INDEMNIFIED PARTIES, which (i) is not covered by Article 24.2(a)(ii), and (ii)

arises out of or in connection with the performance or non-performance of the AGREEMENT by the COMPANY INDEMNIFIED PARTIES and/or the CONTRACTOR INDEMNIFIED PARTIES, except to the extent arising out of or in connection with the GROSS NEGLIGENCE / WILFUL MISCONDUCT of the CONTRACTOR INDEMNIFIED PARTIES.

24.3 LIABILITY FOR THIRD PARTIES

(a) The CONTRACTOR shall indemnify and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the COMPANY INDEMNIFIED PARTIES in respect of any of the following:

- (i) death, illness of or injury to any THIRD PARTY; or
- (ii) loss of or damage to the PROPERTY of any THIRD PARTY, including damage to harbour works, basins and waterways and aids to navigation,

which, in the case of each event, arises out of or in connection with the performance or non-performance of the AGREEMENT by the CONTRACTOR INDEMNIFIED PARTIES.

(b) The COMPANY shall indemnify and hold harmless the CONTRACTOR INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the CONTRACTOR INDEMNIFIED PARTIES in respect of any of the following:

- (i) death, illness of or injury to any THIRD PARTY; or
- (ii) loss of or damage to the PROPERTY of any THIRD PARTY,

which, in the case of each event, arises out of or in connection with the performance or non-performance of the AGREEMENT by the COMPANY INDEMNIFIED PARTIES.

24.4 LIABILITY FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

The CONTRACTOR shall indemnify and hold harmless the COMPANY INDEMNIFIED PARTIES from and against all losses, liabilities, damages and costs (including legal costs) arising out of or in connection with any claim by any PERSON against the COMPANY INDEMNIFIED PARTIES in respect of any infringement by the WORKS or the WORKS DOCUMENTATION (or any part thereof) of the INTELLECTUAL PROPERTY RIGHTS of a THIRD PARTY or of the CONTRACTOR INDEMNIFIED PARTIES, except to the extent such infringement is based solely on:

- (a) any information or materials provided by the COMPANY to the CONTRACTOR; or
- (b) the COMPANY's use of the WORKS and WORKS DOCUMENTATION for purposes not contemplated by the AGREEMENT; or
- (c) any material changes made to the WORKS or WORKS DOCUMENTATION that are not done by or on behalf of the CONTRACTOR or to which the CONTRACTOR has not otherwise provided its consent.

24.5 PROCEDURE FOR DEFENCE OF INDEMNIFIED CLAIMS

(a) If either PARTY becomes aware of any claim in respect of any of the events described in Articles 17.10, 23.12, 24.1 to 24.4 ("**INDEMNIFIED CLAIM**"), such PARTY shall promptly

provide notice thereof in writing to the other PARTY. Such notice shall include as much detail as is reasonably practicable regarding the INDEMNIFIED CLAIM. Notwithstanding the foregoing, lack of prompt notice shall not be a defence to indemnification.

- (b) Upon receiving written notice of any INDEMNIFIED CLAIM, the INDEMNIFYING PARTY may request permission from the INDEMNIFIED PARTY to assume control of the defence of the INDEMNIFIED CLAIM. The INDEMNIFIED PARTY shall promptly decide, at its sole discretion, whether to grant the permission sought by the INDEMNIFYING PARTY, provided that the INDEMNIFIED PARTY's silence, or any delay in response, shall not be deemed as an acceptance to grant the permission sought by the INDEMNIFYING PARTY.
- (c) Subject to Article 24.5(e), in the event the INDEMNIFIED PARTY grants permission under Article 24.5(b), the INDEMNIFYING PARTY shall have control of the conduct of the defence of the INDEMNIFIED PARTY, including but not limited to the selection and management of counsel. An INDEMNIFYING PARTY who assumes control of the defence shall be responsible for paying the INDEMNIFIED PARTY's reasonable defence costs, including attorneys' fees, on a current basis and throughout the pendency of any such INDEMNIFIED CLAIMS. In this case, the INDEMNIFIED PARTY shall have the right, at its sole discretion, to be represented by advisory counsel of its own selection and at its own cost and to monitor the progress and handling of an INDEMNIFIED CLAIM.
- (d) If the INDEMNIFYING PARTY does not assume control of the defence, the INDEMNIFIED PARTY shall assume the defence of and defend such INDEMNIFIED CLAIMS to the best of its ability. The INDEMNIFIED PARTY shall provide the INDEMNIFYING PARTY with regular notices in writing, which include as much detail as is reasonably practicable regarding the status of the INDEMNIFIED CLAIMS. Notwithstanding the foregoing, lack of regular notices shall not be a defence to indemnification. The INDEMNIFYING PARTY may provide the INDEMNIFIED PARTY with advice regarding the defence strategy for the INDEMNIFIED CLAIMS. The INDEMNIFIED PARTY shall carefully consider, but not be legally obliged to implement, the INDEMNIFYING PARTY's advice (if any).
- (e) Notwithstanding the other provisions of Article 24.5, if any PERSON brings any claim against the CONTRACTOR INDEMNIFIED PARTIES which arises (i) in ABU DHABI; (ii) out of or in connection with the AGREEMENT; or (iii) in respect of the PROPERTY of the COMPANY INDEMNIFIED PARTIES, the COMPANY, at its sole discretion, may assume control of the conduct of the defence of the claim, including but not limited to the selection and management of counsel. The CONTRACTOR hereby agrees, and shall ensure that the CONTRACTOR INDEMNIFIED PARTIES agree, to the COMPANY assuming control of the defence of such claim. Upon assuming control of the defence in relation to any such claim, the COMPANY shall be subrogated to the rights and liabilities of the CONTRACTOR INDEMNIFIED PARTIES in relation to the claim, including with respect to the damages payable or owing as a result of any such claim. For the avoidance of doubt, such subrogation shall include the COMPANY's assumption of responsibility for paying the CONTRACTOR INDEMNIFIED PARTIES' defence costs, including attorney's fees, on a current basis and throughout the pendency of the claim. For the avoidance of doubt, the COMPANY shall only be subrogated to the rights and obligations of the CONTRACTOR INDEMNIFIED PARTIES in relation to the claim where the COMPANY assumes control of the defence of claims in accordance with this Article 24.5(e).
- (f) Wherever the COMPANY assumes control of the defence pursuant to Article 24.5(e), it undertakes not to disclose the details of any related litigation or arbitration proceedings or negotiated or agreed settlements without the prior written consent of the CONTRACTOR INDEMNIFIED PARTIES.

- (g) Save for where the COMPANY assumes control of the defence pursuant to Article 24.5(e) (in which case the COMPANY shall be subrogated to the rights of the CONTRACTOR INDEMNIFIED PARTIES, including the right to settlement), no PARTY shall settle, compromise, offer to settle or compromise, assume any contractual obligation relating to, or admit liability for INDEMNIFIED CLAIMS without the consent of the other PARTY, which consent shall not unreasonably be withheld or delayed.

24.6 PAYMENT OF INDEMNITY

- (a) Any indemnity provided under Article 17.10, Article 23.12, or this Article 24 shall be due by the INDEMNIFYING PARTY to the INDEMNIFIED PARTY within ninety (90) DAYS following either:
 - (i) the notification by the INDEMNIFIED PARTY to the INDEMNIFYING PARTY of the final adjudication by a court or an arbitral tribunal of competent jurisdiction of the claims referred to in Article 17.10 Article 23.12, or Articles 24.1 to 24.4; or
 - (ii) the conclusion of a settlement of claims by the INDEMNIFIED PARTY and the claimant(s), provided that the INDEMNIFYING PARTY approves the terms of such settlement, which approval shall not unreasonably be withheld or delayed.
- (b) All losses, liabilities, damages and costs which are recoverable under Article 17.10, Article 23.12 or this Article 24, other than amounts ordered by a tribunal or agreed in a settlement, shall become due by the INDEMNIFYING PARTY to the INDEMNIFIED PARTY within ninety (90) DAYS following the notification by the INDEMNIFIED PARTY to the INDEMNIFYING PARTY of the final adjudication by a court or an arbitral tribunal of competent jurisdiction of the related claims, or, upon the conclusion of a settlement of the related claims by the INDEMNIFIED PARTY and the claimant(s) in accordance with Article 24.6(a)(ii), as the case may be, provided that the INDEMNIFIED PARTY furnishes proof of the losses, liabilities, damages and/or costs incurred.

24.7 WAIVER OF RECOURSE

- (a) In consideration for the rights that the CONTRACTOR has received under the AGREEMENT, the COMPANY INDEMNIFIED PARTIES shall have no liability whatsoever to the CONTRACTOR in respect of the events set forth in Articles 17.10, 23.12, 24.1(a), 24.2(a), 24.3(a) and 24.4. For the avoidance of doubt, the CONTRACTOR hereby waives all claims against the COMPANY INDEMNIFIED PARTIES in respect of the events set forth in Articles 17.10, 23.12, 24.1(a), 24.2(a), 24.3(a) and 24.4.
- (b) In consideration for the rights that the COMPANY has received under this AGREEMENT, the CONTRACTOR INDEMNIFIED PARTIES shall have no liability whatsoever to the COMPANY in respect of any of the events listed in Articles 24.1(b), 24.2(b), and 24.3(b). For the avoidance of doubt, the COMPANY hereby waives all claims against the CONTRACTOR INDEMNIFIED PARTIES in respect of the events set forth in Articles 24.1(b), 24.2(b), and 24.3(b).
- (c) Notwithstanding Articles 24.7(a) and 24.7(b) above, no PARTY shall be deemed to have waived any claims against the other PARTY or its related indemnified parties in respect of events arising out of or in connection with the GROSS NEGLIGENCE / WILFUL MISCONDUCT of that other PARTY or its related indemnified parties. The COMPANY INDEMNIFIED PARTIES and the CONTRACTOR INDEMNIFIED PARTIES shall remain liable in respect of

events arising out of or in connection with their GROSS NEGLIGENCE / WILFUL MISCONDUCT.

24.8 LIMITATIONS OF LIABILITY

- (a) The total liability of either PARTY to the other PARTY arising under the AGREEMENT shall be limited to:
 - (i) USD 200,000 where the total FEES under the AGREEMENT do not exceed USD 200,000;
 - (ii) USD 500,000 where the total FEES under the AGREEMENT exceed USD 200,000 but do not exceed USD 500,000;
 - (iii) USD 2,000,000 where the total FEES under the AGREEMENT exceed USD 500,000 but do not exceed USD 2,000,000; and
 - (iv) one hundred percent (100%) of the total FEES under the AGREEMENT where the total FEES under the AGREEMENT exceed USD 2,000,000.
- (b) Subject to Article 24.8(c) below, nothing in the AGREEMENT shall be construed as excluding or limiting either PARTY's liability in respect of:
 - (i) its GROSS NEGLIGENCE / WILFUL MISCONDUCT or fraud;
 - (ii) a breach of Article 21; or
 - (iii) THIRD PARTIES.
- (c) The provisions of Articles 24.8(a), 24.8(b) and 24.9 shall not apply in relation to, or otherwise limit or affect, the liability of the INDEMNIFYING PARTY towards the INDEMNIFIED PARTY under Article 17.10, Article 23.12 or Articles 24.1 to 24.4.

24.9 CONSEQUENTIAL LOSS

Save for the CONTRACTOR's liability to pay DELAY LIQUIDATED DAMAGES pursuant to Article 5, the COMPANY INDEMNIFIED PARTIES shall have no liability to the CONTRACTOR INDEMNIFIED PARTIES and the CONTRACTOR INDEMNIFIED PARTIES shall have no liability to the COMPANY INDEMNIFIED PARTIES, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any of the other's indirect or consequential loss or any loss of profit or revenue, loss of production or downtime costs, loss of opportunity, loss of contract or loss of goodwill or other pure economic loss arising under or in connection with the AGREEMENT ("CONSEQUENTIAL LOSS").

24.10 INSURANCE AND INDEMNITIES SEPARATE

The PARTIES agree that the indemnity and insurance obligations contained in the AGREEMENT are separate and apart from each other, such that failure to fulfil the indemnity obligations does not alter or eliminate the insurance obligations or vice versa.

24.11 SURVIVAL

The PARTIES expressly acknowledge that the indemnity obligations set forth in the AGREEMENT survive the termination of this AGREEMENT.

25. ASSIGNMENT

- 25.1 The CONTRACTOR shall not assign, novate or otherwise transfer any of its rights, obligations or interests under and in connection with the AGREEMENT without the prior written consent of the COMPANY. Notwithstanding the foregoing, the CONTRACTOR shall not assign, novate or otherwise transfer any of its rights, obligations or interests under and/or in connection with the AGREEMENT to any PERSON in connection with any change in CONTROL in relation to the CONTRACTOR or any PERSON that acquires CONTROL of the CONTRACTOR without the prior written consent of the COMPANY.
- 25.2 The COMPANY may assign, novate or otherwise transfer any of its rights, obligations or interests under and in connection with the AGREEMENT to any AFFILIATE upon written notice to the CONTRACTOR, and the CONTRACTOR hereby consents unconditionally to such assignment, novation or transfer. The CONTRACTOR shall execute any documentation required to ensure that the assignment is properly executed in accordance with the applicable LAW.

26. TERM AND SURVIVABILITY

- 26.1 The AGREEMENT shall be deemed effective as of:
- (a) the date specified in the LETTER OF AWARD; or
 - (b) if no LETTER OF AWARD is issued, the date of execution of the AGREEMENT,
- (the “EFFECTIVE DATE”), and shall remain in full force and effect for the TERM, unless terminated earlier pursuant to the AGREEMENT.
- 26.2 The PARTIES agree that:
- (a) the AGREEMENT will retrospectively apply to any WORKS performed by the CONTRACTOR prior to the EFFECTIVE DATE (the “EARLY WORKS”) such that the EARLY WORKS will be deemed to form part of the WORKS under the AGREEMENT; and
 - (b) notwithstanding any other provision of the AGREEMENT, the CONTRACTOR shall not be entitled to any payment in respect of EARLY WORKS unless such EARLY WORKS are formally instructed by the COMPANY in writing.
- 26.3 The accrued obligations and liabilities of the PARTIES shall survive the expiry or termination of the AGREEMENT and the provisions of Articles 1, 11, 12.2, 14, 15, 17.10, 20, 21, 23.12, 26.3 and 27 shall survive any expiry or termination of the AGREEMENT. The provisions of Article 24 shall survive for five (5) years from the date of expiry or termination of the AGREEMENT.

27. GOVERNING LAW AND DISPUTE RESOLUTION

27.1 GOVERNING LAW

The AGREEMENT is governed by, and shall be construed in accordance with the laws of ABU DHABI and the Federal Laws of the UAE.

27.2 DISPUTE RESOLUTION

- (a) The PARTIES shall attempt in good faith to amicably settle any dispute, controversy or claims arising out of or in connection with the conclusion, validity, effect, interpretation, performance,

termination or dissolution of the AGREEMENT and/or any non-contractual obligations arising out of or in connection with the AGREEMENT (“**DISPUTE**”).

- (b) If the DISPUTE is not settled amicably within sixty (60) DAYS from the date the DISPUTE is first notified in writing to the other PARTY, such DISPUTE shall be referred by either PARTY for resolution by the courts of ABU DHABI, who shall have exclusive jurisdiction to hear and determine any action or proceeding and to resolve any DISPUTES which may arise out of or in relation to the AGREEMENT.

28. NOTICES

- 28.1 All notices and other communications between the PARTIES required or permitted hereunder shall be in writing in the English language. Such notices and other communications may be served by receipted hand delivery, fax transmission or by courier.
- 28.2 Any notices and other communications between the PARTIES relating to the AGREEMENT shall be sent to the address or number specified in the FORM OF AGREEMENT.
- 28.3 All communication related to the day to day conduct of the WORKS may be sent directly between the REPRESENTATIVES, provided always that such communication is not regarding an AMENDMENT.
- 28.4 All notices and other communications shall be deemed to be effected, and hence effective, at the moment of delivery to the correct address, save that a fax transmission shall be deemed to have been delivered at the time when it was dispatched if such time is prior to 4pm (GST), or the following DAY if such time is after 4pm (GST), provided that a transmission record is retained by the sender to show that the transmission was correctly completed and that all pages were transmitted.
- 28.5 Each PARTY may change the address or number specified in the FORM OF AGREEMENT by giving notice served pursuant to this Article 28. The change shall take effect for the PARTY notified of the change at 4pm (GST) on the later of:
 - (a) the date, if any, specified in the notice as the effective date for the change; and
 - (b) the date seven (7) DAYS after receipt of the notice of change.

29. CONFLICT OF INTEREST

- 29.1 The CONTRACTOR shall not, and shall ensure that its AFFILIATES do not, enter into any contracts, undertakings, bids, letters of intent, business associations, joint ventures, partnership or other arrangements (each a “**BUSINESS VENTURE**”) directly relating to any aspect of the WORKS, except for those disclosed to the COMPANY prior to the EFFECTIVE DATE, without obtaining the COMPANY’s prior written consent, which consent shall not unreasonably be withheld.
- 29.2 If the COMPANY deems (at its absolute discretion) that any BUSINESS VENTURE by the CONTRACTOR under this Article 29 is prejudicial to the COMPANY’s interest, the COMPANY shall instruct the CONTRACTOR in writing to take steps to terminate such BUSINESS VENTURE, and the CONTRACTOR shall comply with the COMPANY’s instruction.

30. PUBLICITY

- 30.1 The CONTRACTOR shall not, without the prior written consent of the COMPANY:
 - (a) take any photographs or make any video recordings of any existing COMPANY PROPERTY, the WORKS or WORKS DOCUMENTATION or any part thereof, even if anonymised, or use

in any advertisement or publicity, or otherwise communicate to THIRD PARTIES any such photographs or video recordings, even if anonymised;

- (b) advertise or publicly announce by any means whatsoever that it is providing or has provided services to the COMPANY, or otherwise identify the COMPANY in any marketing and/or publicity activities; or
- (c) advertise or publicly announce by any means whatsoever the award of this AGREEMENT, including, where applicable, details of the SCOPE OF WORK.

30.2 Notwithstanding Article 21, the COMPANY shall, at its sole discretion, have the right, but not the obligation, to advertise or publicly announce by any means whatsoever the award of this AGREEMENT, including, where applicable, details of the SCOPE OF WORK and the identity of the CONTRACTOR.

31. ENTIRE AGREEMENT

The AGREEMENT constitutes the entire agreement between the PARTIES concerning the subject matter of the AGREEMENT and supersedes and replaces any previous agreements between the PARTIES or any representation made by one PARTY to the other PARTY (whether oral or written) concerning the subject matter of the AGREEMENT. To the extent permitted by LAW, the PARTIES shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein, provided that nothing in this Article 31 shall limit a PARTY's liability for fraud.

32. REPRESENTATIONS AS TO NO PAYMENTS, GIFTS AND LOANS

32.1 Each PARTY represents and warrants to the other PARTY that neither it nor its respective AFFILIATES, directors, officers, employees, agents and representatives and consultants have made or committed to make, and shall not make or commit to make, any payment of money or give anything of value to:

- (a) any GOVERNMENT OFFICIAL, for the purpose of securing or inducing the act, decision, influence, or omission of such GOVERNMENT OFFICIAL to obtain, retain, or direct business, or secure any improper advantage, for any PERSON in connection with the AGREEMENT or any other asset or business opportunity of the PARTIES; or
- (b) any PERSON while knowing, believing or being aware of a high probability that the payment or other value would be offered, given or promised by such PERSON in whole or in part to any GOVERNMENT OFFICIAL, for the purpose of securing or inducing the act, decision, influence or omission of such GOVERNMENT OFFICIAL to obtain, retain or direct business, or secure any improper advantage, for any PERSON in connection with the AGREEMENT or any other asset or business opportunity of the PARTIES.

32.2 The CONTRACTOR represents and warrants to the COMPANY that neither it nor its respective AFFILIATES, directors, officers, employees, agents and representatives and consultants have made or committed to make, and shall not make or commit to make, any payment of money or give anything of value to:

- (a) any official, agent, director or employee of the COMPANY or any of its AFFILIATES, for the purpose of securing or inducing the act, decision, influence, or omission of such PERSON to obtain, retain, or direct business, or secure any improper advantage, for any PERSON in connection with the AGREEMENT or any other asset or business opportunity of the CONTRACTOR or its AFFILIATES; or

- (b) any PERSON while knowing, believing or being aware of a high probability that the payment or other value would be offered, given or promised by such PERSON in whole or in part to any PERSON referred to in Article 32.2(a), for the purpose of securing or inducing the act, decision, influence or omission of such PERSON referred to in Article 32.2(a) to obtain, retain, or direct business, or secure any improper advantage, for any PERSON in connection with the AGREEMENT or any other asset or business opportunity of the CONTRACTOR or its AFFILIATES.
- 32.3 The CONTRACTOR represents, warrants and undertakes to comply with any ethics, anti-bribery or anti-corruption policies, as may be updated from time to time, provided by the COMPANY to the CONTRACTOR.
- 33. MISCELLANEOUS**
- 33.1 Except as expressly stated otherwise in the AGREEMENT:
 - (a) the rights, duties, obligations and liabilities of the PARTIES under the AGREEMENT shall be several and not joint or collective; and
 - (b) no partnership shall exist between the PARTIES by virtue of the AGREEMENT, and nothing herein shall constitute a PARTY as agent, fiduciary or trustee for the other PARTY.
- 33.2 The AGREEMENT may only be amended by written agreement of the PARTIES (“**AMENDMENT**”).
- 33.3 Each PARTY hereby undertakes that it will comply, and will take all necessary measures to facilitate that the other PARTY complies, with any LAW that is applicable or relevant to the performance of this AGREEMENT.
- 33.4 No delay or omission of a PARTY in exercising any right, power or privilege under the AGREEMENT shall impair or be construed as a waiver of such right, power or privilege, nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise of such right, power or privilege or the exercise of any other right, power or privilege. A waiver given or consent granted by a PARTY under the AGREEMENT shall be effective only if given in writing and then only in the instance and for the purpose for which it is given. A waiver by a PARTY shall not constitute a continuing waiver and shall not prevent that PARTY from subsequently enforcing any of the provisions of the AGREEMENT.
- 33.5 Except where expressly provided otherwise in the AGREEMENT, the rights and remedies of a PARTY provided for in the AGREEMENT are cumulative and not exclusive of, nor do they modify or waive, any rights or remedies provided by LAW.
- 33.6 The right of a PARTY to terminate, rescind or agree to any variation or waiver or settlement under the AGREEMENT is not subject to the consent of any THIRD PARTY.
- 33.7 Any provision in the AGREEMENT which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and such illegality, voidness or unenforceability will not invalidate any other provision of the AGREEMENT. If one PARTY gives notice to the other PARTY of the possibility that any provision or part-provision of the AGREEMENT is illegal, invalid or unenforceable, the PARTIES shall within fourteen (14) DAYS negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 33.8 The AGREEMENT may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument.

ANNEXURE 3

FORMS

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 3, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 3, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 3.

ANNEXURE 3-A

FORM OF CALL-OFF ORDER

CALL-OFF ORDER FOR [●]

UNDER GENERAL ADMINISTRATION SERVICES

AGREEMENT FOR [●]

REFERENCE NUMBER [●]

CALL-OFF ORDER Date: [●]

The key provisions set out below shall apply to this CALL-OFF ORDER:

1.	AGREEMENT title	[●].
2.	Reference number	[●].
3.	COMMENCEMENT DATE	[●].
4.	Duration of WORKS	[●].
5.	COMPLETION DATE	[●].
6.	FEES	[●].
7.	KEY PERSONNEL	[●].
8.	Notice period for terminating CALL-OFF ORDER for convenience	[●].

For the avoidance of doubt, the Governing Law and Dispute Resolution provision of Article 27 of the GENERAL TERMS AND CONDITIONS shall apply to the AGREEMENT, including the CALL-OFF ORDER.

Acknowledgement of receipt and acceptance:

For and on behalf of:

[INSERT CONTRACTOR NAME]

By: _____

Name: [.....]

Title: [.....]

Date: [.....]

ANNEXURE 3-B

FORM OF PERFORMANCE BANK GUARANTEE

Form of Performance Bank Guarantee

[name of the Company]

P.O. Box No. [...]

Abu Dhabi

United Arab Emirates

SUBJECT:

PERFORMANCE BANK GUARANTEE REF.:	DATE:
AGREEMENT NO. :	TITLE:
CONTRACTOR NAME :	

Dear Sirs,

We, [name of the Bank] registered in [name of the UAE Emirate], licenced as a bank by the UAE Central Bank and having our address at [] UAE, hereby unconditionally and irrevocably undertake without any right of defence, set off, or counterclaim, to pay you, [insert COMPANY name] (the “COMPANY”) any amount upon receipt of the COMPANY’s first written demand addressed to us and substantially in the form set out in Schedule 1 hereto (a “DEMAND”), by transfer to an account in the COMPANY’s name at the bank stipulated in the DEMAND, provided that such sum or sums shall not exceed [●] [in words], [●] [in figures] (the “GUARANTEED AMOUNT”).

The DEMAND shall be conclusively binding on us for all purposes under this guarantee (“PERFORMANCE BANK GUARANTEE”). We agree that our obligation to make payment hereunder shall arise upon our receipt of the DEMAND without proof of any breach or any condition and notwithstanding any contest or dispute by CONTRACTOR and we shall not be required or permitted to make any investigation or enquiry in relation to the same. We acknowledge that the COMPANY may make one or more DEMANDS under this PERFORMANCE BANK GUARANTEE up to the GUARANTEED AMOUNT. Each DEMAND shall be delivered to us at [[●] insert address of Bank] during normal banking hours on any day when banks in ABU DHABI are usually open for business. We further agree that any payment made hereunder shall be made free and clear of and without deductions for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This PERFORMANCE BANK GUARANTEE shall come into force on the date hereof and shall continue to be valid until [[Month] [Day], [Year]].

The COMPANY shall be entitled to assign the benefit of this PERFORMANCE BANK GUARANTEE to any COMPANY affiliate, to the extent permitted under UAE Law. We acknowledge that we shall not be entitled to assign our rights, title and interest in and to this PERFORMANCE BANK GUARANTEE (i) without the prior written consent of the COMPANY or (ii) where such assignment would, in and of itself, result in us being in breach of any applicable law.

If at any time any part(s) of this PERFORMANCE BANK GUARANTEE is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and shall not invalidate any other provision of this PERFORMANCE BANK GUARANTEE.

This PERFORMANCE BANK GUARANTEE shall be governed by and construed in accordance with the laws of ABU DHABI and the UAE. Any dispute hereunder shall be settled exclusively by the courts of ABU DHABI who shall have jurisdiction to hear and determine any action or proceeding and to settle any disputes which may arise out of or in relation to this PERFORMANCE BANK GUARANTEE. The COMPANY may enforce a judgment of the ABU DHABI courts in any other jurisdiction.

We hereby declare that the undersigned has full authority to execute this PERFORMANCE BANK GUARANTEE on our behalf.

[authorised signature and stamp of the bank]

SCHEDULE 1

FORM OF DEMAND

To: [insert details of the Bank]

SUBJECT:

PERFORMANCE BANK GUARANTEE REF.:	DATE:
AGREEMENT NO. :	TITLE:
CONTRACTOR NAME :	

Dear Sirs

Performance Bank Guarantee dated [●] issued by [the Bank] in favour of [●] (the “PERFORMANCE BANK GUARANTEE”)

We hereby demand the amount of [●] under the PERFORMANCE BANK GUARANTEE.

Payment of this demand shall be made to the account of [[●] (“COMPANY”)] at [●], sort code [●], designated account number [●], in the name of “[●]”.

For and on behalf of:

[INSERT ADNOC COMPANY NAME]

By: _____

Name:

Title:

Date:

ANNEXURE 4

SCOPE OF WORK

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 4, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 4, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 4.

Inserted Separately

ANNEXURE 5

PRICING SCHEDULE

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 5, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 5, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 5.

[●]

ANNEXURE 6

LIST OF AUTHORISED SUBCONTRACTORS

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 6, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 6, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 6.

[●]

ANNEXURE 7

ICV IMPROVEMENT PLAN

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 7, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 7, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 7.

ICV PAYMENT WORDING

for

COMPANY LEVEL ICV IMPROVEMENT PLAN

(to be included as part of ICV Improvement plan Annexure)

A. Application Process:

1. In each submitted invoice, the CONTRACTOR shall claim 95% of the eligible amount and the remaining 5% shall be reserved as the ICV PAYMENT.

Note –The ICV Payment deduction shall not be applicable for Provisional Sums in the Agreement

2. To claim the ICV PAYMENT, in accordance with the applicable articles of the GENERAL TERMS AND CONDITIONS, the CONTRACTOR shall submit an invoice once annually for the annual portion of the ICV PAYMENT calculated on a pro-rata basis based on actual growth achieved in ICV% to reach ANNUAL ICV TARGET achieved, and the overall value of the invoices submitted by the CONTRACTOR and approved by COMPANY in the relevant year.
3. If any amounts relating to the ICV PAYMENT for the previous year were not paid as a result of the CONTRACTOR's failure to achieve the ANNUAL ICV TARGET but the same target was partially or fully achieved in the current year, the CONTRACTOR may invoice for such amounts on a pro-rata basis or in full, together with any amounts due for achieving the ANNUAL ICV TARGET for the current year, in accordance with the process described in point 2 above.
4. If any of the ANNUAL ICV TARGETS were not achieved at the AGREEMENT completion or if these were achieved only partially, the COMPANY will respectively either (i) not pay the ICV PAYMENT, or (ii) pay the ICV PAYMENT on a pro-rata basis based on the achieved percentage and the remaining amounts will be retained by the COMPANY.

B. Calculation Formula:

$\frac{\text{ICV\% Actual Growth for the Agreement Year}}{\text{ICV\% Planned Growth for the Agreement Year}} \times 5\% \text{ of the total gross value of paid invoices in the Agreement Year}$

Note: Each ICV invoice should be supported by the latest Company level ICV Certificate of the Contractor.

C. The ICV Payment calculation template is attached herewith.

IN COUNTRY VALUE IMPROVEMENT PLAN - COMPANY SPECIFIC ICV

(FIGURES TO BE FILLED ONLY IN THE UNSHADED CELLS)



Section A: Tender Information

Tender No.		Group Company		Agreement Description	
Agreement Type		Supplier Type			
Total Duration (Years)					
Supplier Name					

Section B: In-Country Value Committed (To be filled by the Supplier and submitted with the bid)

ICV Plan Proposed by suppliers		Actions proposed by suppliers to achieve committed ICV	
Upon completion of (Agreement Year)	Planned ICV % (expected as per ICV certificate)	Sr. No	Description
Year 1		1	
Year 2		2	
Year 3		3	
Year 4		4	
Year 5		5	
AVERAGE			

Signed by CONTRACTOR (PoA)

ANNEXURE 8

COMPANY RESPONSIBILITIES

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 8, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 8, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 8.

[●]

ANNEXURE 9

HSE REQUIREMENTS

1. AGREEMENT DOCUMENTS AND INTERPRETATION

- 1.1 In this ANNEXURE 9, unless otherwise defined, capitalised words and expressions shall have the same meanings as are respectively assigned to them in the GENERAL TERMS AND CONDITIONS.
- 1.2 This ANNEXURE 9, an AGREEMENT DOCUMENT, forms part of the AGREEMENT and shall be read with and into the AGREEMENT.
- 1.3 For the avoidance of doubt, the governing law and dispute resolution provisions of Article 27 of ANNEXURE 2 (GENERAL TERMS AND CONDITIONS) apply to this ANNEXURE 9.

The HSE document “ADNOC GROUP HSE, WELFARE AND MEDICAL MINIMUM REQUIREMENTS IN CONTRACTS GUIDELINES” reference no. HHQ/HSE/HPG/GID/006/R01/20 Version 2 dated 27/04/2023 shall be applicable and need to be fully complied with.