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THIS CONTRACT IS entered into, effective as of 27 November 2014 [Commencement Date], by and between FDH JV acting by and through one of its partners Fluor Consultants B.V. – Kuwait Branch with registered offices at East Ahmadi, Industrial Area, Block No. 8, Building No. 42 (Eastern Plaza Building), P.O. Box 9763, Ahmadi 61008, Kuwait (hereinafter referred to as "Company") and, WINTECO Corporation (hereinafter referred to as "Contractor"), with registered offices at Baeksang Star Tower #1301, 60-17, Gasan-Dong, Geumcheon-Gu, Seoul, Korea.

Hereinafter, both Company and Contractor referred to individually as "Party" or collectively as "Parties".

"Owner" means Kuwait National Petroleum Company (KNPC) MAB PD Building, PO 691, Safat 13001, Kuwait.

"PMC" means Foster Wheeler Energy Limited UK as appointed by the Owner to perform project management services on behalf of the Owner.

In consideration of the agreements herein contained, the Parties hereto contract and agree as follows:

Article 1.0 CONTRACT DOCUMENTS. This Contract and agreement shall consist of this Contract Signature Document and the following documents, and the attachments, exhibits, drawings, specifications and documents referred to therein, all of which by this reference are incorporated herein and made a part of this Contract.

PART I - SCOPE OF WORK
PART II - COMMERCIAL TERMS
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PART IV - SPECIAL TERMS AND CONDITIONS

Said Contract sets forth the entire Contract and agreement between the Parties pertaining to the Work as defined below and supersedes all inquiries, proposals, agreements, negotiations and commitments, whether written or oral, prior to the date of execution of this Contract, pertaining to said Work or this Contract. The provisions of this Contract may be changed only by a writing executed by the Parties to this Contract or by the Change Order procedure outlined in Clause 11 Changes of Part III General Terms and Conditions. Trade custom and trade usage are superseded by this Contract and shall not be applicable in the interpretation of performance of this Contract.

Article 2.0 PRECEDENCE. In cases of express conflict between Parts of the Contract, attachments, exhibits, drawings and specifications, the order of precedence shall be as follows:

- Signature Document
- Part IV
- Part III
- Part II
- Part I
- Attachments
- Exhibits
- Drawings
- Specifications

In the event of an express conflict between the documents listed above, or between any other documents which are a part of the Contract, Contractor shall notify Company immediately. Company shall provide clarification as to the Company's intent and the Parties shall, if necessary, thereafter amend this Contract to reflect Company's clarification.

Article 3.0 SCOPE OF WORK. Except as otherwise expressly provided elsewhere in this Contract, Contractor shall supply all services, things, and items of expense necessary to perform, and shall perform the following Work: Field Erected Tanks installation, testing and commissioning

Contractor shall supply all adequate and competent labor, supervision, tools, equipment, installed and consumable materials, services, testing devices and warehousing and each and every item of expense necessary for the fabrication, field erection, application, handling, hauling, unloading and receiving, installation, construction, assembly, testing, evaluation, and quality assurance of all Field Erected Tanks. The Tanks are grouped into two groups. For Group 1 Tanks in the existing Refinery, Contractor shall be responsible for overall Construction of Tanks and foundations. For Group 2 Tanks in the Grassroot area, construction of the foundations shall be performed by others.. All other work is identical to Group 1.

Said Work being more particularly described in Part I, Scope of Work (herein referred to as "Work"), for or in connection with Owner's facility, said Work to be performed on a site (hereinafter referred to as "Site") designated by Company at Owner's facility in Kuwait.

Article 4.0 CONTRACT PRICE. Contractor's full compensation for full and complete performance by Contractor of all the Work and in compliance with all terms and conditions of this Contract shall be as set forth in Part II, Commercial Terms.

TOTAL CONTRACT VALUE: KD 9,135,000 (say Nine Million Hundred and Thirty Five Thousand Kuwaiti Dinars)

Article 5.0 SCHEDULE. Contractor shall commence performance of the Work on or about the Commencement Date and shall complete the Work not later than **31 December 2016** with interim completions as specified in Part I, Exhibit 1, Contract Milestone Schedule. The Parties will agree for which deadlines time is of the essence.

Article 6.0 COMMUNICATIONS. All communications pursuant to or in connection with this Contract shall be identified by Company's Contract Number and shall be communicated as set forth below.

All contractual notices given under this Contract shall be sufficient if in writing and delivered in person to an authorized person of the Party to be notified, or sent to the Party to be notified, addressed as set forth below, by registered mail, facsimile or email. Emails and facsimiles must be confirmed in writing by registered mail within three (3) days thereafter.

Contractor's representative, Mr. Yoon Jung-Seok, Project Manager is fully authorized to make commitments for and on behalf of Contractor until such times as the authorization is withdrawn or until satisfactory conclusion of this Contract.

Contractual notices to Contractor shall be addressed to Contractor's Home Office Address and Field Address set forth herein marked Attn.: Mr. Yoon Jung-Seok.

Contractor's Home Office Address:

WINTECO Corporation: Baeksang Star Tower #1301, 60-17, Gasan-Dong, Geumcheon-Gu, Seoul, Korea

Contractor's Field Address: TBD

Contractual notices to Company shall be addressed to Company's Home Office Address and Field Address set forth herein and marked Attn.: Mr. James Jankiewicz, Project Manager with copy to Mr. Michel Zoutendijk, Subcontracts Manager

Company's Home Office Address:

Fluor Consultants B.V. – Kuwait Branch
East Ahmadi, Industrial Area, Block No. 8
Building No. 42 (Eastern Plaza Building)
P.O. Box 9763, Ahmadi 61008
Kuwait

Company's Field Address: TBD

Article 7.0 CAPTIONS. Titles and captions used in this Contract are for convenience only and shall not be used in the interpretation of any of the provisions of this Contract.

Article 8.0 STATUS OF FDH JV. Owner awarded the unincorporated joint venture FDH JV, formed between Fluor, Daewoo Engineering & Construction and Hyundai Heavy Industries, the upgrade/expansion project of Mina Abdullah Refinery (MAB-2), which is part of Owner's Clean Fuel Project (CFP).

Company will administer and manage this Contract for and on behalf of FDH JV. Company shall therefore represent FDH JV in connection with the execution of the Contract, unless Contractor is otherwise instructed by FDH JV. This power of authority is granted without prejudice to FDH JV' rights to exercise any and all rights under the Contract on its own behalf.

Contractor agrees to defend, indemnify and hold harmless FDH JV, the affiliated companies of FDH JV, and all of their directors, officers, employees, agents and representatives, from and against any claim, demand, cause of action, liability, loss or expense arising out of Contractor's execution of the Work.

Article 9.0 GOVERNING LAW AND JURISDICTION. This Contract (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Contract or its formation) shall be governed by and construed in accordance with the law of England and Wales.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year below written, but effective as of the day and year first set forth above.

WINTECO CORPORATION

By Mr. Chang Jae Oh,

Title President

Date Ch Chang-Jae

**FLUOR CONSULTANTS B.V. – KUWAIT
BRANCH**

By

M. J. van Meygaarden

Title Vice President & CEO

Date 27.01.2015

In the presence of:

Local Agent: Abdulla Sayid Rajab Al-Rifai & sons Trading & Cont. W.L.L.

By: Yao Lauer

Title: Assi. Manager

Date: 22.01.2015

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1.0 DESCRIPTION OF WORK – GENERAL

Except as otherwise expressly provided herein, Contractor shall supply all adequate and competent labor, supervision, tools, equipment, installed and consumable materials, services, testing devices and warehousing and each and every item of expense necessary for the in Kuwait supply of materials, fabrication, field erection, application, handling, hauling, unloading and receiving, installation, construction, assembly, testing, evaluation, quality assurance and field engineering support of all Storage Tanks detailed in Exhibit Three of this Scope of Work, hereinafter called the "Work". Unless otherwise explicitly stated herein, said Work shall be performed on a site at Mina Abdullah Refinery in Kuwait. Procurement and supply of permanent material for tank construction is not considered under this scope of work. This material arriving from offshore will be shipped up to Port of entry to Kuwait by others. Customs clearance and further transportation to jobsite shall be Contractor's responsibility.

The Tanks are grouped into two groups. For Group 1 Tanks in the existing Refinery, Contractor shall be responsible for the Construction of Tanks and foundations.

For Group 2 Tanks in the Grassroots area, construction of the foundations shall be performed by Others. All other work is identical to Group 1.

2.0 AUTHORITY REQUIREMENTS, SPECIFICATIONS, DRAWINGS, ATTACHMENTS AND EXHIBITS

All work performed related to the Scope of Work contained in this document shall be per Project Requirements. Project Requirements shall be defined as requirements contained in all applicable local authority requirements, data sheets and drawings, Project Specifications, industry codes and standards, manufacturer's recommendations, and any other requirement as might be identified by Company.

Compliance with the provisions of this Contract does not relieve the Contractor of his responsibility to meet the specified service conditions for the Tanks. Contractor shall comply in all respects with the requirements of this Contract including the referenced and attached documentation, exhibits, specifications and datasheets.

The order of precedence for documents referred to in the Scope of Work shall be as listed below:

1. Applicable Local Norms and Authority Requirements
2. Project Specifications, Standards and Exhibits
3. Industry Codes and Standards
4. Attachments

In the event of a conflict, it shall be the responsibility of the Contractor to call attention to the discrepancy and request a written ruling or interpretation from the Company. In case of conflicts Company has the right to enforce the most stringent requirement. Any deviations from the above documents not approved by the Company shall be brought into compliance by the Contractor and shall be the Contractor's responsibility.

Company review of Contractor's documents shall in no way relieve the Contractor of the responsibility for compliance to the applicable codes, standards, and specifications.

Requests for deviations of any kind must be submitted in writing with backup engineering information to assist the Company's consideration for agreement. Company reserves the right to reject deviation request without any reasoning to the Contractor.

All equipment and materials must be new and not previously owned or used by another party.

2.1. Applicable Kuwaiti rules and regulations

Description
Kuwait Environmental Public Authority (K-EPA)
Ministry of Public Works (MPW)
Ministry of Electricity and Water (MEW)
Ministry of Communications (MOC)
The Kuwait Fire Brigade (KFB)
The Kuwait Municipality (KM)
Ministry of Public Health (MPH)
Roads and Drainage Department of MPW
Public Authority for Agriculture and Fisheries Resources (PAAFR)
Ministry of Interior (Traffic Department)
Environment Public Authority (EPA)

Contractor shall be subject to and apply all relevant laws, by-laws, requirements, ordinances, rules, regulations, or executive orders of any national or local government, governmental authority or agency having or asserting jurisdiction over the subject matter hereof or parties hereto which are applicable to the Works, and shall keep the Company indemnified against all penalties and liabilities of every kind resulting from breach thereof or non-compliance therewith.

Contractor shall obtain all licenses and do all other things necessary to enable itself, its Subcontractors or Vendors to perform its obligations under this Contract, and shall obtain all temporary permits and authorizations required for prosecution of the Works.

All claims by the Contractor for additional costs or extensions of time arising from changes to such laws, by-laws, requirements, ordinances, rules, regulations and executive orders shall be null and void except for any such changes which may be implemented by the State of Kuwait after the Contract Award in which case any reasonable additional costs and/or delay unavoidably incurred by the Contractor as a direct result thereof shall follow the change procedure under Part III.

2.2. International Codes and Standards

The below listed codes, standards and latest addenda, unless stated otherwise, are applicable to this Contract. This list is not intended to be exclusive. All codes and standards referenced within the project specifications are fully applicable as well. The latest editions and addenda at the time of contract award shall apply unless otherwise specified.

Title	Number
American Petroleum Institute (API)	
Pressure-relieving and De-pressuring Systems	ANSI / API 521
Sizing, Selection, and Installation of Pressure-Relieving Devices in Refineries	API RP 520
Welded Steel Tanks for Oil Storage	API 650

Title	Number
Venting Atmospheric and Low-pressure Storage Tanks	API 2000
Design and Construction of Large, Welded, Low-pressure Storage Tanks	API 620
Tank Inspection, Repair, Alteration, and Reconstruction	API 653
Pressure Vessel Maintenance, Inspection and Repair	API 510
Protection against ignitions arising out of static, lightning, and stray currents	API 2003
Design & Construction of LPG Installations	API 2510
Fire Protection Consideration for Design and Operation of Liquefied Gas Storage Facilities	API 2510A
Measurement and Calibration of Upright Cylindrical Tanks	API 2550
American Society of Mechanical Engineers (ASME)	
Materials, Parts A, B, C, D	Section II
Non Destructive Examination	Section V
Acoustic Emission Examination	Section V, Article 11
Acceptance and Test Procedure for Class II Vessels	Section X, Article RT-6
Welding and Brazing	Section IX
Steel Pipe Flanges and Fittings	B16.5
Large Diameter Steel Flanges	B16.47
Chemical Plant and Petroleum Refinery Piping	B31.3
Boiler and Pressure Vessel Code	Section VIII, Div 1 & 2
American Society of Testing and Materials (ASTM)	
All applicable ASTM standards	
American Institute of Steel and Construction (AISC)	
All applicable AISC standards	
American Society of Civil Engineers (ASCE)	
All Applicable ASCE Standards	
American National Standards Institute (ANSI)	
International Building Code	IBC
International Organisation for Standardisation (ISO)	

Title	Number
Quality Management Systems – Requirements	9001-2008
Quality Management Systems – Guidelines for Quality Plans	10005 : 2005
National Fire Protection Association (NFPA)	
Standard for the Installation of Lightning Protection Systems	780
Low, Medium and High Expansion Foam Systems	11
Standard for Water Spray Fixed Systems for Fire Protection	15
Standard for Inspection, Testing and Maintenance of Water-based Fire Protection Systems	25
Flammable and Combustible Liquids Code	30
Motor Fuel Dispensing Facilities	30A
National Electrical Code	70
National Fire Alarm Code	72
Liquefied Petroleum Gas Code	58
National Board Inspection Code (NBIC)	NB-23
Occupational Safety and Health Administration (OSHA) of USA	29CFR Part 1910.119
Environmental Protection Agency (EPA) Risk Management Plan (RMP)	40CFR 68
The Society for Protective Coatings (SSPC)	
National Association of Corrosion Engineers (NACE)	
Standard Recommended Practice, External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms	RP0193 : 2001
American Concrete Institute (ACI)	
Code Requirements for Environmental Engineering Concrete Structures and Commentary	ACI 350
Concrete Structures for Containment of Hazardous Materials	ACI 350.2
Building Code requirements for Structural Concrete	ACI 318

Title	Number
Welding Research Council (WRC)	
Local Stresses in Cylindrical and Spherical Shells Due to External Loading	WRC Bulletin 107
Local Stresses in Cylindrical Shells due to External Loadings on Nozzles – Supplement to WRC Bulletin No. 107	WRC Bulletin 297

Subject Codes and Standards are Contractor's responsibility and not physically included for reference.

2.3. Specifications

Contractor shall use the Version 33 package of the Shell Design Engineering Practices (DEPs) and Shell Material & Equipment Standards and Codes (MESC 13) along with Project Variations to Shell DEPs as applicable and Project Specifications for performance of the Work, unless specified otherwise. It is Contractor's responsibility to understand all requirements of Shell DEPs and Project Specifications and execute the Work in full compliance.

A list of the most applicable Project Specifications is provided in Exhibit Four for quick reference. The complete package of all Specifications is also in Exhibit Four. Contractor is responsible for review and compliance with all Specifications / Shell DEP's. Contractor to note that most of the Shell DEPs have been modified for this Clean Fuels Project (CFP) in the form of "Project Variations" which are also listed in Exhibit Four. Contractor shall make sure that all the Shell DEPs are being applied with the applicable "Project Variations". In addition to "Project Variations", Contractor shall also apply the requirements of "Technical Bulletins" included in Exhibit Six. These "Technical Bulletins" cover the requirements which are not specifically addressed in Project Specifications.

Any Project standard that Contractor receives or will be receiving is considered Confidential Information, supplied to Contractor by Company for use only with regards to execution of the Contract.

Contractor and Contractor's Principal shall undertake to keep these Project Standards and Specifications confidential and use them only for the Work requested under this Contract.

The foregoing undertaking shall continue insofar and for so long as the substance or content of the Confidential Information has not:

- a) Become part of public knowledge or literature, or
- b) Been disclosed to you (without obligation to maintain secrecy) by a third party who could lawfully do so and who had not itself received such Confidential Information under binder of secrecy.

2.4. Drawings / Data Sheets

Refer to Exhibit Three for Drawings and Data Sheets.

2.5. Attachments

Attachment No.	Rev	Title
Attachment A	0	Contract Daily Report
Attachment B	0	Administrative Procedure

Attachment No.	Rev	Title
Attachment C	0	Site Rules
Attachment D	0	Project Health, Safety, and Environmental Rules & Regulations
Attachment E	0	Quality Management Requirements
Attachment F	0	Construction / Mechanical Completion
Attachment G	0	Scheduling and Reporting
Attachment H	0	Company Furnished Equipment and Material Issuing Procedure
Attachment I	0	Not used
Attachment J	0	Not used
Attachment K	0	Projects OnLine
Attachment L	0	SAP Master Contractor Setup
Attachment M	0	Approved Subcontractors List
Attachment N	0	Approved Vendors List

2.6. Exhibits

Exhibit One	A1	Contract Milestone Schedule
Exhibit Two	A1	Supplier Drawing and Data Requirements
Exhibit Three	A1	Listing of Tanks and Drawings / Data sheets
Exhibit Four	A1	Project Specifications List and Project Specifications / Project Variations
Exhibit Five	A1	Abbreviations
Exhibit Six	N/A	Technical Bulletins and Job Bulletins - TB-0014 Rev O - TB-0027 Rev A - TB-0030 Rev B - TB-0032 Rev A - FDH-008-JB-0006 Rev O1
Exhibit Seven	A1	MAXIMO Format

Exhibit Eight		Not Used
Exhibit Nine	A1	Baseline Thickness Measurement
Exhibit Ten		Not Used
Exhibit Eleven	A1	Detail of Civil Scope of Work Split for Group 2 Tanks
Exhibit Twelve	N/A	<p>Geotechnical Reports:</p> <p>FEED Report 2007 02 073-MAB dated 11 Nov 2007</p> <p>Final Report 2009 02 071-MAB dated 10 Nov 2009</p> <p>Soil Investigation Report P6002MAB-166-19-4-C003, Rev 1 22-Aug-2013</p> <p>Topographical Survey:</p> <p>A2WD-90-K004, Version 1, Dec '09 and associated attachments</p>

2.7. Manufacturer's Instructions

Contractor shall comply with manufacturer's latest printed instructions for materials, storage and installation methods, unless otherwise specified.

Contractor shall notify Company in writing of any conflict between these specifications and the manufacturer's instructions. Company will designate which document is to be followed.

2.8. General directive concerning drawings, specifications and other documents

- 2.8.1. Documents which are cross-referenced in drawings, specifications and other documents, but not listed in Section. 2.0 shall apply to the Work. Contractor confirms it is aware and in possession of complete copies of the applicable national and international codes and standards which are not specifically listed or physically included in the package accompanying the Contract. The most recent edition published as of the effective date of this Contract shall apply unless stated to the contrary elsewhere in this Contract.
- 2.8.2. Contractor shall, in interpreting the drawings, specifications and other documents, be bound by the figures marked therein and not by scaled measurements.
- 2.8.3. Works and supplies which by their nature form part of the Contract or are necessary for proper finishing but are neither expressly mentioned in these drawings, specifications and other documents forming part of this Contract nor expressly excluded shall be for the account of Contractor.
- 2.8.4. Documents which are marked "for information" or "for information only" are provided to Contractor for information purposes only. Contractor can neither claim any contractual rights from subject information, nor use it as part of the basis or whatever for any dispute with or claim to Company.
- 2.8.5. Contractor remains fully responsible for documents provided to Company for review whether or not subject documents are reviewed and commented upon by

Company. Documents commented upon by Company shall not be part of the basis or whatever for any dispute with or claim to Company.

- 2.8.6. If the Contractor is in any doubt about the correctness, the exact meaning or interpretation of any part of a document or in any case of contradiction between specified technical data, drawings or specifications, the Contractor shall immediately direct a written query to Company.

3.0 DESCRIPTION OF WORK – SPECIFIC

The Work described in Sections 1.0 and 2.0 of this PART I shall include, but not be limited to, the following:

3.1. Lump Sum Portion of Work – General

- 3.1.1. Establish location and extent of service lines in area of Works and notify Company of findings before commencing Work and take all precautions to ensure that there are no unknown services.

- A. Where unknown services are encountered, immediately advise Company and confirm findings in writing.
- B. Where Work involves breaking into or connecting to existing services, carry out Works at times as directed by Company.
- C. Record locations, including elevations of maintained, rerouted and abandoned services.
- D. Establish location and extent of service lines in area of Work and notify Company of findings before commencing Work and take all precautions to ensure that there are no unknown services.
- E. Where unknown services, underground utilities or obstructions are encountered, Contractor shall mark locations, immediately advise Company and confirm findings in writing.
- F. In the event obstructions are encountered during excavation and soil improvement work, Contractor shall stop Work in the area and notify Company immediately for identification of obstruction and obtain Company's directions before proceeding further with excavation in that area.

3.1.2. Mobilization

The supply, transport and installation of Contractor's construction temporary facilities, utilities, construction equipment and tools, temporary construction materials, consumables, expendables, supplies, fuels and lubricants necessary for the complete performance of the Work, including any required site preparation.

3.1.3. Demobilization

Upon release by Company for demobilization, complete Worksite clean-up and clearance, dismantling and removal of all Contractor's property, including underground piping/cabling forming part of Contractor's temporary facilities and reinstatement of the temporary facility area.

3.2. Site Staff and Overheads

All required Site Staff above level of general foreman and all general cost and overhead for the duration of the Work.

3.3. Temporary Facilities and Construction Equipment

Temporary facilities/utilities, warehousing and construction equipment/tools, including the operation and maintenance thereof, for the duration of the Work as set forth in Section 5.2.

3.3.1. Construction management services and execution

3.3.1.1. Management of the Work

Contractor is responsible for management of all aspects of the Work including the management of Subcontractors and affiliates.

Contractor shall provide all necessary administrative support and facilities for the conduct of the Work.

Contractor shall provide all necessary quality assurance and quality control functions as set forth in the Contractor's quality plan, prior to start of the Work. Contractor's quality plan shall be reviewed with Company and if necessary shall be amended to conform to Company's requirements. Contractor's quality plan shall be appropriate for the Contract scope of activities and material supply, including the provision of all required testing facilities.

Contractor shall be responsible for provision of transportation of labour, plant and Contractor or Company supplied materials to, from and around Site.

Contractor shall establish a document control system on site that shall manage all documents issued by Company, including revision and change control. Contractor shall submit its Document Control plan as part of the Project execution plan for the works for approval by Company.

Contractor shall establish a material control system on site that shall manage and assure material security, laydown, preservation and full material traceability for both free issue and Contractor supplied materials and consumables. Contractor shall submit its Material Control plan for approval by Company.

3.3.1.2. Construction Engineering

A. Method Statements

Contractor shall provide detailed unambiguous method statements describing how he intends to perform the Work. The method statements shall be in English and shall be included as attachments to the Project Execution Plan. Contractor shall be totally responsible for ensuring that the Work is fit for fabrication and installation during all weather conditions that prevail or occur at Site location, the method statements shall include, but not be limited to, Contractor's procedure(s) for working in high winds and inclement weather.

Contractor will not be permitted to start that element of the Work on Site until associated method statements have been reviewed and approved by Company. Such approval shall in no way relieve Contractor of the responsibility to carry out the Work safely and to the required programme. Contractor shall provide a risk

assessment for all high-risk activities. This shall include all major activities; the risk associated with them and measures to be taken to reduce such risk.

Method Statements shall detail the fabrication/installation principles and shall include, but not be limited to the following:

- 1) Transportation including Site transportation plan
- 2) Erection of the Work including all necessary lifting and rigging plans and including interfaces with all other parties
- 3) Welding and lamination of special materials
- 4) Inspection and NDE testing including schedule, access and safety (detailed NDE procedures to be submitted separately)
- 5) Pressure testing
- 6) Mechanical completion and handover of the Work to Company
- 7) Pre-commissioning activities

B. Lifting and Rigging Plans

Contractor shall prepare lifting plans in adherence to Company's lifting procedures detailing safe systems of work for the erection of all equipment, the details included in the lifting plans shall be appropriate to the criticality of the lifting operation.

The rigging drawings shall include

- a) A plan illustrating the crane(s) location, and the location of the load to be lifted at the start and finish
- b) A boom clearance elevation drawing
- c) The rigging hook up's to be used detailing the components to be used and how it is assembled
- d) The cranes operating limitations for the lift
- e) The erection procedure to be followed

When the lifting is a simple basic lifting operation and crane placement and boom length is not critical i.e. the crane is lifting less than 50% of its available capacity in the particular crane configuration being used, only a rigging data sheet is required that contains item c, d and e listed above.

For general lifting and rigging operations over 5 tons or lifting over live plant or energised electrical lines or lifted with two cranes, the Contractor shall complete a Green Lift checklist (refer to document 000 502 F1003), or approved equivalent and submit it to Company for approval prior to each lifting operation.

For general lifting and rigging operations under 5 tons Contractor shall produce generic lifting instructions and diagrams for each type of lift for use by the site team and submit these to Company for approval prior to use on site.

3.3.2. Scaffolding

- 3.3.2.1. Use of Mobile Elevated Working Platforms (MEWP) is encouraged. Where the work is not practical to be performed from MEWP, access for a MEWP is obstructed, or the use of a MEWP will impede other site operations, Contractor will**

supply, install and dismantle adequate scaffolding. Contractor is responsible for the supply of any MEWP's and scaffolding required to complete the Work

- 3.3.2.2. Demobilization of scaffolding is only allowed after Company approval.
- 3.3.2.3. Scaffolding made of carbon steel cannot be used for erection of stainless steel. For this purpose non-contaminating scaffolding shall be applied; however Contractor shall ensure this type of scaffolding is certified to be used for the Work.
- 3.3.2.4. All scaffolding ordered by Contractor shall be accessible for others for inspection and occasional use by other contractors. If extended use by others is required Contractor is required to coordinate and cooperate with other contractors for the overall benefit of the project.
- 3.3.2.5. Contractor shall notify Company prior to scaffolding removal so giving others the opportunity to take over the usage of the scaffold. New contractors requiring significant use of the Contractor's scaffolding will be required to make commercial arrangements with the owner of the scaffold.
- 3.3.2.6. Scaffolding requirements & interfaces will be discussed during the daily Company organized construction coordination meeting.
- 3.3.2.7. During this daily meeting Contractor shall:
 - Be responsible to present a scaffolding look-ahead program;
 - Advise Company of all scaffolds that can be removed;
 - Give the other contractors the opportunity to take over the usage of the scaffold.

3.4. Lump Sum Portion of Work – Specific

3.4.1. General

Except as otherwise expressly provided herein, Contractor shall supply all management, supervision, labor, equipment, tools, installed and consumable materials, warehousing, testing and services for the in Kuwait supply of materials, fabrication, handling, hauling, unloading and receiving of material, erection of Tanks on permanent foundations provided by the Contractor unless stated otherwise, assembly, chemicals, testing and NDE, and cleaning of all Tanks listed in Exhibit Three. Contractor will also be responsible for any needed soil improvement, soils and concrete testing, Tank foundations (unless stated otherwise), Cathodic Protection as well as HDPE liners and any fire protection and emergency vents directly connected to the Tanks. The scope of work is divided into the following two groups:

Group 1: New Tanks within Existing Refinery

Construction of total of five (5) Large External Floating Roof Tanks located at Existing Unit 50-Tank Farm in Mina Abdulla Refinery KNPC in Kuwait. Three (3) tanks are equipped with side entry mixers to be installed in the tank by Contractor but supplied by Others. The scope includes all receipt of tank plate and other permanent materials CIF delivered to Kuwait harbor (by Others), custom clearance and transportation to Site, Construction and erection work associated with; in Kuwait supply of materials, prefabrication, erection and testing of the complete tank, complete tank foundations, including cone up

compacted soil, Cathodic Protection, HDPE liners, painting/ coating, insulation and jacketing, stairways and platforms associated with the tank, any fire protection directly connected to the tank, External Floating Roofs with Gauger's platform and rolling ladders, earthing as well as any required tank gauging.

This Group 1 scope also includes complete demolition and removal of tank TK-52-114 and associated piping and instrumentation within the tank dike wall. This demolition work also includes demolition of the intermediate tank dike wall. This removal will be complete and allow new tank TK-50-169 to be erected in the previous location of TK-52-114.

The scope also includes supply and installation of insulation of an existing non-insulated tank TK-52-111. In addition to installation of insulation with SS cladding, touch up painting will be needed for any damage to existing painting and shall be performed by the Contractor.

Group 2: New Tanks in new Refinery Units (Grassroots area)

Construction of twenty eight (28) conventional fixed roof Tanks located south of the existing Mina Abdulla Refinery KNPC in Kuwait. These conventional Tanks have varying diameters and heights and are located in new Grassroots Units associated with the CFP 2020 expansion of the MAB Refinery. Refer to Exhibit Three for more details. This scope differs from the Group 1 Tanks in that the concrete foundation construction work is excluded from Contractor's scope. This will be by Others. The scope includes receipt of tank plate and other permanent materials CIF delivered to Kuwait harbor (by Others), custom clearance and transportation to Site, complete Construction work associated with in Kuwait supply of materials, prefabrication, erection and testing of the Tanks, Tank foundation, Cathodic Protection (internal and external as applicable), Geotextile fabric, coils and eductors, painting/coating, insulation and jacketing, ladders and platforms associated with the Tanks, any fire protection directly connected to the Tanks as well as any required Tank gauging.

Notes:

1. Revised Tank dimensions shall be applicable for TK-137-301 A/B Clean Condensate Tanks of 25 x 18 m (ID x H) and TK-154-101 A/B Fire Water Tanks of 36 x 19 m (ID x H).
2. HIC plates are required for Tank TK-123-401 and TK-125-301.
3. NACE compliance is required for Tank TK-123-401
4. Stilling well nozzles are to be provided for TK-123-401 (8" nozzle K4), and TK-123-501 A/B (8" nozzle K5) (note: not shown on datasheets).

3.4.2. Process

- 3.4.2.1. For all Group 1 Tanks and External Floating Roof Tanks in Group 2, all vents and breathers on the Tank roofs are to be installed by Contractor.
- 3.4.2.2. For the remaining Group 2 Fixed Roof Tanks, all vents will be designed, supplied and installed by Others.

3.4.3. Mechanical – Equipment

3.4.3.1. General

- 3.4.3.1.1. This Section describes the mechanical and equipment field engineering work and services the Contractor shall perform during the fabrication and construction phases of the Tanks.
 - 3.4.3.1.2. Contractor shall supply and install new, fully functioning equipment and systems for the Work in accordance with this Section, all execution and technical instructions and all the applicable Technical Specifications.
 - 3.4.3.1.3. All scope of supply / scope of inspection and testing that are called for in the appropriate Technical Specifications or international codes/standards and not shown on the equipment data sheets, or are shown on the equipment data sheets and not on the specifications shall be considered to be included in the Contractor's Scope as if specified in both.
 - 3.4.3.1.4. Contractor shall assume full responsibility to ensure complete conformance with all local and national codes and regulations applicable at site relevant to the scope of work covered under this contract.
 - 3.4.3.1.5. Special considerations are required to ensure stability of tanks during post weld heat treatment (PWHT) operation for tanks requiring such PWHT. Contractor shall work in close coordination with PWHT contractor and tank design team and implement any recommendation from PWHT contractor and tank design team during the execution of PWHT. Contractor shall assume full responsibility by taking all effective measures recommended by Tank design team and Company to ensure safe and successful execution of PWHT.
 - 3.4.3.1.6. Contractor shall pre-fabricate material for the listed equipment items in Exhibit Three, complete with all ancillary equipment necessary to meet the conditions as defined in this Scope of Work and Equipment Data Sheets also provided in Exhibit Three.
 - 3.4.3.1.7. Company review of Contractor's drawings and documents does not absolve Contractor from compliance with all Project Specifications and Requirements.
 - 3.4.3.1.8. Variations between the information shown on the data sheets provided in Exhibit Three and Project Specifications shall not be considered as an approved waiver of those Project Specifications unless specifically so stated by the Company.
 - 3.4.3.1.9. Not Used.
 - 3.4.3.1.10. Tank Mixers (Agitators) will be supplied loose to the Contractor for installation in the Tanks, as applicable.
 - 3.4.3.1.11. Some of the Group 2 Tanks have internal coils and eductors. Contractor shall be responsible for the installation of these items in accordance with Project Requirements and Contractor's supplier's instructions.
- Note: Revised steam coil area for Wet Slops Tanks (TK-156-222 A/B) shall be 280 m² (in stead of 24 m²).

- 3.4.3.1.12. Contractor shall supply all material including blind flanges, gaskets, bolting, spades, valves, pipe caps, chemicals, etc. necessary for hydro-testing of the Tanks.
- 3.4.3.1.13. Contractor shall install all necessary supports, cleats, and brackets to support pipes, tubes and/or ducts which are attached or connected to the Tank.
- 3.4.3.1.14. Contractor shall provide foundation drip rings for all the Tanks as per API Std. 650.
- 3.4.3.1.15. Contractor shall install all the material inside the Tanks including piping, supports, brackets, dip plates, vortex breakers, stilling wells, gauge poles etc. as specified on the Tank data sheets and/or Project Specifications except Tank side entry mixers/agitators which will be supplied loose to the Contractor for installation.
- 3.4.3.1.16. Contractor shall install complete fire protection system (foam pourers and water spray rings) as specified on the Tank data sheets including necessary supports, clips and brackets. Refer to Fire Protection scope in 3.4.9.
- 3.4.3.1.17. For all floating roofs, Contractor shall install all the accessories, components, attachments and opening as specified in API 650 and Project Specifications including, but not limited to, automatic bleeder vents, pontoon manholes, peripheral seals, rim vents, leg supports, weather sheets, anti-rotation devices, drain system, earthing, shunts, gauging devices, foam dams, gauge hatches, roof manholes etc.
- 3.4.3.1.18. For all dome roof tanks, Contractor shall install top platform from access stairways to center of the roof and a middle roof platform. Middle roof platform shall be 3 m diameter, unless otherwise specified.

3.4.3.2. Engineering Notes

- 3.4.3.2.1. Replace SHELL DEP 34.51.01.31 and Project Variation 34.51.01.31-P6000CFP-000-PV in its entirety with DEP 34.51.01.33-Gen / Project Variation 34.51.01.33-P6000CFP-000-PV. DEP 34.51.01.33, Above ground vertical Storage Tanks, (Amendment / supplements to API Standard 650), is adopted for the Clean Fuels Project (CFP) to use with the modification noted in the Project Variation 34.51.01.33-P6000CFP-000-PV. The Project Variation 34.51.01.33-P6000CFP-000-PV shall be used, as a requirement, wherever DEP 34.51.01.31-Gen. or Project Variation 34.51.01.31-P6000CFP-000-PV is referred in any other project document, including Storage Tank Data Sheets.

3.4.3.2.2. Not Used..

3.4.3.3. Materials

- 3.4.3.3.1. All material selection of pressure equipment and piping shall comply with Shell DEP 30.10.02.11-Gen. "Metallic Materials – Selected Standards" and Project Specification P6022MAB.000.10.10.004 "Selection of ASME Materials for Pressure Parts of Process Equipment".
- 3.4.3.3.2. The material specification DEP 30.10.02.11-Gen "Metallic Materials – Selected Standards" requires that all CS shall be killed or semi killed. In this document, Killed CS (KCS) is referred to as CS.

- 3.4.3.3.3. ASTM A283 Gr. C is not permitted for shell, reinforcement, or Tank bottom annular plates in thickness over 12.5mm.
- 3.4.3.3.4. All material must be traceable to country of origin.
- 3.4.3.3.5. Contractor shall inform Company of any flaws or defects in the material and shall submit material repair procedures for review and approval prior to repair.
- 3.4.3.3.6. In general, items directly welded to pressure parts and load bearing parts shall be supplied with Type 3.1 certificates (to EN 10204 or ISO 10474). Other items may be supplied with Type 2.2 certificates. However, if the Project Specifications require a higher level of certification this shall take precedence.
- 3.4.3.3.7. Procurement of all material and equipment for incorporation into the Facilities shall only be from Vendors listed in the Approved Vendors List (AVL) unless the Company authorizes otherwise in writing. The AVL can be found in Attachment N. Contractor shall be responsible for ensuring selected Vendors have the manufacturing capability as well as the ability to deliver the material and equipment within the required schedule.

3.4.3.4. Equipment Status Tagging

- 3.4.3.4.1. Contractor shall furnish and securely attach to each piece of equipment, a water tight pouch or container that will house a legible log of the equipment status, and that the equipment installation is complete and ready for use. Contractor shall list the following information:
 - a) Anchor bolts secured date
 - b) Equipment cleaned date
 - c) When applicable, the lubricant used, the date it was charged and the initials of the person who charged the lubricant
 - d) When applicable, alignment initial and final check dates, the alignment TIR, and the initials of the person performing the alignment
 - e) Preservation regime and internal inspection of Tanks

3.4.3.5. Installation/Erection Requirements

- 3.4.3.5.1. Contractor shall take all necessary precautions to safeguard the Tanks against deformation, distortion or damage due to buckling under self weight, wind loads or other construction related loads that may impact the stability of the Tank whilst under construction.
- 3.4.3.5.2. Structural design and installation of temporary safeguard supports shall be the sole responsibility of the Contractor.
- 3.4.3.5.3. Shims used for leveling, if applicable, shall be of sufficient size to cover the entire bearing surface except where shims are used to level prior to grouting. Shims used in conjunction with grouting shall be located to properly support equipment at load points to prevent distortion of the equipment base plates.
- 3.4.3.5.4. Assembly and installation of the equipment shall be in strict compliance with the equipment Vendor's installation instructions and Technical Specifications, as applicable.

- 3.4.3.5.5. Installation of Fabricated Equipment – Fabricated equipment includes items which will be supplied loose to the Contractor as per Section 4.0 below.
 - a) Handling and installation shall be in accordance with the Vendor's instructions and Technical Specifications
 - b) Care shall be exercised during unloading and handling to prevent damage to the equipment. Slings and supports shall be of sufficient strength and number to adequately support the equipment to preclude the possibility of strain, distortion or warping of the equipment or any components. Contractor shall use spreader bars as necessary to keep lifting lugs from being loaded perpendicular to the face of the lug.
 - c) Openings shall be covered to prevent entry of dirt, precipitation or other extraneous matter. Temporary covers may be made of sheet metal, plywood, or waterproof fabrics if securely fastened, but finished surfaces shall be protected from damage at all times. Openings which are opened for inspection or to perform installation activities shall be carefully reinstalled afterwards.

3.4.3.6. Material and Equipment Preservation

- 3.4.3.6.1. Contractor shall be responsible for the protection of material and equipment until the Work is accepted by Company.
- 3.4.3.6.2. Materials delivered to site shall be stored to prevent direct contact with ground and protected from any form of damage or deterioration during the onsite storage period.
- 3.4.3.6.3. Exterior surfaces of material shall be checked for corrosion, chipping or scarring. Paint shall be reapplied where necessary to prevent rust.
- 3.4.3.6.4. Contractor shall be responsible for protecting the equipment and related components from deterioration while in field storage, after installation and prior to Commissioning. Contractor shall strictly comply with the Project Requirements.
- 3.4.3.6.5. Contractor shall submit the preservation plan to the Company for Review and Approval. This program shall identify all protection and preventive maintenance to be performed by Contractor.
- 3.4.3.6.6. Flanges, nozzles, threaded openings, man-ways and hand holes, require special protection. Contractor shall provide flange covers and corrosion protection (application of corrosion inhibitors on machined surfaces).

3.4.3.7. MAXIMO System for Material Data Requirements

- 3.4.3.7.1. Owner maintains a data base of all equipment in a MAXIMO Package.
- 3.4.3.7.2. Since new equipment will be added by implementing this project, certain basic information related to such equipment is required by Company for later input to the MAXIMO.
- 3.4.3.7.3. Contractor, during execution of the Work, shall submit necessary information for all Tanks, as per Company's Sample MAXIMO format provided as Exhibit Seven (7). Any additional information required by Owner may be requested from the Contractor during execution of the Contract Work.

3.4.3.8. Inspection and Testing Requirements

3.4.3.8.1. All the inspection and testing shall be strictly in accordance with applicable codes/standards, and Technical Specifications.

3.4.3.8.2. All raw material, work in progress and finished work, or as parts and goods supplied to you by others, shall be subject to inspection and test by a representative of Company and/or Owner or their designated third party representative. However, this inspection shall in no way relieve Contractor from guarantees as to material, apparatus, workmanship and performance.

3.4.3.9. Baseline Thickness Measurement

3.4.3.9.1. Contractor shall carry out a thickness survey for the piping, and Tanks. For field installations, thickness survey shall be carried out prior to pressure test. At the prefabrication shop, thickness survey for equipment shall be carried out before surface preparation and painting. However at site, Thickness survey may be performed over painted surface also. Contractor shall employ an NDT agency approved by Company for the purpose of thickness survey. For Austenitic stainless steel piping, equipment and Tanks, chloride free couplant shall be used. Procedure of thickness survey, necessary formats, qualified personnel etc. shall be approved by Company prior to start of Work. Refer to Exhibit Nine (9) for details.

3.4.3.10. Hydrostatic Testing

3.4.3.10.1. Hydrostatic testing of Tanks shall be in accordance with API 650 and 34.51.01.33-P6000CFP-000-PV.

3.4.3.10.2. DEP 61.10.08.11-Gen, Clause 3.2.1 Hydro Testing shall be read as below:

"Water quality requirements for hydro testing equipment and Piping manufactured from Austenitic or Ferritic Stainless Steel and Nickel based alloys to prevent Chloride Stress Corrosion Cracking (CISCC) and Microbially assisted Chloride Pitting."

3.4.3.10.3. Contractor shall supply all hydrotest water and temporary piping required for hydrotesting of the Tanks. Contractor shall also ensure water furnished meets quality requirements and all Project Specifications for hydrotesting of Tanks or systems.

3.4.3.10.4. Contractor shall properly clean the Tanks and systems after hydrotest in accordance with the Project Specifications along with insuring proper disposal of hydrotest water and other materials.

3.4.3.10.5. Contractor shall prepare and submit to Company a detailed plan outlining how the hydrostatic test water will be conserved.

3.4.3.10.6. Contractor shall monitor the foundation for settlement during hydrotesting. A detailed hydrotest and settlement monitoring procedure shall be submitted by the Contractor for Company review and comment prior to start of hydrotesting.

3.4.3.10.7. Contractor shall calibrate each Tank in accordance with the API Standards as specified on the Data Sheet. Contractor shall submit a method statement to Company for review and comment that specifies the calibration method to be used prior to start of Tank hydrotesting.

3.4.3.10.8. Contractor to note that shell to top angle weld shall be pressure tested as per API 650 / SHELL DEPs and hydrostatic test maximum fill level shall be up to the top of shell including top angle (if any).

3.4.3.10.9. The total residence time of the testing water in the equipment, from start of filling to completion of draining, shall not exceed 7 days. On completion of the hydrostatic test, the equipment shall be well drained within 48 hours after testing.

3.4.3.10.10. The drain pot(s) shall be located to allow complete draining of the equipment / piping system. If this is impractical or if the nature / layout is such that complete draining cannot be achieved, and the equipment piping will not be returned to service (or commissioned) within 30 days, then drying will be required.

3.4.3.10.11. The preferred method of drying is to mechanically dry (mopping or towel dry). If mechanical drying is not possible, then hot air may be circulated through the equipment for drying. In the event that hot air (or similar) is used then the maximum metal skin temperature achieved shall be < 50°C.

3.4.3.10.12. If for practical reasons, drying cannot be achieved, Contractor shall take the following additional precautions:

- a) Hydrotest water with a maximum chloride content of 10 ppm shall be used.
- b) The water must contain less than 500 cfu/ml at inlet
- c) The number of un-drainable dead zones shall be minimized

3.4.3.10.13. In the event that first two precautions cannot be met and / or it is considered that the criticality of the equipment / piping is such that additional precautions should be taken, then a compatible organic type biocide, supplied by the Contractor, shall be added to the hydrotest water during initial filling.

3.4.3.10.14. If it is intended / required to leave the hydrotesting water in the Tank for longer than 30 days, Contractor will be required to treat the water with a compatible organic type biocide and/or other chemicals during the filling process.

3.4.3.10.15. Shell DEP 31.38.01.31-Gen, Clause 4.2, Pressure Testing shall be read as, "Painting of weld joints shall be done only after pressure testing in order to detect any minor leakage during testing".

3.4.3.11. Painting/ Coating and Insulation

3.4.3.11.1. External Painting shall be as per DEP 30.48.00.31-Gen and 30.48.00.31-P6000CFP-000-PV. For internal coating requirements, refer to P6000CFP.000.10.48.001 Project Specification Internal Linings

3.4.3.11.2. Contractor shall grit blast and prime coat all tank plates offsite.

3.4.3.11.3. Equipment and piping welds shall not be painted until all approved heat treatment, non-destructive testing, and pressure testing has been completed and approved.

3.4.3.11.4. Contractor shall be responsible for protection of surrounding area / equipment from blasting, residue and spraying of paint.

3.4.3.11.5. Insulation, if specified on the data sheet, shall be supplied and installed by the Contractor with necessary supports/clips and jacketing as per Project Requirements. Insulation of Tanks shall comply with the requirements

specified in 30.46.00.31-P6000CFP-000-PV. Note: Full insulation shall be installed by Contractor for; Solvent Tank TK-123-401; 6 x 5 m (ID x H)and Sulfur Tanks TK-123-501 A/B : 30 x 10 m (ID x H)

- 3.4.3.11.6. Heating Coils and Steam Jacketing, where applicable, shall be installed by the Contractor as per requirements specified on the data sheets and Project Specifications.
- 3.4.3.11.7. All carbon steel structural parts, unless otherwise specified, shall be hot dip galvanized as per P6000CFP.000.10.48.002, Project Specifications – Galvanizing. Galvanized steel structure shall only be painted for safety reasons or repair for damaged galvanizing.
- 3.4.3.11.8. Contractor shall be responsible for Tank identification as per Project Requirements. Lettering and color coding of Tanks and piping shall be as per 30.48.00.31-P6000CFP-000-PV.
- 3.4.3.11.9. Painting and coating system shall be as per P6022MAB.000.10.10.005.
- 3.4.3.11.10. For tanks with complete internal lining (shell, roof and bottom) specified on the data sheets, all the tank internals (other than heating coils) shall also be lined. Lining shall be applied to each exposed surface to protect the internals from corrosion.
- 3.4.3.11.11. Flanges, nozzles, clips, access ways, supports and other attachments which protrude through insulation shall be considered uninsulated and shall be coated accordingly.
- 3.4.3.11.12. Coating system on the underside of the Tank bottom shall be suitable for use in combination with Cathodic Protection to a minimum potential of -1100mV Ag/AgCl (-1150 CU / CuSO₄). For Tanks which have internal coating and cathodic protection, the coating shall be suitable for use in combination with cathodic protection.

3.4.3.12. Revamp Units Specific Requirements

- 3.4.3.12.1. For Revamp Units (Group 1) only the applicable Units of Measure are "FPS (Imperial)" with an exception that all the Tank levels shall be specified in "mm, cm or m". Details are as follows:

a.	Pressure	:	PSI
b.	Pressure (draft or vacuum)	:	In H ₂ O or in Hg
c.	Flow liquid HC	:	USGPM @ 60 Deg F * BPD @ 60 Deg F
	Water	:	USGPM @ 60 Deg F
	Gas	:	SCFH @ 60 Deg F, 14.7 psia
	Steam	:	Lbs/Hr
	Air	:	SCFM @ 60 Deg F, 14.7 psia
	Chemicals	:	USGPM @ Deg F
d.	Temperature	:	Deg F
E	Level	:	% (percent)
f.	Volume of Product Tank (This does not include water Tanks and intermediate Tanks)	:	API Barrel (Petroleum)
g.	Level of Tanks	:	mm, cm and m
h.	Specific gravity of	:	

Liquid	:	Water Equals 1 @ 60 Deg F
Gas	:	Air Equals 1 @ 14.7 psia @ 60 Deg F
i. Viscosity	:	cP
j. Density	:	Lbs/cu.ft
k. Diff. Pressure in orifice	:	Inches of H2O
(* For control valves and shutoff valves use USGPM at operation temperature	:	

3.4.3.12.2. Insulation will be added to the existing Tank TK-06-111 (new tag TK-52-111).

Owner will make the Tank available for modification in accordance with a schedule as agreed by the Company and Contractor. Contractor shall be responsible for final emptying and internally cleaning the Tank and making it safe for work, as required, to complete the specified modifications. Contractor shall also be responsible for repairing any Tank coatings affected by the modifications. All modifications shall be made as per API Standards 650 and 653. Company shall deliver the existing Tank in a gasfree condition and isolated from the existing Refinery operation.

3.4.3.12.3. Contractor shall supply and install insulation and jacketing with required supports/clips on Existing Dry Slops Tank TK-06-111 (new tag TK-52-111) ($\varnothing 90' \times 48'$ – Carbon Steel) as per KNPC DEP 82A6. Since the supports/clips will be welded to the Tank shell, Contractor shall repair/repaint all damaged areas and field weld connection areas as per KNPC DEP 83A1. Refer to Table I of KNPC DEP 82A6 for more details.

3.4.3.12.4. Shell DEPs are NOT applicable for any modification on existing equipment only KNPC DEPs shall apply.

3.4.3.12.5. Upon completion of insulating and jacketing the existing Tank TK-06-11, all testing must be completed as required by the Project Requirements including a full hydrotest of the entire Tank height.

3.4.3.12.6. Contractor shall completely demolish the existing Tank TK-52-114 including foundation, associated piping and instrumentation as well as the intermediate dike wall so that new Tank TK-50-169 can be installed on the same location. Refer to Exhibit 3 for details. Contractor shall also be responsible for disposal of all materials from the Site to a designated area.

3.4.4. Civil / Foundations / Concrete Structures

3.4.4.1. Contractor shall be responsible for the supply of all materials, labor, supervision, equipment, and undertaking of all civil works located within the battery limits, including but not limited to the soil works as per geotechnical recommendations, earthworks, backfilling including structural fill, Tank foundations ring wall or raft foundations and liners as required and any materials required for the Works.

3.4.4.2. For clarification, Contractor is responsible for ALL aspects of foundation construction for Group 1 Tanks. For Group 2 Tanks, Contractor is responsible for Field Engineering support for the construction of the foundation by Others. The directions below should be applied appropriately per the requirements of each Group.

3.4.4.3. For Group 2 Tanks, where leak detection is applicable, foundation construction will include all reinforced concrete work, backfill and compaction, leak detection system (including HDPE Liner and inspection sump). This work will be constructed by Others. All material above the HDPE liner including the geotextile,

fill, Cathodic Protection and clean sand is in the Contractor's construction scope. For clarity, these boundaries are given in Exhibit Eleven (11).

- 3.4.4.4. For Group 2 Tanks that do not have leak detection, construction of the ring wall and filling up to 600mm below the top of foundation will be by Others. All Cathodic Protection and clean sand fill is in the Contractor's construction scope.
- 3.4.4.5. The existing Plant Geotechnical reports have been provided in Exhibit Twelve (12). A further detailed geotechnical investigation is in the process of being conducted and the Final Report will be provided to Contractor when completed.
- 3.4.4.6. Company believes that the information that has been/ will be provided in the geotechnical reports is adequate for design purposes. Adequacy of provided information shall be reviewed during tank design and if additional Geotechnical Investigation is required to provide full warranty, it is the Contractor's responsibility to perform this additional investigation. Details of any further investigations, together with name of proposed Subcontractors shall be provided to Company.
- 3.4.4.7. Company will execute additional soil investigation on the Tank locations specific for the design of the Tank foundations in the Revamp Area (Group 1 tanks). For Group 2 Tanks, general boring will be completed. These reports will be made available to Contractor after completion of the soil investigation. As necessary, Contractor shall perform soil contamination analysis in the event that any potentially contaminated soil is discovered during excavation.
- 3.4.4.8. Not Used
- 3.4.4.9. Existing Topographical Surveys for the Refinery have been provided in Exhibit Twelve (12). Contractor shall be responsible for performing any additional topographical surveys required to carry out the construction of the civil works.
- 3.4.4.10. Contractor shall be responsible for all earthworks within the battery limits (limited to the immediate Tank foundation area). Contractor will receive the area in its native state, no preparation done. All temporary access to work area shall be by the Contractor.
- 3.4.4.11. All Earthworks, excavation, back filling and compaction shall be in accordance with Project Specifications and standards.
- 3.4.4.12. For Group 1 Tank areas, Contractor is required to complete an exploratory trial dig by hand excavation to identify any unknown existing underground services. At a minimum, this will require two (2) full diameter excavations at a depth equivalent to the bottom of foundation in an "X" pattern for each Tank. This is to be completed within one (1) month of mobilization.
- 3.4.4.13. Contractor shall establish the location and extent of existing services in area of Work and notify Company of any findings before commencing the works and take all precautions to ensure that there are no unknown services. Where unknown services are encountered, Contractor shall immediately advise Company and confirm findings in writing.
- 3.4.4.14. Contractor shall confirm the design of any soil improvement works by overload test as per ASTM standards, either prior to or concurrent with the commencement of the Works.
- 3.4.4.15. Not Used
- 3.4.4.16. For any ground improvement or soil densification works, the Contractor shall engage the services of an experienced and expert installation contractor as per the

approved contractors in Attachment N, familiar with the region and the type of improvement proposed. The name of the proposed Subcontractor should be submitted to the Company as part of the bid.

- 3.4.4.17. Acceptance criteria shall be developed by Contractor for Company approval to enable test results to be used as a control method for soil improvement. Testing shall be carried out before and after soil improvement or densification to assess the effectiveness of the work.
- 3.4.4.18. Not Used
- 3.4.4.19. Contractor shall be responsible for the procurement and transportation / logistic of all materials including but not limited to stones, selected granular fill, water, or any material required for the installation of the ground improvement. Contractor shall be responsible for selecting the sources for the materials and obtaining all required local authority permissions before transporting any material to the site. All materials shall be good quality as per Project Requirements and approved by Company.
- 3.4.4.20. Contractor shall replace or add new at Contractor's own expense if damage to the ground improvement, densification or piling occurs at any time prior to, during or after installation / construction. Contractor shall be responsible for the design, procurement, construction and installation of the repair, replacement or additional works.
- 3.4.4.21. On completion of the foundation works, Contractor shall provide Company with a certified survey plan showing the as-built ground improvement/ densification/ piling setting out, positions and cut-off levels.
- 3.4.4.22. All concrete work shall be in strict accordance with the Project Requirements.
- 3.4.4.23. Contractor shall be responsible for design, construction and erection of all formwork, bracing and shoring required to safely place concrete. Supply and installation, in accordance with the design drawings, of all required materials, including but not limited to reinforcing bars, chairs, standees, tie wires, templates, inserts, embedded items and anchor bolts.
- 3.4.4.24. Contractor shall be responsible for supply of all concrete, reinforcement, anchor bolts and accessories for Tank foundation; properly place concrete; finish and cure; remove forms; remove laitance; inspect, point and patch all form tie holes; chip out and patch honeycombs. Furnish and apply all required moisture barriers and internal membrane / coatings as specified on datasheets, drawings and specifications.
- 3.4.4.25. Contractor shall furnish copies to Company, of any further site specific geotechnical report for the Tanks design, as required.
- 3.4.4.26. Contractor shall employ a professional Testing Laboratory, approved by Company, to perform all testing of materials used in the concrete mixes and concrete samples. Concrete shall be sampled, cured and tested in accordance with Project Specifications by Contractor's independent laboratory.
- 3.4.4.27. Not Used
- 3.4.4.28. Contractor shall be responsible for the removal and disposal from Site of all excess excavated materials.

- 3.4.4.29. Provisions shall be made to keep the excavations dry and to remove any water, which may accumulate in the excavations. Correct dewatering/disposal of water is Contractor's responsibility.
- 3.4.4.30. For Group 1 Tanks, Contractor shall obtain written acceptance of the Tank foundations from the Company prior to the commencement of any Tank erection. Foundations that do not meet the tolerance requirements of the drawings and specifications (as applicable) shall be repaired to compliance prior to the start of any Tank erection. Acceptance of the foundation does not relieve the Contractor from the responsibility of providing Tank foundations that are compliant with the specifications and drawings.
- 3.4.4.31. For Group 2 Tanks (with foundation construction by Others) Contractor and Company Engineering staff will align on the top of concrete level of Tank foundations before installation of the tank bottom annular ring and bottom plates.
- 3.4.4.32. For all Tanks, Contractor shall inspect and approve the foundations built by their Subcontractor for Group 1 or Others for Group 2 before starting construction of the Tanks.
- 3.4.4.33. Contractor shall conduct all required surveying and layout work based on the established plant coordinates and elevation systems. Contractor shall verify the exiting benchmarks before use. Contractor may establish more monuments as necessary to complete the Work.
- 3.4.4.34. Contractor shall obtain all necessary permits for the hauling and offsite disposal of all spoils or unsuitable excavated materials. Excess suitable excavated material is to be hauled to an onsite area as designated by Company.
- 3.4.4.35. Contractor shall ensure adequate dust mitigation measures are provided at all times.
- 3.4.4.36. Contractor will be allowed to use an area to be defined by Company as storage / reclamation / screening area for excavated materials until notified by Company. Contractor is responsible for ensuring that this area is left in exactly the same condition and the same elevations and grades of its original state and to be out of the respective areas no later than 30 days after notification by Company.
- 3.4.4.37. Borrow material if required, in excess of the excavated material, for use as fill shall be obtained from outside the facility limits. The borrow material shall satisfy the gradation requirements specified in the Project Specification and shall be subject to Company's approval prior to use at the site.
- 3.4.4.38. All roads, damaged by the Contractor to perform the Work, shall be repaired to the original lines, grade and the cross sections at the Contractor's expense. All repair work shall be performed strictly per Project Specifications.
- 3.4.4.39. All ditches damaged by Contractor to perform the Work shall be repaired/reinstated at Contractor's expense, to the original grade, elevation and condition. All repair work shall be performed strictly per Project Specifications.
- 3.4.4.40. Contractor shall employ an independent professional testing laboratory, approved by the Company, to perform the required field soil density, fill materials, and other civil tests in accordance with the specifications. The results shall be submitted to Company for approval.
- 3.4.4.41. Contractor shall supply, install and properly compact all fill material consisting of structural fill in accordance with the Project Specifications.

- 3.4.4.42. Contractor shall give extra attention to safety during excavation work. Contractor shall supply, install and maintain safety barricades around all excavated areas as required by related regulations, until such time the Work is completed. Contractor shall maintain the stability of all excavations in compliance with specified safety standards until final acceptance of the Work.
 - 3.4.4.43. Reinforcing bar mill certificates, manufacturer's product data with application and installation instructions for materials (mix design), including admixtures test reports for aggregates and cement shall be submitted to Company for review prior to the start of the work.
 - 3.4.4.44. No concrete shall be placed prior to completion of the pre-pour inspection by Company. Contractor shall give Company advance notice by the instructed amount prior to concrete placement to ensure adequate time necessary to complete the required pre-pour inspection.
 - 3.4.4.45. Any civil works immediately outside the concrete ring wall / mat foundation such as paving or drainage as well as the dike walls do not form part of the Contractor's scope of work with the exception of the leak detection system where applicable.
 - 3.4.4.46. Contractor shall install all components of stairways, platforms, ladders, walkways and other steel items connected to the Tanks.
- 3.4.5. Electrical
- 3.4.5.1. Contractor shall be responsible for the installation, testing and pre-commissioning of earthing system and bonding requirements within and attached to the Tank including all associated metallic structures (ladders, platforms, pipe supports, roof) in accordance with the Project Requirements.
 - 3.4.5.2. Earthing bosses at the Tank shell shall be provided by Contractor, connection to the earthing grid will be done later by Others.
 - 3.4.5.3. Contractor must install earthing rods temporarily for the life of the Tank construction.
 - 3.4.5.4. Contractor shall coordinate all work processes with other contractors during Tank construction execution.
- 3.4.6. Control Systems
- 3.4.6.1. Contractor shall provide blind flanges with gaskets, bolts, and nuts for instrument nozzles to allow for testing without the instruments being installed.
 - 3.4.6.2. Flange rating for the instrument nozzles shall be in accordance with Project Variation 32.31.00.32-P6000CFP-000-PV.
 - 3.4.6.3. Contractor shall be cognizant that Tank gauging systems may have additional vendor requirements such as targeting plates and stilling wells. Contractor shall provide stilling wells, target plates and internal supports for instruments.
 - 3.4.6.4. Contractor shall provide certified stilling well lengths and nozzle projections within four (4) months after Contract award.
 - 3.4.6.5. Additional stilling wells not identified on the datasheets for following 3 Tanks shall be supplied and installed by Contractor; TK-123-401 (8" nozzle K4) and TK-123-501 A/B (8" nozzle K5).
- 3.4.7. Piping

- 3.4.7.1. Contractor shall include in his scope of supply all blind flanges, gaskets, bolting and any other attachments required to perform the hydrotest.
 - 3.4.7.2. In the case of Group 1 Tanks (External Floating Roofs) and where applicable to Group 2, all fire protection piping attached to the Tank shall be installed by the Contractor. Provision and installation of the supporting arrangement for the piping shall be the responsibility of the Contractor. All piping in the Contractor's scope shall be terminated in the vertical plane 2.5m from the finished grade level with flanged end connection as per the Project Specifications. This piping shall be in accordance with 31.38.01.11-P6000CFP-000-PV. All material for the piping in the Contractor's scope shall be in accordance with P6000CFP.000.10.09.104, it shall be inspected and tested in accordance with ASME B31.3, 31.38.01.31-P6000CFP-000-PV and 74.00.10.10-P6000CFP-00-PV.
 - 3.4.7.3. All Process and utility (non fire protection) piping to and from the Tank will be designed, supplied and installed by Others. However, Contractor shall install all clips and supporting arrangements for piping connected to the Tank based on the piping design supplied by Others. The supports shall be spaced in accordance with the Project Requirements.
 - 3.4.7.4. After hydrotest, long term settlement shall not exceed 50 mm maximum.
 - 3.4.7.5. All flanged and threaded joints shall be completely free from dirt or other foreign objects.
 - 3.4.7.6. Flange bolt holes shall straddle the Tank natural centerlines, unless otherwise specified on the drawings.
 - 3.4.7.7. All open ends of piping and nozzles shall be protected by suitable means approved by the Company.
 - 3.4.7.8. Contractor shall install all external clips, support steel, brackets/supports and all roof supports for all piping, cable tray and instrumentation tubing which are directly connected to the Tanks. This includes all supports on Tank walls and roofs.
- 3.4.8. Cathodic Protection
- 3.4.8.1. Contractor shall be responsible for the installation and pre-commissioning of an impressed current Cathodic Protection (CP) system which includes but is not limited to anodes grid system, transformer rectifiers and rectifier foundations, terminal/junction boxes, cables and test posts. This scope includes internal and external CP as noted on the Tank datasheets.
 - 3.4.8.2. Not Used
 - 3.4.8.3. Not Used
 - 3.4.8.4. Cathodic protection system for bottom plates shall be applied only if Tank rests on Concrete ring wall and sand pad foundation. In case of concrete pad foundation, External Cathodic Protection system will not be required.
 - 3.4.8.5. The location of the transformer rectifier shall be installed outside the dike wall in an unclassified area.
 - 3.4.8.6. Power supply requirements for the specific units can be found in the Electrical Guidelines. The power supply shall be provided by Others. The ambient air temperature for all electrical equipment shall be 55° C.
 - 3.4.8.7. Contractor shall obtain Company's approval of Cathodic Protection material installation that will be installed underground, prior to back-fill or within concrete

pours. Cathodic Protection material damaged or impaired during these activities shall be repaired or replaced as required by Contractor.

- 3.4.8.8. Contractor shall ensure that during all phases of installation and construction, all project and site safety practices and procedures are implemented. Extreme caution shall be observed during the execution of the exothermic welding process. Manufacturer's installation procedures shall be adhered to without exception.
 - 3.4.8.9. Contractor shall provide updated records of all construction drawings for any field modifications to the original design to show the as-built CP system. The location of all Cathodic Protection equipment shall be shown on the as-built drawings.
 - 3.4.8.10. The installation and commissioning of the CP system shall be fully documented and recorded. Commissioning of CP system will be conducted well after Tank construction is complete. Contractor and specialized representatives are required to return and be present during this commissioning period. Refer to Project Variation to Shell DEP 30.10.73.33 – General Installation and Commissioning of Cathodic Protection Systems.
 - 3.4.8.11. Contractor shall notify Company Inspection representative before commencing construction so that full inspection coverage can be provided, especially during anode installation.
 - 3.4.8.12. Contractor shall conduct all CP tests, pre-commissioning and provide records of test results/reports to Company.
 - 3.4.8.13. Contractor shall supply all tools, test equipment and material required for testing and commissioning of CP system.
- 3.4.9. Fire Protection
- 3.4.9.1. Contractor's scope of work shall include, but not be limited to installation, testing, and commissioning of the foam system, water spray system and fire and gas detection system for all Tanks where applicable.
 - 3.4.9.2. During pre-commissioning, Contractor shall be responsible for the firewater systems testing to ensure the flow, pressure and spray coverage complies with all relevant codes and standards and the Technical Specifications. Contractor must correct all deficiencies related to their work identified during this testing.
 - 3.4.9.3. Contractor will notify Company as to the timing and procedure for such pre-commissioning tests.
 - 3.4.9.4. Contractor shall provide a technician and shall follow the recommendations and procedures of NFPA 3 for the Pre-commissioning and Integrated Testing of the Fire Protection Systems.
 - 3.4.9.5. The requirements for the testing and pre-commissioning of the fire water system are provided in the Technical Specifications located in Exhibit Four and NFPA 3, 13, 14, 15, 16, 20, 24, and 25.
 - 3.4.9.6. Contractor is responsible for installation and testing of all above ground fire water piping, fittings, spray nozzles, etc as identified in the Piping scope of work.
 - 3.4.9.7. Spray nozzles, foam pourers and other fire protection items shall have at least one of the following listings or approvals: UL (Underwriters Laboratories), FM (Factory Mutual), or European Standards (EN).
 - 3.4.9.8. Installation of the foam and water spray system for the storage Tanks shall comply with the Project Specifications and standards as listed in Exhibit 4.

- 3.4.9.9. Contractor shall install semi fixed foam system equipped with Foam Pourers and Foam. The line size shall be based on the final foam solution calculation based on the number of foam pourers (with foam makers) required per NFPA 11 guidelines, DEP 80.47.10.30 and DEP 80.47.10.31.
 - 3.4.9.10. Contractor shall install Linear heat detection (e.g. heat sensitive cable) around the rim seal area to detect potential fires as per the Tank datasheets. Contractor shall install cable to transmit signal from this Linear Heat Detector to a junction box near the Tank foundation.
 - 3.4.9.11. The floating roof Tank shall have a seal welded foam dam minimum 350 mm high over the full circumference of the roof.
 - 3.4.9.12. Fire fighting vehicles (by Others) shall deliver the foam solution through a piping connection to the semi fixed foam system onto the Tank rim seal area isolated by a foam dam on the roof.
 - 3.4.9.13. The Tank wall shall be protected by a circular ring header (waterspray) supported from the Tank's top curb angle or wind girder as specified on datasheets.
 - 3.4.9.14. The system shall be designed (by Others) to deliver water at a rate of 17 liter/min/linear meter of Tank circumference as specified on datasheets.
- 3.4.10. HDPE Liner / GEO Membrane Installation
- 3.4.10.1. Contractor shall provide and install HDPE Liner / Geo membrane protection in accordance with the applicable specifications. Contractor shall ensure membranes are installed as per Manufacturer's instructions and if necessary, shall employ a specialist third party HDPE Liner / Geo membrane protection contractor.
 - 3.4.10.2. Contractor shall provide that the membrane "set in key lock" at the ring wall is welded properly to ensure that the membrane rests properly against the ring wall.
 - 3.4.10.3. Refer to S12.003-P6000CFP-000-PV for applicable details pertaining to Tank leak detection and management system.
- 3.4.11. Welding, NDE and Testing
- 3.4.11.1. Contractor shall perform welding to a manufacturing quality assurance system that meets the requirements of ISO-3834 part 2 for pressure equipment and piping and ISO-3834 part 3 for structural steel.
 - 3.4.11.2. Contractor shall organize the manufacturing welding coordination in accordance with ISO 14731, with personnel certified at the appropriate level to the criteria of annex A of ISO 14731.
 - 3.4.11.3. A complete set of welding procedures (WPS's and PQR's) shall be submitted at least one (1) month prior weld manufacturing is scheduled to commence.
 - 3.4.11.4. Welding procedures shall be submitted as a package, including weld maps, WPS's and PQR's.
 - 3.4.11.5. Welding and NDE requirements shall be as per Project Requirements, P6022MAB.000.10.10.002, Specification requirements for Weld Fabrication and Non Destructive Examination and AWS D1.1 – Structural Welding Code.
 - 3.4.11.6. Contractor shall provide all nondestructive examination (NDE) services required by the specifications. Test procedures and personnel qualifications, shall require prior approval from Company. Company will interpret results.

- 3.4.11.7. WPS's shall be accompanied by test data and results in the form of Welding Procedure Qualification Records (PQR's).
- 3.4.11.8. For SHELL NDT - NDT works and reports MUST follow the shell work at all times.
- 3.4.11.9. Tanks must be inspected RING BY RING inside and out to ensure that scaffolding can be taken down as assembled. This will mean the clearing of all NDT and the repair or shell where temporary attachments have been removed. NDT system must cater for this.
- 3.4.11.10. Contractor and Company shall agree "hold points" for each shell and floor plate to track that the plate has been inspected for repair and repaired as necessary and NDT/NDE has been done at points where temporary attachments have been welded on and/or removed.
- 3.4.11.11. All plates must have a plate number which will be used for tracking purposes within the ITP. This applies to shell, floor, roof and pontoon plates. Every plate does not require a unique plate number. Conventional piece marks can be used; however piece marks must be used on all NDT records for pick ups / repairs.
- 3.4.11.12. Contractor shall complete NDE and obtain Company acceptance for the vertical welds for each ring before the horizontal weld is started, including visual inspection using radius boards and the visual weld inspection. This will not stop the horizontal from being set.
- 3.4.11.13. Radius and verticality board checks must be joint specific and listed on the ITP weld and plate number for the shell. The ITP shall list all welds as having been checked using the boards.
- 3.4.12. Mechanical Completion
- 3.4.12.1. Contractor's Work for an individual or group of Tanks may be considered mechanically complete, inspected, tested and ready for Turnover when all the applicable requirements of completion have been met as listed below. Company punch list items must be corrected by Contractor and accepted by Company.
- 3.4.12.2. Once Construction is complete, the following shall be executed and/or submitted by Contractor and approved by Company:
- Foundation approvals and all test records for both compaction and concrete.
 - HDPE liner sign off if applicable
 - Settlement figures after hydrotest
 - Full NDE/NDT clearances and all weld records
 - Complete nozzle inspections and sign off for position, flange orientation and rating, type and elevation.
 - Complete sign off for all internals including any and all sealing materials
 - Complete sign off for internal coating including internal pipe/nozzle inspection
 - Hydrotest records for Tank shell

- Air test for the pontoons and roof as specified
- Test records for roof drains
- Full documentation sign off for ladders and platforms including access platforms and/ or pipe supports or supports as detailed
- Cathodic Protection installation sign off and final testing sign off
- Testing and sign off for the Tank protection devices including positioning on the Tanks
- Sign off for the external coating, lettering and chemical hazard signs as required
- Internal cleanliness inspection
- Final manway closure sign off
- All name plates attached and stamped as required by relevant code authorities
- Sign off for floor inspection
- Sign off for the deluge piping where applicable
- Sign off for the foam pouring items and or piping where required
- Strapping records

3.4.12.3. WARNING - At no time can Tanks have all flanges closed so that the Tank cannot "VENT" - This will result in a vacuum situation with massive damage to shell and roof being the end result. ALWAYS LEAVE A BREATHER OR HATCH OPEN TO ALLOW FOR VENTING!!

3.5. Optional Work

Company may request Contractor to perform time and material work per the rates defined in Part II.

Company may also request Contractor to perform work listed below, in whole or in part.

Optional Work is envisioned for Group 1 with one additional crude tank similar to TK-50-168 including fire fighting, waterspray and detection piping.

For Group 2, Contractor shall provide optional price for the supply and installation of Float and Tape level gauge on TK-125-301 (Refer to Note-20 on Tank Data sheet).

The request shall be made in writing and upon receipt of such request the Contractor shall diligently perform the specified Work.

4.0 MATERIAL, PERMANENT EQUIPMENT, OR PERMANENT SITE SERVICES FURNISHED BY COMPANY

Company will furnish or cause to be furnished to Contractor, without cost to Contractor, the material, permanent equipment or permanent Site services set forth herein, for or in connection with, performance of the Work. Unless specifically set forth herein, Contractor shall provide all other material, permanent equipment or permanent Site services as required for the Work.

4.1. Material and Permanent Equipment

4.1.1. Company will furnish to Contractor at Company's warehouse on the Site or lay down Area, the items listed herein to be incorporated into or used in performance of Work under this Contract. At the time of acceptance of any such item from Company, Contractor shall sign a receipt therefore. Signing of such receipt without reservation therein shall preclude any subsequent claim by Contractor that any such items were received from Company in a damaged condition and/or with shortages. Such items are more particularly identified as follows:

- Tank Side Entry Mixers (Agitators) as identified for Tanks on Datasheets – These are to be fitted and installed by the Contractor

4.1.2. Contractor shall, at its expense, accept delivery thereof, load, unload, transport to points of use and care for such items until the final disposition thereof, all in accordance with Attachment H, Company's Furnished Equipment and Material Issuing Procedure.

4.1.3. Apart from the items specifically described as being Company furnished, Contractor shall supply all other materials and equipment required by and in accordance with the Contract, including, but not limited to, all materials generally described as "consumable" (e.g. weld rods, shims, packers, gases for welding and other use).

4.2. Permanent Site Services

4.2.1. Survey Monuments and Survey Control

- A. Monuments and/or benchmarks for setting out the Work are established on Site and indicated on the drawings.
- B. Contractor shall carefully preserve all monuments, benchmarks, reference points and stakes. Contractor will be charged with the expense of replacement of any such items destroyed and shall be responsible for any mistake or loss of time that may be caused. Permanent monuments or benchmarks which must be removed or disturbed shall be protected until they can be properly referenced for relocation. Contractor shall furnish materials and assistance for the proper replacement of such monuments or benchmarks.

4.3. Permits

4.3.1. Contractor shall be responsible for obtaining all permits necessary and required to complete the Work. Contractor shall identify an individual who shall be nominated Contractor's dedicated permit coordinator. With approval by Company, as necessary this coordinator will interface with the Kuwaiti authorities. In addition, this individual will coordinate the Contractor's effort in identifying permit requirements, obtaining applications, communicating the requirements, compiling the required design or other documents, submitting the applications and following through with the authorities. These activities may be required for construction related permits as well as special permits such as import, customs, transport and security, and are included in Contractors Scope. Contractor's permit coordinator shall be fluent in the written and spoken Arabic language.

4.3.2. All daily permits required for performance of the Work at Site are the responsibility of the Contractor. All permits required for performance of the Work at Site will be approved by the

Company. Contractor shall prepare all applications for such permits and submit them to Company as required in a timely manner.

5.0 TEMPORARY CONSTRUCTION FACILITIES AND UTILITIES

5.1. Furnished by Owner

The following temporary construction facilities and utilities will be supplied without cost to Contractor, for or in connection with performance of the Work:

5.1.1. Area for Contractor's offices and lay down/warehouse

- 5.1.1.1. For Group 1 Tanks, a location to the west of TK-50-168 within the perimeter roadway boundary of this Tank area is available for all Contractor's Group 1 Tank laydown and temporary facilities. For this area, Contractor is required to supply all of the required water and power needs.
- 5.1.1.2. For Group 2 Tanks, an area 60m x 80m will be provided at the southeast corner of the new MAB 2 area. This area will be near the new Flare Unit 149. For this area, Contractor is required to supply all of the required water and power needs.
- 5.1.1.3. A reference Plot Plan is included in Exhibit Three (3) to allow Contractor to identify these locations.
- 5.1.1.4. An area 100 m x 150 m will be available to Contractor outside the refinery to the West of Fahheel Expressway to setup a fabrication facility for steel plate. Any land requirement in addition to this will be the responsibility of Contractor.

5.1.2. Parking facilities. Neither Company nor Owner will be financially responsible for any damage or unlawful acts to any Contractor equipment or vehicles parked in designated parking areas.

5.1.3. Tank hydrostatic test water will not be supplied by Company.

5.1.4. No temporary power for construction will be provided to Contractor by Company. Portable generators shall be provided by Contractor, as required for temporary power for construction in all areas of the Work.

5.1.5. Overall Site Perimeter Security Fencing and Access Gates

- 5.1.5.1. For Group 1 Tanks, the Contractor is responsible for erecting and maintaining a high quality temporary fence to ensure all of his work areas are adequately isolated from the operating refinery.

- 5.1.5.2. For Group 2 Tanks in the Grassroots area, no such fencing is required.

5.1.6. Availability of telephone lines are subject to approval of Company. All costs are to Contractor's account. Contractor shall be responsible for connections, distribution lines, switchboards and any other equipment Contractor deems necessary for its project operations. Contractor shall be responsible for any usage charges or periodic charges associated with the lines assigned to Contractor.

5.1.7. Contractor will be assigned an entrance gate for goods and personnel entering the Mina Abdullah (MAB) Facility. No personal vehicles will be allowed on the Site; any parking will have to take place outside the gate.

5.1.8. Transport

Company specifies that the following transport conditions are taken into account by Contractor:

Normal transport

Normal transport conditions are:

width: 2.75m
height: 4.10m
no long vehicles

Contractor shall notify Company's Warehouse Manager with details of transports (license number, name of the truck driver, name of the express company). Company's contact details are as follows:

E-mail: *Later*
in copy:

Special transport

Special transports (heavy, long vehicle) are:

Width: from 3.0m
Height: 4.0m
Long vehicle: from 20.75m
Weight: from 40 tons

Contractor shall notify Company's Warehouse Manager of this type of transport at least two days in advance (license number, name of the truck driver, name of the express company, all transport information size weight).

Shipping

Contractor shall notify Company's Warehouse Manager of any transport by ship at least 4 weeks in advance and follow Company's further directions.

5.2. Furnished by Contractor

Except as expressly set forth above in Section 5.1 of this Section 5.0, the supply, installation, provision, maintenance, repair, and final removal of all temporary construction facilities and utilities, necessary for full and complete performance of the Work, is the sole responsibility of the Contractor.

Such items shall include, but not necessarily be limited to, those listed below. Irrespective of the contents of this Section 5.2, Contractor has the sole responsibility to identify and provide all required temporary construction facilities and utilities to perform the Work. The type of facilities, move-in and move-out dates, and locations at Site shall be subject to and in accordance with the review and approval of Company.

5.2.1. Temporary Facility and Lay-down Area

A. Maintenance of Contractor's laydown, storage and Work areas and roads within such areas. Contractor's designated working / lay-down areas shall be fenced by Contractor

- B. Upon demobilization, the land previously occupied by Contractor's temporary facilities and lay-down area shall be returned to its pre-construction condition or better. This requirement shall also apply to all temporary roads, and parking, lay-down areas and temporary utilities.
- C. The provision, operation and maintenance of sanitary systems, industrial systems, storm drainage and utility sewage systems for Contractor's temporary facilities and construction area sanitary facilities is the responsibility of Contractor, including collection, holding, processing and disposal.

5.2.2. Storage Compounds

Contractor shall provide adequate weather-tight storage, for storage of materials, tools and equipment which are subject to damage by weather. The location of storage compounds must be agreed with Company before storage of materials commences. Such compounds shall be maintained for the storage of the approved materials and for no other purpose.

5.2.3. Construction Power

- A. Onsite generation of power is allowed, providing that such power is obtained through the use of properly installed, acoustically insulated, diesel electric generating units.
- B. Contractor's distribution system, lighting systems and wiring shall be installed in a proper manner and maintained in a satisfactory condition. As per Attachment D – Project HSE Rules and Regulations.

5.2.4. Temporary Facility Area Power, Lighting and Heating Supply

- A. All electrical installations within temporary buildings shall be in accordance with the National Electric Codes.
- B. Contractor shall be responsible for supplying electric power to his Temporary Facilities.

5.2.5. Construction/ Testing Water

Contractor shall provide all temporary water distribution supply lines and water storage facilities. Contractor shall distribute and convey water in an efficient and orderly way. Leaks and waste shall be minimized and care shall be exercised to eliminate the buildup and dispersal of mud resulting from leaks, spills and truck loading operations. Contractor shall provide all requisite corrosion inhibitors, antifreeze and other additives required to perform testing in accordance with specification.

Contractor is also responsible for the safe and proper disposal of water into either local drainage systems or where these are either not available or water has become contaminated, to offsite disposal locations approved by Company.

5.2.6. Potable Water

The supply of potable water, including ice, Contractor shall take care of the distribution of drinking water to points of consumption for its personnel in appropriate receptacles accompanied by suitable drinking vessels.

5.2.7. Water Disposal and De-watering

Contractor shall perform all necessary de-watering and disposal of water. Storm drainage, surface drainage and discharge of construction wastes shall be managed to prevent pooling of water on Site and to prevent interference with the operations of other contractors and organizations on or adjacent to the discharge areas.

5.2.8. Temporary Buildings

- A. Contractor shall provide, operate, maintain and dispose of all temporary buildings, including change rooms in accordance with all requirements of the Contract, specifically including, but not limited to, the Attachments "C" and "D" covering Safety Regulations and Site Rules.
- B. Industrial sewage from Contractor's temporary construction facilities and operations shall be collected in holding Tanks for disposal by pump trucks.
- C. Contractor shall provide and operate its sewage facilities in a manner that eliminates health risks and obnoxious odors.

5.2.9. Sanitary Facilities

Contractor shall be responsible for all temporary sanitary facilities, including janitorial services, storage and removal of sewage. Sanitary facilities in buildings shall be operated with running water and effluent shall be collected and temporarily stored in holding Tanks for removal by pump trucks. Chemical toilets may be utilized outside of buildings. All chemical toilets shall be cleaned and serviced daily. All temporary toilets shall be kept in a constant sanitary condition and shall be in compliance with all applicable health or other regulations. Portable enclosed toilets may be used in construction and fabrication areas, provided they are regularly attended and maintained. Prior to completion of the Work, all toilet facilities shall be removed and their areas disinfected and filled.

5.2.10. Fuels and lubricants

- A. Oils, greases and similar materials must be stored in non-flammable bins or buildings or in a fenced compound remote from other combustible materials, as approved by Company.
- B. "No smoking" signs shall be provided by Contractor and prominently displayed in areas where flammable materials are stored. Additionally, Contractor shall provide and maintain suitable fire extinguishers in such areas.
- C. Contractor shall provide all fuel for heating, ventilation and air conditioning of temporary facilities, unless these are run from power sources.

5.2.11. All combustible materials will be stored in a flammable/chemical storage facility furnished by Contractor. Such storage facility shall be in accordance with NFPA, and approved by Company, and shall be clearly colored and with required signage/boarding.

Communication Facilities

Contractor shall provide and operate all means of communication, including, but not limited to telephones, facsimiles, and radios which shall be approved by Company.

5.2.12. Compressed Air and Gases

5.2.13. Temporary Roads and Parking

- A. Contractor shall be responsible for providing and maintaining all roads and parking areas deemed necessary by Contractor for access, and parking in temporary facilities areas, construction areas, and between areas. Contractor provided roads and parking areas shall be constructed so as to provide for adequate safe movement of light and heavy vehicles and equipment. Contractor's temporary roads shall be constructed in a manner ensuring the avoidance of damage to all permanent roads, facilities, and underground structures.
- B. Contractor shall maintain its temporary roads and parking areas regularly, and shall water all its roads as a dust abatement measure.
- C. Contractor shall remove and restore areas occupied by temporary roads and parking areas upon completion of the Work.

5.2.14. Material Handling and Rigging

Contractor shall provide and operate all cranes and other necessary equipment for handling, hauling, unloading and receiving Contractor or Company supplied materials, tools and equipment.

5.2.15. Supply, erection, maintenance and dismantling of scaffolding and other means of access to the Work.

5.2.16. Weather protection of the Work and any methods required to allow continuation of the Work during summer periods or periods of inclement weather.

5.2.17. Small tools

5.2.18. All standard expendable or consumable construction items and supplies.

5.2.19. Temporary lighting. Provision and operation to allow the Work to be performed in a safe manner, regardless of ambient lighting conditions.

5.2.20. Personnel Protective Equipment

5.2.21. Permits for Temporary Facilities. Contractor is solely responsible for obtaining all permits, licenses and approvals for its temporary facilities that are located within and outside the project boundaries. It is the Contractor's sole responsibility to ensure that these facilities are provided, operated, maintained and disposed of in accordance with the local laws and regulations.

5.2.22. Temporary fencing to secure Work areas, temporary facilities areas, materials and equipment storage areas.

5.2.23. Contractor shall provide project signs for traffic control, and direction, and for identifying project areas. Signage shall be based where possible on international signage standards and conventions.

5.2.24. Containers and services for hauling, removal and disposal of construction waste and debris. Contractor shall advise Company in writing of any need for disposal of hazardous waste prior to removal of such waste from Site.

5.2.25. Transportation facilities on and off site. Only Contractor's vehicles, as approved by Company, will be allowed on Site.

5.2.26. First aid facilities.

6.0 PERFORMANCE SCHEDULE AND SEQUENCE OF WORK

- 6.1. Contractor shall commence performance of the Work and shall complete the Work in accordance with the dates set forth in Section 5.0 of the Contract Signature Document.
- 6.2. Specific milestones, interfaces and other schedule related bases of this Contract are as set forth in Exhibit One.
- 6.3. General scheduling, reporting and coordination requirements shall be as described in Attachment G – Scheduling and Reporting.
 - 6.3.1. Contractor shall submit the detailed schedule required by Clause 5.0 of Part III, General Terms and Conditions within thirty (30) calendar days of award of this Contract.
 - 6.3.2. Specific scheduling and coordination requirements may include, but not necessarily be limited to the following:
 - A. Engineering deliverables by discipline
 - B. Mobilization time for manpower and equipment
 - C. Material deliveries to Site
 - D. Shop fabrication
 - E. Incremental completion dates of major components
 - F. Start and completion of different segments of Work (early and late starts)
 - G. Any qualifying conditions of Company
 - H. Other as necessary
- 6.4. Site work hours will be 60 (sixty) hours per week, 10 (ten) hours per day, 6 (six) days per week (Saturday through Thursday), between the hours of 06:00 a.m. and 05:00 p.m. including lunch break.

7.0 REPORTING REQUIREMENTS AND COORDINATION MEETINGS

Contractor shall promptly submit the schedules and reports set forth in Attachment G and in addition, those reports as requested by Company pursuant to Clause 5.0 Progress and Sequencing of Work-Scheduling set forth in Part III - General Terms and Conditions.

7.1. Weekly Progress Meetings

- 7.1.1. At the weekly progress meeting, Contractor shall submit a written report showing actual manhours expended versus planned and scheduled progress versus actual progress, giving details of Work completed in relation to the approved schedule, together with a two (2) week "look ahead" which provides details of how the Work will be completed.
- 7.1.2. Contractor shall attend a weekly coordination meeting together with various contractors at Site.
- 7.1.3. The person or persons designated by Contractor to attend the meetings shall have all the required authority to make decisions and commit Contractor to solutions agreed upon during any meetings.

7.2. Other Meetings

Contractor's participation in certain additional activities shall also be required. These activities shall include, but not be limited to:

- 7.2.1. Indoctrination and orientation of all Contractor's employees prior to commencing Work at Site. (This includes the entire labor force and all new hires). The meeting will last approximately four (4) hours.
- 7.2.2. Weekly toolbox safety meetings organized and conducted by Contractor and attended by all of Contractor's craft employees. Contractor shall be responsible for arranging and conducting these meetings with its craft employees. The meetings will last approximately one (1) hour.

7.3. Progress Reporting by Unit and Per Tank

- 7.3.1. Progress must be reported on a per Unit basis for both Groups. For clarity, the Units are as follows:
 - 7.3.1.1. Unit 50 – all 5 Group 1 Tanks
 - 7.3.1.2. Unit 123 – 3 Sulfur Tanks
 - 7.3.1.3. Unit 125 – 1 Amine Tank
 - 7.3.1.4. Unit 126 – 2 Sour Water Tanks
 - 7.3.1.5. Unit 137 – 16 Water Tanks
 - 7.3.1.6. Unit 154 – 2 Firewater Tanks
 - 7.3.1.7. Unit 156 – 4 Tanks
- 7.3.2. Construction Progress shall be reported on an individual Tank by Tank basis and rolled up to the Unit level.

8.0 DATA REQUIREMENTS

- 8.1. For Documentation requirements, refer to Exhibit Two (2).

- 8.2. Within one (1) month of Contract award, Contractor shall submit a Master Document Register listing all Engineering documents and drawings to be prepared during the execution of the Work.
- 8.3. Contractor shall follow Project Document Numbering Procedure FDH-008-JB-005 given in Exhibit Two (2) as well. Refer to the section related to Vendor drawing numbering requirements.
- 8.4. All shop fabrication drawings can be issued by Contractor as "Issued for Information" (IFI). Contractor shall have ultimate responsibility for correctness and compliance with the specifications as listed in Section 3. Company will have the right to review the documents issued as IFI and give comments related to the conformance to Specification, drawings, Codes, Standards, Attachments, Permits, Licenses and Exhibits mentioned in Section 3. Contractor shall address Company's comments.
- 8.5. Company will issue specifications, drawings and other documents as set forth in Attachment B, Administrative Procedure.
- 8.6. Contractor shall submit the following data to Company as part of the scope of work, a minimum of one (1) electronic copy of each category (pdf and native where applicable) and hard copies indicated below.
 - 8.6.1. As-built drawings for concrete foundations will not be required. All other Contractor-installed Work will be recorded or marked up on as-built drawings.
 - 8.6.2. Two (2) copies of quality control turnover packages.
 - 8.6.3. Two (2) copies of test reports and test certificates as set forth in Attachment E and Exhibit Two within twenty-four (24) hours for review.
 - 8.6.4. Two (2) copies of mill certificates for all steel.
 - 8.6.5. Two (2) copies of all piping NDE tests.
 - 8.6.6. Two (2) copies of all stress relieving reports.
 - 8.6.7. Weld maps will be required for all heating coil pipe welds.
 - 8.6.8. Two (2) copies of pressure testing documentation.
 - 8.6.9. Welding procedures for Company's review fifteen (15) days prior to commencing welding.
 - 8.6.10. Quality control program for review prior to commencement of Work.
 - 8.6.11. All necessary quality control documentation as Work is completed.
 - 8.6.12. At completion of Work, a complete report of all tests.
 - 8.6.13. All lifting and rigging procedures for review prior to lifting or erecting equipment.
- 8.7. Contractor's performance of its obligations hereunder shall not be deemed complete until Company is in receipt, on proper forms, of all technical data (marked up) as-built drawings, and other documents to be submitted to Company as part of Contractor's scope of work. Failure of Contractor to comply with the above data requirements will entitle Company to withhold any progress payment, or final payment, pending Company's receipt of all the above data without prejudice to any other remedy of Company.
 - A. Contractor shall submit all engineering data, samples, and shop drawings (herein called "data") to Company for review. Company requires fourteen (14) calendar days for review of data submitted by Contractor. Each submittal of Contractor's data shall be signed by Contractor and accompanied by a letter of transmittal containing the date of submittal.
 - B. Requirements for document commitment are described in Exhibit Two

- 8.8. Contractor shall furnish to Company reproducible or electronic drawings revised by Contractor to show "as-built" information. Contractor's revisions shall show details of those locations where the Work performed by Contractor was at variance with the details shown on the drawings (either furnished by Company or furnished by Contractor and reviewed by Company). Contractor's submittal to Company of such "as-built" drawings shall be made on a continuous basis as the Work proceeds, but in all cases prior to the date of Notice of Acceptance. For the purposes of Contractor's inclusion of "as-built" information, Company will provide Contractor with an electronic version of Company furnished drawings.
- 8.9. Company reserves the right to review certified material test reports for all materials of construction at any time during shop fabrication or field erection. Contractor shall maintain these documents readily available for such review and shall submit all documents to Company on the completion of the Work.
- 8.10. Contractor shall maintain at Site up-to-date copies of all drawings, specifications, and other documents and supplementary data, complete with latest revisions thereto. In addition, Contractor shall maintain a continuous record of all field changes, and at the conclusion of the Work, shall incorporate all such changes on the "as built" drawings and other engineering data and shall submit the required number of copies thereof to Company.
- 8.11. Contractor shall show the Company Contract number and identifying item numbers, if applicable, on all data submitted pursuant to this Section 8.0.
- 8.12. Where samples are required, they shall be submitted by and at the expense of Contractor. Such submittal shall be made not less than thirty (30) calendar days prior to the time that the materials represented by such samples are needed for incorporation into any Work. Samples shall be subject to review and materials represented by such samples shall not be manufactured, delivered to Site or incorporated into any Work without such review.
 - 8.12.1. Each sample shall bear a label showing Contractor's name, project name, name of the item, manufacturer's name, brand name, model number, supplier's name and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.
 - 8.12.2. Samples which have been reviewed may, at Company's option, be returned to Contractor for incorporation into the Work.

9.0 CLEAN-UP, SAFETY, WORK RULES AND REGULATIONS

- 9.1. Contractor shall perform the Work in a safe manner and keep the Site in a clean condition, all in accordance with Attachment C, Site Rules and shall comply with all Work rules and regulations set forth in Attachment D, Project HSE Rules & Regulations.
- 9.2. Contractor shall submit the Safety Plan and other deliverables required in Attachment D, Project HSE Rules & Regulations within fourteen (14) calendar days of award of this Contract.
- 9.3. While on Owner's Site Contractor shall perform Work in a safe manner, shall comply with all safety regulations of Owner and/or Company and shall require the observance thereof by all Subcontractors and Vendors. Contractor acknowledges that Owner is engaged in the business of processing, handling, storing, and transporting petroleum products and chemicals and that due care is required and shall be exercised by Contractor in the performance of any Work to be performed hereunder. Contractor agrees for itself and any Subcontractor to observe a high degree of care at all times as required by its knowledge herein and the circumstances.

10.0 QUALITY CONTROL

Contractor shall be responsible for the performance of all inspection and testing activities as specified in Attachment E, Quality Assurance and Control. Contractor shall submit the quality

program and inspection procedures required in Attachment E - Quality Assurance and Control within fourteen (14) calendar days of award of this Contract.

11.0 CONSTRUCTION

Contractor shall perform the Work in accordance with the requirements of this Part I and the documents specifically referenced herein.

12.0 EXECUTIVE SPONSOR

Contractor shall nominate an Executive Sponsor for the Contract. The role of the Executive Sponsor is to be the Senior Management contact who will become involved and take a proactive approach to the successful execution of the Work. The Executive Sponsor will be aware of the progress of the Work through the major milestones in Exhibit One, Contract Milestone Schedule and will hold at least one meeting each month on the status of the Work.

Contractor's Executive Sponsor will contact Company's Executive Sponsor on any potential problems in Contractor's Organization or in Company's Organization or other major issues that may negatively impact the progress of the Work. Contractor's Executive Sponsor will be available to meet with Company's Executive Sponsor or other Company Project or Construction Management Representative at the worksite to review the status of the Work and the Contract.

Contractor's Executive Sponsor for the contract is Mr. Chang Jae Oh, who can be reached at Baeksang Star Tower #1301, 60-17, Gasan-Dong, Geumcheon-Gu, Seoul, Korea.

END OF PART I – SCOPE OF WORK

PART I – EXHIBIT ONE – CONTRACT MILESTONE SCHEDULE

Contract No.: C9FP-FI-FI1-K001

FIELD ERECTED TANKS

Revision No.: 1

Sr. No	Critical Milestone	Start	Finish
1	Contract Award	Nov 27, 2014	
2	Mobilization to Site	Feb 10, 2015	
3	Group No. 1 Milestones (5 Tanks)		
3.1	Engineering & Design Milestones		
3.1.1	Start & Completion of Foundation design and all Civil IFC dwgs	Nov 27, 2014	Feb 10, 2015 (Three Months after Award)
3.1.2	Preliminary Mechanical design to Order tank plates	Nov 27, 2014	Dec 24, 2014 (One and a half Months after Award)
3.1.3	Start & Completion Cathodic Protection design	Dec 15, 2014 (Sub contract to CP specialist)	Apr 10, 2015 (Five Months after Award)
3.1.4	Completion all IFC drawings of Tanks and Structures		June 10, 2015 (Seven Months after Award)
3.2	Procurement Milestone		
3.2.1	Ordering of tank plates		Jan 31, 2015
3.2.3	Receipt at Site of All CP Items		May 15, 2015
3.3	Construction Milestones		
3.3.1	Start of effective construction - Earthwork	Feb 10, 2015	
3.3.2	Completion of All Tanks foundations		Sept 10, 2015
3.3.3	First prefabricated tank plate at site		August 10, 2015 (Six Months after Award)

Sr. No	Critical Milestone	Start	Finish
3.3.4	Hydrotest of tanks and completion of draining		Sept 30, 2016
3.3.5	Mechanical Completion of tanks in Group # 1(LD Milestone 1)		Nov 30, 2016
4	Group No. 2 Milestones		
4.1	Engineering & Design Milestones		
4.1.1	Start & Completion of Foundation design and all Civil IFC dwgs issued for Foundations Construction by Others	Nov 10, 2014	<i>Unit 154: Feb 10, 2015 (Three months after Award)</i> <i>All other Units: April 10, 2015 (Five months after Award)</i>
4.1.2	Construction of Civil Foundations completed by Others	April 15, 2015	Dec 15, 2015 (Completion of last Tank's Foundation in Group-2 by Others)
4.1.3	Start & Completion Cathodic Protection design	Dec 15, 2014 (Sub contract to CP specialist)	Apr 10, 2015 (Five Months after Award)
4.1.4	Completion all IFC drawings of Tanks and Structures		August 10, 2015 (Nine Months after Award)
4.2	Procurement Milestones		
4.2.1	Ordering of tank plates		Feb 28, 2015
4.2.3	Receipt at Site of All CP Items		July 31 2015

PART I – EXHIBIT ONE – CONTRACT MILESTONE SCHEDULE

Contract No.: C9FP-FI-FI1-K001

FIELD ERECTED TANKS

Revision No.: 1

Sr. No	Critical Milestone	Start	Finish
4.3	Construction Milestones Unit 123 (3 Tanks)		
4.3.1	Start / Completion of Tank Erection	January 01, 2016	August 31, 2016
4.3.2	Hydrotest of tanks and completion of draining		September 30, 2016
4.3.3	Mechanical Completion of all tanks in the Unit (LD Milestone 2)		October 31, 2016
4.4	Construction Milestones Unit 125 (1 Tank)		
4.4.1	Start / Completion of Tank Erection	October 16, 2016	May 01, 2016
4.4.2	Hydrotest of tanks and completion of draining		May 15, 2016
4.4.3	Mechanical Completion of all tanks in the Unit (LD Milestone 3)		May 15, 2016
4.5	Construction Milestones Unit 126 (2 Tanks)		
4.5.1	Start / Completion of Tank Erection	December 16, 2015	September 08, 2016
4.5.2	Hydrotest of tanks and completion of draining		September 15, 2016
4.5.3	Mechanical Completion of all tanks in the Unit (LD Milestone 4)		October 08, 2016
4.6	Construction Milestones Unit 137 (16 Tanks)		
4.6.1	Start / Completion of Tank Erection	June 01, 2015	
4.6.2	Hydrotest of tanks and completion of draining		April 15, 2016
4.6.3	Mechanical Completion of all tanks in the Unit (LD Milestone 5)		June 15, 2016

Sr. No	Critical Milestone	Start	Finish
4.7	Construction Milestones Unit 154 (2 Tanks)		
4.7.1	Start / Completion of Tank Erection	May 01, 2015	
4.7.2	Hydrotest of tanks and completion of draining		Feb 01, 2016
4.7.3	Mechanical Completion of all tanks in the Unit (LD Milestone 6)		April 01, 2016
4.8	Construction Milestones Unit 156 (4 Tanks)		
4.8.1	Start / Completion of Tank Erection	November 01, 2015	
4.8.2	Hydrotest of tanks and completion of draining		June 30, , 2016
4.8.3	Mechanical Completion of all tanks in the Unit (LD Milestone 7)		August 01, 2016

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1.0 CONTRACT PRICE

Full compensation to Contractor for complete performance by Contractor of the Work, excluding VAT, and ensuring compliance with all terms and conditions of this Contract, and for Contractor's payment of all obligations incurred in, or applicable to, performance of the Work shall be the following Lump Sum Price.

1.1 Lump Sum Price

Full compensation for the Work shall be the Contract Price for the total Lump Sum price of **Nine Million Hundred and Thirty Five Thousand Kuwaiti Dinars (KD 9,135,000)**.

The Lump Sum Price is broken down as follows:

NO	DESCRIPTION	QUANTITY	COST (KD)
1	CIVIL		1,206,124
2	INSULATION		232,226
3	FABRICATION		912,289
4	ERCTION		4,017,279
5	PWHT		66,700
6	PAINTING AT FIELD		1,616,545
7	WATER FOR HYDRO		216,832
8	ELECTRIC		333,256
9	MOBILIZATION		230,000
10	DEMOBILIZATION		115,000
11	OTHERS		188,749
	OFF-SHORE TOTAL		9,135,000

Table – 1:
Group No. 1 Tanks

Sr. No	Tank Number	Total Construction Mhr	Construction / Hydrotesting / Pre-commissioning /Mechanical Completion – Price KD
1	TK-50-109-N	84,310	706,287
2	TK-50-110-N	84,310	706,287
3	TK-50-111-N	33,930	397,370
4	TK-50-168	118,710	1,040,070
5	TK-50-169 (Constructed on location of TK-52-114)	26,140	314,421
6	TK-52-114 (Demolition Only)	18,300	55,698
7	Insulation on existing Tank TK-06-111 (new tag TK-52-111)	1,850	23,676
	TOTALS	367,550 Mhr	3,243,809 KD

Table – 2: Group No.2

Sr. No	Tank Number	Total Construction Mhr	Construction / Hydrotesting / Pre-commissioning /Mechanical Completion – Price KD
1	TK-126-101	32,340	283,661
2	TK-126-201	32,340	283,661
3	TK-156-222 A	24,090	231,825
4	TK-156-222 B	24,090	231,825
5	TK-156-205 A	850	15,923
6	TK-156-205 B	850	15,923
7	TK-137-102 A	127,880	794,051
8	TK-137-102 B	127,880	794,051
9	TK-137-201 A	3,720	33,795
10	TK-137-201 B	3,720	33,795

11	TK-137-301 A	22,290	159,664
12	TK-137-301 B	22,290	159,664
13	TK-137-303 A	53,420	351,571
14	TK-137-303 B	53,420	351,571
15	TK-137-402 A	3,460	40,757
16	TK-137-402 B	3,460	40,757
17	TK-137-403 A	56,720	369,355
18	TK-137-403 B	56,720	369,355
19	TK-137-501 A	3,540	31,753
20	TK-137-501 B	3,540	31,753
21	TK-154-101 A	45,670	306,070
22	TK-154-101 B	45,670	306,070
23	TK-137-502 A	990	16,330
24	TK-137-502 B	990	16,330
25	TK-123-401	1,740	28,525
26	TK-123-501 A	29,750	225,642
27	TK-123-501 B	29,750	225,642
28	TK-125-301	12,330	141,872
	TOTALS	823,510 Mhr	5,891,191KD

This contract includes the optional price for installation and testing of an additional Crude Tank TK-50-XXX for the amount of KD 727,796 and 118,710 mhr Construction Work hours. This optional price will be included in the Contract Price only by means of Contract Modification duly signed by both parties. The price of this optional Tank includes Construction works. This tank is similar to existing Tank TK-50-168.

The following definitions shall apply with regard to the lump sum pricing and shall be included in the lump sum price:

Labor Generally for Following

All direct labor costs in relation to lump sum element of Works only, up to and including general foreman, including payroll burdens, benefits, consumables, and expendable materials, small tools, overhead and associated profit.

Craneage, Lifting and Construction Equipment

Total cost to provide and operate craneage lifting and all other construction equipment (excluding the cost of operating labor), inclusive of associated consumables, overhead and associated profit.

Site Establishment (Indirects)

Includes all management and administrative staff, supervision (above the level of general foreman and not included in above), temporary facilities, except those expressly stated as being provided by Company per Contract Part I – Scope of Work, and their associated utilities, maintenance and site and home office overhead, associated profit and taxes. (Refer to Commercial Schedule A - Pricing for Indirects).

Mobilization

The act of bringing resources to the work site to commence the Contract Work. A portion of the Contract Price, payable when sufficient Site Establishment has been mobilized at the work site to allow Contractor to commence productive Work.

Demobilization

The activity to clear the work site of all temporary construction facilities upon completion of the direct Work. This portion of the Contract Price that becomes payable only when Contractor has demobilized all its labor, equipment and temporary facilities from the work site and returned the allocated temporary facilities areas to its pre-mobilization condition.

2.0 PRICING BASIS

- 2.1 The Contract Price, pricing for changes, and all other prices and rates set forth herein is firm for the duration of the Contract until acceptance by Company and includes each and every item of Contractor's costs, expenses, overhead, and profit necessary for the complete performance of the Work
- 2.2 The Contract Price, pricing for changes, and all other prices and rates set forth herein shall include, but not be limited to all taxes (except V.A.T.), duties, fees, and insurance.
- 2.3 The Contract Price, pricing for changes, and all other prices and rates set forth herein shall include collection from Company's warehouse, receipt, offloading, storage and subsequent handling of materials to be installed under the Contract, and the loading, transport and disposal of surplus materials.
- 2.4 All prices and rates set forth herein shall include all costs associated with, and relative to, performing the Work in accordance with all applicable local state and federal safety regulations, as well as Owner's and Company's safety, security and fire regulations.
- 2.5 No increase in price shall be permitted for events which the Contractor has failed to take into account, but which could have been foreseen.
- 2.6 All prices and rates utilized as part of this Contract shall be expressed in Kuwaiti Dinars (KD) and such pricing shall not be subject to change in the event of fluctuation in the rate of exchange of any other currency.
- 2.7 The lump sum prices shall be fixed and firm and shall not be subject to adjustment based upon any additions or deletions, except at the express written order of Company.
- 2.8 The lump sums and unit prices are deemed to cover the compensation relative to performance of the Work described in the preamble.
- 2.9 Notwithstanding Section 2.8 above, the Contract Price shall cover all compensation to perform the Work, as described in Part I – Scope of Work, even if specific work activities or requirements are not detailed in the preambles to the lump sum or unit prices.
- 2.10 The lump sum and all unit prices shall apply regardless of when the Work is performed, be it day or night or a holiday, unless Company accepts in writing, prior to performance that work

performed outside of normal working hours is subject to additional compensation to Contractor. Compensation for Work or changes thereto performed using all-in labor rates shall be commensurate with the rates set forth in Commercial Schedule C - All Inclusive Labor Rates applicable to the time of day and calendar day upon which the Work is performed.

- 2.11 Failure by the Contractor to assess fully the scope of Work as required and described by Part I – Scope of Work to the Contract shall not be accepted as a basis for variations to the lump sums or the unit prices for changes.

3.0 PRICING FOR CHANGES

- 3.1 Company may request, and Contractor shall provide, proposals for scope of work changes (additions and deletions) which are priced, solely at Company's option, by one or a combination of the following methods:

Negotiated lump sums based upon a mutually agreed scope of work.

Applicable unit prices as set forth in Commercial Schedule B - Unit Prices and Methods of Measurement, if the work can be classified under the unit price items, or by interpolation or extrapolation against similar unit prices.

Negotiated unit prices not previously established in the Contract.

On a time and material basis, at the labor and equipment rates set forth in Commercial Schedule C - All Inclusive Labor Rates and Commercial Schedule D - Equipment Rates, and the terms set forth below in Section 3.3.

3.2 Unit Prices for Changes

Contractor shall have the responsibility for take-off of quantities and establishing the measurement of Work that is performed on a unit price basis. The foregoing shall then be subject to Company's review and approval.

All unit prices, except where a pro-rata of a unit price is used, shall apply at one hundred percent (100%) of their value for both additions and deletions to the Work.

All unit prices shall apply whether the Work is performed by Contractor's own forces or by a Contractor's Subcontractor.

All unit prices shall be deemed to include each and every item of expense required to perform the Work in the respective categories.

3.3 Changes to Lump Sum and Unit Price Work Performed on a Time and Material Basis

If Company directs, in writing, that changes to the Work be performed on a time and material basis, compensation to Contractor shall be as follows:

All-inclusive labor rates set forth in Commercial Schedule C – All Inclusive Labor Rates, shall be applied to all agreed hours worked. All labor used for changes and which does not resemble the classifications listed in Commercial Schedule C – All Inclusive Labor Rates, must be approved by Company prior to their use.

Construction equipment rates set forth in Commercial Schedule D – Equipment Rates, shall apply for additional equipment used for extra work requested by Company.

For equipment which is specifically transported to the work site for extra work, Contractor shall separately identify such transportation costs (including loading, off-loading, assembly and disassembly) when submitting proposals to Company for

performing extra work. Transportation costs shall not be applicable to equipment already mobilized on the work site.

When Contractor's equipment does not resemble the equipment having rates listed in Commercial Schedule D – Equipment Rates, the rate shall be negotiated and agreed upon in writing by Company.

Compensation to Contractor for equipment used for extra work which is rented or leased from third parties and which does not resemble the equipment having rates listed in Commercial Schedule D – Equipment Rates, must be approved by Company in writing prior to rental and shall be at actual cost to Contractor, including transportation to the work site, (as substantiated by invoices certified paid or by such documentation as may be required by Company) but exclusive of any applicable taxes, plus a mark-up, for all profit and overhead expense of Contractor thereon, of Five percent (5%).

Compensation to Contractor for materials supplied by Contractor for incorporation into the permanent facility (excluding consumable, expendable, and small tools which cost Contractor less than KD 500.00 each, as they are included in the markups on labor rates) shall be at actual invoiced cost to Contractor, (exclusive of taxes) including transportation to the work site, as substantiated by invoices certified paid or by such documentation as may be required by Company, plus a mark-up on the material costs only, for all profit and overhead expense of Contractor thereon, of Five percent (5%).

Company reserves the right to provide, at no cost to Contractor, materials, equipment, services, supplies or incidentals required to perform the Work.

All refunds, trade discounts, rebates on materials, supplies and services, and all monies obtained from the disposal of surplus materials or supplies shall accrue to Company.

Subject to the audit provisions of this Contract, all materials authorized by Company to be supplied by Contractor must be procured in such a manner as to ensure their competitiveness in both price and schedule.

All subcontracts and services provided by others for performance of changes or extra work requested by Company, which have not been objected to by Company, shall be at actual cost to Contractor of such subcontracts or services provided by others (not to exceed such subcontract price) exclusive of any applicable taxes, plus a mark-up for all profit and overhead expense of Contractor thereon, which shall not exceed Five percent (5%).

Time Sheets.

For all work performed on a time and material basis under this Contract, Contractor shall submit daily time sheets for approval by Company. Daily time sheets must be submitted to Company for approval not later than by 09.00am the following day. An approved copy of the time sheets, which shall detail all hours worked, materials installed and equipment used, as further defined below in Section 7.10 of this Part II - Commercial Terms, must be submitted in support of Contractor's costs of the Work.

All costs and expenses (which are not expressly stated in this Section 3.3 to be reimbursable) necessary for Contractor to perform changes or extra work shall be deemed included within the rates or the markups for overhead or profit set forth herein. Such costs and expenses shall include all items expressly stated in this Contract that are to be at the cost, expense or for the account of Contractor, or which are stated to be performed by Contractor at no additional cost to Company.

4.0 TAXES

- 4.1 Except as otherwise set forth below in Sections 4.4, Contract Price, pricing for changes, and all other prices and rates set forth herein, includes all taxes (except V.A.T.), duties and fees and other assessments of whatever nature imposed by governmental authorities and applicable to the performance of the Work and this Contract. Contractor shall not be reimbursed for personal property taxes on construction equipment and other property owned by Contractor, and taxes on income of Contractor.
 - 4.2 Contractor shall pay promptly when due, all such taxes, duties, fees and other assessments set forth in Section 4.1.
 - 4.3 Contractor shall be responsible for maintaining and furnishing the necessary records and documentation required by government authorities and Company to apply for and obtain tax and duty refunds.
 - 4.4 Contractor shall provide a copy of the Exemption from Tax Withholding in accordance with sub-Clause 21.3 of Part III – General Terms and Conditions.
 - 4.5 Company shall withhold five (5%) from each payment in relation to Income Tax liabilities as specified under sub-Clause 21.5 of Part III - General Terms and Conditions.
 - 4.6 Not used.
 - 4.7 If Contractor imports and exports temporary materials, equipment for construction, supplies, tools, or any consumable items for performance of the Work, any custom duties, value added, import or export taxes, document fees, handling charges, or other fees related to the importation or exportation of such materials, equipment, supplies, tools or other items shall be for account of Contractor.

5.0 PAYMENT TERMS

- 5.1 The Contract Price shall be payable in monthly progress payments, payable sixty (60) calendar days after actual receipt by Company of an approved invoice. Each progress payment shall be for ninety percent (90%) of the value of Work properly completed by Contractor, as determined by Contractor in accordance with the terms of this Contract and subject always to the approval of Company.

The ten (10%) reduction represents: five (5%) retention for Income Tax as per sub-Clause 21.5 of Part III - General Terms and Conditions and five (5%) represents Retention value being retained until achievement of Turnover of the Work.

- 5.2 In order for Contractor to be eligible to receive any progress payments, Contractor is required to transmit to Company all applicable Contract documents. Failure to submit these Contract documents in accordance with the instructions set forth herein will delay any and all approved progress payments until these requirements are met. The following is a non-exclusive listing of applicable Contract documents and the condition in which they must be provided to Company in order to be acceptable:

Contract Agreement – fully and correctly executed in accordance with the instructions set forth in the cover letter transmitted therewith, with no physical modifications made to any part of the Contract.

Evidence of Insurance – certificate(s) of insurance submitted on the proper forms, from acceptable underwriters, addressed to Company, and evidencing the minimum coverage limits required by the Contract, is in effect.

Not used.

Contract Schedule – a detailed schedule as described in Clause 5.0 entitled Progress and Sequence of Work of Part III - General Terms and Conditions and as further described in Attachment G – Scheduling and Reporting, to the Contract.

Final Payment Release Certificates – submitted on forms satisfactory to Company and which evidence that Contractor has paid in full for all labor or materials furnished, all equipment used, and all sub-Contractors employed during the time period covered by the invoice.

- 5.3 The final and/or retention invoice shall be submitted for final payment after completion and acceptance of the Work by Company and compliance by Contractor with all terms of this Contract. This invoice shall contain a complete itemized listing of progress and additional work invoices by number, date, gross amount, retention amount, and the total amount of sums retained and due. The final invoice may not be presented for payment until Contractor has complied with all contractual requirements under the Contract.
 - 5.4 Contractor shall prepare all invoices in a form satisfactory to and approved by Company. In the event an invoice is submitted, in accordance with Contract terms, for Work accomplished on a reimbursable or unit price/unit rate basis, it shall be accompanied by documentation supporting each element of measurement and/or cost. Any invoice submitted, which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to Contractor. Any costs associated with the resubmission of a proper invoice shall be to Contractor's account.
 - 5.5 At Company's request, Contractor shall furnish evidence, satisfactory to Company, that all labor and materials furnished and equipment used during the period covered by an invoice have been paid for in full and that the Work is not subject to liens or claims on account thereof. Company may withhold payment of invoices until Contractor furnishes such evidence.

6.0 DETERMINATION OF UNITS

All units of Work performed for the Contract Price set forth in Article 1.0 entitled Contract Price and Article 3.0 entitled Pricing for Changes of this Part II – Commercial Terms, shall be determined and documented in accordance with the provisions set forth in Clause 47.0 entitled Audit set forth in Part III – General Terms and Conditions.

7.0 INVOICING INSTRUCTIONS

- 7.1 Contractor shall present its draft invoice for verification to Company's Contracts Administrator prior to the submission of its formal invoice (original) for payment. Contractor confirms that it is aware that the processing of its invoice is contingent upon this verification procedure. Contractor shall only submit his formal invoice upon approval by Company of the draft invoice.
 - 7.2 Contractor shall submit consecutively numbered invoices, with the Contract number clearly displayed at the top of each page. Each invoice shall consist of one (1) original document and one (1) copy complete with all supporting documentation, and an electronic copy of the invoice including supporting documentation.
 - 7.3 The invoices shall be addressed to Company in its name and address as set forth below; and submitted in hard copy and electronic copy for processing to:

Fluor Consultants B.V. – Kuwait Branch

East Ahmadi, Industrial Area, Block No. 8
Building No. 42 (Eastern Plaza Building)
P.O. Box 9763, Ahmadi 61008
Kuwait

Attention: KNPC CFP MAB2 Project C9FP and Mr. Michel Zoutendijk

Invoices shall be electronically sent by email to: FDH.MAB2.Accounts.Payable@Fluor.com and copy to: michel.zoutendijk@fluor.com

All invoices shall contain, when so applicable, the following information:

- 1) This Contract Number C9FP-FI-FI1-K001
- 2) Company's SAP Purchase Order Number (to be advised after award).
- 3) Total net invoice amount and currency, VAT specified separately.
- 4) Contractor's V.A.T. number and (international) Banking details.
- 5) Explicit statement on type of invoice, such as 'progress invoice', 'final invoice'.

7.4 Company will advise Contractor of the cut-off date for monthly progress invoices and Contractor shall submit its draft invoices within five (5) calendar days after such cut-off date. Invoices submitted later than five (5) calendar days after the cut-off date may be paid an additional thirty (30) calendar days later than the payment terms set forth in this Contract.

Contractor shall submit within ten (10) days following the approval date of the draft invoice to Company the formal (original) invoice for the month, including supporting documentation.

7.5 No used.

7.6 Contractor's invoices shall indicate the time period during which the Work was performed and for which the invoice is submitted.

7.7 Company will not be obligated to pay for invoice items not fully supported by approved progress measurements and any other such documentation, as may be required. Company reserves the right to make partial or provisional payment on an invoice in dispute, pending audit and reconciliation of the total charge.

7.8 Contractor shall comply with the requirements of this Contract to furnish the reports and deliverables in a timely manner and in a format satisfactory to Company. If Contractor does not submit the reports or deliverables on schedule, in the time frame stipulated in the Contract, or as requested from time to time by Company may, at its discretion, withhold an amount from Contractor's monthly progress payments. The amount withheld shall continue to be withheld until Contractor submits the reports or deliverables to Company's satisfaction.

7.9 The lump sum amounts for Mobilization and Demobilization will be paid in accordance with the provisions of Commercial Schedule A – Pricing for Indirect. The lump sum for Site Establishment shall be payable in equal monthly installments based on the schedule of work on the work site set forth in Article 6.0 entitled Performance Schedule and Sequence of Work, of Part I – Scope of Work, providing Contractor has complied with the requirements of Commercial Schedule A – Pricing for Indirect.

7.10 Changes to the Work and/or additions must be incorporated into the Contract by way of an approved Contract modification before being incorporated into an invoice and submitted for

payment. In general, the actual charges shall have been agreed and incorporated into the Contract by a fixed price modification that may be invoiced without further substantiation. Where actual charges have not been agreed (i.e. when a modification has been issued on a "not to exceed" basis) the following substantiation will be required:

Charges for labor shall be accompanied by Company approved daily reports or time sheets listing workers' names, classification, and straight time and overtime hours. Labor categories and rates must correspond to those set forth in Commercial Schedule C – All Inclusive Labor Rates.

Charges for equipment shall be accompanied by Company approved daily reports or time sheets listing the equipment type, number, size and hours. Equipment descriptions and rates must correspond to those set forth in Commercial Schedule D – Equipment Rates.

Charges for Contractor rented equipment shall be accompanied by Company approved daily reports or time sheets listing the equipment type, number, size and hours along with a copy of Contractor's rental agreement and invoice from the supplier. The applicable markup as set forth in Article 3.0 entitled Pricing For Changes, in this Part II - Commercial Terms, shall be shown separately.

Charges for materials shall be accompanied by Company signed field receiving documentation, a copy of Contractor's purchase order and invoice from the supplier.

For materials purchased on an emergency or small quantity basis not exceeding KD 500.00, Contractor may submit an itemized supplier invoice in lieu of a purchase order, subject to approval by Company.

For materials drawn from Contractor's stock, Contractor shall obtain approval from Company regarding the price and discounts. In no instance shall the price of Contractor's material drawn from Contractor's stock exceed the prevailing price that Company could obtain for comparable quantities and types of material from commercial suppliers.

- 7.11 All daily time sheets (Original) and field receiving documentation shall be submitted to Company's Contract Administrator by 09:00 a.m. for the previous day, approved and signed by Company.
- 7.12 Contractor shall certify on each invoice that all Work covered by the invoice is complete and that the invoice is correct, authentic and the only one issued for the Work described therein.

8.0 BACKCHARGES

- 8.1 A backcharge is any cost sustained by Company for performing any Work which would otherwise have been the responsibility of Contractor to complete.
- 8.2 Without limitation and by way of example only, backcharges may result from:
 - Services performed by Company, at Contractor's request, for work which is within Contractor's scope of Work under this Contract.
 - Costs sustained by Company as a result of Contractor's non-compliance with the provisions of this Contract or Contractor's act of omission or negligence.
 - Costs incurred by Company to fix defects, deficiencies or errors that may appear in the Work during the warranty period.
- 8.3 Upon identification by Company of an actual or anticipated backcharge, Company will issue a backcharge notice to Contractor. This notice shall describe the backcharge Work to be

performed, the schedule period for performance, the cost to be charged by Company to Contractor for the backcharge and other terms.

8.4 The backcharge cost shall consist of:

- Labor: at actual cost plus fifty-five percent (55 %) to cover payroll additives;
- Material: at actual supplier and freight invoice cost delivered to work site;
- Construction Equipment: at actual third party rental cost or at Company's equipment rental rates, whichever may be applicable;
- Subcontracts: at actual cost;
- All taxes, levies, duties and assessments attributable to the backcharge Work;
- Twenty-five percent (25%) shall be added to the foregoing for indirect costs, overhead, supervision and administration.

8.5 Within twenty-four (24) hours after receipt of the backcharge notice, Contractor shall submit back to Company a signed copy of the backcharge notice, indicating either acceptance of the backcharge or agreement to perform the described backcharge work within the indicated schedule period for performance, utilizing Contractor supplied labor, material and equipment, as applicable.

8.6 Contractor will be required to sign the backcharge notice before commencement of the backcharge work by Company. In the event Contractor refuses to sign, Company shall, at its option, proceed with the backcharge Work and charge the backcharge cost to Contractor's account. Thirty (30) calendar days after commencement of the backcharge Work or on completion of the backcharge Work, whichever occurs sooner, Company will invoice Contractor for the incurred backcharge cost.

9.0 LIQUIDATED DAMAGES

- 9.1** The Delayed Liquidated Damages for Mechanical Completion(s) for the relevant Portion (DLD-MC) shall be zero point five (0.5%) percent of the total Contract Priced per week of delay for each milestone as per exhibit one, with a max of ten (10%) percent.
- 9.2** If, after any deduction or payment of the DLD-MC, an extension is made by the Company to the relevant Scheduled Turnover Date in relation to which such damages were paid, the Contractor's liability to pay or allow DLD-MC to the Company under Clause 33.0 of Part III General Terms and Conditions shall be abated, as appropriate, in respect of a period equal to any extension granted and any DLD-MC previously paid or allowed in respect of the period of such extension shall be refunded.

COMMERCIAL SCHEDULES

SCHEDULE – A PRICING FOR INDIRECT

MOBILIZATION

The lump sum price for mobilization set forth in Part II – Commercial Terms, shall include, but not be limited to all costs, direct and indirect, for the following Site activities:

Recruitment and transportation of labor and supervision from the point of origin to Site.

- Supply, transport and installation as required, of all temporary facilities/offices, associated equipment and tools required in performance of the Work. This includes any further alterations of Contractor's temporary facility area or for any alterations to the area status after acceptance by Contractor.
- The submittal to Company of Contractor's approved safety program, including modifications as requested by Company.
- This submittal to Company of Contractor's approved security program, including modifications as requested by Company.
- The submittal to Company of Contractor's approved quality assurance and quality control program, including modifications requested by Company.
- The submittal to Company of Contractor's Contract schedule and other detailed schedules.

DEMOBILIZATION

The lump sum price for demobilization set forth in Part II – Commercial Terms shall include, but not be limited to all costs, direct and indirect for the removal of labor and supervision from the work site, removal of all plant, facilities and equipment from the work site, submittal of all data, including as-built drawings, clean-up and final clearance of the work site and reinstatement of the areas to the condition originally received from Company.

SITE ESTABLISHMENT

This item covers the Contractor's overhead costs and other general expenses to maintain the site establishment (i.e. Contractor's presence) on the work site for performance of the Work and shall include, but not necessarily be limited, to the following:

- All supervision/management staff above the level of general foreman.
- All field and home office overheads, including field administration, field transportation and temporary facilities.
- The effective control of Contractor's safety program.
- The maintenance and issue of Contractor's schedules.
- The effective control of quality through Contractor's quality assurance and control program.
- Material control and maintenance of records, including offloading, temporary storage, any necessary re-handling of materials and weather protection for materials.
- Maintenance and cleanliness of the work site infrastructure areas, temporary facilities area and temporary buildings.
- All costs associated with labour force and Contractor Management daily traveling time, in accordance with Attachment C , between car park at Site accommodation area along with the evening return journey.
- Specifically excluded from this item are all direct costs associated with the performance of the Work and Contractor's profit, which shall be included in other line items of the lump sum/unit price portion of the Work.

COMMERCIAL SCHEDULES

**SCHEDULE – A
PRICING FOR INDIRECT**

ADDITIONAL SITE ESTABLISHMENT

In the event that additional and/or reduced number of indirect resources is required to perform the Work, and Company agrees that these are due to effects other than those within the control and / or responsibility of the Contractor, the lump sum price may, with prior Company approval, be modified using the rates set forth herein.

In any event, the indirect lump sum price for Site Establishment shall not be subject to any change should the direct Work/unit price portions of the Work vary by up to and including +/- twenty-five percent (25%) of the original Contract Price.

The lump sum for site establishment shall not be subject to re-measurement, except as stated herein.

The rates set forth herein shall be used only for the purposes of evaluation of such an agreed change.

SITE ESTABLISHMENT BREAKDOWN

Category	Number of people	Duration in weeks	Weekly Rate	Total
Project Manager	1	90	KD 590	KD 52,920
Construction Mgr.	1	90	KD 520	KD 46,800
Safety Representative	1	90	KD 410	KD 36,900
Administrative Mgr.	1	90	KD 350	KD 31,500
Material Manager	1	90	KD 295	KD 26,550
Quality Control	5	340	KD 155	KD 52,700
Safety Control	4	260	KD 120	KD 31,200
Planner	1	90	KD 235	KD 21,150
Buyer/Expediter	2	150	KD 100	KD 15,000
Janitorial	2	150	KD 58	KD 8,700
Clerical	2	150	KD 58	KD 8,700
Site Accommodation			KD	KD 378,140
Transportation			KD	KD 194,880
Other Facilities			KD	KD 319,140
Total			KD	KD 1,224,280

The total of the above resources multiplied by the rates shall equal the total Lump Sum for Site Establishment set forth in this Contract. The lump sum shall cover the full performance of the Work regardless of the duration set forth herein. Any indirect expense not specifically listed above shall be deemed to be included in the other rates listed above. Contractor is solely responsible for ensuring resource levels are appropriate for the completion of the Works.

END OF COMMERCIAL SCHEDULE - A

COMMERCIAL SCHEDULES

SCHEDULE – B

UNIT PRICES AND METHODS OF MEASUREMENT

Unit price preambles and methods of measurement.

NOTE:

Included in all the unit of work prices shall be all items listed below:

GENERAL

All Unit Prices shall include all required design, engineering, coordination and each and every item and expense to comply with the Scope of Work set forth in Part I and the Attachments thereto, unless explicitly noted otherwise, such as but not limited to the items listed below:

- Supply, fabricate, erect and / or install;
- Construction labor and services;
- Engineering and design, including administration and handling of Technical data including revisions thereof, required for erection / installation where applicable;
- All necessary temporary construction materials, the supply, installation and removal of temporary erection steel, bolts, nuts, gaskets, flanges, blinds, spades, plates etc.;
- The supply, installation and removal of temporary supporting measures;
- All setting out and survey;
- Dewatering;
- Measures in order to ensure safe and orderly transportation;
- Handling (and double handling), transportation, temporary storage and warehousing;
- All fabrication equipment, all erection equipment and tools;
- Coiling and uncoiling
- Surface preparation, coating and touch up as necessary;
- Inspection, surveying and quality control;
- Removal and disposal of surplus and waste material;
- Preparation of all required documentation;
- Updating documentation to "as-built" status (by means of marked up documents);
- All safety measurements;
- Obtaining all required permits and fees;
- Access provisions for working at height;
- Task lighting;
- Barriers and formation of pedestrian walkways;
- The supply, installation/ use including maintenance / calibration and removal of testing materials and/or equipment;
- Marking;
- Turn Over documentation;
- All other overheads.

The above are items that will not be measured or separately paid for, such items are referred to as "non-measured" items. The Unit Prices shall include for the above mentioned non-measured items.

Unit Price descriptions (definitions) may indicate non-measured items included. Such indication is made for reasons of clarity only and shall not imply that other non-measured items are excluded or that Units of Work with no indication would exclude such non-measured items.

The Unit Prices shall include supply of all materials and equipment.

COMMERCIAL SCHEDULES
SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Quantities for all temporary materials shall not be billable and shall be excluded and deserve no consideration whatsoever for inclusion in the final agreed quantities.

MEASUREMENT OF UNITS OF WORK

All quantities to be reimbursed shall be actual designed net quantities and in accordance with the measurement rules as set out in the Unit Rate Descriptions (Definitions) below.

The measurement of quantities shall be based on Released for Construction (RFC) Technical Data. The final quantities will be calculated by Contractor for Company review and approval.

Table – 3 – WINTECO TO COMPLETE BELOW TABLE

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
(A) CIVIL WORKS			
A1	50 MM THICK CONCRETE BLINDING (14 MPa)	M2	25.25
A2	CONCRETE - POUR SIZE LESS THAN 2.0 M3/EACH	M3	78.05
A3	EXCAVATION	M3	1.50
A4	BACKFILL	M3	2.32
A5	CONCRETE - POUR SIZE 2.0 TO 38.0 M3/EACH	M3	78.05
A6	EXCAVATION	M3	1.50
A7	BACKFILL	M3	2.32
A8	CONCRETE - POUR SIZE OVER 38.0 M3/EACH to 75 M3	M3	78.05
A9	EXCAVATION	M3	1.50
A10	BACKFILL	M3	2.32
A11	CONCRETE - POUR SIZE OVER 75 M3/EACH TO 150 M3	M3	78.05
A12	EXCAVATION	M3	1.50
A13	BACKFILL	M3	2.32
A14	CONCRETE - POUR SIZE OVER 150 M3/EACH TO 230 M3	M3	78.05
A15	EXCAVATION	M3	1.50
A16	BACKFILL	M3	2.32
A17	CONCRETE - POUR SIZE OVER 230 M3/EACH TO 380 M3	M3	78.05
A18	EXCAVATION	M3	1.50
A19	BACKFILL	M3	2.32
A20	CONCRETE - POUR SIZE OVER 380 M3/EACH TO 760 M3	M3	78.05
A21	EXCAVATION	M3	1.50

COMMERCIAL SCHEDULES

SCHEDULE – B

UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
A22	BACKFILL	M3	2.32
A23	CONCRETE - POUR SIZE OVER 760 M3/EACH	M3	78.05
A24	EXCAVATION	M3	1.50
A25	BACKFILL	M3	2.32
A26	CONCRETE - SLAB AT GRADE (500MM to 800MM THK NOMINAL)	M3	78.05
A27	EXCAVATION	M3	1.50
A28	BACKFILL	M3	2.32
A29	CONCRETE - SLAB AT GRADE (200MM to 300MM THK NOMINAL)	M3	78.05
A30	EXCAVATION	M3	1.50
A31	BACKFILL	M3	2.32
A32	CONCRETE - SLAB AT GRADE (Less than 200 THK NOMINAL)	M3	78.05
A33	EXCAVATION	M3	1.50
A34	BACKFILL	M3	2.32
A35	STANDARD DRAIN SUMP AS PER DETAIL 2 ON S12.003-P6000CFP-000-PV	M3	88.05
A36	EXCAVATION	M3	1.50
A37	BACKFILL	M3	2.32
A38	SUMP COVER & FRAMES	EA	89.05
A39	HDPE DRAIN PIPE (WITH PIPE SLEEVE IN WALL) 150 MM FOR LEAK DETECTION	LM	12.04
A40	LEAK DETECTION/INSPECTION SUMP AS PER DETAIL ON DWG S12.003-P6000CFP-000-PV	EA	8188.05
A41	HDEP LINER 2MM THICK	M2	9.05
A42	GEOTEXTILE	M2	1.86
A43	GATCH SURFACE FILL AS PER S12-003-P6000CFP-000-PV	M3	
A44	CLEAN SAND FILL AS PER API 651/S12-003-P6000CFP-000-PV	M3	8.78
A45	SAND / BITUMEN MIX (50-75 MM THICK)	M2	8.96
A46	CAST IN STEEL - EMBEDDED IN CONCRETE	MT	1375.8
A47	0.25MM THICK POLYTHENE SHEET VAPOUR BARRIER	M2	1.5
A48	CONCRATE PROTECTIVE COATING AS PER 34.19.20.31-P6000CFP-000-PV	M2	6.25
A49	CONCRATE DEMOLITION	M3	8.65
(B) STRUCTURAL STEEL			
B1	STRUCTURAL STEEL,X LIGHT:<= 18 KG/LM	MT	1200

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
B2	STRUCTURAL STEEL,LIGHT:> 18 - 30 KG/LM	MT	1200
B3	STRUCTURAL STEEL,MED:> 30 - 60 KG/LM	MT	1150
B4	STRUCTURAL STEEL,HVY: >60 - 120 KG/LM	MT	1150
B5	STRUCTURAL STEEL,X HVY:> 120 - 225 KG/LM	MT	1100
B6	STRUCTURAL STEEL,XX HVY:> 225 - 450 KG/LM	MT	1100
B13	STRUCTURAL STEEL,T-POSTS	MT	1250
B14	DAVITS	MT	1550
B15	LADDERS AS PER SHELL DEP	LM	2200
B16	HANDRAIL & TOE PLATE AS PER SHELL DEP	LM	2500
B17	GRATING (GALVANIZED) AS PER SHELL DEP	MT	1450
B18	CHECKERED FLOOR PLATE (6MM) - GALVANIZED AS PER SHELL DEP	MT	1050
B19	STAIRWAYS AS PER SHELL DEP	MT	1350
B20	SAFETY GATES	EA	-
B21	RECTANGULAR PLATFORMS WITH GRATING - GALVANIZED - STEEL - PAINTED	MT	1550
B22	RECTANGULAR PLATFORMS WITH CHECKERED PLATE -GALVANIZED - STEEL - PAINTED	MT	1360
B23	CIRCULAR PLATFORMS WITH GRATING - GALVANIZED - STEEL - PAINTED	MT	1550
B24	CIRCULAR PLATFORMS WITH CHECKERED PLATE - GALVANIZED - STEEL - PAINTED	MT	1360
B25	PIPING SUPPORTS CONNECTED WITH THE TANK	MT	1350
B26	WALKWAYS AS PER S51.131	MT	1350
B27	ELEVATED WALKWAYS AS PER S51.156	MT	1550
B28	HOLDING DOWN BOLTS	MT	1300
B29	PLATFORMS TANK ROOF	M2	215
(C) GROUTING			
C1	GROUT - SAND / CEMENT	M3	45.5
C2	GROUT - NON SHRINKABLE	M3	252
C3	GROUT - EPOXY NON SHRINKABLE	M3	1650
(D) FIREPROOFING			
D1	FIREPROOFING OF TANK AND PIPING	M2	105
D2	FIREPROOFING OF STRUCTURE STEEL	M2	85.5
(E) ADDITION OR DELETION OF 150 # FLANGED NOZZLES WITH 250 MM NOZZLE PROJECTION – CARBON STEEL			
E1	1/2" NOZZLE	EA	12.0

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
E2	3/4" NOZZLE	EA	12.0
E3	1" NOZZLE	EA	13.5
E4	1-1/2" NOZZLE	EA	15.5
E5	2" NOZZLE	EA	17.0
E6	3" NOZZLE	EA	27.5
E7	4" NOZZLE	EA	44.5
E8	6" NOZZLE	EA	59.5
E9	8" NOZZLE	EA	85.5
E10	10" NOZZLE	EA	124.5
E11	12" NOZZLE	EA	211.5
E12	14" NOZZLE	EA	259.0
E13	16" NOZZLE	EA	316.0
E14	18" NOZZLE	EA	406.5
E15	20" NOZZLE	EA	487.0
E16	24" NOZZLE	EA	634.5
E17	28" NOZZLE	EA	790.5
E18	30" NOZZLE	EA	880.5
E19	32" NOZZLE	EA	985.5
E20	36" NOZZLE	EA	1139.5
E21	1/2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	21.6
E22	3/4" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	21.6
E23	1" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	24.5
E24	1-1/2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	28.0
E25	2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	30.5
E26	3" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	49.5
E27	4" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	80.5
E28	6" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	107.0
E29	8" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	154.0
E30	10" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	224.0
E31	12" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	385.5
E32	14" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	476.5
E33	16" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	569.0
E34	18" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	731.5
E35	20" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	476.5
E36	24" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	1142.5

COMMERCIAL SCHEDULES
SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
E37	28" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	1423.0
E38	30" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	1550.5
E39	32" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	1775.0
E40	36" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	2051.5
E41	24" MANWAY WITH COVER, NUTS, BOLTS AND GASKETS	EA	800.5
E42	28" MANWAY WITH COVER, NUTS, BOLTS AND GASKETS	EA	1050.0
E43	30" MANWAY WITH COVER, NUTS, BOLTS AND GASKETS	EA	1085.5
E44	36" MANWAY WITH COVER, NUTS, BOLTS AND GASKETS	EA	1435.5
(F) ADDITION OR DELETION OF 300 # FLANGED NOZZLES WITH 250 MM NOZZLE PROJECTION – CARBON STEEL			
F1	1/2" NOZZLE	EA	14.5
F2	3/4" NOZZLE	EA	14.5
F3	1" NOZZLE	EA	16.5
F4	1-1/2" NOZZLE	EA	18.5
F5	2" NOZZLE	EA	20.5
F6	3" NOZZLE	EA	33.0
F7	4" NOZZLE	EA	53.5
F8	6" NOZZLE	EA	71.5
F9	8" NOZZLE	EA	102.5
F10	10" NOZZLE	EA	149.5
F11	12" NOZZLE	EA	253.5
F12	1/2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	26.0
F13	3/4" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	26.0
F14	1" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	29.5
F15	1-1/2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	33.5
F16	2" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	36.5
F17	3 NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	59.5
F18	4" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	96.5
F19	6" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	128.5
F20	8" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	185.0
F21	10" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	269.0
F22	12" NOZZLE WITH BLIND, NUTS , BOLTS, GASKET	EA	462.5
(G) ADDITION OR DELETION OF STILLING WELL – STAINLESS STEEL			

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
G1	6" NOMINAL DIA STILLING WELL	EA	101.0
G2	8" NOMINAL DIA STILLING WELL	EA	153
G3	10" NOMINAL DIA STILLING WELL	EA	215
G4	12" NOMINAL DIA STILLING WELL	EA	285
G5	14" NOMINAL DIA STILLING WELL	EA	344
G6	16" NOMINAL DIA STILLING WELL	EA	450
G7	18" NOMINAL DIA STILLING WELL	EA	570
G8	20" NOMINAL DIA STILLING WELL	EA	666
G9	24" NOMINAL DIA STILLING WELL	EA	930
G10	30" NOMINAL DIA STILLING WELL	EA	1500
G11	36" NOMINAL DIA STILLING WELL	EA	1740
(H) PAINTING			
H1	PAINTING OF TANK (INTERNAL) - SITE ERECTED TANK	M2	19.5
H2	PAINTING OF TANK (EXTERNAL) - SITE ERECTED TANK	M2	16.5
H3	PAINTING OF TANK (INTERNAL) - SHOP FAB TANK	M2	17.5
H4	PAINTING OF TANK (EXTERNAL) - SHOP FAB TANK	M2	15.0
H5	GALVANIZING OF STEEL STRUCTURE	M2	12.5
(I) INSULATION			
I1	INSULATION OF TANK (30 MM) - SITE ERECTED TANK	M2	18.0
I2	INSULATION OF TANK (30 MM) - SHOP DRESSED TANK	M2	15.3
I3	INSULATION OF TANK (40 MM) - SITE ERECTED TANK	M2	24.0
I4	INSULATION OF TANK (40 MM) - SHOP DRESSED TANK	M2	21.0
I5	INSULATION OF TANK (50 MM) - SITE ERECTED TANK	M2	30.0
I6	INSULATION OF TANK (50 MM) - SHOP DRESSED TANK	M2	25.5
I7	INSULATION OF TANK (60 MM) - SITE ERECTED TANK	M2	36.0
I8	INSULATION OF TANK (60 MM) - SHOP DRESSED TANK	M2	30.6
I9	INSULATION OF TANK (75 MM) - SITE ERECTED TANK	M2	45.0
I10	INSULATION OF TANK (75 MM) - SHOP DRESSED TANK	M2	37.0
(J) ADDITION OR DELETION OF EDUCTOR / CLEANOUT DOOR / OIL SKIMMER			
J1	3" EDUCTOR	EA	350
J2	4" EDUCTOR	EA	380
J3	6" EDUCTOR	EA	450

COMMERCIAL SCHEDULES
SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

Item No.	DESCRIPTION	Unit of Measurement	Unit Rate (KD)
J4	8" EDUCTOR	EA	560
J5	10" EDUCTOR	EA	675
J6	12" EDUCTOR	EA	850
	ADDITION / DELETION OF CLEAN-OUT DOOR		
J7	COMPLETE IN ALL ASPECTS	EA	6500
J8	ADDITION / DELETION OF OIL SKIMMER	EA	10500
(K) ADDITION OR DELETION OF PIPE (INTERNAL OR EXTERNAL) – CARBON STEEL			
K1	1" NPS - CARBON STEEL - A-106 GR. B SCH 80	LM	6.0
K2	2" NPS - CARBON STEEL - A-106 GR. B SCH 40	LM	19.5
K3	3" NPS - CARBON STEEL - A-106 GR. B SCH 40	LM	20.5
K4	4" NPS - CARBON STEEL - A-106 GR. B SCH 40	LM	29.0
K5	6" NPS - CARBON STEEL - A-106 GR. B SCH 40	LM	50.0
K6	8" NPS - CARBON STEEL - A-106 GR. B SCH 20	LM	59.5
K7	10" NPS - CARBON STEEL - A-106 GR. B SCH 20	LM	74.5
K8	12" NPS - CARBON STEEL - A-106 GR. B SCH 20	LM	88.5

Unit of measurement are described as follows:

M3 = Cubic Meter
M2 = Square Meter
LM = Linear Meter
KG = Kilogram
EA = Each
KM = Kilometer
MM = millimeter
LS = Lump Sum
MT = metric ton

In addition to the General section of Schedule B above, following clarifications on Methods of Measurement shall also be applicable:

ITEM DESCRIPTION:

Backfilling

UNIT OF MEASUREMENT:

Cubic Meter after Compaction

BASIS OF MEASUREMENT:

Volume filled calculated from topographical survey drawings to the required grade level.

UNMEASURED ITEMS:

Rough grading and compaction (to 90%) of finish surfaces after fill.

COMMERCIAL SCHEDULES

SCHEDULE – B

UNIT PRICES AND METHODS OF MEASUREMENT

SPECIFIC REQUIREMENTS:

Backfill by machine of volumes below required grade. Upon reaching required grade level, rough grade to within plus or minus 100 mm, scarify surfaces as required to achieve 90% compaction to specification requirements. Soil for this operation shall be derived from cut. Only the volume of imported fill upon completion of cut and fills operations, calculated from the drawings, shall be measured.

ITEM DESCRIPTION:

Concrete Demolition

UNIT OF MEASUREMENT:

Cubic Meter of Removed Concrete

BASIS OF MEASUREMENT:

Drawing or field measurement in-site prior to disturbance

UNMEASURED ITEMS:

Working Space

SPECIFIC REQUIREMENTS:

This item includes excavation, demolition and removal of the debris and reinforced and un-reinforced concrete. The unit price includes for all removal, loading, transport, offloading and tipping charges.

ITEM DESCRIPTION:

Excavation (by Machine)

UNIT OF MEASUREMENT:

Cubic Meter

BASIS OF MEASUREMENT:

AFC drawings

UNMEASURED ITEMS:

Working space, compaction after excavation, de-watering, additional excavation for safety requirements and/or any form of shoring and all applicable items mentioned in article 0 – General of Schedule B.

SPECIFIC REQUIREMENTS:

This item covers general excavation by machine after site preparation. It shall be performed and measured when specifically requested by Company. It shall be applicable for Excavation for foundations, trenches for pipe laying, cable laying, drains, sewerage networks, pits and basins. It includes excavation to specified depths and removal of soil to a location outside the work-site. It also includes compaction of the bottom of the excavation to the specified density.

EXCLUDED ITEMS:

Any over excavation or trench collapse due to inadequate or lack of planking and strutting shall be backfilled with lean concrete at Contractor's expense.

ITEM DESCRIPTION:

General Excavation by Hand

UNIT OF MEASUREMENT:

Cubic Meter of defined trench cross section

BASIS OF MEASUREMENT:

The quantity shall be per cubic meter excavated by hand in any soil, measured net from the drawings. Dimensions are minimum from the base of the trench.

UNMEASURED ITEMS:

Working space, compaction after excavation, de-watering, additional excavation for safety requirements and/or any form of shoring and all applicable items mentioned in article 0 – General of Schedule B.

SPECIFIC REQUIREMENTS:

Hand excavation shall be used for exploratory excavations / excavating over existing cables, pipes and other underground services.

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

The unit price for this item shall include, but not be limited to the following:

- Excavate by hand to drawings or where requested in writing by Company.
- Remove all excavated soil from the Work Site Shore and strut excavation
- De-water excavation to ensure cables are not placed in water.
- Ensure that all roads, foundations, sewers, drains, pipes, cables etc. in the vicinity are secure against risk of subsidence or damage.
- Level and compact excavation bottoms
- Includes excavation to specified depths and removal of soil to a location outside the Work Site.
- Includes compaction of the bottom of the excavation to the specified density.

EXCLUDED ITEMS:

Any over excavation or trench collapse due to inadequate or lack of planking and strutting shall be backfilled with lean concrete at Contractor's expense.

ITEM DESCRIPTION:

Concrete (Concrete foundations, Structures, Columns and Beams)

UNIT OF MEASUREMENT:

Cubic Meter

BASIS OF MEASUREMENT:

AFC drawings

UNMEASURED ITEMS:

Working space, de-watering, additional excavation for safety requirements and/or any form of shoring, all temporary construction material, shoring and shuttering.

SPECIFIC REQUIREMENTS:

This type of concrete applies to circular foundations supporting vertical storage tanks or similar items of equipment. The ring beam will generally extend 300 mm - 1000 mm above grade depending upon the design of foundation.

ITEM DESCRIPTION:

General Requirements – Units of work for structural steel supply and fabrication.

UNIT OF MEASUREMENT:

The calculated weights shall be based on theoretical weights per linear meter.

BASIS OF MEASUREMENT:

All unit of work quantities are to be measured from the "AFC" drawings only. Any weights measured must be exclusive of paint. The method of measurement indicates how the unit of work quantities shall be measured. These quantities shall be rounded off as follows: 0.5 and higher shall be rounded up to the nearest unit, lower than 0.5 shall be rounded down to the nearest unit.

As detailed herein

UNMEASURED ITEMS:

Contractor shall submit its determination of units of work performed, determined in accordance with the provisions of the Contract and substantiated by documents satisfactory in

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

form and content to Company. Upon verification, Company will advise Contractor in writing of either Company's acceptance of Contractor's determination of units of work or of Company's determination of such units of work. These documents, once approved by Company, shall constitute the basis for progress measurement. The unit price for this item shall include, but is not limited to:

- The determination of category for light, medium or heavy structural steel shall be based on the theoretical weight per linear meter of the hot rolled or built-up welded section. All attachments or connections to a given member shall be included in the same category as the member and their weights shall be calculated.
- The basis for payment shall be the Contractor's detailed material take-off lists from authorized shop detail drawings and it shall be the Contractor's responsibility to obtain Company's agreement of quantities before invoicing. Contractor's material take-off shall be in accordance with the method of measurement and pricing structure specified in the Contract.
- Bolts and weld metal in field connections shall not be included in the calculated weights. Allowances for these shall be in the relevant unit prices.
- Horizontal hand railing, per linear meter shall include two rails and the supporting standards and except on circular vessel platforms, shall also include toe plates.
- Stairs, per linear meter shall include treads, two stringers, and hand rails and the supporting standards on the inclined portion, measured along the slope between work points.
- Ladders, per linear meter shall include the completely assembled ladder, with cage as applicable, including all bolts and connections and safety chain or gate. Measurement shall be overall ladder stringers.
- Framing for circular vessel platforms, kilograms shall include supporting brackets, but exclude hand railing and floor plates.
- No allowance shall be made in measured weights for rolling tolerances on plate, bars and sections.
- All linear and square measure shall be net with no allowance for waste in cutting, except as noted herein.
 - A. Shaped brackets and haunches cut from rolled profile sections shall be measured overall as if square cut.
 - B. Splay cut and mitred ends to rolled profile sections shall be measured overall as if square cut.
 - C. Shaped gusset plates shall be measured on the basis of the overall enclosing rectangle

COMMERCIAL SCHEDULES

SCHEDULE – B
UNIT PRICES AND METHODS OF MEASUREMENT

from which the plate may be economically cut.

- Payment against the unit prices shall become due only on the basis of erection progress. Specifically, payment shall not be due for work during fabrication or delivery to the work site.
- The Work is not classified by elevation or level. Contractor is familiar with the specifications and drawings including, but not limited to layouts, plot plans, 3-D model drawings and confirms to have a clear impression of the complexity of the installation. Contractor is deemed to have sufficient information to establish unit prices, which are applicable throughout the entire installation.
- Steel flooring, per square meter, shall include all bolting and fixing. Measurement shall be of the net area as viewed, excluding the areas of all cut-outs and openings larger than 0.10 sq meters.
- Shop and erection bolts for galvanized finish structural steel will be hot dip galvanized. Shop and erection bolts for prime painted structural steel will be provided plain black (unfinished).
- Horizontal and vertical brace gusset plates, which bolt to structural members, may be shipped loose with their own erection piece mark. Brace gusset plates, which are shipped loose, have their own unit price category, item number 0007, Braced Gusset Plates. Gusset plates, which are shipped welded to structural members, shall be priced in accordance with the unit price category of the member.
- Grating stair treads shall be fabricated from the same type grating panels and shall include a checkered plate nosing. Bearing bars shall have a smooth top surface or be serrated, as required by the project specifications. Other type of tread nosings may be provided only with prior approval of Company. Treads shall be hot dip galvanized after fabrication.
- Unit prices for grating stair treads shall apply to treads up to 610 mm wide and 914 mm long, and shall include costs of bolts and nuts to mount treads to stair stringers. Contractor shall include 5% extra mounting bolts and nuts.
- Grating stair treads shall be shipped loose to be mounted to stair stringers in the field.
- Unit prices shall include cost of field erection bolts, nuts and hardened washer assemblies. Bolts, nuts, and hardened washers may be shipped separately in bulk containers. Large diameter bolts, Direct Tension Indicator (DTI) washers or Tension Control (TC) bolts to be furnished as specified. Supply of grating panel fasteners. Grating panel fasteners shall be galvanized

COMMERCIAL SCHEDULES

SCHEDULE – B

UNIT PRICES AND METHODS OF MEASUREMENT

UNIT OF MEASUREMENT: Each

BASIS OF MEASUREMENT:

The count of nozzle addition or deletion along with nuts bolts, gaskets blinds. The change in the nozzle size shall also be measured from the same basis of addition and deletion of nozzle.

UNMEASURED ITEMS:

The unit prices are deemed to include the material supply, fabrication, installation, hydro-testing, sandblasting, painting, insulation, internal lining or painting, NDT, nuts bolts, gaskets, blinds, internal supports, internal bends, miters, impingement plates, reinforcement pads and other parts of the nozzle which are needed as per design.

SPECIFIC REQUIREMENTS:

N/A

ITEM DESCRIPTION: Painting

UNIT OF MEASUREMENT: meter square

BASIS OF MEASUREMENT:

Tank (internal or external) painting area shall be calculated from AFC drawings. For other items like piping, it shall be measured on NPS basis. The unit prices shall apply to each pair of flanges in a piping system, except those connected to valves or other special piping items with flanged connections. Further included are orifice flanges, including associated instrumentation where required to be painted. Blind flanges and blinds attached to single flanges shall be considered as a single flange pair.

UNMEASURED ITEMS:

The unit prices are deemed to include the painting of all items that are not measured, such as pipe supports, vents and drains, wear pads and other parts of a piping system that are not inline.

SPECIFIC REQUIREMENTS:

Surface prepare and prime all uncoated weld areas, uncoated pipe supports, and fittings.

Touch up damaged primer on pipe, fittings and supports, apply intermediate and finish coats. Pipe-work on vessels, columns or drums shall be measured from the flanges which constitute part of the column vessel or drum.

EXCLUDED ITEMS:

Painting performed in excess of drawing requirements will not be measured or reimbursed. The length occupied by pipe supports, except trunnions and dummies, shall not be measured for payment purposes.

END OF COMMERCIAL SCHEDULE - B

COMMERCIAL SCHEDULES

SCHEDULE – C
ALL INCLUSIVE LABOR RATES

1. Labor Time Rates listed under A, B, C, D, and E are "All-in" and include all labor related Fixed Costs such as mobilization / demobilization, site overheads, which include site staff above the level of working foreman, general overheads, and are inclusive of all direct labor costs, sick pay, vacation pay, payroll insurances, completion bonuses, transportation, travel time, lodging and travel cost and all other burdens and indirects as well as profit. Small tools, safety gear, consumables, expendables and temporary facilities are also included in these Time Rates. The Time Rates shall apply only to actual hours worked.
2. The rates listed under B through E shall in addition to the above include site management and all other indirect costs necessary to facilitate Contractor working during these hours.
3. Contractor shall not invoice for field support/supervisory personnel resources assigned to a change in the scope of work, that are already covered by the lump sum for Site Establishment.
4. Direct labor rates for stand-by time when specifically ordered by Company shall be at ninety percent (90 %) of the all inclusive rates in this Schedule C.
5. If Contractor performs Lump Sum and/or Unit Priced Work in overtime and/or shift at Company's request, then the additional compensation to Contractor shall be strictly limited to only the premium per spent man-hour which shall be calculated as the difference between the Time Rates as per B through E and A. Contractor will not receive any additional payment of inefficiency cost.
6. Personnel must first complete ten (10) hours in the normal working day before qualifying for the overtime rate.
7. HSSE Induction & tool box meeting costs and associated costs are deemed to be included in Contractor's pricing and shall not be reimbursed separate.

Sr. No	DISCIPLINE	A KD / hr)	B	C	D	E	
			%	%	%	(1)	(2)
1	Construction Manager	8.7	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
2	HSE Manager	6.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
3	Q.C. Manager	6.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
4	Material Control Manager	4.9	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
5	HSE Officer	3.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
6	General Superintendent	8.7	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
7	Project Site Engineer	6.4	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5

COMMERCIAL SCHEDULES

SCHEDULE – C
ALL INCLUSIVE LABOR RATES

Sr. No	DISCIPLINE	A KD / hr)	B	C	D	E	
			%	%	%	(1)	(2)
8	Discipline Engineer	3.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
9	Field Engineer	3.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
10	Q.A. Technician	2.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
11	Q.C. Technician	2.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
12	Planner / Scheduler	3.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
13	Cost Controller	3.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
14	Supervisor	5.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
15	General Foreman	3.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
16	Foreman	2.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
17	Equipment Operator (Light)	1.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
18	Equipment Operator (Heavy)	2.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
19	Driver (Light)	0.7	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
20	Driver (Heavy)	0.9	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
21	Mechanic	1.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
22	Crane Operator	2.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
23	Welder (Electric)	1.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
24	Welder (Argon)	1.8	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
25	Welder (Automatic welding machine)	2.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
26	Fitter / Fabricator	1.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
27	Plumber	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
28	Scaffolder	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5

COMMERCIAL SCHEDULES

SCHEDULE – C

Sr. No	DISCIPLINE	A KD / hr)	B	C	D	E	
			%	%	%	(1)	(2)
29	Electrician	1.5	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
30	Insulator	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
31	Concrete worker	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
32	Security Guard	0.6	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
33	Instrument technician	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
34	Rigger	1.0	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
35	Labor - skilled	0.9	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5
36	Labor - Unskilled	0.6	Ax1.5	Ax2.0	Ax2.0	Ax1.0	Ax1.5

(Bidder to add or delete category items as appropriate)

A = Normal Worksite Working Hours, 60 hours/6 day week (between 06.00 – 17.00 hours).

B = Hours in overtime during the normal 6 day week (payable from the 11th hour worked).

C = Hours on Fridays.

D = Hours in overtime on Fridays and Public Holidays.

E = Shift work.

(1) = Day 06.00 – 19.00 hour
(2) = Night 19.00 – 06.00 hour

Note: For supervision in shift work there shall be a minimum of one half-hour effective overlap between the shifts.

END OF COMMERCIAL SCHEDULE - C

COMMERCIAL SCHEDULES

**SCHEDULE – D
EQUIPMENT RATES**

This Commercial Schedule D identifies all Contractor owned and rented/leased equipment that may be used for performing the Work or additional and/or changed work in relation to the Contract and has a replacement value of greater than KD500.00 each.

1. The rates are for utilization of Contractor owned and/or leased equipment, including mobilization and demobilization, but excluding Operators.
2. All rates are for fully fueled and maintained equipment and include all costs for repairs, re-fuelling, maintaining, servicing, fuels, lubricants, administrative costs, overheads, insurance, licenses, depreciation costs, profit, all industry/standard accessories and all items necessary for safe and proper utilization of the equipment and each and every other item of expense associated with operating the equipment at any time of day, week or year, other than the cost of labor for directly operating the equipment and the cost of transport of the equipment to and from the Work Site. Time spent doing anything other than operating the equipment will not be reimbursed.
3. The daily, weekly and monthly rates are based on single shifts. Hourly charges for any day shall not exceed the daily rate; daily charges for any calendar week shall not exceed the weekly rate; and weekly charges for any calendar month shall not exceed the monthly rate. Payment shall be calculated using, in order of precedence, the monthly rate, then the weekly rate for any period less than four (4) weeks, then the daily rate for any period less than six (6) days and the hourly rate for any period less than ten (10) hours.
4. The specified rental rates shall apply whether the equipment is utilized for operations during any period during day, afternoon, and night shifts.
5. When the operated use of the additional equipment is infrequent and, as determined by Company, need not remain at the work site continuously, payment shall be limited to actual hours of use.
6. No payment shall be made for equipment that is not operating because it is broken down or undergoing repair, maintenance or overhaul.
7. In reference to Commercial Schedule A – Pricing for Indirects, please note that this Commercial Schedule D may include items which are part of the Site Establishment.
8. Equipment rates for stand-by time when specifically ordered by Company shall be at eighty percent (80 %) of the all inclusive rates in this Schedule D.

COMMERCIAL SCHEDULES

SCHEDULE – D
EQUIPMENT RATES

WINTECO TO COMPLETE BELOW TABLE

DESCRIPTION	CAPACITY	MOBILISATION	DEMOBILISATION	HOURLY	DAILY	WEEKLY	MONTHLY
MAKE AND		LUMP SUM (KD)	LUMP SUM (KD)	(KD)	(KD)	(KD)	(KD)
MODEL							
Air Compressor (with all necessary attachments)	385 CFM	135-	135-	15.5	150	900	3,500
Air Compressor (with all necessary attachments)	600-750 CFM	135	135	17.0	160	1,155	4,500
Crane	18 – 35 Ton	195	195	47.5	450	2,650	10,000
Crane	45 - 50 Ton	195	195	68.5	650	3,850	15,000
Welding Machine	400 Amp	10	10	0.85	7.5	45	150
Oxy-acetylene Torch Set		10	10	0.85	7.5	45	150
Hydraulic Jack	10 Ton	25	25	1.65	15	90	300
Flatbed Tractor Trailer	40 Ton	-	-	30.0	285	1,700	6,500
Generator Set with Extension Cord	10KW – 20 KW	50	50	15.5	150	900	3,500

END OF COMMERCIAL SCHEDULE - D

COMMERCIAL SCHEDULES

SCHEDULE – E
LIST OF SUBCONTRACTORS

The following is a detailed list of Contractor's lower tier subcontractors proposed for the Work. Which are in compliance with Company's approved subcontractors (AVL) and indicate otherwise.

Once Company has given its non-objection, the subcontractors listed below shall not be changed except with Company's prior written approval.

Subcontractor/Address	Description of Work	Owners AVL List Yes / No
NBTC	Civil & Foundation work	Yes
Seoul Inspection and Testing	NDE	Yes
Al-Rashed Cooperheat	PWHT	Yes
Insultech, Korea	Insulation	No

- 1.0 Percentage of Work performed by Contractor's own forces: 75%.
- 2.0 Percentage of Work performed by subcontractors: 25%.
- 3.0 Company reserves the right to request additional information and work experience histories, etc. of the proposed subcontractors in accordance with Clause 20.0 Subcontracting, of Part III – General Terms and Conditions.

END OF COMMERCIAL SCHEDULE – E

COMMERCIAL SCHEDULES

SCHEDULE – F
MATERIAL SUPPLIERS

NOT USED

END OF COMMERCIAL SCHEDULE - F

END OF PART II – COMMERCIAL TERMS

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1.0 DEFINITIONS AND INTERPRETATION

- 1.1 Where used in this Contract the following expressions shall have the meanings herein assigned to them and expressions defined in the Agreement shall have the meanings therein assigned to them
- 1.1.1 "Acceptance" means the acceptance by the Company of the Work which certifies the Contractor's fulfillment of the Contract in respect of successful precommissioning and Mechanical Completion of the Work and Turnover in accordance with sub-Clause 13.5 and/or as specified in the Contract Signature Document.
 - 1.1.2 "Affiliate" means all companies which are directly or indirectly under the majority control of the Company.
 - 1.1.3 "Approved", "Approval" and like words mean Company's approval in writing.
 - 1.1.4 "Change" means those specified in Clauses 11.0 herein or other changes or restrictions in Contractor's sequence, conditions or methods of working that entitle the Contractor for an extension or shortening to the date of Turnover and/or increase or decrease in the Contract Price as expressly stated in this Contract or otherwise agreed by the Parties.
 - 1.1.5 "Code of Conduct" means the document so named (including its revision from time to time) and published on Owner's web page at <https://application.knpc.com/commercial/page.php?p=1371&l=1>.
 - 1.1.6 "Commencement Date" is the date as specified in the Contract Signature Document.
 - 1.1.7 "Commissioning" means those activities required to bring the Facilities into operational service in accordance with the specified design parameters contained in the Contract documents.
 - 1.1.8 "Company" or "Contractor" means the Party as stated in the Contract Signature Document.
 - 1.1.9 "Contract Price" means the Total Lump Sum Price as specified in Part II – Commercial Terms.
 - 1.1.10 "Contractor's Representative" means the person appointed by the Contractor as notified in writing to the Company to fulfill the role of Contractor's Representative in accordance with sub-Clause 25.6.
 - 1.1.11 "Days" means calendar days and all references to days or months shall be with respect to the Gregorian calendar.
 - 1.1.12 "Delay Liquidated Damages" means the sum or sums (if any) payable by the Contractor for delay in achieving Mechanical Completion(s) of the Work as further described in Clause 33.0.
 - 1.1.13 "Dispute" means any claim, dispute or difference between or among the Parties, arising out of or in relation to the Contract, or the breach, termination or invalidity thereof and includes any dispute as to any certificate, determination, instruction, opinion or valuation by the Company , save in the case of instructions issued by the Company pursuant to sub-Clause 1.3.2, which shall be final and binding on the parties thereto, and those decisions under Clause 42.0, 45.0 or 50.0 that have become final and binding.
 - 1.1.14 "EPC Contractor" or "EPC Contractors" means those contractors other than the Contractor who are from time to time employed by the Owner in respect of the Project.
 - 1.1.15 "Exhibit" means all or any of the documents named as Exhibit all of which form part of the Contract.

- 1.1.16 "Facilities" means, as applicable, the entire process, utilities, off-sites or infrastructure or plant units or the Buildings to be designed, engineered, procured, constructed, erected and interconnected by the Contractor as part of the Work, all as more particularly described in Part I - Scope of Work and the Technical Specifications.
- 1.1.17 "Final Acceptance" means final acceptance of the Work in accordance with sub-Clause 16.4.
- 1.1.18 "Final Notice of Acceptance" means the certificate issued by the Company pursuant to sub-Clause 16.4.
- 1.1.19 "Good Engineering Practice" means a level of skill, care and foresight reasonably to be expected of a first class Contractor skilled and experienced in the engineering, procurement and construction of projects of a type and scale similar to the Work.
- 1.1.20 "Government" means the government of the State of Kuwait.
- 1.1.21 "Health, Safety & Environmental (HSE) Requirements" means collectively the Company's Health, Safety and Environmental (HSE) Rules and Regulations as per attachment "C" and "D" of Part I - Scope of Work. For the purpose of this Contract, HSE Rules and Regulations means the safety regulations to be complied by Contractor while performing general construction works in fenced isolated areas and the Safe Work Practice shall also include all works carried out outside fenced isolated areas up to Turnover.
- 1.1.22 "Home Office Services" means that Work performed in Contractor's execution locations other than the Site. The Home Office Services generally includes but is not limited to, engineering, procurement services, project management and project support services during engineering and construction.
- 1.1.23 "ICC" means the International Chamber of Commerce.
- 1.1.24 "Laws" means all applicable national or state legislation, statutes, ordinances, executive and ministerial orders and other laws, and regulations and by-laws of any legally constituted public authority.
- 1.1.25 "Licensed Unit" means those parts of the Facilities requiring a license from a Process Licenser for the Company to engineer, procure and construct the Facilities.
- 1.1.26 "List of Approved Subcontractors" means the approved list of Subcontractors by Company as specified in Part I - Attachment M. Any reference to "List of Approved Contractors" shall carry the same meaning.
- 1.1.27 "List of Approved Vendors" means the approved list of Vendors by Company as specified in Part I – Attachment N. Any reference to "List of Approved Vendors" shall carry the same meaning.
- 1.1.28 "Maintenance Period" means the period commencing from the date of Turnover and expiring as provided in sub-Clause 16.3.2
- 1.1.29 "Mechanical Completion" means that the relevant Portion has been completed mechanically and structurally in accordance with the Contract, and all Laws, except for minor omissions and minor defects which do not materially affect the operation or safety of the Facilities or that Portion, and is ready for Commissioning, as more particularly described in Part I - Scope of Work.
- 1.1.30 "Notice of Acceptance" means the certificate issued by the Company pursuant to sub-Clause 13.5 stating the date upon which the Contractor achieved Acceptance.

- 1.1.31 "Owner" means, Kuwait National Petroleum Company (K.S.C) MAB PD Building, PO 691, Safat 13001, Kuwait
- 1.1.32 "Party" and "Parties" means either the Company or Contractor or both as dictated by the text and includes successors and assignees to the extent permitted.
- 1.1.33 "Performance Bond" has the meaning given in Clause 40.0.
- 1.1.34 "Portion" means each unit, units or other work elements which comprise the Work as more particularly described in Part I - Scope of Work.
- 1.1.35 "Precommissioning" means those activities required to bring a Portion into a functional condition pending Mechanical Completion in accordance with the specified design parameters contained in the Technical Specifications and as described in Part I - Scope of Work.
- 1.1.36 "Project" means the upgrade/expansion project of Mina Abdullah Refinery (MAB2), which is part of Owner's Clean Fuels Project (CFP).
- 1.1.37 "Process License" means all or any of the process license, basic engineering and guarantee agreements and the catalyst supply agreement (if any) between the Owner and the Process Licensors.
- 1.1.38 "Process Lessor" or "Licensor" means a company with whom the Owner has Process License.
- 1.1.39 "Progress Payment" means each of the payments to the Contractor pursuant to Part II - Commercial Terms.
- 1.1.40 "Project Management Consultant" or "PMC" means the company or organization appointed by the Owner to perform project management services on behalf of the Owner, and to carry out designated functions on behalf of the Owner. For the purposes of this Contract, the "PMC" shall be Foster Wheeler Energy Limited, UK or any replacement as may be notified in writing by the Company to the Contractor
- 1.1.41 "Provisional Items" means a work element so described in the Contract for which a scope of work has not been sufficiently developed or quantified to be initially included in the Total Lump Sum Price and for which an estimated value has been inserted in the Contract Price pending revaluation.
- 1.1.42 "Reimbursable Costs" are those costs in respect of which the amount payable and method of payment is further described in Part II – Commercial Terms.
- 1.1.43 "Retention " has the meaning given in Part II - Commercial Terms.
- 1.1.44 "Schedule" means the detailed schedules required to be submitted by the Contractor in accordance with Clause 5.0 including any modifications thereto in accordance with the Contract.
- 1.1.45 "Scheduled Turnover Date" means the date by which the Work is to be attained in accordance with sub-Clause 13.2, as the same may be amended in accordance with Clause 11.0.
- 1.1.46 "Shell DEPs or DEPs" means Shell Design Engineering Practices as more fully described in Part I - Scope of Work
- 1.1.47 "Site" means those parts of the land and other places on, under, in or through which the Work is to be performed and any other land or places provided to Contractor for the purpose of the Contract.

- 1.1.48 "Stores" means the Company's warehouse(s) located at or nearby the Site.
- 1.1.49 "Subcontract" means any direct contract between the Contractor and a first tier Subcontractor which subcontracts part of the Work.
- 1.1.50 "Subcontractor" means any entity identified in Part I, Scope of Work, Attachment M - List of Approved Subcontractors, and any other entity approved by Company to whom execution of any part of the Work, including preparation of any design or supply of any material, is subcontracted directly by the Contractor or indirectly at any tier, and includes its legal successors or permitted assigns.
- 1.1.51 "Superintendent" means the person appointed by the Owner as notified in writing by Company to Contractor from time to time to fulfill the role of Owner as defined in this Contract, and includes replacements and successors and shall include any person or persons notified from time to time by the Company to Contractor as having such of the Superintendent powers and responsibilities as specified in such notice. For the purposes of this Contract, Owner's Manager Clean Fuels Project is authorized by Owner to act as Superintendent.
- 1.1.52 "Technical Specification" means the specifications set out in Part I - Scope of Work and any amendments or variations thereto made pursuant to the Contract.
- 1.1.53 "Temporary Work" means all temporary work of any kind required in or about the execution, completion and maintenance of the Work in accordance with Part I - Scope of Work, and shall include, but not be limited to, all temporary staging necessary for the performance of the Work, temporary buildings, roads and services.
- 1.1.54 "Total Lump Sum Price" means the aggregate amount of the Lump Sum for the Work so described in Part II – Commercial Terms as may be subsequently adjusted in accordance with the applicable provisions of the Contract.
- 1.1.55 "Total Sum for Provisional Items" means the amount so described in Part II- Commercial Terms, as may be subsequently adjusted in accordance with the applicable provisions of the Contract.
- 1.1.56 "Turnover" means that the conditions of sub-Clause 13.2 have been satisfied.
- 1.1.57 "Vendor" means any manufacturer, supplier or company selected from the Part I – Scope of Work, Attachment N - List of Approved Vendors, or any other vendor approved by the Company for the purpose of this Contract.
- 1.1.58 "Work" means the work and all items and material to be supplied, and the entire work activities and services to be carried out by the Contractor under this Contract.

1.2 Interpretation

- 1.2.1 Words importing the singular also include the plural and vice versa, where the context requires and words indicating the gender shall include all genders. Words completely capitalized mean the same as words which only begin with a capital letter and vice versa where spelled the same (e.g. CONTRACTOR means Contractor, COMPANY means Company, OWNER means Owner). The headings, titles and marginal wording shall not limit, alter or affect the meaning or interpretation of the Contract.
- 1.2.2 All parts of the Contract are intended to be correlative and complementary, and any work required by one part and not mentioned in another part of the Contract shall be performed to the same extent and purpose as though required by all.
- 1.2.3 References to contracts, agreements and instruments concluded between the Company and any other entity and to the Code of Conduct shall be treated as including reference to

such contracts, agreement or instruments or code as amended, supplemented, substituted, novated or assigned from time to time.

- 1.2.4 The words "include" and "including" are to be construed without limitation for avoidance of doubt.
- 1.2.5 References to any Laws shall be treated as including reference to the Laws as the same may be amended from time to time.
- 1.2.6 Words importing persons or parties shall include firms, corporations and Government entities.
- 1.2.7 References to a Clause or sub-Clause are, save where otherwise expressly stated, references to the applicable Clause or sub-Clause of these Part III - General Terms and Conditions.
- 1.2.8 All references to the recovery by the Contractor of costs, losses, and compensation or equivalent terms shall be deemed to permit the recovery of direct costs plus overheads but to exclude the recovery of loss of profit, whether under the applicable provision of this Contract, by way of damages for breach of contract or civil wrong or quantum meruit or under any other principle or theory of law whatsoever. The Contractor expressly waives any right to recover such loss of profit.

1.3 Conflicts and Precedence

Unless otherwise specified herein, in the event of ambiguity or conflict among the constituent parts of the Contract, the order of precedence as given below shall apply. A discrepancy consisting of the application of inconsistent standards of quality or performance in relation to the Works or ambiguity or conflict within different parts of a single Exhibit or document shall be resolved by applying the most stringent standards or combinations thereof:

1	Contract Signature Document
2	Part IV Special Terms
3	Part III General Terms and Conditions
4	Part II Commercial Terms
5	Part I Scope of Work
6	Attachments
7	Exhibits
8	Specifications

- 1.3.1 Headings and titles of Articles, Clauses, sub-Clauses, paragraphs or other subparts of this Contract are for convenience of reference only and shall not be considered in interpreting the text of this Contract. No provision in this Contract is to be interpreted for or against any party because that party or its counsel drafted such provision.

Subject to the first paragraph of this sub-Clause 1.3, all documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory of one another. The Contract shall be read as a whole.

- 1.3.2 If there is any inconsistency within the Contract which cannot be resolved by applying the foregoing provisions of sub-Clause 1.3, the party discovering it shall notify the other promptly following its discovery. If so requested by the Company, the Contractor shall, as soon as reasonably practicable, provide a proposal to resolve the same. The Company shall issue to the Contractor an instruction which shall (at the Company's sole discretion)

either implement the Contractor's proposal or otherwise resolve the inconsistency. The Contractor shall forthwith comply with the said instruction. For the avoidance of doubt, the Company's instruction may give precedence to one provision in the Contract over another, where the two are inconsistent, notwithstanding that the Contractor has previously proceeded on the basis of a different interpretation of such provisions.

- 1.3.3 The Contractor warrants that, prior to entering into the Contract; it has inspected the documents comprising the Contract and confirmed to its satisfaction that they do not contain any inconsistency which will require the operation of sub-Clause 1.3.2. The Contractor hereby accepts the entire risk that sub-Clause 1.3.2 may be required to be implemented (irrespective of the document or documents in which the inconsistency arises, and irrespective of which party was responsible for the preparation of such document). The Contractor shall comply with an instruction of the Company issued under sub-Clause 1.3.2 without, by reason of such compliance, becoming entitled to any extension of time, other relief or adjustment to any component of the Contract Price or other additional payment, and any such entitlement is hereby expressly excluded.

2.0 SCOPE OF WORK

- 2.1 Without prejudice to any other provision of the Contract, the Work to be carried out by the Contractor shall comprise the provision of each and every item, including but not limited to, all material, equipment, tools and manpower necessary to perform all works and services required for the design, engineering, procurement, inspection and testing, construction, erection, Precommissioning and defect rectification.
- 2.2 The Contractor shall perform any other work and/or supply any other material not specifically mentioned in the Contract but which may be reasonably inferred to be necessary to provide the Company with the Work in accordance with this Contract as if such work and/or material were expressly mentioned in the Contract.
- 2.3 Not Used.
- 2.4 The Contractor shall provide to the Company, in accordance with the provisions of this Contract, labor, services, equipment and material relating to commissioning, start-up assistance and performance testing for the Facilities, as the Company may require for the execution of the commissioning, start-up activities and performance testing. The costs associated with such works and services will be on a reimbursable basis to the Contractor, and shall follow to the process of Clause 11.0 Changes.
- 2.5 The Contractor acknowledges that it has carefully examined all documents and other data relating to this Contract including the terms of and data produced pursuant to the engineering design, specifications, drawings and any other documents provided to the Contractor and that it is completely aware of and accepts full responsibility for the Work, and all other matters arising there under (and under any further data or documents issued in future in relation to such matters) which may affect its performance of the Work, the ability of the Contractor to attain Mechanical Completion of each Portion of the Work by the achievement of Turnover and/or otherwise comply with the Contract. The Contractor further acknowledges and agrees that (i) the Company does not warrant that the documents, data and the information provided as above are correct, complete or exhaustive and shall not be liable for inaccuracies or incompleteness thereof and (ii) all appropriate allowances for such matters have been taken into account in agreeing to the total price as specified in Part II – Commercial Terms and the Scheduled Turnover Date. Accordingly, no such matter nor any matter arising in relation to the same shall excuse the Contractor from attaining Turnover of the Work and/or otherwise complying with any other provision of this Contract. The Contractor hereby waives and agrees not to assert as a consequence of or in reliance upon the said matters any claim (i) for any extension of any Scheduled Turnover Date or that any obligation to attain such a date is at large or otherwise unenforceable; or (ii) for any adjustment to any component of the Contract Price or other relief or remedy other than those payments expressly referred to in sub-Clauses 1.1.4 and 2.5.1.

Without prejudice to the generality of the foregoing provisions, the Contractor:

- 2.5.1 Warrants that it has diligently reviewed such of the above data or documents and that it has notified the Company in writing of any defect in the data or documents referred to above which was or ought reasonably to have been apparent to the Contractor and has provided such technical advice as it ought to provide consistent with Good Engineering Practice to overcome or minimize the effects of such defect; and undertakes that the Contractor shall continue diligently to review any further data or documents as are referred to above according to Good Engineering Practices, shall promptly warn the Company in writing of any defect which is or ought reasonably to be apparent to the Contractor and shall provide such technical advice as it ought to provide consistent with Good Engineering Practice to overcome or minimize the effects of such defect.
- 2.6 The Contractor hereby accepts, that it bears the risk of events, actions and circumstances, whether natural or caused by man, which may affect the performance by it of its obligations under the Contract, subject only to sub-Clause 2.7.1 and other provisions (if any) of the Contract which expressly relieve the Contractor of any such risk. The Contractor hereby warrants that it has made such enquiries as it considered necessary to assess the risks assumed by it. The Contractor hereby further acknowledges that it shall bear such risks (subject, as above, only to those provisions of the Contract which expressly relieve the Contractor of any such risk) notwithstanding that they could not have been discovered or reasonably foreseen in the course of such enquiries. In particular the Contractor waives and agrees not to pursue (subject as aforesaid) any claim (under the Contract or otherwise) based on errors in or omissions from any data provided by the Company before or after the Commencement Date and agrees that the Company shall have no liability in relation to the same.
- 2.7 The risks which shall be borne by the Contractor (subject as aforesaid) include those which may arise from the Laws, the nature of the Work, the nature and location of the Site and its surroundings and any other working area and its surroundings, including their geological characteristics, hydrological, sub-surface and above surface conditions including any natural or artificial obstructions or other conditions, and the requirements for access to the Site, the characteristics and behavior of any sea, ocean, lake or river, and the beds thereof, in or near which the Work may be situated, weather conditions affecting any part of the Contractor's activities including the transportation of goods or equipment, the character, quality and quantity of labor, equipment and material required for the Work, the type and magnitude of design, engineering, procurement and construction services and labor required for the Work, the availability of skilled and unskilled labor, the general character of construction tools and equipment and facilities required preliminary to and during the execution of the Work, the requirements for bringing personnel, equipment, material, supplies and construction tools and equipment into and out of the Site, the availability of equipment, utilities and other required facilities at the Site and all taxes.
- 2.7.1 Where the Contractor encounters after the Commencement Date geological or other natural or man-made conditions or obstructions (including conditions of or within any existing units or facilities in relation to which any part of the Work is to be performed) which were not foreseeable prior to the Commencement Date by a skilled and experienced contractor having access to the data available to the Contractor and in accordance with Good Engineering Practice, the Company shall reimburse to the Contractor, in accordance with the provisions of Clause 11.0, the cost reasonably and unavoidably incurred by the Contractor in overcoming such conditions and award fair and reasonable extensions of time to any Scheduled Turnover Date to the extent that achievement of the corresponding Turnover is unavoidably delayed by such conditions.
- 2.8 The occurrence or effects of any risk borne by the Contractor shall not relieve the Contractor of any obligation or liability under the Contract and the Contractor shall not by reason thereof become entitled to any Change, adjustment to any component of the Contract Price, additional payment or extension of time or other relief, save as expressly conferred by a provision of the Contract. Any other such entitlement is hereby excluded.

2.9 The Company shall provide the Contractor with access to the Site after the Commencement Date as described below, provided the Contractor has submitted to the Company compliant particulars of the Contractor's insurances pursuant to sub-Clause 23.1.1 within that period, if not, later, when such compliant insurance particulars are submitted to the Company.

2.9.1 30 Days after the Commencement Date for Contractor's temporary facilities, including survey and ground/soil investigation works.

2.9.2 30 Days after the Commencement Date for the permanent Works

Notwithstanding the above, Company shall provide Contractor with access to the existing refinery as soon after the Commencement Date as the Contractor deems necessary, subject to compliance with the HSE and security requirements.

Access to the Site shall confer on the Contractor a right to only such use and control of the Site as is necessary to enable the Contractor to carry out the Work. Accordingly, the Contractor acknowledges and agrees that it shall have non-exclusive access and/or use of the Site and will be required to share use of the Site with the Company, other contractors and consultants of the Owner, PMC and Company and with other EPC Contractors.

The Contractor shall bear all costs and charges for special and/or temporary rights-of-way which it may require, including those for access to the Site. The Contractor shall also obtain, at its risk and cost, any additional facilities outside the Site which it may require for the purposes of the Work.

3.0 CONTRACT PRICE AND PAYMENT

3.1 Payment Terms for the Contract Price

For the Contract Price, payments shall be made in accordance with Part II - Commercial Terms. The payments shall also be subject to deductions in accordance with this Contract and are further subject to the accounting procedure in the Contract.

3.2 Costs and Related Provisions for Bonds.

The costs of the Bond(s) which are provided in accordance with the Contract, including any costs for their renewals and/or modifications (which shall also be done as required by the Company where the Contractor fails to do so), shall be for the Contractor's account. In the event the Contractor fails to maintain the Bond(s) in accordance with the terms of this Contract, the Company shall be entitled to procure a replacement or extended bond so that the requirements of the Contract are satisfied at Contractor's cost, which cost shall be paid by the Contractor to the Company as a debt. Where the Bond(s) are subject pursuant to its terms, to a fixed expiry date, the Contractor shall, not less than fourteen (14) Days prior to such expiry date, amend or replace the relevant bond with a duly executed amended or replacement Bond if the date on which the Company will be obliged to return the said Bond to the Contractor is not certain to occur prior to such expiry date. Any replacement Bond shall be issued by a bank of equivalent standing to the original issuer and be on identical terms (save that any fixed expiry date shall be reasonably adjusted to occur not less than seven (7) Days after the date on which, according to the then current Schedule, the Company will be obliged to return the Bond to the Contractor). Such procedure shall be repeated as often as necessary and failure to deliver an amended or replacement Bond shall be valid grounds for a demand equal to the full available amount of the existing balance of that bond, which demand may be made under that or any other Bond issued pursuant to the Contract, and shall entitle the Company to set off any part of such amount not satisfied by such demand.

The list of local and foreign banks approved for issuing bank guarantees are:

- 1) National Bank of Kuwait (K.S.C)
- 2) Commercial Bank of Kuwait (K.S.C)
- 3) Gulf Bank (K.S.C)
- 4) Al Ahli Bank of Kuwait (K.S.C)
- 5) Al Ahli United Bank

- 6) Burgan Bank (K.S.C) Burgan Bank (K.S.C)
- 7) Bank of Bahrain and Kuwait - Kuwait Branch
- 8) Kuwait International Bank (K.S.C)
- 9) The Industrial Bank of Kuwait (K.S.C)
- 10) Kuwait Finance House
- 11) Boubyan Bank (K.S.C)
- 12) BNP P ARIBAS - Kuwait Branch
- 13) HSBC Bank Middle East Limited - Kuwait Branch
- 14) National Bank of Abu Dhabi- Kuwait Branch
- 15) Citibank- Kuwait Branch
- 16) Qatar National Bank- Kuwait Branch
- 17) Doha Bank - Kuwait Branch
- 18) Mashreq Bank- Kuwait Branch
- 19) Al-Rajhi Banking & Investment Corporation (Al-Rajhi Bank)- Kuwait Branch
- 20) Bank Muscat - Kuwait Branch
- 21) Warba Bank

Note: Contractor may propose alternative banks for approval by Company.

3.3 Dispute of and Time Limitation on Invoices

- 3.3.1 In the event the Company disputes any portion of the invoice value claimed by the Contractor under sub-Clause 3.1 above and/or of the documents accompanying the invoice, the Company shall so notify the Contractor within fourteen (14) days after receipt, together with details of such dispute, including reasons for the dispute, and the specific disputed amount attributable to such reasons. The Company and the Contractor shall then immediately consult each other to resolve such disputes in accordance with Clause 50.0. Provided however that, the undisputed amount shall be paid by the Company.

3.4 Day of Payment

Any payment which becomes payable on any Day which is not a banking day in Kuwait shall be paid on the immediately succeeding banking day.

3.5 Banking Charges

Banking charges in accordance with the payment provisions of the Contract shall be borne and paid by the Contractor.

3.6 Disclaimer

Payment of the Contract Price or any part thereof shall not affect the Company's rights or preclude the Company from thereafter disputing any of the items involved and shall not be construed as acceptance of any part of the Work.

3.7 Payments to Subcontractors

The Contractor shall, at the request of the Company, furnish evidence to the Company that it is paying its Subcontractors/Vendors in accordance with the terms of their contracts. The evidence shall consist of written certification in the form of Lien Release Certificates that all amounts for, material, labor, other services, and all other items provided by the Contractor and its Subcontractors due for the month covered by the Contractor's invoice have been paid. The Contractor shall procure in all Subcontracts waivers by Subcontractors of liens, rights of attachment and all similar rights in favor of and directly enforceable by the Company, and shall indemnify the Owner, PMC and Company in respect of the consequences of any attempted enforcement of such claims against the Owner, PMC and Company by any Subcontractor. The Company shall not be obliged to approve or make payments in respect of any Subcontract that does not contain such provisions.

- 3.8 Company, without waiver or limitation of any rights or remedies of Company shall be entitled from time to time to deduct from any amounts due or owed by Company to Contractor, in connection with this Contract (or any other contract with Company), any and all amounts owed by Contractor to Company in connection with this Contract.

4.0 DUTIES AND RESPONSIBILITIES OF THE SUPERINTENDENT AND THE DESIGNATED REPRESENTATIVE

4.1 Responsibility of Superintendent

The Superintendent represents the Owner in all matters associated with the Clean Fuels Project.

4.2 Authority of Superintendent.

4.2.1 The Superintendent (or any person or persons he should so designate) shall have the right to review and inspect the Work performed hereunder. Contractor agrees that the Superintendent (or his authorized designee(s)) shall have access, at all reasonable times, to the Contractor's and its Subcontractor's work, prefabrication yards and engineering tools and data, including computer and scheduling programs which he judges are required to review the Work expeditiously.

4.2.2 Contractor shall not provide any (copies of) data, documents, drawings, reports and the like to the Superintendent (or any other persons), except after prior written instruction from Company.

4.3 Designated Representative

The Owner has designated a PMC to carry out certain delegated functions of the Superintendent in the management of the Contract with the Company.

5.0 PROGRESS AND SEQUENCE OF WORK – SCHEDULING

5.1 Commencement of the Work

Contractor shall commence the Work on the Commencement Date and shall proceed to execute the Work with diligence, and shall achieve the Turnover of the Work by the applicable Scheduled Turnover Date(s) of the relevant Portion.

5.2 Work schedules

Contractor shall schedule and coordinate the details of the Work being performed to meet the schedule requirements set forth in this Contract. Within thirty (30) calendar days after award of this Contract and before submittal of the first progress payment invoice, Contractor shall submit to Company for approval, a detailed schedule showing the sequence in which Contractor proposes to perform the Work, the start and completion dates of all separable portions of the Work, manpower forecasts, materials procurement and delivery plans and any other information specified by Company. Contractor agrees to adhere to the schedule approved by Company and attend and participate in scheduled progress and coordination meetings called by Company.

The Contractor shall utilize computerized Critical Path Method (CPM) scheduling in the Precedence Diagramming Method (PDM) format for the Project using Primavera P6 Project Management Release 7.0 Service Pack 4, software, or equivalent if so approved by the Company. The same software shall be used to develop logic driven schedules and schedule related reports for the Work.

All schedules shall be resource loaded and illustrated in time-scaled bar chart format supported by the logical relationship for predecessor and successor activities. All scheduling and reporting shall follow the work breakdown structure submitted by the Contractor and approved by the Company.

5.2.1 The Contractor shall update the aforesaid schedules on a monthly basis depending on the progress and the revised projections and resubmit the same to the Company, giving therein the reasons for deviation(s), if any, from the original schedules. For the avoidance

of doubt, the Scheduled Turnover Date may only be adjusted in accordance with Clause 11.0. Changes and approved by Company through a Contract Modification.

5.2.2 Overtime

Unless expressly stated elsewhere in this Contract, Work at the Site shall be compatible with Company's starting and quitting times or other times approved by Company. Scheduled overtime work by Contractor must be approved in advance and in writing by Company. Contractor shall notify Company in advance of any incidental spot overtime which Contractor elects to work due to such operations as concrete placement, non-disruptable work activities and emergencies to protect life and/or property. Overtime work, whether scheduled or incidental, shall be to Contractor's account unless the compensation therefore is specifically authorized in writing by Company. In the event Company approves compensation of Contractor's overtime in advance, such compensation as separately authorized shall be limited to the actual cost to Contractor of the premium portion only of all applicable wages, craft fringe benefits, and payroll burdens imposed by any governmental authority and measured by the compensation payable to employees. To establish the amount of payment, Contractor shall submit supporting documents satisfactory in form and content to Company for its verification and approval.

5.2.3 Not Used

5.2.4 The Schedules specified shall cover all activities of the Contractor required by the Contract

In particular, the Schedules shall provide for the following:

The Contractor shall plan all the Work having regard to the following:

- (i) At the Owner Site Offices, the Owner's normal working hours (including lunch/snack breaks) are 0700 hours through 1500 hours Sunday through Thursday or any other as may be notified to the Contractor or otherwise publicly known, subject to a work week of five (5) days per week, except:
 - a) during Ramadan when the working hours shall be 0830 hours to 1430 hours or any other working hours as may be declared by the Owner; and
 - b) There shall be no work on Fridays and on holidays declared by the Owner or during temporary stoppage(s) ordered by the Company or Owner due to safety or security reasons and/or on the Days and hours prohibited by a Government authority.
- (ii) The Contractor's construction activities at the Site shall be performed during a workweek no greater than six (6) Days, each of ten (10) hours (inclusive of lunch/snack breaks), commencing at 06:00 hours, Friday being a non-working day and with no work on holidays in Kuwait. ("Contractor's Normal Working Hours"). Contractor and its Subcontractors shall not work outside Contractor's Normal Working Hours as described above, or at night, without prior written approval of the Company, except in the case of irregular non-scheduled overtime work required to complete work where such is inherent in the work in question, such as the finishing of a pour of concrete or tie-in work. Such approval shall not unreasonably be withheld. Further, during summer time (1-Jun to 31-Aug), Contractor shall not be allowed to work in open areas between 11:00 hours to 16:00 hours in order to prevent heat related disorders, in accordance with Ministerial Decree No. 157-2005.
- (iii) The Contractor shall give the Company at least forty-eight (48) hours written notice of its intention to work on extended hours.

- (iv) The Contractor shall not carry out any work at the Site without having obtained the necessary permits in accordance with the requirements set forth in the Company's Health, Safety and Environmental Requirements under the Contract Part I – Scope of Work, Attachment C and D.
- 5.2.5 Contractor recognizes that Company, Owner, other contractors and subcontractors may be working concurrently at the Site. Contractor agrees to cooperate with Company, Owner and other contractors so that the project as a whole will progress with a minimum of delays. Company reserves the right to direct Contractor to schedule the order of performance of its Work in such manner as not to interfere with the performance of others.
- 5.2.6 The Contractor shall ensure that all major activity dates and constraints evidenced by these schedules shall be incorporated into any Subcontracts that may be entered into, in accordance with the provisions of Clause 26.0, for the execution of various parts of the Work.
- 5.2.7 During the performance of Work, Contractor shall submit to Company periodic progress reports on the actual progress and updated schedules as may be required by this Contract or requested by Company. In the event Contractor's performance of the Work is not in compliance with the schedule established for such performance, Company may, in writing, require the Contractor to submit its plan for schedule recovery, or specify in writing the steps to be taken to achieve compliance with such schedule, and/or exercise any other remedies under this Contract. Contractor shall thereupon take such steps as are necessary, including overtime, additional manpower and equipment to expedite progress so as to improve and expedite its progress so as to comply with the Contract and Schedule without additional cost to Company.

6.0 DESIGN AND ENGINEERING

- 6.1 All design and engineering work shall be carried out in the location or locations identified in the Contractor's Execution Plan and as approved by Company.
- 6.2 Company shall, at no additional cost to the Company, have the right to review at reasonable times and on reasonable notice both the nature and the progress of the Contractor's design and engineering work wherever the work is being carried out to the extent deemed necessary by the Company. In carrying out such reviews, the Company shall co-operate, to the extent possible, with the Contractor so as not to increase unreasonably the Contractor's engineering costs or time for performance of the Work.
- 6.3 The Contractor shall execute the design and engineering work in compliance with the provisions of the Contract, or where not so specified, so that they are fit for the purposes set out or reasonably to be inferred from the Contract and in compliance with Good Engineering Practice.
- 6.4 The Contractor shall submit to Company for review and/or approval the design documentation, including related drawings for the Work. The Company shall notify Contractor of any comments considered necessary within fourteen (14) Days of receipt of such, except as noted otherwise in Part I - Scope of Work.
 In the event Company requires any clarification on the documents submitted for review and /or approval for the purpose of providing comments and/or approval on those documents, the time taken by Contractor in responding to such queries shall not be counted within the aforementioned fourteen (14) Days timeframe.
- 6.5 The Company is not bound to comment on any documents submitted for its review. If the Company informs the Contractor that it considers any document not to be compliant with the Contract, the Contractor shall either:

- 6.5.1 give effect to such comments, which action shall be at the Contractor's own cost and will not give rise to any adjustment to any element of the Contract Price or extension of time; or
- 6.5.2 if the Contractor considers that its document is compliant with the Contract, give notice in writing to the Company to that effect.
- 6.6 Where the Contractor has served notice under sub-Clause 6.5.2, the Company may nevertheless by written notice require the Contractor to give effect to the Company's previous comments on the document concerned. The Contractor shall comply with such instruction, and:
 - 6.6.1 if it is subsequently agreed or determined that the Contractor's original document was in compliance with the Contract, the instruction shall be treated as a Change pursuant to Clause 11.0; but
 - 6.6.2 if it is subsequently agreed or determined that the Contractor's original document was not in compliance with the Contract, then the Contractor shall have no entitlement to additional cost or extension of time by reason of the Company's instruction.
- 6.7 No examination or lack of examination nor any actual or deemed comments, approval or disapproval by the Company (whether actual or deemed) in relation to any documents shall relieve the Contractor of any of its obligations, risks or liabilities under the Contract.
- 6.8 Before releasing any request for quotation to Vendors, the Contractor shall submit its procurement related specifications and designs (including any appropriate drawings) together with the List of Approved Contractors/Vendors to the Company for review and approval. The Company and the Contractor shall then follow the procedure set out in sub-Clauses 6.4 through 6.6 above before the request for quotation is released to approved Vendors.
- 6.9 The Contractor's compliance with the review procedures described in sub-Clauses 6.2 through 6.8 shall at all times be in accordance with the Contract, but without prejudice to the order of precedence set forth in sub-Clause 1.3.
- 6.10 The Contractor shall thoroughly review all documents and drawings received from the Contractor's Vendors and Subcontractors. The Contractor is responsible to ensure these documents and drawings are in conformity with the contractual requirements of the Company. Such documents and drawings shall only be passed on to Company subsequent to being fully commented upon by the Contractor. Sub-Clause 6.4 shall apply to all such documents and drawings received from Vendors and Subcontractors.

7.0 PROCUREMENT AND SUPPLY

- 7.1 Contractor shall be responsible for procuring and supplying all material and equipment in accordance with this Contract, all such items and/or material shall be new, of the respective kinds and quality required by the Contract, otherwise in accordance with the requirements of the Contract and fit for the purposes set out or reasonably to be inferred from the Contract.

The Contractor shall ensure that adequate provisions dealing with warranties and remedies such as rectification, replacement and/or any other for failure or defects in the material and/or equipment are stated in the purchase orders with Vendors and/or Subcontractors.

Notwithstanding the above, the Contractor shall remain fully responsible for the acts, omissions, defaults and neglect of any Vendor or Subcontractor as if they were the acts, omissions, defaults or neglect of the Contractor whether or not the Vendor was stipulated in the List of Approved Vendors or was otherwise approved by the Company, except to the extent provided in this Clause 7.0.

Contractor shall at all times, in accordance with the best practices and at no additional cost to Company, receive, store, and provide preventative maintenance preserve and protect material and equipment used by Contractor in the execution of the Work from damage or loss due to weather, fire,

theft, unexplained disappearance or other similar casualty, pending their incorporation into the Facilities.

Contractor shall at all times, in accordance with the best practices and at no additional cost to Company, protect from damage due to Contractor's operations, equipment and materials (whether stored or installed), paving, structures and any and all other items on the Site belonging to Owner, Company or others.

Company shall not be responsible for any loss suffered by Contractor, or damage to the Work, or to materials, tools and equipment of Contractor or of any other contractor, regardless of the cause including the negligence of Company, and Contractor assumes responsibility for any such loss or damage and for any cost of repairing, making good, or replacing any such loss or damage that may be directed by Company.

- 7.2 Procurement of all material and equipment for incorporation into the Facilities shall be carried out in accordance with the relevant requirements of Company's Approved Vendors List (reference is made to Part I - Scope of Work, Attachment N - Approved Vendor List).

All purchase orders for such items shall be placed in Contractor's own name, and consignee shall be Owner, as importer of record, for the custom duty exemption, in accordance with Clause 21.3. Contractor shall be responsible for payment of any cost arising in connection with said purchase orders.

In case Contractor intends to procure with other /additional Vendors set out in the Approved Vendor List, then Contractor shall propose its vendor(s) and obtain prior approval from Company before issuance of any request for quote to Vendors, along with following details supporting the Vendor qualifications and justification to perform the proposed work;

- i) Manufacturing capacity and facilities
- ii) Manufacturing experience
- iii) Proven track record (5 years)
- iv) Design engineering and technical capability
- v) Financial standing
- vi) ISO Certification
- vii) QA/QC organization & ability
- viii) Site supervising ability and quality of after-sales service
- ix) HSE records

Contractor shall be responsible for arranging all shipments, receiving, unloading and handling all such items when delivered to the Site or Company's or Contractors warehouse, it shall consign such shipments to Owner as consignee at the project shipping address, freight fully prepaid. Contractor shall be responsible for making demurrage agreements and settlement with carriers for its shipments.

Contractor shall visually inspect all such materials and equipment and check all supporting documentation and shall notify Company of any discrepancy or damage within two (2) days of receipt or such other period as may from time to time agreed by both parties.

Contractor shall be responsible for providing suitable and safe storage including the required preservation and maintain, in a form and manner acceptable to Company, adequate records of the permanent materials and equipment received from Company or purchased by Contractor and perform periodic inventory checks to show the use of all materials and equipment and the balance of materials and equipment unused at all times.

Contractor shall advise Company in writing, in advance of major shipments of Contractor's materials and equipment and shall coordinate unloading and release of carriers' equipment. Contractor shall promptly unload its shipments and promptly release carrier's equipment.

In the event Contractor may be unable to promptly unload its shipment, Contractor shall notify Company of such inability not less than ten (10) working days in advance of arrival. Company, at its option, may unload or make arrangements for others to unload such shipments for the account and risk of Contractor. Contractor will promptly pay Company for such costs of unloading.

- 7.3 Materials and equipment furnished by Company shall be received by Company in Company's warehouse and/or lay-down area. Contractor shall collect Company's furnished materials from the warehouse or lay-down area. The receipt and acceptance of all such materials and equipment shall be recorded in writing by signing forms in accordance with the procedure as described in Attachment H – Material Management to Part I – Scope of Work.
- Contractor shall carefully note any visible damage to Company furnished materials and equipment prior to Contractor's acceptance of delivery. After Contractor has accepted delivery of such materials and equipment, Contractor shall assume full responsibility for any loss of or damage to such materials and equipment. Contractor shall notify Company of any materials and equipment supplied to Contractor by Company which are surplus and, without additional compensation, shall cooperate with Company in the disposition of such surplus as directed by Company. (Note: All surpluses of permanent materials are owned by Company).
- Contractor shall notify Company of any lack of, or requirement for, materials and equipment required under this Contract to be supplied by Company in sufficient time for Company to furnish said materials or equipment in advance of Contractor's need. In the event of misfit of Company furnished materials or equipment, Contractor shall promptly notify Company of such misfit.
- Contractor shall take all reasonable steps to avoid standby time due to such misfit or lack of Company furnished materials or equipment and to continue progress of other portions of Work pending correction of such misfit and/or the furnishing of materials or equipment.
- 7.4 Procurement of all material and equipment for incorporation into the Facilities shall only be from Vendors who have the manufacturing capability as well as the ability to deliver the material and equipment within the required schedule.
- 7.5 Technical evaluation of the Vendor's proposals to the Contractor for the supply of all items of material and equipment for incorporation in the Work shall be conducted by the Contractor and submitted to the Company for review and approval prior to any award by the Contractor. The Contractor shall furnish any and all information as may be required by the Company to conduct such review. The Contractor shall not be relieved of any obligation or liability or entitled to seek any additional payment, time extension or other relief or remedy in consequence of the exercise by the Company of these rights of evaluation and approval.
- 7.6 Without prejudice to any other provision of the Contract the Contractor shall be deemed to have particularly acquainted itself and comply with the orders of the Council of Ministers No. 7.3/85 pertaining to the protection of local industrial products, Order No. 28/86 pertaining to protection of local industry, the Ministry of Trade and Commerce Decision No. 6/1987 (and its amendments) the Council of Ministers Decision No. 412 issued in its meeting dated 13/06/1999 regarding preference to Kuwaiti vendors followed by those from Gulf Cooperation Council (GCC) Countries and Decision No. 282 of year 2000.
- 7.6.1 The Contractor shall use all reasonable endeavors to ensure that items of Work representing not less than twenty percent (20%) by value of the Contract Price are procured locally from Kuwaiti Subcontractors and Vendors. The Contractor shall furnish the Company with all data required to establish historic and projected compliance or non-compliance with this obligation.
- 7.7 Notwithstanding the provisions of Clause 12.0, the following shall apply to inspection and testing prior to delivery to Site:
- 7.7.1 The Contractor shall be responsible for all inspection and testing required by Law, the Contract, and Good Engineering Practice with respect to all equipment, spare parts and material for incorporation in the Facilities. No equipment, spare parts or material shall be

delivered until all applicable tests and inspections have been successfully completed revealing no defects therein.

- 7.7.2 Subsequent to the placement of purchase orders, but not longer than thirty (30) days thereafter, the Contractor shall submit to the Company a detailed schedule of the inspections and tests planned for each item of equipment. Such schedule shall include all mandatory witnessing of factory testing. The Contractor shall advise the Company of any inspection or testing at least twenty-one (21) Days in advance. If no representative of the Company appears at the time and place so notified, the inspection or test may be carried out as planned.

The Owner, PMC and Company, its nominated representatives and/or the duly authorized and designated inspectors shall have the right at all reasonable times, alone or with the Contractor, to inspect or witness the testing of, any equipment, spare parts or material required by this Contract at their place of production or fabrication, provided that the Company shall bear all costs and expenses incurred in connection with such attendance including all traveling and board and lodging expenses.

In the event any material and/or equipment or any part of the Work fails to pass any test and/or inspection, the Contractor at no extra cost to the Company, shall, at the Company's option, either rectify or replace such material and equipment or part of the Work and shall repeat the test and/or inspection upon giving notice under this sub-Clause 7.7.2. If the Contractor fails to comply with this sub-Clause 7.7.2 within a reasonable time, the Company may proceed to do such work or procure a third party to do such work at the Contractor's risk, and the reasonable costs incurred by the Company in connection therewith shall be paid to the Company by the Contractor or otherwise be recoverable by the Company from the Contractor as a debt due.

The Company shall, at all times, retain the right to require additional inspection or testing whenever it has reasonable cause to believe that any material and/or equipment or any part of the Work is not compliant with the Contract. The Contractor shall carry out or allow such additional inspection or test at its own cost. If such equipment or material or any part of the Work is found to be in breach of the Contract, Contractor shall carry out all necessary rectification and bear the cost associated therewith. All samples for inspection and testing shall be supplied by the Contractor at its own cost unless otherwise provided for in the Contract and at the time and the manner therein specified.

- 7.7.3 Inspection or witnessing by the Company, or failure to inspect or witness, shall not be construed as acceptance of any part of the Work or as relieving Contractor of its obligations, risks or liabilities under the Contract.
- 7.8 The Contractor shall obtain from any Vendor, manufacturer or relevant third party any permission or consents necessary to enable Owner, PMC and Company or its nominated representatives, including third-party inspectors, to attend any tests and/or inspections which they wishes to attend pursuant to this Clause 7.0.

8.0 NOT USED

9.0 NOT USED

10.0 CONSTRUCTION

- 10.1 The workmanship of Contractor's and its Subcontractors' employees shall conform to Good Engineering Practice, be otherwise in accordance with the Contract and be fit for the purposes set out or reasonably to be inferred from the Contract. The Contractor shall ensure that the Work shall comply strictly with the provisions of this Contract and all specifications, drawings and standards referred to in this Contract or thereafter furnished by Company, and that the Work shall be free from defects in material and workmanship and in any design or engineering furnished by Contractor.

Contractor further ensures Company that all material, equipment and supplies furnished by Contractor for the Work shall be new, merchantable, of the most suitable grade and in accordance with the requirements of the Contract, as described in or may be inferred from the Contract.

Construction equipment obtained or furnished by Contractor which is to be used by Contractor on the Site shall be in first-class operating condition, safe, fit for the uses for which intended, and suitable for the safe, legal and efficient performance of the Work. Such equipment shall be subject to inspection from time to time by Company.

Any such equipment of Contractor which is rejected by Company as not conforming to the foregoing shall be promptly removed by Contractor and replaced with equipment acceptable to Company, without additional cost to Company and without delaying the schedule for performance of the Work by Contractor.

- 10.2 Contractor shall comply strictly and at all times with all Laws and Company's and Owner's rules governing the conduct of Contractor and its employees, agents and subcontractors at and about the Site. Contractor agrees that it shall ensure that its supervisory personnel, employees, agents and subcontractors at the Site comply strictly with such rules. Company and Owner reserve the right to, from time to time, revise any such rules, and Contractor shall comply fully with such rules as revised in accordance with the foregoing provisions.

Contractor shall furnish emergency medical treatment or related services to Contractor's employees in the case of job connected illness or injury occurring at the Site. Nothing herein contained shall be construed as imposing any duty upon Company or Owner to provide facilities necessary to furnish emergency medical treatment or related services to Contractor's employees or to make such facilities and/or services available to Contractor's employees.

- 10.3 In the course of carrying out the Work, the Contractor shall keep the Site and adjoining areas (Lay down Areas) clear of construction material, debris, refuse and rubbish caused by the Work and, prior to Mechanical Completion of any portion of the Work, shall remove all remaining material from and about the premises and shall leave such areas safe, clean and ready for use to the satisfaction of the Company, except that any material required for the completion in accordance with the provisions of sub-Clause 13.3 may remain stored in an orderly manner in the area. The Contractor shall arrange for the disposal in a manner agreed with the Company of all redundant material, spoils arising from the Work and the removal from the Site of all Temporary Work.

The Contractor shall be responsible to secure from the relevant municipality an allocation of disposal area outside the Site for the surplus excavated material. Contractor shall also comply with all rules and regulations (including obtaining approvals wherever necessary from local environmental agencies such as Kuwait Environmental Protection Agency - KEPA) for disposing all contaminated materials and utilizing local agencies specialized to dispose such materials. Disposal of such material inside the Site shall be subject to the approval of Company.

- 10.4 Contractor represents that it has carefully examined the documentation, drawings and specifications for the Work and has fully acquainted itself with all other conditions relevant to the Work, and its surroundings, and Contractor assumes the risk of such conditions and will, regardless of such conditions, the expense, difficulty of performing the Work, or negligence, if any, of Company, fully complete the Work for the stated Contract Price without further recourse to Company. Information on the site of the Work and local conditions at such site furnished by Company in specifications, drawings or otherwise is not guaranteed by Company and is furnished only for the convenience of Contractor.

The Contractor shall safeguard all buried or above ground pipelines, cables or other structures and services and shall be responsible for familiarizing itself with respect to the locations thereof by reference to all available sources of data (subject always to sub-Clause 2.6) and necessary surveys and work procedures and shall, during the performance of the Work prevent any damage thereto or to any other such pipelines, cables or other structures and services which may exist but are not shown on the said drawings. If any such pipelines, cables or other services are damaged during the course of the Work, the Contractor shall be responsible, at the Contractor's sole expense subject to recoveries from Owner provided insurance, and risk as to delay, for the expeditious repair thereof to

the satisfaction of the Company. At Company's discretion, the repair may be undertaken by a third party and the expense for such repair, subject to the recoveries aforesaid, shall be reimbursed to the Company by Contractor. Wherever deemed necessary by the Company, the Contractor shall supply and install approved protective barriers between existing installations and the Work at no additional cost to the Company

- 10.5 The Contractor shall advise the Company at least fourteen (14) Days in advance of the movement of heavy loads within the Site and shall be solely responsible for ascertaining details of weight and size restrictions, in particular height and width clearances, turning clearances and any and all other potential interferences on the proposed routes to the Site. The Contractor shall be responsible for obtaining, in advance, all necessary approvals, permits and any and all other permissions required for the movement of heavy loads, on route to or within the Site, from the relevant statutory bodies of the State of Kuwait and/or the Company at its cost.
- 10.6 The Contractor shall take all precautions as are required by Good Engineering Practice to prevent damage to roads, bridges, or underground services on route to or within the Site, together with all other existing installations and shall be responsible at the Contractor's sole cost subject to the recovery from Owner provided insurance, if any, for the complete repair of any damage occasioned thereto, to the satisfaction of the Company
- 10.7 The Company shall be responsible for supplying to the Contractor the original survey benchmark of the Site. The Contractor shall be responsible for the remaining survey and benchmarks. The Contractor shall also be responsible for the true and proper setting out of the Work in relation to benchmarks, reference marks and lines. All survey control markers shall be established by the Contractor, subject to the approval of the Company. Survey control markers shall be frequently checked by the Contractor.
- 10.8 The Contractor shall anticipate and make full allowance in accordance with Good Engineering Practice for the fact that the Work may be interrupted or temporarily delayed from time to time on account of the need for the maintenance and operation of the Owner's other existing facilities and by startup, commissioning and related activities of the Company in relation to Portions of the Work. In the event, however, of interruptions (save for those relating to Shutdown Activities, which shall be regulated solely by sub-Clause 10.8.2) which could not have been so anticipated, which arise from such activities and which cause delay to the Contractor's critical path activities exceeding one full working day then the Scheduled Turnover Date as defined in the Contract shall be extended by one calendar Day for each full working Day so lost. The Contractor shall make full allowance for compliance with the Company's Health, Safety and Environmental Regulations, as required by Clause 18.0 herein, and for the obtaining of the necessary permits to work. The parties hereto shall cooperate with each other to mitigate the effects of such interruptions or delays to the Work and to ensure the orderly and expeditious performance and completion thereof.
 - 10.8.1 The Contractor shall co-ordinate all his construction activities with the Company to ensure all existing facilities of the Owner may be operated safely and, as far as possible, without interruption while the Work is in progress. Where the Work requires the shutdown of any operating facilities of the Owner, or others, at any particular Site, such shutdown shall be kept to the practical minimum and shall be highlighted in the Construction Schedule submitted to the Company in accordance with Clause 5.0. The Contractor shall be responsible for making all appropriate and timely arrangements necessary to ensure that work on the Owner's existing facilities and, as may be required hereunder, those of others, shall be performed safely and without unnecessary delays.
 - 10.8.2 Shutdown Activities

The Contractor shall carry out the shutdown activities (herein the "Shutdown Activities") as defined in Part I, Scope of Work for the applicable units as therein described within the respective durations stipulated in of the Contract. Such duration shall be extended if completion of the relevant Shutdown Activities is delayed by reason of any of the events listed in sub-Clauses 11.11.1.1 to 11.11.1.8. Company and Contractor will agree to a firm shutdown date for each applicable unit(s) six (6) months prior to the shutdown date for the

corresponding unit(s). In the absence of agreement, such dates shall be determined by the Company (acting reasonably).

10.8.2.1 Shutdown Duration

The completion of shutdown activities by the Contractor within the scheduled shutdown duration is of utmost importance to the Owner and Company for timely start-up and avoidance of revenue losses. Accordingly, Contractor shall maximize the pre-shutdown activities so as to ensure that shutdown workload:

- i) is not increased by the pre-shutdown activities, which shall be completed ahead of receipt of the applicable unit(s) for commencing shutdown activities; and
- ii) will consist of those activities that could be performed only during actual shutdowns of the applicable unit(s).

The Contractor acknowledges that other contractors (for avoidance of doubt, the maintenance contractors engaged by Owner) will be carrying out maintenance related activities in the same unit where the Contractor is required to perform shutdown activities and shall have taken such factors into consideration in the Contractor's planning and execution of the shutdown activities of the applicable units.

In the event the Contractor fails to complete the relevant Shutdown Activities within the respective scheduled duration stipulated in the Contract (as extended pursuant to Clause 11.0 if applicable), the Contractor shall be liable to pay or allow liquidated damages for such delay, as indicated (and subject to the limits stated) in Clause 33.

10.8.2.2 Shutdown Schedules

For the shutdown schedule of each applicable unit Contractor shall initially plan his activities considering a window of ± 3 months for the commencement of the shutdown period, without prejudice to the above provisions for determining the firm shutdown dates.

For the avoidance of doubt, the Contractor shall not be entitled to a Change (nor to any other time extension, compensation or other relief or remedy) in respect of the following:

- i) Re-scheduling of the commencement of the shutdown by the Company with respect to scheduled dates within the +/- 3 month range indicated above.
- ii) Re-scheduling of the commencement of the shutdown by the Company beyond the afore stated range if it foresees a potential risk of delays in the Shutdown Activities based on Contractor not being fully prepared to implement such activities (such as for example – material not being available at the Site thirty (30) days prior to the commencement of the scheduled shutdown).
- iii) Any change(s) to the shutdown schedule beyond the above stated range which does not have an impact on the critical path activities of the Contractor in achieving the Turnover by the Scheduled Turnover Date or cause the Contractor to incur additional loss or expense.
- iv) Non completion or poor progress of pre-shutdown activities by the Contractor which necessitates such activities to be carried out during shutdown resulting in delays to commencing or completing the

shutdown activities in accordance with the Contract.

- v) Actual shutdown activities requiring more time and resources than originally determined by the Contractor on the date of the Contract or during progression of engineering, planning and construction works.
 - vi) Delays due to concurrent work by Contractor with other maintenance contractors engaged by the Owner working in the same units/areas.

In the event the Contractor is materially affected in performing the Shutdown Activities for reasons other than those stated above and to the extent that such reasons are solely attributable to the Owner or Company, the Contractor shall be entitled to compensation on the basis of a Change pursuant to Clause 11.0, subject to the substantiation of such entitlement in accordance with Clause 11.0.

10.9 Co-operation with Other Contractors

The Contractor agrees that it shall at all times co-operate with other EPC Contractors and/or other contractors employed by the Owner or Company in connection with the Project or in Owner's refineries for various purposes, including, but not limited to, maintenance of various units that form part of the Facilities or otherwise form part of the Work and that it shall use reasonable endeavors to protect the Work from delay, disruption or damage caused by such other EPC Contractors and/or other contractors.

10.10 Issued For Construction (IFC) drawings and specifications

- 10.10.1 The Work shall be performed using only drawings and specifications marked "Issued for Construction" or equivalent by Company. Such indication shall not relieve Contractor of any obligations under this Contract, nor constitute Company assumption of responsibility for the accuracy or adequacy of any of Contractor's information or Work incorporated in such documents.
 - 10.10.2 Contractor shall perform all Work outside of the areas marked "HOLD" on "Issued for Construction" specifications and drawings to maintain the schedule of Work, but shall not perform any Work in the areas or sections marked "HOLD" on "Issued for Construction" specifications and drawings until revised "Issued for Construction" specifications and drawings are received with the "HOLD" markings deleted.
 - 10.10.3 If Contractor's schedule will be delayed by "HOLD" markings on specifications and drawings, Contractor shall report such delay to Company in writing within five (5) working days prior to the start of the delay.
 - 10.10.4 Contractor shall maintain at the work site a complete and current hardcopy set of "Issued for Construction" drawings and specifications.

11.0 CHANGES

- 11.1 The Company shall have the right to request and subsequently to order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Work. The Contractor shall not proceed with any Change unless and until the Company issues a Change Order under sub-Clause 11.6 or issues an instruction to carry out the Change under sub-Clause 11.7.

Contractor will be notified of such changes by receipt of a written notification.

- 11.2 The Contractor may, from time to time during its performance of the Contract, propose to the Company any Change which the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Work. The Company may at its discretion approve or reject any Change proposed by the Contractor.

- 11.3 Notwithstanding sub-Clauses 11.1 and 11.2 above, no change made necessary due to any default of the Contractor in the performance of the Contract shall be deemed a Change and such change shall not result in any adjustment of the Contract Price or the Scheduled Turnover Date. In addition, normal design development and corrections to detailed design work performed or to be performed by the Contractor, which are required and/or comply with the Contract, shall not be construed as a Change.

11.4 If, upon receipt of any notification, Contractor considers that a change is involved that could affect its costs of performing the Work or upon the schedule for performance of the Work, Contractor is obligated to inform Company within five (5) working days of Contractor receiving the notification. Unless Contractor notifies Company in accordance with this Clause, Contractor is obliged to perform the Work in accordance with the change and will have no entitlement to any additional compensation or to any change to the schedule.

Contractor shall submit to Company within ten (10) working days after submission of the notification from Contractor required as stated above a detailed takeoff with supporting calculations and pricing for the change, together with any requested adjustments in the schedule. The pricing shall be itemized as required by Company and shall be in sufficient detail to permit an analysis of all labor, material and equipment and shall cover all work involved in the change, whether such work was deleted, added or modified. Amounts related to subcontracts shall be supported in similar detail. Any adjustments to the schedule must be accompanied by a revised version of the detailed schedule, agreed in accordance with Clause 5.0 demonstrating that any proposed changes to the schedule have been caused by the change and have affected a critical path on such previously agreed detailed schedule.

If Contractor does not provide the detailed take-off to Company within the time allowed by this sub-Clause 11.4, Contractor will have waived any right to additional compensation or to a change to the schedule in respect of the change and will proceed with the work in accordance with the change notification issued pursuant to sub-Clause 11.1 above.

11.5 Contractor shall not perform changes in the Work in accordance with sub-Clause 11.1 until Company has approved in writing the pricing for the change and any adjustment in the schedule for performance of the Work, except as set forth in sub-Clause 11.4 and 11.6. Upon receiving such written approval from Company, Contractor shall diligently perform the change in strict accordance with this Contract.

11.6 Notwithstanding Clause 11.5 Company may expressly authorize Contractor in writing to perform the change prior to such approval by Company. Contractor shall not suspend performance of this Contract during the review and negotiation of any change, except as may be directed by Company pursuant to Clause 34.0 Suspension of Work.

In the event Company and Contractor are unable to reach timely agreement regarding any change, Contractor shall then comply with Clause 45.0, Claims.

If, in the case of a Change proposed by either the Company or the Contractor, the Company and the Contractor reach agreement on all matters identified in the written statement furnished by the Contractor pursuant to sub-Clause 11.4, then the Company shall issue a Change Modification giving effect thereto. Such Change Modification shall contain full particulars of the Change, any adjustment of the Contract Price and/or the Scheduled Turnover Date, and all other modifications to the Contract and shall be signed by the Company and the Contractor. Such Change shall thereupon form part of the Contract.

11.7 Contractor shall not comply with oral changes in the Work. If Contractor believes that any oral notice or instruction received from Company will involve a change in the cost, time to perform or integrity of the Work, it shall require that the notice or instruction be given in writing and shall comply with the provisions of this Clause 11.0 Changes. Any costs incurred by Contractor to perform oral changes shall be for Contractor's account, and Contractor waives any and all rights to claim from Company for such costs or additional time to perform the Work as a result of compliance by Contractor with such oral changes.

11.8 No instruction, comment, approval or disapproval by the Company (whether on its own initiative or in response to a proposal from the Contractor) shall be regarded as a Change. If the Contractor

considers that any instruction, comment, approval or disapproval by the Company is or should be the subject of a Change, it must prepare and furnish to the Company a written statement containing the details set out in sub-Clause 11.4 and the Parties shall thereafter comply with the provisions of Clause 45.0. Following resolution of the matter in accordance with Clause 45.0 and 50.0, the Company will formally request a Change under sub-Clause 11.1 or withdraw the instruction, comment, approval or disapproval, or advise the Contractor that a Change is not involved as the case may be.

11.9 Extension of Time and Cost

11.9.1 Extension of Time Grounds

Subject to this sub-Clause 11.9 and Clause 45.0, the Contractor shall be entitled to claim an extension of the relevant Scheduled Turnover Date if the attainment of Turnover is delayed hereunder as a direct result of any of the events listed below (the "Extension of Time Grounds"). The Contractor shall also be entitled to an extension of the date for Turnover specified and to the stipulated duration of any Shutdown Activities where Turnover or the completion of such activities is delayed by any of the Extension of Time Grounds. The Extension of Time Grounds are:

- 11.9.1.1 the occurrence of an event of Force Majeure as specified in sub-Clause 32.0;
- 11.9.1.2 Not Used.
- 11.9.1.3 any Change requested or ordered by the Company (subject always to sub-Clause 11.3);
- 11.9.1.4 any delay occasioned by a suspension pursuant to Clause 34.0 (other than where sub-Clauses 34.2(i) or (ii) apply);
- 11.9.1.5 any breach of the Contract or other act of prevention by the Company; its agents or employees;
- 11.9.1.6 any changes in Laws as provided in sub-Clause 11.17;
- 11.9.1.7 any material delay caused by Company subject always to sub-Clause 10.9; and
- 11.9.1.8 any other cause expressly referred to in the Contract as entitling the Contractor to an extension of time

11.10 Extension of Time Procedures

- 11.10.1 The Contractor shall give written notice to the Company in respect of any Extension of Time Ground in accordance with Clause 45.0 herein. The Contractor's notice shall include:

- 11.10.1.1 the cause or causes of such delay;
- 11.10.1.2 the extent to which in its opinion such delay is caused by each Extension of Time Grounds;
- 11.10.1.3 details of the circumstances from which the delay arises;
- 11.10.1.4 details of the contemporary records which the Contractor will maintain to support and evidence its claim;
- 11.10.1.5 details of any extension to the Scheduled Turnover Date (or other relevant date or duration) to which the Contractor may consider itself entitled in accordance with this sub-Clause 11.10 resulting from such delay; and
- 11.10.1.6 details of any measures which the Contractor proposes to adopt to mitigate the consequences of such delay.

The Contractor shall keep and submit such contemporary records as may be reasonably necessary to support and evidence any request for an extension of time. Without admitting any liability, the Company may at any time inspect the Contractor's contemporary records and may make reasonable requests for the Contractor to keep further contemporary records. The Contractor shall permit the Company to inspect all records kept pursuant to this sub-Clause 11.10 and shall supply copy documents on request.

11.11 Award of Extensions

- 11.11.1 Subject to due compliance by the Contractor with sub-Clause 11.10 above and Clause 45.0 herein, the Company shall as soon as reasonably practicable from time to time grant to the Contractor either prospectively or retrospectively such extension of time to any of the Scheduled Turnover Date (or to the previously applicable date for achieving Turnover or stipulated duration of Shutdown Activities) as shall be reasonable in all the circumstances (or in the case of a Change, as agreed or determined as referred to in sub-Clause 11.6 above) and the Company shall fix revised dates or durations accordingly provided always that:
- 11.11.1.1 the Contractor shall not be entitled to any extension of time to the Scheduled Turnover Date (or other applicable date or duration) to the extent that any delay is due to any act, neglect, omission or default of Contractor or any person for whom the Contractor is responsible;
 - 11.11.1.2 the Contractor shall use its reasonable endeavors consistent with Good Engineering Practice to eliminate or minimize any delay in achieving Turnover or completing Shutdown Activities;
 - 11.11.1.3 in determining any extension of time, the Company may take into account, inter alia, any omission of any work permitted or instructed under the Contract;
 - 11.11.1.4 the Contractor shall be entitled to claim and the Company shall be entitled to grant an extension of time to the Scheduled Turnover Date, subject to the delay event occurs before the relevant Scheduled Turnover;
 - 11.11.1.5 If the Company declines to grant an extension of time and fix a revised Scheduled Turnover Date or if the Contractor considers that a different Scheduled Turnover Date should be fixed, then such matter will be resolved in accordance with Clause 45.0 and 50.0;
 - 11.11.1.6 The Contractor shall have no claim for any extension of time or in respect of delay save as and to the extent set out in this sub-Clause 11.11.

11.12 Acceleration

Where the Contractor is otherwise entitled to, or has received, an extension of time under the foregoing provisions of sub-Clause 11.11 above, the Company may direct the Contractor to provide a proposal to accelerate its activities under the Contract for the purpose of overcoming the relevant delay to the extent referred to in the Company's direction. The Contractor shall consider and respond to such proposal in good faith. If the parties so agree in writing (including as to any applicable adjustments to the Contract Price):

- 11.12.1 the extension to the Scheduled Turnover Dates which would otherwise have been directed under sub-Clauses 11.9 through 11.12 inclusive shall be reduced or removed; and
- 11.12.2 the Contractor shall accelerate its activities under the Contract, in each case as so agreed.

11.13 Mitigation of Delay

The Contractor shall at all times use Good Engineering Practice to eliminate or minimize any delay in the performance of its obligations under the Contract.

11.14 Cost

The Contractor shall, save as provided below, be entitled to an adjustment to the Contract Price in respect of cost reasonably incurred in consequence of any breach of this Contract by the Company or other act of prevention, subject to notification and substantiation of such cost in accordance with the procedure set out in sub-Clause 11.10, provided that:

- 11.14.1 in case of loss of or damage to the Work to which sub-Clause 22.2.1 applies, the Contractor's sole remuneration in respect of the direct cost of making good shall be the proceeds, if any, of insurance and no payment of cost or otherwise shall be due from the Company in respect of any deductible, excess or other amounts unrecovered by the Contractor from insurers; and
- 11.14.2 the Contractor shall have no claim against the Company for compensation or for any additional cost or expense it may incur as a result of any act, omission or default of any other contractor engaged by the Owner or Company in connection with the Project, nor for any cost in consequence of any breach or act of prevention of the Company to the extent that such breach or act of prevention was caused by any such other contractor.
- 11.14.3 Any entitlement to costs as a consequence of sub-Clause 11.14 shall be made expressly subject to the waivers and limitations in sub-Clauses 1.2.8, 10.8, 34.1.1 and/or elsewhere specifically provided in the Contract.

11.15 Change in Law

If any Law having the force of law whether by judgment of a court of competent jurisdiction or legislation in the State of Kuwait is enacted, promulgated, abrogated or changed after the award date ("Change in Law"), which subsequently affects the extent or nature of the Work, the Company will be bound to treat the consequences of the same as a Change, provided that:

- 11.15.1 the Contractor submits for the Company's review and approval, evidence to the effect that the Contractor had taken the proper immediate steps to mitigate the effect of such Change in Law; and
- 11.15.2 the Change in Law was not reasonably foreseeable as at the award date by a contractor experienced in carrying out work in Kuwait.
- 11.15.3 Company's agreement with subsequent effects of the extent or nature of the work due to the "Change in Law".

12.0 INSPECTION AND TESTING

- 12.1 The Contractor shall be responsible for all inspection and testing of the component parts of the Work as required by applicable law, Technical Specifications and/or as Contractor deems required, to ensure the Facility will operate safely under the conditions stipulated in the Technical Specifications. In addition, Contractor shall provide at the Site, and/or elsewhere, whatever inspection and testing the Contract requires in order to discover any deviations from the Contract or any defects in equipment, spare parts, material or workmanship.

Contractor shall schedule all such inspection and testing to be performed both outside and inside the State of Kuwait to avoid delaying completion of the Facilities or parts thereof.

Contractor shall inspect all materials, supplies and equipment which are to be incorporated in the Work. In addition, Contractor shall conduct a continuous program of construction quality control for all Work. Contractor's quality control program and inspection procedures for the foregoing shall be submitted in writing to Company for review and approval, in sufficient detail to delineate those items

to be inspected and the manner in which they are to be inspected, and shall adequately describe all construction quality control activities contemplated, including provision for adequate documentation of Contractor's performance of such quality control and inspection.

- 12.2 Contractor shall, during the course of performance of the Work hereunder, without additional compensation, make or cause to be made all tests required by this Contract. Company may require additional inspections and tests. Contractor shall furnish Company with satisfactory documentation of the results of all inspections and tests. Company shall be given not less than five (5) working days' notice of any tests to be made by Contractor or Contractor's subcontractors in order that Company may witness any such tests.

Company and their representatives, and others as may be required by applicable laws, ordinances and regulations, shall have the right at all reasonable times to inspect the Work and all material, supplies and equipment for the Work at the Site and at Contractor's and its subcontractors' shops for conformance with the Contract. Contractor shall provide, or cause to be provided access and sufficient, safe and proper facilities for such inspections. Neither the failure to make such inspection nor to discover defective workmanship, materials or equipment, nor approval of or payment to Contractor for such Work, materials or equipment shall prejudice the rights of Company.

If Contractor covers any portion of the Work prior to any inspection or test provided for in the specifications, inspection schedule, or as previously requested by Company, the cost of uncovering and covering the Work to allow for such inspection or test shall be borne by the Contractor.

Reexamination of any Work may be ordered by Company. In the event of such reexamination, if any material, equipment or any part of the Work is determined by Company to be defective, Contractor shall not be reimbursed for uncovering, repair or corrective and restoration costs. If such Work is found to be in accordance with the Contract requirements upon such reexamination, Company shall pay Contractor the cost of uncovering and restoration.

Rejection by Company of any or all parts of defective Work for failure to conform to this Contract shall be final and binding. Such rejected Work shall be promptly corrected or replaced by Contractor at Contractor's expense. If Contractor fails to commence and diligently continue correction or replacement of such rejected Work immediately after receipt of written notice from Company to correct or replace the rejected Work, Company may at its option remove and replace the rejected Work, and Contractor shall promptly reimburse Company for the costs of such removal and replacement of defective Work.

- 12.3 Whenever the Contractor is ready to carry out any such test and/or inspection outside of Kuwait, the Contractor shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof (but not less than twenty-one (21) Days prior to the anticipated time of test/inspection). The Contractor shall obtain from any relevant third-party or manufacturer or Vendors or Subcontractors any necessary permission or consent to enable the Company or its inspector to attend the test and/or inspection.

For equipment involving Company witness inspection, the Contractor shall obtain prior approval from Company on the inspection schedule.

- 12.4 In the event the Company decides to attend the aforesaid tests in sub-Clause 12.3 and/or perform inspections by its own inspector or cause its designated representative or a third-party inspector to do so, the Company shall bear all costs and expenses incurred.

In the event Company's own inspector, designated representative or a third-party inspector visits a vendor or manufacturer to witness any test and/or inspection as per a planned date agreed upon by Contractor and Company but could not witness such test and/or inspection due to material/equipment not being ready for such test and/or inspection, then the Company shall have the right to recover the full cost of such visit of its authorized personnel from Contractor in accordance with provisions of this Contract.

- 12.5 The Contractor shall provide Company with a certified report of the results of any such test and/or inspection.

If the Company's inspector (including its designated representative and third-party inspector) fails to attend the test and/or inspection, or if it is agreed between the parties that the Company's inspector shall

not do so, then the Contractor may proceed with the test and/or inspection in the absence of the Company's inspector and provide the Company with a certified report of the results thereof. For avoidance of doubt, Company requires the certified results whether Company is in attendance or not.

- 12.6 If any material and equipment or any part of the Work fails to pass any test and/or inspection, the Contractor shall either rectify or replace such material and equipment or part of the Work and shall repeat the test and/or inspection upon giving a notice under sub-Clauses 12.2 and 12.3 above.

12.7 The Contractor shall afford the Company (including its designated representative or third-party inspector) at the latter's expense, access at any reasonable time to any place where the material and equipment are being manufactured or the Work is being executed in order to inspect the progress and the manner of manufacture or construction, provided that the Company shall give the Contractor a reasonable prior notice. It is understood that any such inspection by the Company (including its designated third-party inspector/representative), if requested aforesaid, shall be carried out in such a manner so as not to unreasonably cause hindrance or delay to the progress of manufacture or execution of work by the Contractor, Subcontractors or Vendors.

12.8 The Contractor agrees the execution of a test, inspection of material and equipment of any part of the Work, the attendance by the Company's inspector, or the issue of any test certificate pursuant to sub-Clause 12.5 above, shall not be construed as acceptance of any part of the Work nor shall it be construed as relieving Contractor of its responsibility for any part of the Work complying with the requirements of the Contract and being free from defects and capable of performing their respective functions.

12.9 The Company or its nominated representatives shall have the right to request information on inspection or testing, direct from any Vendor or Subcontractor of any tier, by any means of communication. To facilitate such, the Contractor shall advise all such Vendors or Subcontractor's to this effect.

12.10 If any part of Contractor's Work is dependent upon the quality and/or completeness of work performed under another contract, Contractor shall inspect such other work and promptly report to Company any defects therein which render such work unsuitable for the proper execution of the Work under this Contract. Failure to make such inspections or to report any such defects to Company shall constitute Contractor's acceptance of such other work as suitable to receive Contractor's Work provided however, that Contractor shall not be responsible for defects which could not have reasonably been detected.

13.0 FINAL STAGES OF CONSTRUCTION AND TURNOVER

13.1 Precommissioning

Prior to Mechanical Completion and to enable any Portion of the Work to be placed into operation at the earliest practicable date, the Contractor shall commence the Precommissioning of the items required for the safe Commissioning and operation of that Portion. At least three (3) months before scheduled Precommissioning, Contractor shall prepare and submit for approval of the Company, Precommissioning procedures showing the Precommissioning which the Contractor deems necessary to enable the Precommissioning activities, and if any, which are to be carried out at a later stage. As soon as reasonably practicable after the Company has approved the Precommissioning procedures submitted pursuant to this sub-Clause 13.1, the Contractor shall commence and complete the Precommissioning in accordance with the Contract.

After the Pre-commissioning and when Contractor deems the Work is fully completed, including satisfactory completion of such inspections, tests and documentation as are specified in this Contract, Contractor shall, within ten (10) working days thereafter, give a written Notice of Completion of the Work to Company, specifying the Work completed and the date it was completed. Within twenty one (21) calendar days after receipt of said Notice of Completion, Company may inspect the Work and shall either reject the Notice of Completion and specify defective or uncompleted portions of the Work, or shall give the Contractor a written Notice of Acceptance of the Work for purpose of final payment only.

In the event Company rejects the Notice of Completion and specifies defective or uncompleted portions of the Work, Contractor shall, within five (5) working days, provide for Company review and approval, a schedule detailing when all defects will be corrected and/or the Work will be completed and shall proceed to remedy such defective and uncompleted portions of the Work. Thereafter, Contractor shall again give Company a written Notice of Completion of the Work, specifying a new date for the completion of the Work based upon the date such defective or uncompleted portions of the Work were corrected. The foregoing procedure shall apply again and successively thereafter until Company has given Contractor written Notice of Acceptance.

Any failure by Company to inspect or to reject the Work or to reject Contractor's Notice of Completion as set forth above, shall not be deemed to be acceptance of the Work for any purpose by Company nor imply acceptance of, or agreement with, said Notice of Completion.

13.2 Turnover

The Contractor shall be entitled to apply to the Company in writing for a Notice of Acceptance for the Work on the date when the Contractor has complied with the following conditions in respect of that Portion:

- 13.2.1 The Contractor has ensured that the work have achieved Mechanical Completion and those Precommissioning activities referred to in sub-Clause 13.1 and 13.5.1 have been completed;
 - 13.2.2 The Contractor has ensured that no deficiency or defect remains which would hinder the safe and lawful commissioning and operation;
 - 13.2.3 The Contractor has delivered to the Company all "as built" documents, drawings and records, in accordance with the requirements of the Contract.
 - 13.2.4 For the Portions related to the Buildings, the Contractor has completed all testing activities of the related works thereto and ensured that no deficiency or defect in the said works remains, in addition to the requirements stated in the above sub-Clauses.

- 13.3 Company may request Contractor for assistance during Commissioning phase with resources agreed by Company and compensated to the Contractor in accordance with Part II – Commercial Terms. Above requests shall be subject to Clause 11.0 Changes.

13.4 Not Used

13.5 Acceptance

- 13.5.1 Acceptance of the Work shall occur when the following conditions are met:

 - i) Mechanical Completion;
 - ii) The Contractor has completed all remaining construction activities (if any) and has dismantled and removed all the Temporary Work performed and/or erected at the Site, unless the same or any part thereof has been directed to be retained by the Company, and cleared any areas which the Contractor or its Subcontractors have used in connection with the Work of debris, rubbish and surplus material;
 - iii) All outstanding items or minor defects have been completed in accordance with the Contract;

13.5.2 After the events set out in sub-Clause 13.5.1 have been satisfied, the Contractor shall submit an application for a Notice of Completion in respect of the Work.

13.5.3 The Company will within twenty-one (21) Days after receipt of the Contractor's application; issue the Notice of Acceptance if it agrees that the Contractor has met the requirements of sub-Clause 13.5.1 (in which case the date notified by the Contractor to have achieved the Acceptance shall be the applicable date to be stated in the Notice of Acceptance).

- 13.5.4 If the Company fails to either issue a Notice of Acceptance, or notify the Contractor in writing the reasons why the Contractor's application is not acceptable within the twenty-one (21) Day period, then the Contractor may serve a further notice on the Company requiring a response to such application. If the Company continues the above mentioned failure for a further period of not less than 2 working days after receipt of that further notice, a Notice of Acceptance shall be deemed to have been issued on the date of the Contractor's application.

14.0 NOT USED

15.0 NOT USED

16.0 WARRANTIES AND GUARANTEE

- 16.1 Contractor guarantees Company that the Work shall comply strictly with the provisions of this Contract and all specifications, drawings and standards referred to in this Contract or thereafter furnished by Company, and that the Work shall be first-class in every particular and free from defects in materials and workmanship and in any design or engineering furnished by Contractor. Contractor further guarantees Company that all materials, equipment and supplies furnished by Contractor for the Work shall be new, merchantable, of the most suitable grade and fit for their intended purposes. Without limitation of any other rights or remedies of Company, if any defect in the Work in violation of the foregoing guarantees arises within the period set forth below, Contractor shall, upon receipt of written notice of such defect, as per reference sub-Clause 16.3.5, promptly furnish, at no cost to Company, design and engineering, labor, equipment and materials necessary to correct such defect and cause the Work to comply fully with the foregoing guarantees.

- #### **16.2 The Contractor warrants to the Company that**

- 16.2.1 the Work shall comply with the requirements of the Contract and be fit for the purposes set out or reasonably to be inferred from the Contract;
 - 16.2.2 the Work shall not contravene any Law and shall upon completion be operable in compliance with all Laws;
 - 16.2.3 Contractor shall include, at a minimum, the foregoing guarantee requirements in any subcontract that it places;
 - 16.2.4 The Work will be carried out in a safe and environmentally responsible manner;
 - 16.2.5 That it has the experience, capability, (including sufficient and competent personnel), and financial resources available to provide the Work.

None of these warranties shall be interpreted as limiting any other specified elsewhere in the Contract and any failure to comply with any such warranty is hereafter termed a "defect".

16.3 Defect Liability

- 16.3.1 The Contractor guarantees that the Work shall be free from defects.

16.3.2 The maintenance period shall run from Turnover until the date twelve (12) months after the issue of the Notice of Acceptance (the "Maintenance Period"), except that the Maintenance Period shall be extended by a period equal to the period during which the Work cannot be used by reason of a defect for which the Contractor is responsible, as described in sub-Clause 16.3.3 below (including any work to remedy the same). If only part of the Work is affected, then the Maintenance Period shall only be so extended for that part. In neither case shall the Maintenance Period be extended by more than twelve (12) months.

16.3.3 If, during the Maintenance Period, any defect or damage to the relevant Work occurs (regardless of cause), the Contractor shall if instructed by the Company investigate and repair, replace or make good the same. Where and to the extent that the Contractor is responsible for the said defect or damage in accordance with this sub-Clause, the Contractor shall indemnify the Company in respect of any loss or damage caused to the Work and shall carry out all works of repair, replacement or making good at its cost (including as to insurance deductibles and excesses), subject to the provisions of sub-Clause 23.3.

Where pursuant to this sub-Clause the Contractor is not responsible for the defect or damage, such works of repair, replacement or making good shall be treated as a Change. The Contractor shall for the purposes of this Clause 16.0 be deemed responsible for any defect or damage to the extent arising from:

- i) any failure of the Work to comply with the warranties contained in the Contract;
- ii) any other breach of the Contract or neglect or default of the Contractor or its Subcontractors; or
- iii) improper operation or maintenance caused by defects in or omission from as built data

16.3.4 The Contractor's obligations under this sub-Clause 16.3 shall not apply to

- i) any material which are normally consumed in operation or which have a normal life shorter than the Maintenance Period stated herein (save that, in each case, the Contractor's obligations under this sub-Clause 16.3 shall apply to the extent of any consumption in excess of or life shorter than such normal consumption or life);
- ii) any other material supplied or any work executed by or on behalf of the Company, except for the work executed by the Company under sub-Clause 16.3.7 below.

16.3.5 The Company shall give the Contractor a notice stating the nature of any defect or damage together with all available evidence thereof promptly following the Company's discovery thereof. The Company shall afford all reasonable opportunity for the Contractor to inspect any such defect.

16.3.6 The Company shall allow the Contractor reasonable access to the Facilities and the Site to enable the Contractor to perform its obligations under this sub-Clause 16.3.

The Contractor, during such access, shall co-ordinate, communicate with Company and shall act to minimize any outage by performing minor repairs during scheduled down times.

The Contractor may with the consent of the Company remove from the Site any material or any part of the Facilities that are defective if the nature of the defect and/or any damage to the Facilities caused by the defect is such that repairs cannot be expeditiously carried out at the Site.

16.3.7 In the event Contractor has been notified of any defects in the Work in violation of Contractor's foregoing guarantees and fails to promptly and adequately correct such defects, Company shall have the right to correct or to have such defects corrected for the account of Contractor, and Contractor shall promptly pay Company the costs incurred in correcting such defects.

16.3.8 If any defective equipment, material or workmanship is corrected, repaired or replaced pursuant to this sub-Clause 16.3, then the maintenance period in respect of any such corrected, repaired or replaced equipment, material or workmanship shall be extended for

a further twelve (12) months from the date on which such corrections, repairs or replacements were completed and accepted. Notwithstanding the above, any extensions under this sub-Clause 16.3.8 shall be limited in aggregate to two (2) years after the issue of the Notice of Acceptance

- 16.3.9 Contractor shall include, at minimum, the foregoing guarantee requirements in any subcontract that it places

16.4 Final Acceptance

Upon the later of the expiry of the Maintenance Period or the resolution or the determination of any claim notified during the Maintenance Period (including the completion of any repair, replacement or making good), or payment of Liquidated Damages, the Company shall issue the Final Notice of Acceptance, whereupon the Contractor shall be released from its obligations under sub-Clauses 16.3.2 through 16.3.7.

17.0 CODES AND STANDARDS

The specifications and drawings may not be complete in every detail. Contractor shall comply with their manifest intent and general purpose, taken as a whole, and shall not make use of any errors or omissions therein to the detriment of the Work. Should any conflict, error, omission or discrepancy appear in the drawings, specifications, instructions, in work done by others, or in site conditions, Contractor shall notify Company in writing at once and Company will issue written instructions to be followed. If Contractor proceeds with any of the Work in question prior to receiving such instructions, then required corrections shall be at Contractor's expense.

Contractor shall not deviate from the specifications and drawings without prior written approval from Company.

Materials shall not be substituted for those specified, nor shall "or equal" items be furnished pursuant to the specifications without Company prior written approval.

Notwithstanding sub-clause 1.2.3 and 1.2.4, the codes and standards specified in the Technical Specifications hereto shall be applicable to the Work. Wherever references are made in the Contract to non-mandatory standards and codes in accordance with which the Work is to be performed or tested, it is understood that the edition or revision of the applicable non-mandatory standards or codes in accordance with the Technical Specifications shall apply, unless otherwise expressly specified.

In the event of a revision occurring in the applicable non-mandatory standards or code subsequent to the Commencement Date, the Contractor will inform Company who will determine which edition or revision of the applicable non-mandatory standard or code shall apply.

Changes in mandatory standards or codes are regulated by Clause 11.0 and "mandatory" shall, for the purpose of this Clause 17.0, mean compulsory by Law.

18.0 SAFETY AND SECURITY

- 18.1 Contractor shall take necessary safety and other precautions to protect property, the environment and persons from damage, injury or illness arising out of the performance of the Work. Contractor shall comply strictly with local, municipal, provincial, state and national laws, plans, orders and regulations pertaining to health, safety and environmental protection which are applicable to Contractor or to the Work and Contractor warrants the materials, equipment and facilities, whether temporary or permanent, furnished by Contractor in connection with the performance of the Work shall comply therewith. At all times while any of Contractor's employees, agents or subcontractors are on Owner's or Company's premises, Contractor shall be solely responsible for ensuring that they comply with the safety, health, and environmental protection rules of Company and Contractor applicable to the premises, and that all its employees, agents and subcontractors have a safe place of work on the premises of Owner or Company. Contractor shall inspect the places where its employees, agents or

subcontractors are or may be present on Owner's or Company's premises and shall promptly take action to correct conditions which are or may become an unsafe place of employment for them.

Accidents, injuries and illnesses, damage to property, fires, spills, releases, and other incidents, circumstances and near misses affecting property, the environment, health, or safety shall be promptly reported to Company at the time of the incident or observation. Written reports, satisfactory in form and content to Company shall be submitted by Contractor within forty-eight (48) hours after each incident or observation.

Contractor shall maintain, in form and content approved by Company, Site accident, injury and illness statistics which shall be available for inspection by, and submitted to, Company upon its written request.

Contractor shall keep Company's and Owner's premises and the vicinity thereof clean and free of any debris and rubbish caused by the Work and on completion of the Work, shall leave such premises clean and ready for use. Areas used for the purposes of material/equipment lay-down, temporary facilities, storage and the like shall be restored to the condition existing prior to Contractor's occupation.

The Contractor shall ensure that its employees and the employees of its Subcontractors of any tier are notified of, observe and abide by the HSE requirements under this Contract.

18.2 Safety – Construction Activities

The Contractor, its employees and employees of its Subcontractors of any tier, shall at all times abide by and comply strictly with the safety and other regulations of the Company and with the provisions of any local regulations made there under and such other regulations as Company may issue from time to time. The Contractor understands and accepts that the Work is subject to the KNPC's Safe Work Practices and Company's HSE Requirements and work on the Site will require the issue of permits by the Company and/or Owner if on Owner's existing facilities. These permits are issued in accordance with the applicable regulations and the Company will endeavor to ensure that a continuous Work Permit for the maximum period allowable under those Regulations will be issued. However, the Company reserves the right to suspend any permit or remove from the Site any Contractor's employee or equipment should it be considered necessary in the interest of safety. The Contractor accepts that it will comply with the Attachment C and D Health, Safety and Environmental (HSE) Requirements and KNPC Safe Work Practices as may be amended from time to time and the Contractor accepts that any claim for additional costs or extension of time in respect of such compliance will be null and void.

The Company shall have the right at any time to require the Contractor to cease any activity or practice which in the Company's opinion is unsafe or would lead to an unsafe or unsanitary condition on either the Temporary Work or the Site. Upon receipt of notification of such conditions, the Contractor shall immediately institute the necessary remedial action to the reasonable satisfaction of the Company and such action shall be at no additional cost to the Company and without any extension of time being granted

18.3 Security - General Requirements

Without prejudice to the provisions of sub-Clause 18.2, the Contractor understands and accepts that the Site is subject to access control regulations imposed by the State authorities in addition to those of the Company set forth in this Contract. The Contractor shall be fully responsible for ascertaining and complying with all such regulations in force, or as they may be amended from time to time, and the Company shall, without any further obligation, provide documentary assistance to the Contractor to the extent required by such regulations. Claims for additional costs or extensions of time on account of any events or circumstances arising from the Contractor's non-compliance with such regulations shall be null and void.

18.3.1 Security Regulations

The security regulations which are in accordance with Ministry of Social Affairs Decree No. 87/1989 (effective 22/03/1989) stipulate the following:

- 18.3.1.1 None of the personnel utilized by the Contractor in connection with this Contract shall be allowed on the Site and/or other designated areas unless his employment residence (work permit/visa) is held by the Contractor or his designated Subcontractors.
- 18.3.1.2 No letters of responsibility/guarantee will be accepted from the Contractor or Subcontractor for any personnel other than their own to enter the Site.
- 18.3.1.3 The direct daily responsibility for the Subcontractor personnel during their work will lie with the sponsoring Subcontractor, yet ultimate liability for the actions of Subcontractor personnel will lie with the Contractor.
- 18.3.1.4 It is the responsibility of the Contractor/Subcontractor to promptly inform the Ministry of Social affairs of the departure or addition of any personnel.
- 18.3.1.5 The sum of Kuwaiti Dinars Fifty Thousand (KD. 50,000) will be withheld from the final payments otherwise due from the Company to the Contractor unless or until a clearance certificate is received by the Company from the Ministry of Social Affairs relevant to sub-Clause 18.3.1.4 are met.

19.0 OWNERSHIP OF PLANS AND CONFIDENTIALITY

19.1 Drawings, technical documents and data prepared or developed by Contractor and furnished to Company in performance of the Work, shall be the property of Company and may be used by Company without restriction.

19.2 Company's Information

The Contractor and its Subcontractors/Vendors shall hold in confidence and not divulge to third parties or use in any way other than for the purposes of this Contract, except with the prior written approval of the Company, any information disclosed, directly or indirectly, to the Contractor by the Company or by any licensor of the Owner, in regard to the Work, or any processes, process data or correlations, or any drawings or designs showing the equipment, devices and machinery in which and by which the processing shall be performed or carried out, which are provided by the Company or are prepared for the Company by the Contractor, so long as and to the extent that such information is not in the public domain or was not prior to receipt from the Company or any licensor of the Owner already in the possession of the Contractor or is not received by the Contractor, after receipt from the Company or any licensor of the Owner from a third-party who does not require the Contractor to hold it in confidence and who did not acquire such information, directly or indirectly, from the Company or any licensor of the Owner. For the purpose of the provisions of this paragraph, disclosures relating to the Work which are specific, including those with regard to equipment, products or operating conditions, shall not be deemed to be in the public domain or in the prior possession of the Contractor merely because they, or individual features thereof, are embraced by general disclosures in the public domain or are in the possession of the Contractor, unless the combination itself and its principle of operation are in the public domain or in the possession of the Contractor.

The Contractor may disclose to Subcontractors and Vendors such part of the information to be held in confidence under the preceding paragraph as is necessary for the performance of the Work, provided that Contractor shall have imposed upon, and shall take all steps necessary to enforce against, such Subcontractors and Vendors the same secrecy conditions required of the Contractor under this sub-Clause 19.2.

Contractor's obligations under this sub-Clause 19.2 shall survive termination or expiry of the Contract for a period of twenty five (25) years.

All such documents furnished by Company to Contractor shall remain their property, and upon completion of the Work, Contractor shall, as requested by Company, either destroy or return such documents, including any copies thereof.

19.3 Publicity

The Contractor shall not make any announcement or release any information concerning this Contract, the Work or any part thereof to any member of the public or the media or any official body, unless prior written consent is obtained from the Company.

Articles for publication, speeches and photographs concerning this Contract or the Work are prohibited without prior written approval from the Company. Coordination of all requests and approvals is the responsibility of Contractor.

Requests for approval must be submitted in writing to the Company and must specify the intended use. Upon receipt of written approval, the article, speech or photograph, shall be submitted in triplicate for final approval of text at least one month prior to the intended use. Photographs shall be accompanied by their proposed captions.

The Contractor acknowledges that it and its Subcontractors may be required to sign separate confidentiality agreements with the Owner's Process Licensors and the Contractor hereby agrees to do so and further agrees to obtain the same agreements from its Subcontractors.

20.0 COMPLIANCE WITH LAW - LICENSES

- 20.1 The Contractor shall in performing the Work comply with all Laws, and shall keep the Company and Owner indemnified against all penalties and liabilities of every kind resulting from breach thereof or non-compliance therewith.

The Contractor shall obtain all licenses and do all other things necessary in any country or any political subdivision thereof wherein any part of the Work is performed to enable itself, its Subcontractors or Vendors to perform its obligations under this Contract, and shall obtain all temporary permits and authorizations required for performance of the Work

- 20.2 Without prejudice to the foregoing generality, the Contractor shall be deemed in particular to have acquainted itself with the requirements pertaining to the recruitment of local and foreign labor and shall be deemed to be aware of the time it takes to provide the manpower necessary in order to discharge its obligations under the Contract. In particular, the Contractor shall comply with all the relevant labour laws applicable to the Contractor's personnel employed in connection with the Work, including laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights. The Contractor shall also require its employees to obey all applicable laws, including those concerning safety at work.

All costs associated with or arising out of compliance with this Clause 20.0 shall be deemed included in the Contract Price

21.0 TAXES AND DUTIES

- 21.1 The following, wherever and by whomsoever they may be imposed by reason of the Works undertaken pursuant to the Contract, shall be paid by the Contractor if and to the extent due and payable and all are deemed to be included in the Contract Price:

- 21.1.1 all taxes imposed, wherever and by whomsoever that may be imposed on the Contractor or its Subcontractors by reason of the Work, but not limited to, all sales, excise, value added, storage, consumption and use taxes; license, permit and registration fees (save in respect of any licenses or permits required of and obtained by the Company or Owner in Kuwait) and income, profit, franchise, corporate and personal property taxes;
- 21.1.2 all employment taxes and contributions imposed by Law, or trade union contracts or regulations, with respect to or measured by the compensation (wages, salaries or other) paid to employees of the Contractor or its Subcontractors related to the Work, including, but not limited to, taxes and contributions for various legally required compensation insurance, funds and the like; and

- 21.1.3 All import/export licenses, import/export taxes and custom duties and other charges (excluding only customs duty in Kuwait specified in sub-Clause 21.3.2) on services, equipment, material and supplies and construction tools and equipment imported or exported by the Contractor or its Subcontractors.(Contractor's or Subcontractor's own materials).
- 21.2 The Contractor shall defend, indemnify and hold the Company harmless from any liability to the extent resulting from the failure of or delay by the Contractor in making any payment of any amount required to be borne by the Contractor in accordance with sub-Clause 21.1 or by any failure of the Contractor to comply with the reporting, return or other procedural requirements with respect to any such amount or (without prejudice to the generality of this sub-Clause 21.2) in respect of any other tax, duty, imposition, fine or penalty imposed on the Company in consequence of any breach of the Contract by the Contractor.
- 21.3 The following provisions apply to customs duties in Kuwait :
 - 21.3.1 The Owner will endeavor to obtain a Project specific customs duty exemption from the State of Kuwait on material and equipment intended for the Work, which for the avoidance of doubt are those materials, equipment, spare parts etc. that are to be incorporated into and form part of the Facility. Contractor will be required to submit supporting documents provided by Company to the Kuwait Port authorities for clearing the consignments and obtaining customs duty exemption.
 - 21.3.2 Where pursuant to sub-Clause 21.3.1 the Company is obliged to reimburse the Contractor the custom duties in the absence of such exemption, the Company will reimburse to the Contractor the amount of duty paid by the Contractor or relevant Subcontractor or Contractor's other tiers of subcontractors in connection with the Work which would otherwise have been excused by such exemption if granted, provided that the exemption was not disallowed or refused in consequence of any act or omission of the Contractor or Subcontractor or Contractor's other tiers of subcontractors.
- 21.4 The Contractor shall:
 - 21.4.1 at all times exercise, and ensure that all Subcontractors exercise, all reasonable and lawful efforts to minimize liability for customs duty as referred to in sub-Clause 21.3 including by securing and maintaining any lawfully available exemptions, deferrals, allowances, concessions or other relief or benefits in relation to the same. The Company shall not be liable to reimburse sums whose imposition could have been avoided by compliance with this sub-Clause;
 - 21.4.2 comply and ensure that its Subcontractors cooperate with the Company and comply with all requirements of the relevant customs authorities in connection with the ascertainment and prompt payment of the above mentioned duty. The Contractor shall defend, indemnify and hold the Company harmless from any liability to the extent resulting from any breach of this sub-Clause by the Contractor.
- 21.5 Notwithstanding any provision to the contrary in the Contract, the Company shall withhold five percent (5%) from each payment payable to the Contractor under this Contract pending either (a) the submission by the Contractor of a valid certificate from the Income Tax Control Office of Kuwait to the effect that Contractor has discharged its tax liability or (b) against written authorization to the Company from the Ministry of Finance following issue on behalf of Contractor of a valid bank guarantee issued by a local bank or an international bank having a local branch in Kuwait in favor of Ministry of Finance for an amount not less than five percent (5%) of the Contract Price, according to decree no. 3 for year 1955 about issuing legislation for Kuwaiti tax income amended in legislation no. 34 for year 1970 and legislation no. 2 for year 2008 according to Kuwaiti cabinet resolution no. 738/٢٠٠٨ issued in the cabinet meeting no. 2008/2-25 dated 14/07/2008.

22.0 CONTRACTOR'S RESPONSIBILITY AND TRANSFER IN TITLE

Company shall have the right to take possession of or use any completed or partially completed part of Contractor's Work as Company deem necessary. In the event Company desire to exercise the foregoing right, Company will so notify Contractor in writing. Such possession or use shall not constitute acceptance of Contractor's Work.

22.1 Title to items furnished by the Contractor

- 22.1.1 Good and clear title to all materials and equipment furnished by Contractor under this Contract for the Work shall, except as expressly provided otherwise, elsewhere in this Contract, pass to Company upon incorporation into the permanent plant. Contractor shall ensure that Subcontractors from whom Contractor obtains materials and equipment do not retain, encumber or reserve title to such items, and Contractor shall defend, indemnify and hold Company harmless from any such claims by its Subcontractors.

Contract revenues representing payments to Subcontractors shall not be considered to be earned by Contractor unless and until Contractor has paid the current invoices of such Subcontractor. In the event Company determines, in its sole discretion, that Contractor has become insolvent or is in danger of becoming insolvent, then Company is authorized, but not required, to make direct payment to Contractor's Subcontractors with respect to any current or past-due invoices then outstanding. Alternatively, Company may, in its sole discretion, require that contracts between Contractor and any such Subcontractor be assigned to Company, and Contractor hereby authorizes and consents to any such assignment. Company shall be entitled to full credit against any obligations to Contractor for any payments made to any Subcontractor under this sub-Clause, whether made pursuant to assigned subcontracts or otherwise. Title to any materials or equipment for which such direct payment is made shall pass directly from such Subcontractor to Company.

- 22.1.2 The Contractor warrants that it has or will have title (free of all liens and encumbrances) to all items, material and equipment to ensure compliance with sub-Clause 22.1.1.

22.1.3 Notwithstanding the transfer of ownership of the items, material and equipment the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to sub-Clause 22.2.

22.2 Care of the work

- 22.2.1 Notwithstanding the provisions of sub-Clause 22.1, the care, custody and control of Contractor's Work incorporated into the permanent plant shall remain with Contractor until such Work has been accepted in writing by Company and shall thereupon pass to Company unless Company notify Contractor in writing that such care, custody, and control is assumed by Company at an earlier date. The taking of possession of such Work pursuant to possession prior to completion, shall not constitute the assumption of care, custody and control of such Work until such time as such Work has either been accepted in writing by Company or Contractor has been notified as set forth herein.

Contractor shall make good at its own expense any damage to, destruction of or loss of the Work which may arise from any cause (including for the avoidance of doubt any act, omission, neglect or default of the Company, its agents, employees, its other consultants and contractors) save to the extent that any such damage, destruction or loss arises from any of the causes listed in sub-Clauses 32.1.1 to 32.1.5 ("Excepted Risks").

To the extent that such damage, loss or destruction is caused by an Excepted Risk, the Contractor shall make good the same only to the extent instructed by the Company and such making good shall be treated as a Change.

- 22.2.2 The Contractor shall also be responsible for making good at its own cost (save that it shall be entitled to the onward payment of any proceeds of the insurance policy initially received by the Owner) any loss or damage caused to a Portion of the Work arising from any defect in that Portion or caused to any other Portion(s) of the Work due to the said defect or otherwise caused by the Contractor or its Subcontractors in the course of any work carried out on that Portion pursuant to sub-Clause 16.3 or otherwise caused by the Contractor or its Subcontractors following Acceptance of the Work.

22.2.3 Where following Acceptance of the Work, any Portion of the Work suffers loss or damage from any cause other than as referred to in sub-Clause 22.2.2 above, the Contractor shall, if requested by the Company, make good the same and such making good shall be deemed to be a Change requested by the Company.

22.2.4 Any amounts payable to the Contractor for reinstatement carried out pursuant to Clause 22.2.3 shall be reduced by the amount which the Contractor is (or would be but for any act of vitiation on the part itself or any Subcontractor) entitled to recover pursuant to the policies of insurance referred to in Clause 23.0.

22.3 Construction Tools and Equipment

The Contractor shall be responsible for any damage to or destruction or loss of, from any cause whatsoever, construction tools and equipment owned by the Company or Owner or owned or rented by the Contractor or its Subcontractors of any tier, which are used or intended for use in accomplishing the Work.

22.4 Company's and Owner's Existing Property

The Contractor shall indemnify and hold harmless the Company and Owner (and, at the Company's option, make good) for any damage to, or destruction or loss of, existing structures and other property belonging to Company and/or Owner or for which the Company and/or Owner is responsible (excluding any part of the Work to which sub-Clauses 22.2.1 and 22.2.2 apply but including any other works or property forming part of the Project) arising out of the carrying out of the Work and any other act or omission of the Contractor or its Subcontractors of any tier or of its or their officers, employees, agents, or representatives, except to the extent that such damage, destruction or loss is caused by the Company or Owner, its employees or agents.

Provided however that the liability of the Contractor under this sub-Clause shall be limited to that stated in Clause 23.0 per occurrence, save where the occurrence arises from the deliberate and willful default of the Contractor or its Subcontractors (in which case the limitation shall not apply).

23.0 INSURANCE, INDEMNITIES AND LIABILITIES

23.1 Insurance

23.1.1 Insurance to be maintained by the Contractor

The Contractor shall, at its own expense, effect and maintain in effect at all times during the period from the Commencement Date until the date of the Final Notice of Acceptance following insurances as Contractor's insurance, with limits not less than those stated, with Local Kuwaiti Insurance Companies licensed / authorized to do business in Kuwait or franked through such insurance companies, and in forms satisfactory to the Company. The Contractor shall ensure that its Subcontractors effect and maintain the like insurance, or are insured pursuant to the cover arranged by the Contractor. Where the Contractor fails to maintain or procure any such cover the Company may elect to arrange replacement cover at the Contractor's expense.

Worker's Compensation including Employer's Liability Insurance covering all statutory, civil or common law liabilities arising out of job related injury to illness, disease or death of the Contractor's and / or its Subcontractors employees, (including passive war injury or death caused by mines, bombs or other weapons of war remaining from hostilities) in


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accordance with all Laws and referencing the Contract Number. The employer's per occurrence liability limit shall have the limit not less than Kuwaiti Dinars Six Hundred Thousand KD.600,000/- per occurrence.

Automobile Liability Insurance covering all the Contractor or Subcontractor owned, non-owned and hired motor vehicles shall have a minimum combined single limit of liability for bodily injury and property damage in amounts compliant with applicable laws. In respect of automobiles operated in the State of Kuwait, the Contractor and its Subcontractors shall ensure that the insurance provided shall be in accordance with all Laws. This policy shall be endorsed to name Company, Owner and PMC, including their respective affiliates, directors and employees, as additional insured's.

Construction Plant and Construction Equipment Insurance Coverage

- i) During the transit to Kuwait, on an all risks basis, all construction plant and construction equipment and the Temporary Work owned by the Contractor and / or its Subcontractors or for which the Contractor and / or its Subcontractors are responsible, until off-loaded on arrival at the Site.
 - ii) On arrival in Kuwait on an all risks basis including passive war risk cover, all construction plant, construction equipment and the Temporary Work owned by the Contractor and / or its subcontractors or for which the Contractor and / or its Subcontractors are responsible which are brought onto the Site in connection with the performance and execution of the Work and shall extend to cover the temporary buildings, site accommodation, field offices, tools, appliances, machinery, and personal property of the Contractor and/or its Subcontractors. The value of such insurance shall be for the costs of replacement to the same condition immediately prior to loss or damage. Such insurance will commence from off-loading on arrival at the Site.

Contractor shall furnish the Company, for itself and for its Subcontractors, a certificate of insurance for each policy of insurance described in this Clause, above. The insurance certificates shall be submitted to Company prior to the start for which the insurance is required. Contractor and its Subcontractors must submit all insurance policies, endorsements & certificates for Company review and approval before attending and/or starting any activity on Owner's premises and/or the Site.

Approved Insurance Companies by Company are:

1. Ahleia Insurance Co.
 2. Gulf Insurance Co.
 3. Kuwait Insurance Co.
 4. Warba Insurance Co.
 5. Bahrain Kuwait Insurance Co.
 6. Wethaq Insurance Co.

Note: Contractor may propose other insurance companies, subject to Company's approval.

All insurance provided by Contractor shall include an insurer's waiver of any right of subrogation against the Company, Owner, PMC and all other contractors and subcontractors performing work at the Project Site, including their respective affiliates, officers, representatives, agents, directors, and employees or the successors of any of them.

The insurance coverages shall be primary and non-contributing with respect to any other insurance or self-insurance which may be maintained by Company or Owner or PMC.

Contractor's General and Automobile Liability Insurance policies shall contain a Cross Liability or Severability of Interest Clause. The fact that Contractor has obtained the insurance required in this Clause shall in any manner neither lessen nor affect Contractor's other obligations or liabilities set forth in this Contract.

23.1.1.1 Copies, Notification

In respect of the insurance to be effected and maintained pursuant to Clause 23.1.1;

- i) The Contractor shall submit a copy of the policies, certificates and evidence of payment of premiums.
- ii) The Contractor shall give not less than thirty (30) Days notice to the Company of any proposal to cancel, vary, amend or permit to lapse any insurance that are to be maintained by the Contractor under the Contract (including Subcontractor's insurance) and shall not without the written consent of the Company, cancel, vary, amend or permit the same to lapse.
- iii) If the Contractor, and, as the case may be any of its Subcontractors are unable to effect any of the insurance required if any such insurance are cancelled, or lapse, Contractor shall immediately notify the Company in writing. In addition, the Contractor and as the case may be, any of its Subcontractors shall provide the Company with detailed information of quotations obtained and terms of coverage sought for any insurance which the Contractor or its Subcontractors are unable to effect and shall cooperate fully with the Company's efforts to assist the Contractor in obtaining such coverage.
- iv) If the Contractor fails to raise, effect or maintain any insurance as required by the Company, without prejudice to any other right or remedy available to the Company in respect of any such breach, may raise, effect and / or maintain such insurance(s), in which event the Company shall be entitled to recover the cost incurred in so doing as a debt due from the Contractor or by deducting the same from any monies due or to become due to the Contractor under the Contract or from any bank guarantees in Company's possession.

The fact that Contractor has obtained the insurance required in this Clause shall in no manner lessen nor affect Contractor's other obligations or liabilities set forth in this Contract.

23.1.1.2 Subcontractors

In cases where this Clause imposes or purports to impose obligations directly upon Subcontractors, the Contractor shall ensure compliance of the same by such Subcontractors.

23.1.2 Insurance to be maintained by the Owner

Commencing from the Commencement Date until the date of expiry of the Maintenance Period, the Owner shall maintain following insurance coverage designated as Owner insurance.

23.1.2.1 Erection All Risks Insurance covering physical loss or damage, including any Change Orders (or Contract Modifications), at the Site or otherwise within the State of Kuwait, in terms summarized, hereto describing in abstract Erection "All Risks" & Third Party Liability Insurance. All Risk Insurance cover shall be subject to the following per occurrence deductibles:

- i) Not more than equivalent of Kuwaiti Dinars Three Hundred Thousand (KD. 300,000/-) in respect of:
 - (a) Energisation, hot testing and commissioning, performance testing and initial operations;

- | | |
|----------|--|
| | <ul style="list-style-type: none"> (b) Defects in workmanship, materials, design, plan or specification; (c) All works in, on or around coastal or tidal waters; (d) During the defects liability period (e) The deductible for the existing surrounding properties in EAR shall not exceed, the higher amount in the policy i.e. Kuwaiti Dinars Three Hundred Thousand (KD 300.000) each and every loss. |
| ii) | Not more than equivalent of Kuwaiti Dinars Thirty Thousand (KD. 30,000) in respect of all other losses |
| 23.1.2.2 | <p>Third Party Liability Insurance in terms summarized, hereto describing in abstract Erection "All Risks" & Third Party Liability Insurance, in respect of the legal liability of the insured arising from any claim demand or action made or brought against the Owner or the Contractor or any of their respective Contractors or Subcontractors (the "insured") for each occurrence of accidental injury to, illness, disease or death of any third-party or loss of or damage to any property and all compensation, damages, costs, expenses, losses and liability whatsoever in connection therewith resulting directly or indirectly from the same in connection with any of the Work. The Third Party Liability Insurance cover to be maintained by the Owner shall be in a sum of not less than Kuwaiti Dinars Fifteen Million (KD. 15,000,000) for any one occurrence and/or series of occurrences, unlimited in all, and not less than Kuwaiti Dinars Thirty Million (KD. 30,000,000) in the aggregate in respect of sudden and accidental seepage, pollution and contamination. This insurance shall be subject to a per occurrence deductible of not more than Kuwaiti Dinars Fifteen Thousand (KD. 15,000) in respect of property damage only (which shall be for the Contractor's and/or its Subcontractor's account).</p> <p>The insurance specified in sub-Clause 23.1.2.1 and 23.1.2.2 herein, shall include the Owner, Company, PMC, the Contractor and its Subcontractors as co-insured and shall include, subject to standard non-negligence conditions, an insurer's waiver of any right to subrogation against the Owner, Company, PMC, the Contractor or its Subcontractors and/or their respective officers, employees, representatives, agents, Contractors, Subcontractors or the successors of any of them, subject to any insurer's retained rights of subrogation in consequence of or otherwise following such standard non-negligence condition. Details with respect to risk coverage limits, deductibles and period of insurance shall be as specified above.</p> <p>The Owner's insurance as described above shall be subject to normal and customary exclusions and other terms and conditions which will be notified in writing upon finalization of the relevant policy or policies.</p> |
| 23.1.2.3 | <p>Marine Project Cargo Insurance</p> <p>Marine Cargo Insurance maximum coverage for any one Conveyance or Location is Kuwaiti Dinars Forty Five Million (KD. 45,000,000) or equivalent in other currencies. This insurance shall be subject to deductibles of Kuwaiti Dinars Fifteen Thousand (KD. 15,000) each and every loss or series of losses arising from the same event; which shall be for Contractor's account.</p> <p>Marine Warranty Survey (MWSU) Requirements.</p> <p>Contractor shall, at his own expense, comply in all respects with any and all Marine Warranty Survey (MWS) Conditions imposed by Marine Project</p> |

Cargo insurers and any and all recommendations given by any Marine Warranty Surveyor appointed by Marine Project Cargo Insurers. Company may, at their discretion, appoint their own Marine Warranty Surveyor to monitor the transportation of critical items.

Contractor is obligated to inform underwriters and/or their appointed surveyors of critical items shipments no less than 5 working days in advance to commencement of transit by submitting Critical Item Declaration Form compressed along with supporting documents.

For the shipments, a PO list for Insurance Declaration must be submitted at least one month prior to the expected date of shipping.

The insurance specified above, shall include, the Contractor and its Subcontractors as co-insured and shall include, subject to standard non-vitiating conditions, an insurer's waiver of any right to subrogation against the Company, PMC, the Contractor or its Subcontractors or the successors of any of them, subject to any insurer's retained rights of subrogation in consequence of or otherwise following Vitiating Act under provisions of a Multiple Insured's Clause envisaged under the policies.

The Owner's insurance as described above shall be subject to normal and customary exclusions and other terms and conditions which will be notified in writing upon finalization of the relevant policy or policies.

- 23.1.3 In respect of the insurance referred to in sub-Clauses 23.1.1 and 23.1.2, the Contractor shall itself and shall ensure that its Subcontractors shall

 - 23.1.3.1 make themselves conversant with the terms and conditions of the said insurance
 - 23.1.3.2 comply in all respects and at all times with the terms and conditions of the said insurance, including furnishing all information reasonably required by the insurers;
 - 23.1.3.3 notify insurers of all claims in accordance with and within the periods required by the said insurance (and in respect of the Owner's insurance follow the Owner's claim and administration procedures as notified to the Contractor from time to time);
 - 23.1.3.4 not do or permit or omit anything to be done which would in any way invalidate any of the said insurance or any claim there under or reduce the effectiveness of the coverage there under, and shall indemnify the Company or Owner to the extent of any insured recoveries to which the Owner would have been entitled but for any breach by the Contractor or its Subcontractors of the foregoing provisions.
 - 23.1.3.5 Contractor shall forthwith after the Commencement Date of the Contract arrange and shall ensure that its Subcontractors arrange for the risk covered by insurance to be procured by the Owner to be excluded from any policies of insurance held by the Contractor and its Subcontractors and shall not procure or seek at any time to replace cover of such risk.

23.1.4 Deductibles and the risk of exclusions from or limits on insurance cover shall be borne by the Party who bears the relevant insured risk pursuant to the Contract and shall for the avoidance of doubt be borne entirely by the Contractor in relation to loss of or damage to the Works and all parts thereof which the Contractor is liable to make good pursuant to Clause 22.2.

23.2 Indemnities and Liabilities

- 23.2.1 The Company shall be responsible for and shall defend, indemnify and hold the Contractor harmless against all claims, demands, and actions made or brought against the Contractor in respect of injury to, illness, disease, or death of any of the Company's employee, their Affiliates employee to the extent resulting from the performance of the Work and the Contract, including all compensation, damages, costs, expenses, losses and liability whatsoever in connection therewith (save only to extent of any claims, demands or actions which arise on consequence of the willful default or willful misconduct of the Contractor or any Subcontractor, in respect of which the Contractor shall indemnify the Company).
- 23.2.2 The Contractor shall be responsible for and shall defend, indemnify and hold the Company, Owner and their Affiliates and the PMC harmless against all claims, demands and actions made or brought against the Company in respect of injury to, illness, disease or death of any of the employees or hired personnel of the Contractor or its Vendors and Subcontractors or loss or damage to the property of the Contractor, its Subcontractors, or any loss or damage to the property of employees and hired personnel of the Contractor or Subcontractors to the extent resulting from the performance of the Work and the Contract and all compensation, damages, costs, expenses, losses and liability whatsoever in connection therewith.
- Contractor agrees to defend, indemnify and hold harmless Company, PMC and Owner, the affiliated companies of each, and all of their directors, officers, employees, agents and representatives, from and against any claim, demand, cause of action, liability, loss or expense arising:
- i) By reason of Contractor's actual or asserted failure to comply with any law, ordinance, regulation, rule or order, or with this Contract. This includes, but is not limited to, fines or penalties by government authorities and claims arising from Contractor's actual or asserted failure to pay taxes.
 - ii) From actual or asserted violation or infringement of rights in any patent, copyright, proprietary information, trade secret or other property right caused or alleged to be caused by the use or sale of goods, materials, equipment, methods, processes, designs or information, including construction methods, construction equipment and temporary construction facilities, furnished by Contractor or its subcontractors in performance of the Work. Should any goods or services provided by Contractor become, or appear likely to become, the subject of a claim of infringement of a patent, copyright or other property right, Contractor shall, at Company's option, either procure for Company and Owner the right to continue using such goods or services, replace same with equivalent, non-infringing goods or services, or modify the goods or services so that the use thereof becomes non-infringing, provided that any such modification or replacement is of equal quality and provides equal performance to the infringing goods or services.
 - iii) From injury to or death of persons (including employees of Company, Owner, Contractor and Contractor's Subcontractors) or from damage to or loss of property (including the property of Company or Owner) arising directly or indirectly out of this Contract or out of any acts or omissions of Contractor or its Subcontractors. Contractor's defense and indemnity obligations hereunder include claims and damages arising from non-delegable duties of Company or Owner or arising from use by Contractor of construction equipment, tools, scaffolding or facilities furnished to Contractor by Company or Owner.
 - iv) From actual or alleged contamination, pollution, or public or private nuisance, arising directly or indirectly out of this Contract or out of any acts or omissions of Contractor, its Subcontractors, or suppliers.

Contractor's indemnity obligations shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively, excepting only where the injury, loss or damage was caused solely by the negligence or willful misconduct of, or by defects in design furnished by, the party to be indemnified. Contractor's defense and indemnity obligations shall include the duty to reimburse any attorneys' fees and expenses incurred by Company for legal action to enforce Contractor's indemnity obligations.

In the event that the indemnity provisions in this Contract are contrary to the law governing this Contract, then the indemnity obligations applicable hereunder shall be construed to be to the fullest extent allowed by applicable law.

With respect to claims by employees of Contractor or its Subcontractors, the indemnity obligations created under this Clause shall not be limited by the fact of, amount, or type of benefits or compensation payable by or for Contractor, its Subcontractors or suppliers under any workers' compensation, disability benefits, or other employee benefits acts or regulations, and Contractor waives any limitation of liability or immunity arising from workers' compensation or such other acts or regulations.

Company shall be entitled to retain from payments otherwise due to Contractor such amounts as shall reasonably be considered necessary to satisfy any claims, suits or liens for damages that fall within Contractor's indemnity obligations under this Clause, until such claims suits or liens have been settled and satisfactory evidence to that effect has been furnished to Company.

23.3 Limitation of Liability

The maximum liability of the Contractor to the Company under this Contract shall not exceed one hundred percent (100%) of the Contract Price, save that the limitation of liability shall not apply to nor be reduced by:

Contractor's aggregate liability for damages shall in no event exceed [one hundred percent (100%) of the value of the Contract] giving rise to the claim except for claims arising from or related to the following:

- (a) liabilities of Contractor to the extent that the same are covered by corresponding payments which Contractor is or will be entitled to receive pursuant to the insurance policies maintained pursuant to this Contract;
- (b) Contractor's failure to comply with applicable laws;
- (c) Contractor's liability for taxes for which it responsible under this Contract;
- (d) gross negligence, fraud, willful misconduct, willful default or corrupt practices;
- (e) Contractor's indemnification obligations under this Contract;
- (f) any warranty obligations of Contractor under the Contract;
- (g) any liability in the event of Contractor's termination for default;
- (h) Contractor's infringement of third party intellectual property rights;
- (i) breaches of Contractor's obligations of confidentiality; and
- (j) any liquidated damages referenced in the Contract and advance payments issued to Contractor that are not recovered by Company in accordance with the terms of the Contract.

Neither party shall be liable to the other party whether pursuant to any provision of the Contract (including any indemnity), by way of damages for breach of contract, in tort, for breach of statutory duty, equity, or under any other legal theory, for any loss of profit or revenue, loss of production or down time costs, loss of opportunity, or loss of goodwill ("Economic Loss"), provided that the foregoing waiver shall not apply with respect to the exceptions mentioned in the above paragraph.

In addition, the parties agree that any payment by Contractor of any agreed liquidated damages amounts under this Contract shall not be considered to be damages excluded from this waiver.

24.0 PATENT INDEMNITY AND COPYRIGHT

24.1 Patent Indemnity

The Contractor shall indemnify and hold harmless the Company, PMC and Owner and its employees and officers from and against all claims, liability, costs, damages and expenses of whatsoever nature, including legal expenses, which the Company and Owner may suffer as a result of (or as a result of remediation) any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right arising out of and in connection with the Work performed by or on behalf of the Contractor or its Subcontractors, provided that this indemnity shall not apply in the case of any subject matter of the Process License.

If any proceedings are brought or any claim is made against the Company arising out of the matters referred to in this sub-Clause 24.1, the Company shall promptly notify the Contractor in writing of such claim or proceedings and the Contractor may, at its sole expense and in the Company's name, promptly defend any such claim, suit or action.

If the Contractor fails to notify the Company within twenty-eight (28) Days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Company shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Company within the twenty-eight (28) Day period, the Company shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The Company shall afford the Contractor all such reasonable assistance as the Contractor may request in connection therewith and the Contractor shall reimburse the Company for all reasonable expenses incurred in so doing.

The Contractor shall have the right (subject to the consent of the Company, not to be unreasonably withheld), in order to avoid such claims or actions and in each case at its sole expense, either to purchase a perpetual license for the Company's and/or Owner's benefit permitting the relevant activities on terms approved by the Company, or to substitute non-infringing equipment, material or processes, or to modify at its sole expense such infringing design, equipment, material and processes so they become non-infringing, provided that such substituted and modified design, equipment, material and processes shall meet all the requirements of and be subject to all the provisions of the Contract and are approved by the Company.

24.2 Copyright

- 24.2.1 The Contractor hereby grants a non-exclusive worldwide transferable irrevocable perpetual royalty-free license (carrying the right to grant sub-licenses) to the Company and Owner to use and reproduce any patent, utility model, registered design, trademark, copyright, confidential information, know-how or other intellectual property rights in respect of any documents, drawings, specifications, models, plans and all other information (including that stored by electronic means) used or prepared by or on behalf of the Contractor or any Subcontractor in connection with the Work, for any purpose relating to the Facilities and/or the Work including completing, operating, maintaining, adjusting, modifying or extending (but not including the duplication of the Facilities), repairing or replacing the Facilities and/or Work.

24.2.2 The Contractor shall acquire for itself from all relevant third parties such rights as are necessary in order to be able to comply with its obligations under this sub-Clause 24.2.

24.2.3 The provisions of this sub-Clause 24.2 shall survive termination or expiry for whatever reason of the Contract or the Contractor's engagement under it and shall be without limit in point of time.

25.0 CONTRACTOR'S PERSONNEL

25.1 Employment of Personnel

With the exception of Kuwaiti citizens, the Contractor shall not employ any person who has resigned or been discharged from the staff of the Company, Owner, any Ministry of the Government, or any company or corporation under the ownership or control of the State of Kuwait, without a written release from such employer or the approval in writing of the Company or until a period of not less than one hundred and eighty (180) Days has elapsed since the person's last working day on the staff of the above entities.

Contractor agrees that all labor employed by it, its agents, and/or its Subcontractors for the Work on the Work Site shall be in harmony with and be compatible with all other labor used by Company or other contractors. Whenever Contractor has knowledge that any actual or potential labor dispute is delaying, or threatens to delay, the timely performance of the Work, Contractor shall immediately give notice thereof, including all relevant information to Company.

Contractor shall comply with and shall cooperate with Company in enforcing Work Site conditions including, but not limited to, starting and quitting time, hours of work, overtime, shift differentials, holidays, travel and subsistence payments, smoking regulations, daily clean-up and/or other conditions that affect the overall performance of the Work.

25.2 Accommodation, Welfare Facilities and Transportation

All necessary living and messing accommodation for the Contractor's workforce and that of any Subcontractor it employs shall not be permitted to be sited within the Contractor's work areas.

25.3 Contractor undertakes to provide sufficient resources including but not limited to personnel, supplies and construction equipment at all times to ensure performance and completion of the Work in accordance with the Contract.

Contractor shall ensure that all personnel employed in connection with the Work shall, for the work which they are required to perform, be competent, properly qualified, skilled and experienced in accordance with the best industry practice and to meet Company's requirements.

Resources when brought on to the Site, including hire or lease from third parties, shall be deemed to be exclusively intended for the execution of the Contract Works. Contractor shall not remove the same or any part thereof, without approval from Company or as otherwise specified in the Contract.

25.4 Project Organization - Site

No later than thirty (30) Days prior to assigning construction personnel to the Site, the Contractor shall submit to the Company, the Contractor's project site team ("Project Site Team") in the form of a site organization chart ("Site Organization Chart") and job descriptions providing details of lines of authority/responsibility and communications, names, titles and functions of all key personnel and other personnel that Contractor proposes to assign to its project organization at the Site, and the relationship of this project organization to the Contractor's project office organization. Contractor shall submit, for Company review and approval, resumes for key personnel. Company reserves the right to reject any resumes that do not meet the job requirements.

The aforesaid key project personnel shall include, but not be limited to, the following positions or their equivalent:

Key Personnel

- Contractor Representative (Project Manager)**
Site Construction Manager
Site HSE Manager / Supervisors
Site Material Manager
Project Controls Manager
Lead Planning/Scheduling Engineer

Site QA/QC Manager / Engineers
 Contracts Manager

Other Personnel

Senior Material Control Supervisor
 Quality Control Supervisors
 Supervisor

25.5 Changes of the Contractor's Personnel/Organization

No changes in the identity of those persons holding the aforesaid key personnel positions shall be made without Company's prior agreement whereupon the Contractor shall reissue a new organization chart reflecting such an agreed change. The Contractor's key project personnel, as defined herein, shall be assigned to the Work and shall not be re-assigned without the Company's prior written approval and without an adequate replacement being provided. There shall be an overlap of at least two weeks during which the approved replacement shall work alongside the personnel member to be replaced, at no additional cost to the Company, to allow for proper handing over of responsibilities to the said replacement.

In the event Contractor's key project personnel, as defined herein, are re-assigned by the Contractor without the Company's prior written approval (save where reassignment arises by reason of death, injury, illness, retirement or resignation), payment abatements shall be assessed for the Project Manager and Construction Manager positions: KD 30.000, all other Key Personnel KD 15.000.

25.6 Contractor's Representative

Contractor shall comply with and shall cooperate with Company in enforcing Work Site conditions including, but not limited to, starting and quitting time, hours of work, overtime, shift differentials, holidays, travel and subsistence payments, smoking regulations, daily clean-up and/or other conditions that affect the overall performance of the Work.

- 25.6.1 If the Company objects to the appointment of the Contractor's Representative proposed by the Contractor pursuant to sub-Clauses 25.3 and 25.4 above within fourteen (14) Days of receipt from the Contractor of the Project Office Organization chart and Site Office Organization chart giving the reason therefore, then the Contractor shall propose a replacement within fourteen (14) Days of such objection for approval by the Company and the foregoing provisions shall be repeated thereafter.
- 25.6.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Company all the Contractor's notices, instructions, information and all other communications under the Contract.
- 25.6.3 All notices, instructions, information and all other communications given by the Company to the Contractor under the Contract shall be given to the Contractor's Representative, except as herein otherwise provided
- 25.6.4 The Contractor shall not retract the appointment of the Contractor's Representative without the Company's prior written consent. If the Company consents thereto, the Contractor shall appoint some other person as the Contractor's Representative pursuant to the procedure set out in sub-Clause 25.6.1 above.
- 25.6.5 The Contractor's Representative may at any time delegate to any person any of the powers, functions and authorities vested in him. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative and any notice of delegation or revocation shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Company.

Any act or exercise by any person of powers, functions and authorities so delegated to him in accordance with this sub-Clause 25.6.5 shall be deemed to be an act or exercise by the Contractor's Representative.

25.7 Site Construction Manager's Responsibility

The Contractor's Site Construction Manager shall be resident at the Site during the construction of the Work and until not less than thirty (30) Days after the Turnover date. The Site Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Site Construction Manager is absent from the Site, a suitable person shall be appointed to act as his deputy.

25.8 Removal of Employees

The Company shall be at liberty to require the Contractor to remove any person employed by the Contractor who, misconducts himself or is incompetent, negligent in the performance of his duties or whose employment is otherwise considered by the Company to be undesirable. Such person(s) shall not be again employed on the Work without the written permission of the Company. Any person so removed from the Work shall be replaced as soon as possible with a person satisfactory to the Company at the Contractor's cost

25.9 Labor Release Certificate

The Contractor shall be responsible for Subcontractors obtaining a valid Certificate from the Ministry of Social Affairs and Labor to the effect that the Subcontractor has satisfied the requirements of the said Ministry in respect of its workforce on completion of the relevant Subcontract.

25.10 All key project personnel shall have a full spoken and written command of the English language to the satisfaction of the Company.

25.11 List of Labor and Construction Equipment

The Contractor shall furnish the Company with a daily report that contains a list of labor and construction equipment situated at Site.

The Company reserves the right to request the Contractor to provide any other information regarding the field activities of the Contractor.

25.12 Qualification & Experience requirement of Contractor Personnel

Contractor shall submit resumes of personnel of categories Managers, Deputy Manager, Sr. Engineers proposed to be engaged for the project and obtain approval from Company before mobilization.

Company reserves the right to accept the resumes of the personnel, subject to submission of an acceptable CV and subsequent successful interview.

26.0 SUBCONTRACTING

26.1 The Contractor shall not subcontract the whole or any portion of the Work. The Contractor may subcontract parts of the Work subject to the prior written approval by the Company.

The Company shall be deemed to have given its consent to the Contractor subcontracting the relevant part of the Work to any Subcontractor(s) in accordance with Company's List of Approved Subcontractors which relates amongst others to Category, Type and Sub-types and maximum Values of Subcontracted work (reference is made to Part I - Scope of Work, Attachment M – List of Approved Subcontractors).

In case Contractor intends to tender a subcontract for value exceeding the maximum limit set out in the approved subcontract list for a given category, then Contractor shall propose its subcontractor(s) and obtain prior approval from Company before issuing to tender. The Contractor's proposal shall demonstrate that the recommended Subcontractor(s) are financially sound and have the capability,

infrastructure, equipment and resources to execute the work and shall provide following documents in support of its justification;

- Resource capacity and facilities
- Previous construction experience
- Proven track record (5 years)
- Financial standing
- ISO Certification
- QA/QC organization & ability
- HSE records

Contractor shall furnish Company a copy of the proposed subcontract (with price deleted if the subcontracted work is part of fixed price Work of Contractor under this Contract) for Company review of the terms and conditions thereof and shall not execute such subcontract until Company has accepted such terms. Failure of Contractor to comply with this sub-Clause may be deemed by Company to be a material breach of this Contract.

26.2 The Contractor shall remain fully responsible for the acts, omissions, defaults and neglect of any Subcontractor, (which term shall include for the purposes of this Clause 26.0 and for the avoidance of doubt, Vendors and consultants) as if they were the acts, omissions, defaults or neglect of the Contractor whether or not the Subcontractor was stipulated in the List of Approved Subcontractors/Vendors or was otherwise approved by the Company.

Contractor guarantees that its Subcontractors will comply fully with the terms of this Contract applicable to the portion of the Work performed by them. If any portion of the Work which has been subcontracted by Contractor is not prosecuted in accordance with this Contract, on request of Company, the Subcontractor shall be replaced at no additional cost to Company and shall not be employed again on the Work.

Contractor shall include a provision in every Subcontract that it places authorizing assignment of such Subcontract to Company without requiring further consent from such Subcontractor or supplier.

Company shall have the right from time to time to contact Contractor's Subcontractors to discuss their progress.

As used in this Contract, the term "Subcontract" shall also include purchase orders and rental agreements for materials or equipment, and the term "Subcontractor" shall also include Vendors or Suppliers of such material or equipment.

Contractor shall not be relieved of its responsibility for the Work by virtue of any Subcontracts it may place regardless of Company's acceptance of such Subcontract.

26.3 Without prejudice to the generality of Clause 20.0 herein, the Contractor shall comply with Ministerial Order No. 44/1985 issued by the Ministry of Finance and Economy concerning notification by Contractors about their Subcontractors.

26.4 Company reserves the right to reject Subcontractors proposed by the Contractor on the basis of the Company's assessment that such Subcontractor lacks the capacity to perform work on the Project.

27.0 ASSIGNMENT

The Company may assign the Contract or any part thereof or benefit or burden there under at any time without agreement of the Contractor to any Affiliate and to any entity that may wholly or partially own or control the Project or to any entity that may be entrusted with the responsibility of executing, operating and maintaining the Project subject to the Company giving notice to the Contractor of any such assignment and the assignee agreeing to be bound by the confidentiality provisions and other terms of the Contract.

The Contractor may not assign the Contract or any part thereof or benefit or burden there under without the prior written approval of the Company in its absolute discretion. In the event the Company grants approval to the Contractor to assign the Contract, the Contactor remains jointly liable with the assignee for the execution of the Contract.

The Contract shall inure to the benefit of the permitted assigns of either party hereto or the successors thereof but not until they have undertaken in writing to the other party hereto to be bound by the terms and conditions of the Contract.

Company reserves the right, at its sole option, to assign this Contract to Owner and/or Owner's designated agent.

28.0 TITLE TO AND USE OF MATERIAL FOUND

28.1 Title and Right to Use

The title, interest and the right to use all water, soil, stone, gravel, sand, minerals, timber, fossils, coins or other articles with archaeological or historical value and all other material developed, obtained or discovered in the excavation or other operations by the Contractor under this Contract or any of its representatives or employees or any of its Subcontractors or any of their representatives or employees, shall belong to the Owner absolutely, and the Contractor, any of its representatives, employees or Subcontractors shall not assert or make any claim thereto. The Contractor will, as determined by Company, be permitted to use in its Work without charge any such material, which meet the requirements of the Contract.

28.2 Archaeological and Historical Items

In the event that any items with archaeological or historical value are discovered by the Contractor or any of its representatives or employees or any of its Subcontractors or any of their representatives or employees, the Contractor shall immediately notify the Company and comply with all requirements of Laws pertaining to the same.

29.0 PARENT COMPANY GUARANTEE

Prior to the execution of this Contract, Contractor shall have submitted a duly executed Parent Company Guarantee from the Contractor's ultimate holding company, if any, in the form acceptable to Company.

30.0 NOT USED

31.0 NOT USED

32.0 FORCE MAJEURE

32.1 "Force Majeure" shall mean any event beyond the reasonable control of the Company or the Contractor, as the case may be, occurring after the Commencement Date and which (or the effects of which) is or are unavoidable or not foreseeable notwithstanding the reasonable care of the Party affected, and shall include, without limitation and subject to the other provisions of this Clause 32.0, the following:

- 32.1.1 war (whether a state of war be declared or not), invasion, act of foreign enemy, civil war; or
 - 32.1.2 rebellion, revolution, insurrection, mutiny, riot, civil commotion or terrorist acts; or
 - 32.1.3 confiscation, nationalization, expropriation or compulsory acquisition or seizure of the Facilities or the Work by any government or the de jure or de facto authority; or

- 32.1.4 strike, lock-out, industrial dispute (save to the extent the same relate solely to the Contractor or a Subcontractor in which case they shall not constitute Force Majeure), sabotage, shipwreck, embargo, epidemics, quarantine, plague; or

32.1.5 earthquake, landslide, volcanic activity, fire, flood, tidal wave, typhoon or cyclone, hurricane, storm, lightning, nuclear and pressure waves, or other natural or physical disaster, but shall not, for the avoidance of doubt, include the following:

 - (i) any matter the risk of which is expressly assumed by the relevant Party under the Contract (for example pursuant to sub-Clause 2.7);
 - (ii) shortage of labor, services, material or transport; and/or
 - (iii) inclement weather falling within the fifty (50) year average.

Any insolvency, bankruptcy, winding-up, going into receivership, or similar situation of a Subcontractor and Vendor shall not be a Force Majeure event.

32.2 If either Party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within five (5) Days after the occurrence of such event.

32.3 The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed and sub-Clause 11.11 shall apply to deal with any extension to any of the Scheduled Turnover Date.

32.4 The Party or Parties affected by the event of Force Majeure shall use reasonable efforts (but without incurring unreasonable costs) to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either Party's right to terminate the Contract under sub-Clause 32.6 below.

32.5 No delay or non-performance by either Party hereto caused by the occurrence of any event of Force Majeure shall:

 - 32.5.1 constitute a default or breach of the Contract; or
 - 32.5.2 subject to sub-Clauses 32.3 and 32.4, give rise to any claim for damages or additional cost or expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

Neither Party shall be entitled to, and both Parties hereby expressly waive recovery of, any compensation of any nature in consequence of the occurrence of an event of Force Majeure. An extension of time where applicable and the payments specified in sub-Clause 32.7 shall constitute the sole liability of Company and Contractor's sole remedy for Force Majeure

32.6 If the performance of the Work is wholly or substantially prevented, hindered or delayed for a continuous period of more than 120 Days or an aggregate period of more than 240 Days on account of one or more events of Force Majeure during the currency of the Contract, either Party may terminate the Contract by giving a notice to the other.

32.7 In the event of termination pursuant to sub-Clause 32.6 above, the rights and obligations of the Company and the Contractor shall be as specified in Clause 35.0, except that the Contractor shall have no entitlement to profit under sub-Clause 35.3.5 in respect of any unexecuted Work as at the date of termination.

32.8 Notwithstanding sub-Clause 32.5 above, Force Majeure shall not apply to any obligation of the Company to make payments to the Contractor hereunder.

33.0 LIQUIDATED DAMAGES

- 33.1 In the event the Contractor does not achieve Mechanical Completion of the relevant Portion by the relevant Scheduled Turnover Date(s), and/or does not achieve the shutdown activities (herein the "Shutdown Activities") within the scheduled shutdown duration, the Contractor shall pay or allow to the Company, as the case may be, Delay Liquidated Damages for Turnover ("DLD-MC") and Delay Liquidated Damages for Shutdown (herein the "DLD-SD") respectively at the rates, and subject to the cap on such DLD-MC and DLD-SD, specified in Part II - Commercial Terms.
- 33.2 The payment or deduction of the DLD-MC and DLD-SD shall not relieve the Contractor from its obligations to carry out and complete the Work or from any other of its obligations and liabilities under the Contract nor prejudice the Company's other express rights under the Contract, including the right to terminate the Contractor's engagement.
- 33.3 Where any Delay Liquidated Damages or Shutdown Liquidated Damages stated to be recoverable by the Company hereunder are held to be invalid or unenforceable for any reason, the Company shall remain entitled to prove and recover from the Contractor such liquidated damages for the relevant breach by the Contractor, subject to limits for any individual breach and in the aggregate equal in amount to the liquidated amounts and limits thereon originally provided by the Contract in respect of such breaches.
- 33.4 Subject to sub-Clause 33.2 (in respect of Delay Liquidated Damages or Shutdown Liquidated Damages) and sub-Clause 16.3, any Delay Liquidated Damages or Shutdown Liquidated Damages paid or payable by Contractor pursuant to the provisions of this clause shall represent Company's sole remedy for the relevant delay to which such damages apply.

34.0 SUSPENSION

- 34.1 The Company may, at any time, suspend any part of the Work or all remaining Work for any reason by giving written order to the Contractor specifying the part of the Work to be suspended and the effective date of suspension, if different from the date of said written. The Contractor shall cease all work on said suspended part of the Work on the effective date of suspension and thereafter shall do only such work on the suspended part as may be necessary to preserve and protect the Facilities, equipment, material, supplies and construction tools and equipment, wherever located. The Contractor shall continue to perform the unsuspended part of the Work. Upon receipt of such notice of suspension, the Contractor shall, to the extent specified in that notice, place no further purchase orders, Subcontracts or other agreements except as may be necessary for completion of such part of the Work as is not suspended and shall promptly make every effort to procure suspension, on the best terms possible, of all purchase orders, Subcontracts or other agreements to the extent they relate to the Work suspended. The Contractor shall use its best efforts to mitigate the costs, in general, of such suspension.

Upon the request of Company, Contractor shall promptly deliver to Company copies of outstanding Subcontracts of Contractor and shall take such action relative to such Subcontracts as may be directed by Company. Contractor shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension. Company may, at any time, withdraw the suspension of performance of the Work as to all or part of the suspended Work by written notice to Contractor specifying the effective date and scope of withdrawal, and Contractor shall resume diligent performance of the Work for which the suspension is withdrawn on the specified effective date of withdrawal.

If Contractor believes that any such suspension or withdrawal of suspension justifies modification of the Contract Price, Contractor shall comply with the provisions of the procedure set forth in Clause 11.0, Changes. Contractor's final claim for modification of the Contract Price shall substantiate Contractor's increased costs for such suspension or withdrawal of suspension, with documents satisfactory to Company. Upon Company's verification and approval of such additional costs, Contractor and Company shall agree upon an adjustment in the Contract Price, based upon such verified and approved additional costs as full settlement to Contractor for the suspension or

withdrawal of suspension. Contractor shall not be entitled to any prospective profits or any damages because of such suspensions or withdrawals of suspension.

- 34.1.1 In the event the Company orders suspension or stoppage of the Work or stoppage of payment for the Work in compliance of an order by a Kuwaiti court in consequence of a claim by a Vendor or Subcontractor or third party(s) against the Contractor, the Contractor shall not be entitled to any time extension or additional cost associated with said suspension or stoppages.

34.1.2 Any suspension or stoppage of the Work or stoppage of payment of the Work which occurs in accordance with sub-Clause 34.1.1 above shall not be construed as a breach of Contract by Company.

34.2 Unless such suspension is:

 - i) reasonably required due to default or breach of the Contract by the Contractor or persons for whom it is responsible; or
 - ii) necessary for the proper execution of the Work or the safety of the Work or any part thereof.

then the Contractor shall be entitled to claim an extension of time pursuant to sub-Clause 11.11 in respect of such delay incurred and the Company shall pay to Contractor the amount of extra costs reasonably incurred by the Contractor solely for idle manpower and equipment, subject to Company's approval, and in accordance with the unit rates specified in the Contract where applicable or as otherwise determined and agreed. In addition, the Company shall also pay any extra costs reasonably incurred by the Contractor for resumption of the Work or part thereof that has been suspended as above.

The Company shall not be liable for any other damages of whatever nature (or, as stated in sub-Clause 1.2.8, for loss of anticipated profit) on account of suspension of any part of the Work and Contractor's sole remedy is to receive payment as provided above.

- 34.3 In the event that the Company exercises its right to suspend either a part or the whole of the Work pursuant to this Clause 34.0 and the Work remains suspended for a continuous and uninterrupted period of 240 Days then, unless the suspension is by reason of any of the circumstances specified in sub-Clause 34.2 (i) or (ii), the Contractor shall have the right, upon giving formal notice to the Company, to request permission to recommence such suspended Work. If the Company does not grant its permission, the Contractor shall be entitled to terminate its engagement under this Contract (where the whole of the Work is suspended) and Clause 35.0 shall then apply or (where only part of the Work is suspended) to deem such suspended part omitted by a Company Change and Clause 11.0 shall then apply.

35.0 OPTIONAL TERMINATION

- ### **35.1 Company's Right to Terminate**

In addition to the Company's right to terminate pursuant to Clause 36.0, the Company may, at any time, terminate the Contractor's employment under this Contract, without giving any reason therefore or the need for any separate legal proceeding or sanction through the courts, by giving written order to the Contractor specifying the effective date of termination, if different from the date of said written order.

- 35.2 Upon receipt of the order of termination under sub-Clause 35.1, the Contractor shall either immediately or upon the date specified in the order of termination:

- 35.2.1 Vacate the Site and cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Work already executed or any work required to leave the Site in a clean and safe condition;

- 35.2.2 Unless otherwise specified by the Company in the order of termination, remove all Temporary Work from the Site and repatriate Contractor's and Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind and leave the whole of the Site in a clean and safe condition;
- 35.2.3 Terminate all Subcontracts, except those to be assigned to the Company pursuant to sub-Clause 35.2.4 ii);
- 35.2.4 Prior to the payment specified in sub-Clause 35.3:
 - i) deliver to the Company the parts of the Work executed by the Contractor or any Subcontractor up to the date of termination together with documents (including as-built drawings) or drafts of them in existence at the date of termination;
 - ii) to the extent legally possible, procure the assignment to the Company or such person as the Company may direct of all rights, title and benefit of the Contractor to the Work and the material and equipment intended for incorporation therein as at the date of termination, and, as may be required by the Company, in any subcontracts between Contractor and the Subcontractors and purchase orders between Contractor and the Vendors;
 - iii) procure that any licenses obtained in connection with the Contract are transferred into the name of the Owner or such person as the Company may direct; and
 - iv) deliver to the Company all documents, drawings, plans, specifications and other information prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Work in addition to those referred to in sub-Clause 35.2.4 i)
- 35.3 In the event of termination of the Contract under sub-Clause 35.1, the Company shall pay to the Contractor the following amounts
 - 35.3.1 that part of the Contract Price properly attributable to the parts of the Work executed by the Contractor as at the date of termination;
 - 35.3.2 the cost reasonably incurred by the Contractor in the removal of the Temporary Work from the Site.
 - 35.3.3 any amounts to be paid by the Contractor to its Subcontractors for the executed portion of the Subcontracts as at the date of termination of this Contract,
 - 35.3.4 the cost incurred by the Contractor in protecting the Work and leaving the Site in a clean and safe condition pursuant to sub-Clause 35.2.1; and
 - 35.3.5 the cost incurred by the Contractor in removal of Contractor's and its Subcontractor's construction plant, construction equipment and personnel from the Site. For clarity, any penalties charged or continuing costs to Contractor for early termination of leases, rental agreements, tuitions, professional services and the like will be reimbursed by Company.

For avoidance of doubt, the Contractor shall not be entitled to receive any other cost, expense, loss or damage arising from or as a consequence of the termination of the Contract in accordance with this Clause 35.0 including (without limitation) loss of profit or loss of contract or any other direct or indirect losses or damages of whatsoever nature, whether such claims would otherwise arise under the Contract or on any other basis whatsoever. Any amounts due and payable to the Contractor in accordance with sub-Clauses 35.3.1 to 35.3.5 above shall be in full, final and binding settlement of all amounts payable to and all claims by the Contractor arising from or in any way in connection with the Contract and the Work, and any claims or demands to the contrary shall be deemed null and void. In no events shall total payment to Contractor exceed the Contract Price.

36.0 TERMINATION FOR CONTRACTOR DEFAULT

- 36.1 The Company may terminate the Contractor's employment forthwith in the following circumstances by issuing an order of termination, and without the need for any separate legal proceeding or sanction through courts, to the Contractor referring to this Clause 36.0 and its reasons for termination:
- 36.1.1 If the Contractor (including any party comprising the Contractor) or the issuer of the Performance Bond, or any guarantor under a Parent Company Guarantee becomes bankrupt or insolvent, or has a receiving order issued against it, or compounds with its creditors, or, being a corporation, a resolution is passed or order is made for its dissolution (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or a receiver is appointed over any part of its undertaking or assets, or if any such party takes or suffers any other analogous action in consequence of debt;
 - 36.1.2 If the Contractor has abandoned the Work or committed a fundamental breach of the Contract which by its nature signifies the Contractor's intention to no longer perform or be bound by the Contract;
 - 36.1.3 The Contractor's failure to attain Mechanical Completion;
 - 36.1.4 If at any time, it is apparent that the Contractor will not, on the basis of Company schedule analysis, attain Mechanical Completion of any Portion by the applicable Scheduled Turnover Date:
Contractor shall be considered in default from complying with the obligations of this Contract whenever, by reason of strikes, picketing or disputes of any nature between Contractor and any individual, group or organization, Contractor persistently, repeatedly, or for any period of five (5) consecutive working days, should be unable to supply enough properly skilled workers or proper materials or equipment to execute the Work.
 - 36.1.5 If the Contractor breaches any of Clauses 48.0 (Gratuities), 49.0 (Business Standards); or
 - 36.1.6 Attainment of any of the limits of liability in respect of overall liability, Delay and/or Shutdown Liquidated Damages as stipulated in sub-Clauses 23.3 and 33.0.
- 36.2 If the Contractor:
- 36.2.1 Shall assign or transfer the Contract or any right or interest therein in violation of the provisions of Clause 27.0; or
 - 36.2.2 Has, without valid reason, failed to commence the Work promptly or has suspended (other than pursuant to Clause 34.0) the progress of the Work for more than twenty-eight (28) Days after receiving a written instruction from the Company to proceed; or
 - 36.2.3 Shall fail to execute the Work in accordance with the Contract or neglect to carry out its obligations under the Contract without due cause; or
 - 36.2.4 Is otherwise in material or persistent breach of its obligations under the Contract, then the Company may, without prejudice to any other rights it may possess under the Contract, give a notice, without the need for any separate legal proceeding or sanction through the courts, to the Contractor stating the nature of the default, and requiring the Contractor to remedy the same. If the default is curable within a fourteen (14) Day period, then the Contractor shall remedy the default within such a fourteen (14) Day period; if the default is not curable within such a fourteen (14) Day period, then the Contractor shall submit within such a fourteen (14) Day period a reasonable remedial plan and a program for the remedy of the default. Where
 - i) the default is curable within fourteen (14) Days but the Contractor fails to so cure the defect; or

- ii) the default is not curable within fourteen (14) Days but the Contractor fails to submit a reasonable remedial plan and/or program within such fourteen (14) Day period; or
 - iii) following submission of a remedial plan and program, the Contractor fails to adhere to it or repeats the original default prior to its full implementation, then in any such case the Company may terminate the Contractor's engagement under the Contract forthwith on issuing a written order, without the need for any separate legal proceeding or sanction through the courts, by the Company to the Contractor.
- 36.3 Upon receipt of the order of termination under sub-Clauses 36.1 or 36.2 above, the Contractor shall either immediately or upon such date as is specified in the letter of termination:
- 36.3.1 Vacate the Site and cease all further work, except for such work as the Company may specify in the order of termination for the sole purpose of protecting that part of the Work already executed or any work required to leave the Site in a clean and safe condition;
 - 36.3.2 Terminate all Subcontracts, except those to be assigned to the Company pursuant to sub-Clause 36.3.4 below;
 - 36.3.3 Deliver to the Company the parts of the Work executed by the Contractor up to the date of termination together with any documents (including as-built drawings) or drafts of them in existence at the date of termination;
 - 36.3.4 In the event of termination by Company, Contractor shall, upon request by Company, promptly advise it of all outstanding Subcontracts, rental agreements and purchase orders which Contractor has with others pertaining to performance of the Work and furnish Company with complete copies thereof. Upon request by Company, Contractor shall assign to Company in form and content satisfactory to Company, Contractor's title to materials and plant equipment for the Work and those Subcontracts designated by Company.
 - 36.3.5 Deliver to the Company all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Work in addition to those referred to in sub-Clause 36.3.3
- 36.4 The Company may enter upon the Site and expel the Contractor there from. The Company may, to the exclusion of any right of the Contractor over the same, take over and use without payment to the Contractor any equipment, material, tools or any Temporary Work which is owned by the Contractor and which is on the Site in connection with the Work for such reasonable period as the Company considers expedient for the execution and completion of the Work and rectification of defects and may pay Subcontractors directly, and deduct the same from Contract Price or recover such amounts from the Contractor as a debt.
- Upon completion of the Work or at such earlier date as the Company deems appropriate, the Company shall give a notice to the Contractor that such equipment, material, tools or any Temporary Work will be returned to the Contractor at or near the Site and shall return such equipment, material, tools or any Temporary Work to the Contractor in accordance with such notice. The Contractor shall thereafter, without delay and at its sole cost, remove or arrange removal of the same from the Site.
- 36.5 Following a termination pursuant to this Clause 36.0, subject to sub-Clause 36.6 below, the provisions of the Contract which require any further payment to the Contractor shall not apply. The Company may elect one of the following remedies within six (6) months of termination:
- 36.5.1 to have the Work completed, by itself or other parties, the Contractor then being liable to the Company in accordance with sub-Clause 36.6 below; or
 - 36.5.2 To accept the Work as having attained Turnover subject to a fair and reasonable reduction in the Contract Price, such reduction to be agreed or, in default of agreement within thirty (30) Days of such election, provisionally determined by the Company by the like procedure as set out in sub-Clause 36.6 below. The said reduction shall be fair and

reasonable with reference to the condition and performance of the Work and the effect on the Project of the termination of the Contractor's engagement under the Contract, taking into account inter alia of all those losses and expenses set out in sub-Clause 36.6.2 below and the Contractor shall pay or allow to the Company such reduction forthwith upon such agreement or provisional determination.

36.6 Where sub-Clause 36.5.1 applies, then the following provisions apply:

- 36.6.1 within thirty (30) Days of the Company's election pursuant to sub-Clause 36.5, the Company shall draw up and provide written notice to the Contractor of a provisional determination containing the Company's fair and reasonable estimate of the amount which will be payable in accordance with the Final Termination Account as defined in sub-Clause 36.6.2. Any amount so estimated shall be due and payable forthwith by the Contractor to the Company or vice versa;

36.6.2 within thirty (30) Days of completion and testing of the Work, the Company shall draw up an account (the "Final Termination Account") setting out:

 - i) any additional costs to the Company of completing and testing the Work (being any excess of the sums paid or payable to the Contractor under the Contract plus the reasonable costs incurred by the Company in completing and testing the Works over the Contract Price) or, where such sums and costs are less than the Contract Price, any shortfall; and
 - ii) the costs of rectification of any defects; and
 - iii) all loss and/or expenses incurred by the Company as a result of the termination.

The sum of such items (or where a shortfall as described in (i) above occurs the sum of the items described in (ii) and (iii) less such shortfall) shall be payable by the Contractor to the Company (where a positive sum) or by the Company to the Contractor (where a negative sum) as the case may be, after making due allowance for any payment made by Contractor under the estimate pursuant to sub-Clause 36.6.1.

The Parties shall forthwith comply with and be bound by any provisional determination made by the Company pursuant to sub-Clauses 36.5.2 or 36.6.1 above and by any Final Termination Account unless and until any such determination or account is amended by agreement between the parties or opened up and revised in accordance with the dispute resolution procedure referred to in Clause 50.0.

36.7 Termination of the Contractor's engagement by the Company shall not prejudice any other rights or remedies of the Company under the Contract or otherwise.

37.0 NOT USED

38.0 CONTINUANCE OF THE WORK

Notwithstanding any disagreement, dispute, protest, or legal proceedings (including those proceedings pursuant to Clauses 42.0 and 50.0) arising out of or in connection with the Contract or its performance, the Contractor at all times shall proceed with the Work, including the disputed portions (if any) thereof and in accordance with Company's instructions, unless the Company agrees otherwise in writing. If the Contractor fails to proceed with the Work as above, it shall be considered to be in default.

39.0 WAIVER

None of the provisions of the Contract shall be considered waived by the Company or the Contractor except when expressly made in writing. No such waiver shall be, or be construed to be, a waiver of

 
Company Contractor

any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of the Contract except as expressly stated in such waiver.

Company's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Contract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege.

40.0 PERFORMANCE BOND

- 40.1 The Contractor shall have delivered to the Company as soon as practical, but no later than 30 days after the signing of the Contract a duly executed bond in the form attached issued by a bank with a local Kuwaiti branch acceptable to the Company in the amount of five per cent (5%) of the Contract Price (the "Performance Bond"). Compliance with this Clause 40.1 is a condition precedent to the entitlement of the Contractor to receive any payment from the Company under this Contract and no payment shall be due or payable until this clause is satisfied.
- 40.2 Where the Contract Price is adjusted pursuant to Changes, Contractor shall adjust the value of the Performance Bond as follows:
 - 40.2.1 When the aggregate value of the first Change(s) equals or exceeds one percent (1%) of the Contract Price, the Performance Bond shall be adjusted so that its value shall be equal to 5% of the adjusted Contract Price.
- 40.3 The Performance Bond shall, subject to sub-Clause 40.5, remain in force and be maintained by the Contractor until the date of the Final Notice of Acceptance is issued by the Company.
- 40.4 Upon the date of Acceptance, the Performance Bond shall be reduced to two point five percent (2.5%) of the Contract Price and shall (subject to sub-Clause 40.5) expire following the issue of the Final Notice of Acceptance.
- 40.5 Notwithstanding the foregoing, if the Maintenance Period is extended with respect to any part of the Work in accordance with sub-Clause 16.3, the Contractor shall arrange for the Performance Bond to remain valid until the issue of the Final Notice of Acceptance with respect to such part in an amount equal to two point five percent (2.5%) of the Contract Price of that part.
- 40.6 The Performance Bond shall be returned to the Contractor immediately after its expiry in accordance with this Contract, save where there are pending claims at such date, in which case it shall be returned following final determination and (if applicable) payment of such claims and shall in the meantime remain valid for the sole purpose of such determination.
- 40.7 Where the Performance Bond is subject, pursuant to its terms, to a fixed expiry date, the Contractor shall, not less than fourteen (14) Days prior to such expiry date, amend or replace the relevant bond with a duly executed amended or replacement bond if the date on which the Company will be obliged to return the Performance Bond to the Contractor is not certain to occur prior to such expiry date. Any replacement bond shall be issued by a bank of equivalent standing to the original issuer, and be on identical terms (save that its amount shall be equal to the available amount of the replaced Performance Bond on expiry and that any fixed expiry date shall be reasonably adjusted to occur not less than seven days after the date on which, according to the then current Schedule, the Company will be obliged to return the bond to the Contractor). Such procedure shall be repeated as often as necessary and failure to deliver an amended or replacement performance bond shall be valid grounds for a demand equal to the full available amount of the existing Performance Bond.
- 40.8 The Company may at any time obtain from the guaranteeing bank any sums from the Performance Bond for which the Contractor shall become liable and which are not promptly paid by him, without being bound to give any evidence whatsoever that, such sums are due and without necessity for any legal and/or other formality or recourse to judicial proceedings.

41.0 NOTICES

- 41.1 All notices required by the Contract shall be considered as duly given if in writing and sent by registered mail to Contractor or the Company at their respective offices or sent by registered mail to their duly authorized representative or delivered to their duly authorized representative in the manner specified in the Contract. Notice may however be given initially by fax provided that receipt confirmation of such notice is received by return fax or registered mail within fifteen (15) Days of the date of the initial notice. The effective date of the notice(s) in such case will be the date of receipt of the fax.
 - 41.2 Notice(s) pursuant to Clauses 16.0, 34.0 and 35.0 shall be deemed valid and given by the Company if signed by the Company's Representative.
 - 41.3 In the event there is a change in the address or facsimile number(s) given by the Contractor, as stated in the Contract Signature Document, the Contractor shall notify the said change to the Company immediately after the said change becomes effective, failing which, the notice(s) sent to the address and facsimile number(s) stated in the Contract Signature Document shall be deemed to be legally binding and in full compliance of this Clause.

42.0 GOVERNING LAW, LANGUAGE AND JURISDICTION

- 42.1 This Contract (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Contract or its formation) shall be governed by and construed in accordance with the law of England and Wales.
 - 42.2 Language.
 - 42.3 The wording shall be construed in accordance with the normal usage of the English language as related to works of this nature and all communications in connection with this Contract shall be in the English language.
 - 42.4 Dispute Resolution
 - 42.4.1 Any dispute arising out of or in connection with the contract shall be resolved in accordance with the provisions of Clause 50.0 Dispute Resolution.

Any claim by the Contractor for an extension of the Scheduled Turnover Date or period of Shutdown and/or for any amount additional to the Contract Price due or claimed to be due to the Contractor from the Company shall be submitted to the Company in accordance with Clause 45.0. Where the Contractor submits a notice of dissatisfaction with a decision of the Company under Clause 45.0, to the Company, within thirty (30) Days of the date of the Company's decision, the Contractor's claim may thereafter be resolved in accordance with the provisions of Clause 50.0 Dispute Resolution.

- 42.5 Contractor shall comply strictly with local, municipal, state, federal and governmental laws, orders, codes and regulations applicable to Contractor's operations in the performance of the Work hereunder.
 - 42.6 Contractor shall not, under any circumstances apply to or enter into negotiations with any governmental authority or agency for acceptance of variations from or revisions to safety or health, or air, water or noise pollution laws or regulations relating to this Contract, or to the performance thereof, without Company's prior written approval.
 - 42.7 Contractor certifies that it is in compliance, and shall at all times remain in compliance, with all applicable anti-corruption and anti-bribery laws, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended.
 - 42.8 Contractor shall not, under any circumstances, cause or permit, in connection with the Work to be performed hereunder, the discharge, emission or release of any hazardous substance and/or waste, pollutant, contaminant or other substance in violation of any applicable laws, rules or regulations which are now or hereafter promulgated by any governmental authorities having jurisdiction over the

Work. Contractor shall comply with all legal regulatory requirements applicable to the Work performed under this Contract and shall be responsible for compliance with all hazardous waste, health and safety, notice, training, and environmental protection laws, rules, regulations and requirements

"Hazardous waste" includes all substances which are or may be identified as such in 40 CFR Part 261 or other applicable laws or regulations. Contractor shall submit to Company material safety data sheets (OSHA Form 20) as required by applicable regulation. As an inducement to award of this Contract, Contractor warrants full compliance and that it will adhere to all applicable project hazardous waste procedures and, if necessary, obtain or arrange for, at its expense, all identification numbers, permits, applications and other things required in connection with the activities under this Contract.

- 42.9 Contractor agrees that it will not store any hazardous wastes at the Site for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, or Company, whichever shall be more restrictive. Contractor agrees to take, at its expense, all actions necessary to protect third parties, including without limitation, employees and agents of Owner, PMC and Company or other contractors working at the Site, from any exposure to, or hazards of, hazardous and/or toxic wastes or substances generated, or utilized in, Contractor's operations. Contractor agrees to report to the appropriate governmental agencies all discharges, releases and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify Company of same.

43.0 MISCELLANEOUS

43.1 Amendment

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

43.2 Independent Contractor

The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the Parties hereto. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Company (or Owner or PMC), and nothing contained in the Contract or in any Subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Company (or Owner or PMC). The parties agree to look solely to each other with respect to the obligations and liability arising in connection with the Contract and the Services performed hereunder. The Contract and each and every provision hereof is for the exclusive benefit of Company and Contractor and not for the benefit of any third party, except to the extent such benefits have been expressly extended pursuant to the specific terms of the Contract.

Anything in this contract which may appear to give Company the right to direct Contractor as to the details of the performance of the Work or to exercise a measure of control over Contractor shall mean that Contractor shall follow the desires of Company only as to the intended results of the work.

Contractor represents that it is fully experienced and properly qualified, licensed, equipped, organized and financed to perform the Work.

43.3 Severability

If any provision or condition of the Contract is prohibited or rendered invalid, void or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

In the event that any portion or the entire Contract is held to be invalid, void or unenforceable, the Parties agree to negotiate in good faith to amend the commercial and other terms of the Contract in order to affect the intent of the Parties as set forth in the Contract.

The provisions of this Contract which by their nature are intended to survive the termination, cancellation, completion or expiration of this Contract shall continue as valid and enforceable obligations of the Parties notwithstanding any such termination, cancellation, completion or expiration.

43.4 Not Used

43.5 Right to Deduction

Notwithstanding any provision herein to the contrary, any amounts due to the Company under the Contract, including, but not limited to, overpayments, any damages (liquidated or otherwise) and expenses, shall be recoverable by deduction from the Performance Bond or any monies due or becoming due to the Contractor under this Contract or any other contract with the Company whether or not the Company has exercised its rights of termination in accordance with sub-Clause 35.1 and without the need to any notice to or recourse to any judicial proceedings against the Contractor.

44.0 DISCLOSURE OF COMMISSIONS

The Contractor shall notify the Company whether it has paid or shall pay, offered or shall offer any commission in cash, in kind or by way of other benefits of whatever nature to his local agent or to a third party in connection with this Contract, whether or not details of such a local agent or third party are disclosed in the Contract. In the event of paying such a commission, the Contractor must have an authorized agent having a domicile or origin or elected domicile in the State of Kuwait. The Contractor shall further notify the Company the details of such a third party or agent, including such person's capacity, profession, domicile, place of work, whether he himself is the agent or whom he is representing, and shall specify in particular the amount of commission, its rate, nature and to whom it was paid or shall be paid and place and time of such payment(s). The Contractor shall comply with the above and other matters as specified in Law No. 25 of 1996 and State Audit Circular no. 1/1996 of the State of Kuwait as expeditiously as possible in any case, within the time allowed in the said Law, with a view to enable the Company to discharge its legal obligations pursuant to said Law.

45.0 TIME LIMITATION OF CLAIMS BY THE CONTRACTOR

45.1 If, for any reason, Contractor considers that an event has occurred pursuant to which it has a right to claim compensation from Company or an extension to the schedule, Contractor shall notify Company in writing of the existence of such claim within five (5) working days of the Parties' failure to reach a timely agreement pursuant to Clause 11.0. Changes or from the occurrence of the event in question for other claims. Within ten (10) days of giving such a notification, Contractor shall submit to Company the proposed cost and schedule effect of the change. In this respect, Contractor shall comply with the provisions of Clause 11.0. Contractor shall substantiate its claim with payroll documents, paid invoices, receipts, records of performance and other documents satisfactory to Company and subject to its verification. Company shall not be liable for, and Contractor hereby waives, any claim or potential claim of Contractor which was not reported by Contractor in accordance with the provisions of this Clause regardless of the cause including the negligence of Company.

45.2 Company will determine the extent, if any, to which the Contract Price is to be changed by reason of the claim and the extent to which the schedule is to be changed by reason of the claim. Company will advise Contractor of the result of this determination and will issue a Contract modification (Change Order) accordingly. If Contractor disputes Company's determination and notifies Company within five (5) working days of receiving it, Contractor may seek to resolve the dispute in accordance with Clause 50.0. If Contractor elects to proceed pursuant to Clauses 42.0, Contractor agrees to limit its claim to the amount claimed by it in accordance with sub-Clause 45.1 above. In no event shall any work be halted, whether or not the claim can be resolved to Contractor's satisfaction, and Contractor shall be bound by the terms and conditions of this Contract to prosecute the Work without delay to its successful completion.

The following shall not constitute changes and Contractor has no right to make any claim in relation thereto:

Instructions, interpretations, decisions or acts by Company which are:

- i) To achieve compliance with the Contract by Contractor; or
- ii) To correct errors, omissions, poor engineering, defective workmanship or other failure of the Contractor to comply with the Contract;
- iii) Delay in the performance of Contractor's work or any additional work caused by Contractor and/or his Subcontractor(s).
- iv) Any work performed by Contractor required by Company comments to Contractor's submittals to the extent that such comments are consistent with the Contract.

If Contractor fails to follow the above requirements, it shall have waived any right to make any claim, regardless of the cause including the negligence of Company in respect of the events referred to in sub-Clause 45.1. Contractor's sole remedy in respect of any claim will be as provided in sub-Clause 45.2. No claim by Contractor in relation to events referred to in sub-Clause 45.2 shall be allowed after final payment is made pursuant to the payment provisions set forth in the Contract.

Company shall not be bound to any adjustments in the Contract Price or scheduled time unless expressly agreed to by Company in writing

46.0 LIENS

- 46.1 The Contractor shall not file, claim or register any lien and shall prevent any lien from being filed, claimed or registered by any Subcontractor or by any employee, servant or agent of the Contractor or a Subcontractor against the property of the Owner or the Company or any Work done or any services rendered or any equipment or material supplied under the Contract or any Subcontract let by the Contractor.
- 46.2 In the event that any such lien should be filed, claimed or registered by any such person against any material or equipment or against any monies then due or to become due to the Contractor from the Company, the Contractor shall immediately notify the Company and shall promptly discharge, by bond or otherwise, such lien or attachment, and exonerate, indemnify, and protect the Company and Owner, PMC, against any loss, damage, or reasonable expense in connection therewith, including legal fees.
- 46.3 Until any lien contemplated by sub-Clause 46.2 is fully discharged by bond or otherwise as contemplated by sub-Clause 46.2, the Company shall have the right to withhold one hundred and fifty percent (150%) of the full amount thereof from any payments to be made to the Contractor and such withholding of payment shall not affect the other rights and obligations of the parties under the Contract. When any lien contemplated by sub-Clause 46.2 is fully discharged, the Company shall pay to the Contractor any amounts withheld pursuant to this sub-Clause 46.3 as an interim payment in accordance with Clause 3.0. Alternatively, the Company may discharge the lien by paying the appropriate amount directly to the relevant party and deduct such amount from further payments to be made to the Contractor pursuant to the Contract.
- 46.4 Lien Release Forms for both progress and final payments are included in the Contract Document.

47.0 AUDIT

- 47.1 Contractor shall keep and cause its Subcontractors to keep, in accordance with generally accepted accounting practices, books, records and accounts pertaining to performance of Work, including Contractor's and Subcontractor's personnel records, correspondence, instructions, plans, drawings, receipts, vouchers, memoranda, data stored in computer libraries and such other documentation and related systems and controls necessary for an accurate audit and verification of costs. Contractor shall preserve, and shall cause its Subcontractors to preserve said documents during the performance of Work and for a period of three (3) years after termination of the Contractor's employment under the Contract or Acceptance whichever is earlier.

- 47.2 Contractor shall permit and cause its Subcontractors to permit, at reasonable times during the performance of Work and for a period of three (3) years after termination of the Contractor's employment under the Contract or Acceptance whichever is earlier, authorized representatives of Company to interview Contractor's and its Subcontractors' personnel, review Contractor's and its Subcontractors' accounting and cost control systems and inspect books, records, accounts and other documents produced in the course of carrying out the Contractor's obligations under the Contract, and make copies thereof, as necessary to audit and verify the completeness and accuracy of reimbursable costs contained in invoices submitted by Contractor, or for any other reasonable purpose such as, but not be limited to, for proving Contractor's tax and customs duties liabilities to which exemption may be obtained as specified in sub-Clauses 21.3.1 and 21.3.2.
- If an audit indicates errors in Contractor's invoices, Contractor shall make appropriate invoice adjustments or promptly refund overpayments
- 47.3 Where Contractor's invoice includes compensation for Work performed at a unit price, Contractor shall submit its determination of units of Work performed, determined in accordance with the provisions of this Contract, and substantiated by documents satisfactory in form and content to Company. Upon verification by Company of said documents, Company will advise Contractor in writing of either acceptance of Contractor's determination of units or of Company determination of such units. If Contractor believes that Company has incorrectly determined the units of Work performed, Contractor shall comply with the provisions of Clause 45.0, Claims.
- 47.4 Where Contractor's invoice includes compensation for Work performed for a reimbursable Contract Price, all costs, expenses and other amounts so invoiced shall be substantiated and supported by equipment time slips, paid invoices, time sheets, receipts and other documents satisfactory to and verified by Company.

48.0 GRATUITIES

Contractor, its employees, agents or representatives shall not offer or give to an officer, official or employee of Company, Owner or PMC gifts, entertainment, payments, loans or other gratuities to influence the award of a contract or obtain favorable treatment under this Contract. Violation of this Clause may be deemed by Company to be a material breach of this Contract and any other contract with Company and subject all contracts with Contractor to Termination for Default, as well as any other remedies at law or in equity.

Contractor also agrees that it shall not do anything to induce or perpetuate any such violation by Company, Owner, and PMC's employees.

49.0 BUSINESS STANDARDS

- 49.1 Contractor, in performing its obligations under the Contract, shall establish and maintain appropriate business standards, procedures and controls including those necessary to avoid any real or apparent impropriety or adverse impact on the interests of the Company. Company shall have the right but not the obligation to periodically review at reasonable frequency during performance of Work, such business standards and procedures including, without limitation, those related to the activities of Contractor's employees and agents in their relations with Company employees, agents and representatives, vendors, Subcontractors and other third parties, and those relating to the placement and administration of purchase orders and Subcontracts. Such review(s) shall not relieve Contractor of its obligations, risks or liabilities under this Contract nor shall participation by Company in any such review constitute a waiver by Company of any rights under this Contract and Company undertakes no obligations as a result of Company's participation in such review.
- 49.2 Contractor shall not make, either directly or indirectly, any improper payments of money or anything of value to a government official in connection with this Contract. All payments by Company to Contractor will be received by Contractor for its own account and Contractor is not authorized to offer, give, or promise any part of such payments, directly or indirectly, to any government official, political

party or official thereof, or any candidate for political office, or to any officer, director, employee or other agent or representative of any instrumentality of any government.

- 49.3 Contractor shall exercise all reasonable care and diligence to prevent any actions or conditions, which could result in a conflict with Company or Owner's best interests. This obligation shall apply to the activities of the employees, agents, Vendors, and Subcontractors of Contractor in their relations with the employees and their families of Company, vendors, agents, subcontractors and third parties. Contractor's compliance with this requirement shall include, but shall not be limited to, establishing precautions to prevent its employees or agents, or those of its Vendors and Subcontractors from making, receiving, providing, or offering any substantial gifts, extravagant entertainment, payments, loans, or other considerations.

49.4 Contractor shall ensure that all documents including invoices, vouchers, financial settlements, billings and reports submitted by Contractor to Company truly reflect the facts about the activities and transactions to which they pertain, and Contractor represents that in any further recording or reporting made by Company for whatever purpose, Company may rely upon all such documents and the data therein as being complete and accurate.

49.5 Contractor shall place similar requirements on all Subcontractors, and Vendors who are involved in furnishing material or performing services as part of the Work, including the obligation to notify Company upon discovery of any instance of non-compliance as stipulated below.

49.6 If Contractor discovers or is advised of any errors or exceptions related to its invoicing of Work, Contractor and Company will together review the nature of the errors or exceptions, and Contractor shall, if appropriate, promptly take corrective action and adjust the relevant invoice or refund overpayments.

49.7 Contractor agrees to notify Company promptly upon discovery of any instance in which the Contractor fails to comply with this Clause 49.0.

50.0 DISPUTE RESOLUTION

- 50.1 Any dispute in connection with or arising out of this Contract, including any question regarding its existence, validity or termination (a "Dispute"), shall insofar as is possible be settled amicably by the Project teams of the Parties, and for which purpose the Parties agree that the Project teams will negotiate in good faith to settle any Dispute. In the event that the Project teams are not able to settle a Dispute, either Party may give written notice of the Dispute to the other Party ("Dispute Notice"). Senior management representatives of each Party shall meet within seven (7) days of receipt such Dispute Notice at a mutually agreed time and place and shall attempt, with diligence and good faith, to resolve and settle the Dispute within ten (10) days of such meeting.

50.2 If, after such ten (10) day period, or such longer period as the Parties may mutually agree upon, resolution is not reached, then either Party may by notice to the other Party submit the Dispute to non-binding mediation under the International Chamber of Commerce ("ICC") ADR Rules. In the event of any conflict between the provisions of the Rules and the provisions of this Agreement, the latter shall prevail.

The Parties agree to select a mediator who has experience in engineering and/or construction dispute mediation and is knowledgeable regarding the design and construction of complex, industrial projects. The mediator does not have the authority to impose a settlement upon the Parties, but will attempt to help the Parties reach a satisfactory resolution of the Dispute. If the Parties do not agree on a mediator, then a mediator shall be selected by the ICC.

Upon his selection, the mediator shall promptly fix the time of the mediation session. The Parties shall provide written submissions to the mediator as the mediator shall determine. The mediation session shall be held in London, England and the language of the mediation shall be English. The mediation shall be completed within thirty (30) days of selection of the mediator, unless otherwise agreed by the Parties and the mediator.

Confidential information disclosed to the mediator by the Parties in the course of the mediation shall not be divulged by the mediator without the express consent of the disclosing Party. The mediator shall not divulge any such information or testify in regard to the mediation in any arbitration, judicial or similar proceedings.

The fees and expenses of the mediator shall be borne equally by the Parties

- 50.3 Any Dispute which has not been resolved through negotiation or mediation shall be resolved in a timely manner by binding arbitration to be conducted in London, England, in accordance with the Rules of Arbitration of the ICC then in force (the "Rules"), which Rules are deemed to be incorporated by reference into this Clause. In the event of any conflict between the provisions of the Rules and the provisions of this Contract, the latter shall govern. The tribunal shall consist of three (3) arbitrators to be appointed in accordance with the Rules. The language of the arbitration shall be the English language. The arbitrators shall have the authority to order discovery as appropriate. Such discovery will allow full access to Contractor's detailed budget and actual cost records, bid estimate calculations, and any other relevant information pertaining to the dispute.

Any award rendered in arbitration shall be final and binding upon the Parties and judgement thereon may be entered in any court of competent jurisdiction.

Pending the submission to arbitration and thereafter until the arbitrators render their award, the Parties shall, except in the event of termination of this Contract, continue to perform all their obligations under this Contract without prejudice to a final adjustment in accordance with the said award.

51.0 JOINT AND SEVERAL LIABILITY

- 51.1 Where the Contractor comprises a consortium of, joint venture among, or other unincorporated grouping of, legal entities the obligations and liabilities assumed by, and the covenants, warranties and undertakings made on the part of, the Contractor under or in connection with the Contract shall be assumed and made by each such entity on a joint and several basis. Each such entity agrees and towards the Company shall remain unaffected by the terms of any agreement or other legal arrangement among such entities (whether or not disclosed to or approved by the Company at any time) and agrees not to raise any defense against the Company contrary to the provisions of this Clause.

- 51.2 Where the Contractor comprises an unincorporated joint venture or consortium consisting of more than one legal person and acting together as the Contractor, it shall ensure that the execution of the Work and functions related thereto is allocated among such persons save:

- i) where any amendment to such allocation has been approved in advance and in writing by the Company; and
 - ii) in the case of any Subcontracting of such Work approved by the Company pursuant to Clause 26 (all of which Subcontracts shall be entered into in the name of all members comprising such joint venture or consortium acting together as the Contractor, save where otherwise approved by the Company in its absolute discretion).

In the case of any failure by the Contractor to adhere to such required allocation which is caused by the insolvency, default or withdrawal from the joint venture or consortium by any such person, the Contractor may propose for the Company's approval (such approval to be given, withheld or made subject to conditions at the sole discretion of the Company) alternative arrangements whereby the scope of Work and functions previously allocated to such person is assumed by an alternative person or reallocated among the continuing members of the joint venture or consortium. Any consideration of such proposals by the Company shall be without prejudice to its rights under Clause 36 and otherwise, and any approval of any alternative person as above referred will be given (if at all) only on the condition that such person validly and effectively assumes (by accession agreement or other

formal means acceptable to the Company) joint and several liability for the past and future obligations and liabilities of the Contractor.

The acceptance and performance of the obligations set out in this clause by the Contractor shall be without prejudice to the joint and several liability of all persons comprising such joint venture or consortium for all of the obligations and liabilities assumed and covenants, warranties and undertakings given by the Contractor under or in connection with the Contract.

52.0 INTEGRITY

- 52.1 The Contractor places importance on the selection of contractors taking place on a basis that is free, fair, competitive and not subject to abuse. The Contractor warrants and represents that

 - i) it has not offered or granted, and will not offer or grant, either directly or indirectly through agents or other third parties, any improper inducement or reward to any public official (in the country where the Contract or part thereof is to be performed, in the home-country of the Contractor or in any International Financial Institution), their relations or business associates, in order to obtain or retain this contract or other improper advantage, and
 - ii) it has not colluded, and will not collude, with others in order to unduly limit competition for this Contract.

The Contractor further warrants and represents that it will not demand or accept any payment or other favor in exchange for

- i) designing the Project or parts thereof in a manner that it might offer undue advantages to one or several bidders,
 - ii) giving undue advantage to any of the bidders in the evaluation and selection of bidders for a contract award, or
 - iii) refraining from properly monitoring project implementation, reporting violations of contract specifications or other forms of non-compliance, or holding suppliers and contractors fully to their legal obligations.

The Contractor will make the necessary arrangement so that this no-bribery commitment will be complied with by all its subsidiaries, managers and employees as well as by all third parties working with the Contractor on this project, including its agents, consultants, Vendors, consortium partners and Subcontractors.

- 52.2 In addition, the Contractor shall ensure that

 - i) Payments to agents and other third parties shall be limited to appropriate compensation for legitimate services.
 - ii) It shall have made full disclosure in the bid documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) in relation to the bid and implementation of the Contract, after award.
 - iii) It shall also make full disclosure semi-annually of all payments to agents and other third parties during the execution of the Contract.
 - iv) Within one year of the completion of the performance of the Contract, the Contractor will formally certify that no bribes or other illicit commissions have been paid in order to obtain or retain the Contract.
 - v) The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.
 - vi) Statements required according to subparagraphs (ii), (iii) (iv) and (v) of this paragraph will have to be certified by an appropriate senior corporate officer of the Contractor.

- 52.3 The Contractor understands and agrees that violation of this commitment includes, among others, any payments or other favors offered or granted in order to
- i) win a contract award,
 - ii) get a Contract Modification,
 - iii) get sub-standard or sub-specification performance approved by a public official or the supervising consultant or his staff,
 - iv) circumvent tax, duty, license or any other legal obligations that should be met, or
 - v) induce an official to breach his/her official duties in any other way.
- 52.4 The Contractor understands and agrees that violation of this commitment also includes the demand for, or acceptance of, any payment or other favor by a consultant in exchange for
- i) designing a project or parts thereof in a manner that it might offer undue advantages to one or several bidders,
 - ii) giving undue advantage to any of the bidders in the evaluation and selection of bidders for a contract award, or
 - iii) refraining from properly monitoring project implementation, reporting violations of contract specifications or other forms of non-compliance, or holding suppliers and contractors fully to their legal obligations.
- 52.5 If the Contractor fails to comply with its no-bribery commitment, any or all of the following sanctions will apply:
- i) Denial or cancellation of the Contract or any future contract(s);
 - ii) Liability for damages to Company, in the amount of one percent (1%) of the Contract Price, unless Company can demonstrate and prove a higher damage or the Contractor can demonstrate and prove a lesser damage;
 - iii) Liability for damages to any of the competing bidders, in the amount of one percent (1%) of the Contract Price, unless either of the parties can demonstrate and prove a higher or lesser damage;
 - iv) Forfeiture of the Performance Bond and
 - v) Debarment by Company from bidding or consideration for its further tenders for such period as the Company deems appropriate.

53.0 THIRD PARTY RIGHTS

The Contract shall not purport to confer on any third party any right to enforce any term of the Contract for the purposes of the Contracts (Rights of Third parties) Act 1999.

SPECIAL TERMS

The following changes have been made to PART III – GENERAL TERMS dated 10-Dec-14

1. Sub-article 25.5 CHANGES IN THE CONTRACTOR'S PERSONNEL/ORGANIZATION

Replace:

Key personnel are:

Project Manager Mr. Yoon Jeong-Seok

Site Manager Mr. Hong Jong-Back

Construction Manager Mr. J.H. Lee

Procurement Manager Mr. J.K. Lee

Lead Engineer Mr. Nam Woong Lee

In the event Contractor's key project personnel mentioned above are re-assigned by the Contractor without the Company's prior written approval, payment abatement will be KD 25,000. All other unauthorized removal of personnel shall be KD 15,000.

2. Sub-article 29.0 PARENT COMPANY GUARANTEE

Not used.

3. Sub-article 40.0 PERFORMANCE BOND

Not used.