



# TOCO General Conditions of Contract Major Purchase Order



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## 1. DEFINITIONS

The following definitions shall be used for the purpose of interpreting the PURCHASE ORDER. Further definitions not contained in this Clause shall apply to the Section in which they are stated and subsequent Sections thereafter.

- 1.1 "ABC PROGRAMME" means an anti-bribery and corruption policy and any related procedures as amended, varied or supplemented from time to time, which (without limitation) may include policies, procedures and controls relating to recording of financial transactions; anti-bribery and corruption risk assessment and mitigation; training of personnel; whistle blowing facilities; due diligence on third party engagements/PURCHASE ORDERS; gifts and hospitality; promotional expenditures; sponsorship and charitable donations; and promoting and monitoring compliance.
- 1.2 "ADDITIONAL CONDITIONS" shall mean any Special Conditions, PURCHASE ORDER clauses or a GCC APPENDIX, contained within, attached, or appended to the PURCHASE ORDER and which forms an integral part of the PURCHASE ORDER. ADDITIONAL CONDITIONS shall, in the event of any conflict or ambiguity arising, take precedence over these General Conditions of Contract.
- 1.3 "AFFILIATE" means any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company.
- 1.4 "APPLICABLE ANTI-BRIBERY LAWS" means any laws, regulations and other legally binding measures relating to bribery, corruption or similar activities of (i) the United Kingdom, including without limitation the Bribery Act 2010; (ii) the United States of America including, to the extent applicable to either PARTY, the Foreign Corrupt Practices Act 1977; and (iii) any country or countries in which any of the obligations of the PURCHASE ORDER are to be or are performed.
- 1.5 "CLIENT" shall mean the party to which the COMPANY has entered into a separate contractual relationship for which the requirements of the PURCHASE ORDER are destined.
- 1.6 "COMPANY" shall mean the person, persons, firm or company named in the PURCHASE ORDER to acquire the GOODS and receive the SERVICES hereinafter defined and shall include the COMPANY's legal personal representatives, successors and assigns.
- 1.7 "COMPANY GROUP" means the COMPANY, its AFFILIATES and their respective directors, officers and employees (including agency personnel), but shall not include any member of the SUPPLIER GROUP.
- 1.8 "COMPANY REPRESENTATIVE" means that person referred to in Clause 3.2.
- 1.9 "COMPETENT AUTHORITY" means (i) any person having legal, executive and/or regulatory authority and/or enforcement powers (including any public body or authority responsible for the investigation and/or prosecution of criminal offences) over either or both of the PARTIES or any of their AFFILIATES providing services in connection with this PURCHASE ORDER; and/or (ii) any court of law or tribunal with jurisdiction over either or both of the PARTIES or any of their AFFILIATES providing services in connection with the PURCHASE ORDER.
- 1.10 "COMPLETION" means completion of the whole of the GOODS and/or SERVICES in accordance with Clause 26.
- 1.11 "COMPLETION CERTIFICATE" means the certificate issued pursuant to Clause 26 in respect of the whole or the relevant part of the SERVICES.
- 1.12 "COMPLETION DATE" means the date shown on the COMPLETION CERTIFICATE on which the whole or the relevant part of the SERVICES was actually completed.
- 1.13 "DELIVERY DATE" shall mean the periods or date(s) upon which the GOODS shall be delivered as specified in the PURCHASE ORDER.
- 1.14 "GCC APPENDIX" shall mean the document so titled and attached to the PURCHASE ORDER and which forms an integral part of the PURCHASE ORDER. The GCC APPENDIX contains specific information as may be required to supplement these General Conditions of Contract to provide more specific meaning and precision.
- 1.15 "GOODS" shall mean the tangible, goods, materials and equipment to be provided in accordance with the PURCHASE ORDER.
- 1.16 "HANDOVER CERTIFICATE" means the certificate which is issued by the COMPANY pursuant to Clause 26. in respect of the handover of the relevant part of the PERMANENT WORK by the SUPPLIER to the care, custody and control of the COMPANY.



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- 1.17 "INSPECTION AND TEST PLAN" shall mean the detailed schedule of events related to the Quality Assurance and Quality Control activities performed by the SUPPLIER necessary to ensure that the GOODS are produced in accordance with the SPECIFICATION and the TECHNICAL INFORMATION, submitted to the COMPANY to allow its personnel to witness such events as may be required from time to time.
- 1.18 "LOCAL LAW" means the laws of the country in which the COMPANY is located as derived from the COMPANY address in the PURCHASE ORDER.
- 1.19 "PARTY" shall mean either of the COMPANY or the SUPPLIER or if used in the plural, both.
- 1.20 "PERMANENT WORK" means the property of the CLIENT arising from the delivery of the GOODS and SERVICES.
- 1.21 "PRICE" means the agreed monetary value(s) for the delivery of the GOODS and SERVICES as detailed in the PURCHASE ORDER. The PRICE is fixed and firm for the duration of the PURCHASE ORDER, is exclusive of applicable VAT, but subject to applicable VAT, and inclusive of all other taxes, fees, duties and any other applicable fiscal charges of any nature.
- 1.22 "PRODUCTION SCHEDULE" shall mean the detailed schedule of events related to the manufacture and delivery of the GOODS by the SUPPLIER which forms part of the PROGRAMME and is submitted to the COMPANY to expedite and progress check to ensure that the agreed DELIVERY DATE is achieved.
- 1.23 "PROGRAMME" means the detailed work plan for carrying out the entire requirements including the supply of GOODS and SERVICES as applicable, which shall be prepared by the SUPPLIER and which the COMPANY has approved as the current detailed work plan that the SUPPLIER shall use in the execution of the PURCHASE ORDER in accordance with Clause 10.
- 1.24 "PURCHASE ORDER" shall mean the contract formed by the acceptance of this PURCHASE ORDER and shall incorporate these Purchase Order General Conditions of Contract as may be amended by any ADDITIONAL CONDITIONS referred to in this PURCHASE ORDER or attached to it.
- 1.25 "SCHEDULED COMPLETION DATE" means the date by which the SUPPLIER is required to achieve COMPLETION.
- 1.26 "SERVICES" means all work, services and labour that the SUPPLIER is required to carry out in accordance with the provisions of the PURCHASE ORDER for the purposes of installation, commissioning, repair, maintenance or defects correction.
- 1.27 "SPECIFICATION" means the technical description of the GOODS as found in the TECHNICAL INFORMATION and the PURCHASE ORDER.
- 1.28 "SUB-SUPPLIER" means any party in contractual relationship with the SUPPLIER (other than the COMPANY or any employees of the SUPPLIER) for the performance of any part of the GOODS or SERVICES.
- 1.29 "SUPPLIER" shall mean the person, persons, firm or company named in the PURCHASE ORDER to supply GOODS and SERVICES hereinafter defined and shall include their legal personal representatives, successors and assigns.
- 1.30 "SUPPLIER GROUP" means the SUPPLIER, its SUB-SUPPLIERS, its AFFILIATES, and their respective directors, officers and employers (including agency personnel), but shall not include any member of the COMPANY GROUP.
- 1.31 "SUPPLIER REPRESENTATIVE" means that person referred to in Clause 3.3.
- 1.32 "TECHNICAL INFORMATION" means all such information provided by or caused to be provided by the COMPANY pursuant to the PURCHASE ORDER including but not limited to the SPECIFICATION, data sheets, standards, charts, tables, schedules, scope of supply, drawings and the such like.
- 1.33 "VARIATION" means both:
  - (a) an instruction to the SUPPLIER in accordance with Clause 13.1; and
  - (b) an adjustment to the COMPLETION DATES and/or PRICE to which the SUPPLIER is entitled under the PURCHASE ORDER.
- 1.34 "VAT" means the Value-Added Tax applicable to the supply of the GOODS and SERVICES under the relevant taxation regime.
- 1.35 "WORKER WELFARE PROCEDURE" means the COMPANY procedure as updated by the COMPANY from time to time which defines the requirements for the promotion of worker welfare and the eradication of modern



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slavery, as found in the TECHNICAL INFORMATION or accessible in the COMPANY'S Main Office and available to the SUPPLIER on demand.

- 1.36 "WORKPOINT" means an offshore location, vessel, barge or ship from which exploration, extraction or exploitation of hydrocarbons is carried out.
- 1.37 "WORKSITE" means the lands, waters and other places on, under, in or through which any SERVICES are to be performed including offshore installations, design offices, workshops and places where equipment, materials or supplies are being obtained, stored or used for the purposes of the PURCHASE ORDER.

## 2. INTERPRETATION

- 2.1 All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing. All such documentation together with all correspondence and other documents shall be in the English language.

Nevertheless, if for any reason it is considered necessary by the COMPANY to give an instruction to the SUPPLIER orally in the first instance, the SUPPLIER shall comply with such instruction. Any such oral instruction shall be confirmed in writing as soon as is possible under the circumstances, provided that, if the SUPPLIER confirms in writing any such oral instruction which is not contradicted in writing by the COMPANY without undue delay, it shall be deemed to be an instruction in writing by the COMPANY.

- 2.2 Any reference to statute, statutory provision or statutory instrument shall include any re-enactment or amendment thereof for the time being in force.
- 2.3 Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine and neuter genders, and vice versa.

## 3. REPRESENTATIVES

### 3.1 General

- (a) The COMPANY REPRESENTATIVE and the SUPPLIER REPRESENTATIVE are the respectively nominated persons from the PARTIES, as advised by the PARTIES to each other, to represent their interests in the delivery of any SERVICES under the PURCHASE ORDER.
- (b) Such representatives, or delegates appointed in accordance with the provisions of this Clause, shall be readily available to enable both PARTIES to discharge their obligations under the PURCHASE ORDER.
- (c) The COMPANY REPRESENTATIVE and any formally delegated alternative shall have access at all reasonable times to the premises of the SUPPLIER, and the WORKSITE, and the SUPPLIER shall afford every facility for and every assistance in obtaining the right of access.

### 3.2 Company Representative

- (a) The COMPANY REPRESENTATIVE has the authority to commit the COMPANY in all matters relating to the delivery of SERVICES under the PURCHASE ORDER and, subject to any delegation of such authority which shall be notified to the SUPPLIER in writing, shall be responsible for issuing to and receiving from the SUPPLIER all notices, information, instructions and decisions.
- (b) By notice to the SUPPLIER, the COMPANY REPRESENTATIVE may at any time delegate any of his authority to any nominated deputy. Such notice shall specify the precise authority of any such deputy and shall be sent to the SUPPLIER REPRESENTATIVE.
- (c) The COMPANY may change the COMPANY REPRESENTATIVE at any time and shall notify the SUPPLIER of any change.
- (d) Except as expressly stated otherwise in the PURCHASE ORDER, the COMPANY REPRESENTATIVE has no powers to amend the PURCHASE ORDER or to relieve the SUPPLIER from any of its obligations under the PURCHASE ORDER.

### 3.3 Supplier Representative

- (a) The SUPPLIER REPRESENTATIVE has the authority to commit the SUPPLIER to any course of action within the rights and obligations of the SUPPLIER for the delivery of SERVICES under the PURCHASE ORDER and, subject to any delegation of such authority, shall be responsible for issuing to and receiving from the COMPANY all relevant notices, information, instructions and decisions.





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- (b) The SUPPLIER REPRESENTATIVE may delegate any of his authority to any nominated deputy, the terms of such delegation being subject to the prior approval of the COMPANY which shall not be unreasonably withheld or delayed.
- (c) The SUPPLIER shall not change the SUPPLIER REPRESENTATIVE or any nominated deputy without cause without the prior approval of the COMPANY which shall not unreasonably be withheld or delayed.
- (d) The SUPPLIER REPRESENTATIVE has no powers to amend the PURCHASE ORDER.

### 4. SUPPLIERS GENERAL OBLIGATIONS

- 4.1 The SUPPLIER must acknowledge receipt and acceptance of the PURCHASE ORDER without reservation within 10 days from the date of issuance of the PURCHASE ORDER. In the event that the SUPPLIER does not formally acknowledge receipt or acceptance of the PURCHASE ORDER, but commences performance of the PURCHASE ORDER requirements, it is deemed and agreed that the SUPPLIER consents and accepts the PURCHASE ORDER on the terms contained therein.
- 4.2 The SUPPLIER shall provide all management, supervision, personnel, materials and equipment, (except materials and equipment specified to be provided by the COMPANY), plant, consumables, facilities and all other things whether of a temporary or permanent nature, so far as the necessity for providing the same is specified in or reasonably to be inferred from the PURCHASE ORDER.
- 4.3 The SUPPLIER shall carry out all of its obligations under the PURCHASE ORDER and shall deliver the GOODS and SERVICES with all due care and diligence and with the skill to be expected of a reputable SUPPLIER experienced in the supply of the types GOODS and SERVICES to be carried out under the PURCHASE ORDER.
- 4.4 The GOODS and SERVICES and parts thereof shall be new, or, subject to the COMPANY's approval, as new, of merchantable quality and good workmanship, fit for the purposes specified in the PURCHASE ORDER or may be reasonably inferred from it, or where no such purpose is specified, fit for its ordinary purpose.
- 4.5 Except as expressly specified in the PURCHASE ORDER the SUPPLIER shall not be responsible for the design of any part of the PERMANENT WORK. However, for the avoidance of doubt, where the SUPPLIER is so responsible the delivery of the GOODS and SERVICES shall be undertaken in accordance with this Clause 4.
- 4.6 Except to the extent that it may be legally or physically impossible or create a hazard to safety the SUPPLIER shall comply with the COMPANY's instructions and directions on all matters relating to the delivery of the GOODS and SERVICES.
- 4.7 In order to ensure that delivery of the GOODS and SERVICES are not delayed or impeded the SUPPLIER shall be responsible for the timely provision of all matters referred to in Clause 4. and, where provided for elsewhere in the PURCHASE ORDER, for the timely request of COMPANY provided materials and equipment.
- 4.8 During the delivery of the GOODS and SERVICES the COMPANY may engage third parties to provide other goods and services in connection with its operations at the WORKSITE. The SUPPLIER where required to do so shall permit free access to the WORKSITE to such third parties and shall co-operate with them and afford all reasonable facilities to them.
- 4.9 The SUPPLIER shall give sufficient notice to the COMPANY of its intention to cease supply of GOODS, or spares, component parts or replacements for the GOODS, or any cessation of supply of the same from any of its SUB-SUPPLIERS to enable the COMPANY to purchase such GOODS, spares, component parts or replacements.
- 4.10 The SUPPLIER will ensure that the GOODS are properly packed, secured and labelled in accordance with accepted good industry practice to prevent damage during handling, transportation and storage and shall at all times meet any further COMPANY requirement as may be specified in the PURCHASE ORDER.

### 5. RESPONSIBILITY FOR COMPANY PROVIDED ITEMS

- 5.1 The COMPANY shall provide the materials and equipment as specified in the PURCHASE ORDER for SUPPLIERS specified use.
- 5.2 Notwithstanding the provisions of Clause 21.2, the SUPPLIER shall be responsible for receiving, unloading and handling such items when delivered to the SUPPLIER. The SUPPLIER shall visually inspect all such items and check all supporting documentation and shall notify the COMPANY of any discrepancy or damage within 3 working days of receipt or such other period as may from time to time be agreed. Receipt of all such items shall be recorded in writing. In the absence of any notification of discrepancy or damage such items shall be deemed to have been delivered in a complete and undamaged state to the extent that any



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discrepancy or damage could have been discovered by a visual inspection. The SUPPLIER shall not however be liable for any latent defects in any such items.

- 5.3 The SUPPLIER shall carry out all special tests and inspections on materials and equipment supplied by the COMPANY which are detailed in the SPECIFICATION or any TECHNICAL INFORMATION and shall notify the COMPANY of the results of such tests and inspections.
- 5.4 The SUPPLIER shall maintain in a form agreed by the PARTIES adequate records of materials and equipment provided by the COMPANY and provide a regular monthly inventory to show the use of all materials and equipment received and the balance of materials and equipment unused at all times, in accordance with any relevant provisions of the PURCHASE ORDER.
- 5.5 The SUPPLIER shall be responsible for providing suitable and safe storage for materials and equipment provided by the COMPANY to the SUPPLIER for the delivery of the GOODS and SERVICES and shall comply with any particular storage requirements set out in the TECHNICAL INFORMATION. Notwithstanding the provisions of Clause 21.2 the SUPPLIER shall make good any loss or damage to such materials and equipment which may occur whilst in the possession or control of the SUPPLIER and, to the extent that it results from any non-compliance with the SPECIFICATION, any deterioration that may occur.
- 5.6 The SUPPLIER shall notify the COMPANY of all unused or surplus materials or equipment provided by the COMPANY in accordance with any relevant provisions of the PURCHASE ORDER.

### 6. SUPPLIER TO INFORM ITSELF

- 6.1 The SUPPLIER shall be deemed to have satisfied itself, before entering into the PURCHASE ORDER, as to the extent and nature of the GOODS and SERVICES including but not limited to the services, personnel, materials and equipment, plant, consumables and facilities required, the correctness and sufficiency of the rates and prices quoted, the TECHNICAL INFORMATION provided, general and local conditions including climatic, sea, other water and weather conditions, and all other matters which could affect efficient delivery and execution of the PURCHASE ORDER.
- 6.2 Any failure by the SUPPLIER to take account of matters which affect delivery will not relieve the SUPPLIER from its obligations under the PURCHASE ORDER.

### 7. DUTY TO INFORM

- 7.1 The SUPPLIER shall notify the COMPANY without undue delay of all things which in the opinion of the SUPPLIER appear to be deficiencies, omissions, contradictions or ambiguities in the PURCHASE ORDER or conflicts with applicable law. The COMPANY shall review these items and issue the necessary instructions before the SUPPLIER proceeds with any part of the affected GOODS and SERVICES.
- 7.2 In addition to any Health, Safety and Environment requirements of the TECHNICAL INFORMATION and the provisions of Clause 37, the SUPPLIER shall notify the COMPANY without delay of any accidents which occur in connection with the carrying out of the requirements of the PURCHASE ORDER.

The SUPPLIER shall also notify the COMPANY of any other incidents which occur which might affect the carrying out of the PURCHASE ORDER requirements or may pose a risk to the delivery of the GOODS and SERVICES.

- 7.3 The SUPPLIER shall notify the COMPANY immediately of any proposed or actual stoppages of work, industrial disputes or other matters affecting or likely to affect the delivery or completion of the GOODS and SERVICES.

When requested by the COMPANY the SUPPLIER shall also supply to the COMPANY information relating to industrial relations including but not limited to minimum rates of pay, allowances, amenities, working hours, periods of unpaid leave and overtime.

- 7.4 The COMPANY shall without delay provide to the SUPPLIER all information affecting delivery which the SUPPLIER reasonably requires and requests from the COMPANY in order to properly deliver in accordance with the PURCHASE ORDER.





## 8. ASSIGNMENT AND SUB-SUPPLIERS

### 8.1 Assignment

- (a) The COMPANY is entitled to assign the PURCHASE ORDER or any part of it or any benefit or interest in or under it to any AFFILIATE of the COMPANY. In addition, the COMPANY may make any such assignment to any other third party at its sole discretion.
- (b) The SUPPLIER undertakes that, in the event of any assignment described above, it will execute without delay a formal assignment of interest in the PURCHASE ORDER to the relevant party, to be effective upon the written assumption by the assignee of all obligations of the COMPANY under the PURCHASE ORDER.
- (c) The SUPPLIER shall assign neither the PURCHASE ORDER nor any part of it nor any benefit or interest in or under it without the prior approval of the COMPANY which shall not unreasonably be withheld or delayed.

### 8.2 Sub-Suppliers

- (a) The SUPPLIER shall not place any significant portion of the GOODS and SERVICES with a SUB-SUPPLIER without the prior approval of the COMPANY.
- (b) Before entering into any contractual arrangement with a SUB-SUPPLIER for the delivery of any element of the GOODS and SERVICES, whether provided for in the PURCHASE ORDER or not, the COMPANY shall be given an opportunity to review the form of contract, the basis of choice for the third party, the part of the GOODS and SERVICES affected and any other relevant details requested by the COMPANY.

Where the COMPANY will be required to reimburse to the SUPPLIER the sum paid to the SUB-SUPPLIER, any procedure for award of such business included in the TECHNICAL INFORMATION shall be followed and the COMPANY shall be entitled to review all the relevant aspects of the arrangement.

- (c) No SUB-SUPPLIER purchase order shall bind or purport to bind the COMPANY in any respect. Nevertheless, the SUPPLIER shall ensure that any SUB-SUPPLIER shall be bound by and observe the provisions of the PURCHASE ORDER in so far as they apply to the SUB-SUPPLIER.

Each SUB-SUPPLIER purchase order shall expressly provide for the SUPPLIERS unconditional right of assignment of the SUB-SUPPLIER purchase order to the COMPANY in the event that the COMPANY terminates the PURCHASE ORDER.

- (d) The SUPPLIER shall be responsible for all work, acts, omissions and defaults of any SUB-SUPPLIER as fully as if they were work, acts, omissions or defaults of the SUPPLIER.

## 9. SUPPLIER PERSONNEL

- 9.1 The SUPPLIER undertakes to provide sufficient personnel at all times to ensure proper delivery and completion of the GOODS and SERVICES in accordance with the provisions of the PURCHASE ORDER.
- 9.2 All personnel engaged in the delivery of the GOODS and SERVICES shall, for the work which they are required to perform, be competent, properly qualified, skilled and experienced in accordance with good industry practice. The SUPPLIER shall verify all relevant qualifications of such personnel.
- 9.3 The SUPPLIER shall ensure that the supervisory personnel of the SUPPLIER for the delivery of SERVICES shall read, write and speak fluent English.
- 9.4 The SUPPLIER shall make its own arrangements for the engagement of personnel, local or otherwise, and, save in so far as the PURCHASE ORDER otherwise provides, for their payment and onshore transport, housing, maintenance and board and lodging.
- 9.5 The SUPPLIER shall be as responsible for any SERVICES performed by any agency personnel and by any other person provided by the SUPPLIER as if the SERVICES were performed by the employees of the SUPPLIER.
- 9.6 The SUPPLIER shall ensure that all employees of the SUPPLIER and any SUB-SUPPLIER engaged in the performance of the SERVICES comply with applicable laws including immigration laws and, where required are in possession of a valid work permit for the duration of the PURCHASE ORDER. When requested details of such work permits shall be submitted to the COMPANY prior to the employee being engaged in the SERVICES.



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9.7 The COMPANY may instruct the SUPPLIER to remove from the WORKSITE any person engaged in any part of the SERVICES who in the reasonable opinion of the COMPANY is either:

- (a) incompetent or negligent in the performance of their duties; or
- (b) engaged in activities which are contrary or detrimental to the interests of the COMPANY; or
- (c) not conforming with relevant safety procedures or persists in any conduct likely to be prejudicial to safety, health or the environment.

Any such person shall be removed forthwith from the WORKSITE. Any person removed for any of the above reasons shall not be engaged again in the delivery of the SERVICES or on any other work of the COMPANY without the prior approval of the COMPANY.

The SUPPLIER shall provide a suitable replacement for any such person within 24 hours or such longer time as may be agreed by the COMPANY.

### 10. PROGRAMME

- 10.1 The SUPPLIER shall be responsible for the programming of the GOODS and SERVICES and for independently controlling its progress.
- 10.2 The SUPPLIER shall produce a detailed work plan which shall include as a minimum an INSPECTION AND TEST PLAN and a PRODUCTION SCHEDULE, which complies with any requirements set out in the PURCHASE ORDER, providing for performance and completion of the requirements in accordance with the COMPLETION and DELIVERY dates.
- 10.3 The SUPPLIER shall submit the detailed work plan referred to in Clause 10.2, together with full supporting details to the COMPANY for review. When approved by the COMPANY such work plan shall become the PROGRAMME.
- 10.4 The SUPPLIER shall use the PROGRAMME as the basis for progress reporting, scheduling, forecasting and controlling the proper delivery and completion of the GOODS and SERVICES.
- 10.5 In order to take account of VARIATIONS and actual delivery progress, the SUPPLIER shall continually update its detailed work plan and supporting details and regularly submit them to the COMPANY for review. Once a revised work plan has been approved by the COMPANY it shall become the PROGRAMME, there being only one PROGRAMME at any particular time.
- 10.6 If the rate of progress is at any time in the opinion of the COMPANY too slow to ensure performance and completion in accordance with the PURCHASE ORDER, the COMPANY shall notify the SUPPLIER and the SUPPLIER shall thereupon inform the COMPANY of its proposals and take such steps as are necessary to expedite progress so as to complete delivery of the GOODS and SERVICES to the satisfaction of the COMPANY.

### 11. TECHNICAL INFORMATION

- 11.1 The COMPANY shall provide the TECHNICAL INFORMATION to the SUPPLIER and may during the execution of the PROGRAMME issue to the SUPPLIER such modified or additional TECHNICAL INFORMATION as may be necessary for the proper delivery of the GOODS and SERVICES and the SUPPLIER shall comply with the same.
- 11.2 Where the SUPPLIER is required to produce sketches, drawings, plans, calculations, reports, recommendations and the like, or the preparation of such is necessary for the delivery of the GOODS and SERVICES, the SUPPLIER shall submit all such documents to the COMPANY as may be requested by the COMPANY, for review and comment. The COMPANY shall be afforded the time specified in the PURCHASE ORDER (or if no time is specified a reasonable time) to carry out such review so that delivery is not delayed.
- 11.3 The SUPPLIER shall maintain at the WORKSITE a complete set of all relevant TECHNICAL INFORMATION together with all relevant documents and drawings provided by the SUPPLIER for the purposes of delivering the SERVICES. Such information shall be made available to the COMPANY REPRESENTATIVE or any other person authorised by him at all reasonable times.
- 11.4 The SUPPLIER shall carry out checks on TECHNICAL INFORMATION and the COMPANY shall not be responsible for any additional cost and/or delay that results from the SUPPLIER's omission to complete such checks promptly and properly.
- 11.5 When requested by the COMPANY the SUPPLIER shall, following COMPLETION or termination of all of the requirements of the PURCHASE ORDER, return all copies of TECHNICAL INFORMATION to the COMPANY.



- 11.6 The SUPPLIER will ensure that the GOODS and SERVICES will meet the COMPANY's requirements as set out in the TECHNICAL INFORMATION or the PURCHASE ORDER with regard to any quality, fitness for purpose, quantity or specification requirements.

### 12. INSPECTION AND TESTING

- 12.1 The SUPPLIER shall provide samples of materials before such materials are incorporated into the GOODS where the provision of such samples is provided for in the PURCHASE ORDER.

Similarly, the SUPPLIER shall also provide samples not specified in the PURCHASE ORDER but requested by the COMPANY, and in such case such samples shall be at the expense of the COMPANY unless the requirement for such samples arises as a result of default on the part of the SUPPLIER.

- 12.2 The SUPPLIER shall carry out all tests and inspections detailed in the PURCHASE ORDER or the INSPECTION AND TEST PLAN. If the COMPANY so requires, the SUPPLIER shall inspect, test or retest any materials or equipment provided by the SUPPLIER in order to confirm that the requirements of the PURCHASE ORDER are met. The SUPPLIER shall supply the COMPANY with certified copies of all test records and inspection reports as soon as they become available.

- 12.3 The COMPANY has the right, but not the obligation, to witness any test or inspection carried out by the SUPPLIER. The SUPPLIER shall notify the COMPANY in adequate time in order that the COMPANY may exercise this right.

- 12.4 If the COMPANY fails to attend such test or inspection at the time notified by the SUPPLIER the SUPPLIER may proceed with such test or inspection in the absence of the COMPANY.

- 12.5 In order to confirm that the requirements of the PURCHASE ORDER are met, the COMPANY has the right, but not the obligation, to inspect, test and examine all things provided by the SUPPLIER against the PURCHASE ORDER at all times, together with all documentation relating thereto, and to reject any item which does not comply with the requirements of the PURCHASE ORDER.

- 12.6 No part of the SERVICES shall be put out of view or covered up or otherwise have access restricted or made difficult without the consent of the COMPANY. The SUPPLIER shall provide reasonable notice to the COMPANY in order to permit the inspection of any part of the SERVICES which is about to be put out of view or covered up or have access restricted. The COMPANY shall give its consent without undue delay.

Notwithstanding the foregoing, the COMPANY shall have the right at any time to require the SUPPLIER to uncover or open up any part of the SERVICES and to reinstate such uncovered or open part following inspection and testing by the COMPANY.

- 12.7 The COMPANY shall have the right to reject any part of the GOODS and SERVICES or rework which does not comply with any requirement or requirements of the PURCHASE ORDER, including but not limited to, faulty workmanship, services, materials or equipment. Upon receiving notice of rejection the SUPPLIER shall immediately commence to reperform, repair or replace the defective part of the GOODS and SERVICES and shall carry out such inspections and/or tests on other parts as the COMPANY may require to ensure that there are no similar parts that fail to comply with the requirements of the PURCHASE ORDER.

- 12.8 Where reperformance, repair, replacement, uncovering, reinstating, testing and inspection are additional to the requirements of the PURCHASE ORDER and are not the result of failure by the SUPPLIER to conform with the PURCHASE ORDER on some other similar part of the GOODS and SERVICES and do not reveal failure to comply with the PURCHASE ORDER, such activities may be at the expense of the COMPANY. In such cases SUPPLIER shall notify the COMPANY of the potential expense in good time before the expense is incurred.

- 12.9 Neither failure on the part of the COMPANY to inspect the GOODS or the SERVICES or witness or test or to discover defects nor failure to reject work performed by the SUPPLIER which is not in accordance with the PURCHASE ORDER shall relieve the SUPPLIER from any liability or obligation under the PURCHASE ORDER.

- 12.10 In case of default on the part of the SUPPLIER in carrying out its obligations under Clause 12.7, the COMPANY, having given prior notice to the SUPPLIER, shall be entitled to undertake the SUPPLIER's responsibilities in this respect. The COMPANY shall be entitled to recover from the SUPPLIER all costs reasonably incurred by the COMPANY in carrying out such responsibilities.



## 13. VARIATIONS

### 13.1 Right to Issue Instructions

- (a) The COMPANY has the right to issue instructions to the SUPPLIER at any time to make any revision to the GOODS and SERVICES which may include additions, omissions, substitutions and changes in quality, form, character, kind, position or dimension.
- (b) An instruction under Clause 13.1 (a) may constitute a VARIATION, nevertheless when required by the COMPANY, on receipt of any such instruction, the SUPPLIER shall proceed immediately as instructed even though the potential affect upon the PRICE and/or COMPLETION and DELIVERY DATES may not have been determined.

### 13.2 Variation Basis

- (a) Prior to instructing or authorising any VARIATION, the COMPANY may require the SUPPLIER to submit estimates as requested by the COMPANY.
- (b) The PRICE and/or COMPLETION and DELIVERY DATES shall be subject to adjustment only as a result of a VARIATION.
- (c) The SUPPLIER shall not be entitled to receive a VARIATION to cover any instruction, decision or act of the COMPANY which may be made or given in order to ensure that the SUPPLIER complies with any of its obligations under the PURCHASE ORDER.
- (d) A VARIATION shall in no way affect the rights or obligations of the PARTIES except as expressly provided in that VARIATION. Any VARIATION shall be governed by all the provisions of the PURCHASE ORDER.

### 13.3 Right to Request a Variation

- (a) If the SUPPLIER considers that an occurrence has taken place for which it is entitled to receive a VARIATION, the SUPPLIER, before proceeding with any work affected by such occurrence, shall request without delay in writing that the COMPANY issue a VARIATION. Any such request shall include details of the occurrence including any relevant dates and the Clause or Clauses of the PURCHASE ORDER under which the SUPPLIER considers itself to be entitled to a VARIATION.
- (b) If the SUPPLIER fails to submit requests for VARIATIONS in accordance with Clause 13.3 (a) when it considers or should reasonably have considered that an occurrence has taken place for which it is entitled to receive a VARIATION and/or fails to provide supporting estimates in accordance with Clause 13.2 (a), the SUPPLIER shall, at the sole discretion of the COMPANY, forfeit any right to receive such VARIATIONS and any rights concerning adjustment to the PRICE and/or SCHEDULE OF KEY DATES.
- (c) The COMPANY shall within a reasonable time of having received a request for a VARIATION and the supporting estimates give notice to the SUPPLIER stating either:
  - (i) that the proposed VARIATION or part thereof is accepted in principle in which case the COMPANY will issue such VARIATION; and/or
  - (ii) that what is requested or part thereof is included in the obligations undertaken by the SUPPLIER under the terms of the PURCHASE ORDER and that the request is accordingly rejected; and/or
  - (iii) that the request or part thereof is rejected for other stated reasons.

Should the SUPPLIER wish to pursue any request for a VARIATION or part thereof which has been rejected by the COMPANY it shall proceed in accordance with the provisions of Clause 13.5.

### 13.4 Adjustments

Adjustments to the PRICE and COMPLETION and DELIVERY DATES relating to any VARIATION shall be made as follows:

Wherever possible the effect (if any) of a VARIATION on PRICE and COMPLETION and DELIVERY DATES shall be agreed before the instruction is issued or before work starts, using the estimates prepared by the SUPPLIER in accordance with Clause 13.2 (a).

Failing agreement on the basis of the SUPPLIER's estimate, the COMPANY shall determine the effects of VARIATIONS in accordance with the following principles:



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- (a) where work is of a similar nature and carried out under similar conditions to activities priced in the PURCHASE ORDER it shall be valued at the appropriate rates and prices included in the PURCHASE ORDER;
- (b) where work is not of a similar nature or is not carried out under similar conditions to work priced in the PURCHASE ORDER or there are no appropriate rates or prices in the PURCHASE ORDER then a fair valuation shall be made;
- (c) with respect to effect on the COMPLETION and DELIVERY DATES a fair and reasonable adjustment shall be made taking into account all relevant factors including any acceleration instructed under Clause 13.1 (a).

### 13.5 Disputed Variations

- (a) If at any time the SUPPLIER intends to claim any adjustment to the PRICE and/or COMPLETION and DELIVERY DATES additional to that previously determined by the COMPANY for a VARIATION issued by the COMPANY or requested by the SUPPLIER, the SUPPLIER shall give notice in writing of such intention without delay after the happening of the events giving rise to such claim.

Such events shall include but not be limited to the following:

- (i) rejection by the COMPANY of a request for a VARIATION made by the SUPPLIER;
- (ii) any VARIATION where effect on PRICE and/or COMPLETION and DELIVERY DATES cannot be determined at the time.

Upon the happening of such events the SUPPLIER shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make.

- (b) The SUPPLIER shall send to the COMPANY at the end of every month an account giving particulars, as full and detailed as possible, of all such claims.
- (c) If the SUPPLIER does not give notices and/or does not submit records and accounts in accordance with the provisions of Clauses 13.5 (a) and 13.5 (b) the SUPPLIER shall, at the sole discretion of the COMPANY, forfeit any right to receive any adjustment to the PRICE and/or COMPLETION and DELIVERY DATES in respect of any such claims.
- (d) Where any matter in respect to adjustments to the PRICE and/or COMPLETION and DELIVERY DATES has not been finalised and without prejudice to the rights of either PARTY, the COMPANY having taken into account the relevant provisions of the PURCHASE ORDER and all other relevant factors, will make such adjustments as it considers to be fair and reasonable. The COMPANY will inform the SUPPLIER of decisions reached in this respect and will make appropriate payments in accordance with such decisions.

### 13.6 Discretionary Provision

If the SUPPLIER has forfeited the right to receive any VARIATION under the provisions of Clause 13.3 (b) and/or 13.5 (c) in respect of any occurrence which it considers would otherwise have entitled it to receive a VARIATION, the SUPPLIER shall nevertheless have the option at any time to discuss such matters with the COMPANY. The COMPANY shall, at its sole discretion, decide whether to issue a VARIATION in respect of any such matters.

## 14. FORCE MAJEURE

- 14.1 Neither PARTY shall be responsible for any failure to fulfil any term or condition of the PURCHASE ORDER if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence, as hereunder defined, which has been notified in accordance with this Clause and which is beyond the control and without the fault or negligence of the PARTY affected and which, by the exercise of reasonable diligence, the said PARTY is unable to provide against.
- 14.2 For the purpose of this PURCHASE ORDER only the following occurrences shall be force majeure.
  - (a) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
  - (b) Ionizing radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radio-active, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;





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- (c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
  - (d) Earthquake, flood, fire, explosion and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;
  - (e) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected PARTY and which affect a substantial or essential portion of the delivery and completion of the GOODS and SERVICES;
  - (f) Maritime or aviation disasters;
- 14.3 In the event of a force majeure occurrence, the PARTY that is or may be delayed in performing the PURCHASE ORDER shall notify the other PARTY without delay giving the full particulars thereof and shall use all reasonable endeavours to remedy the situation without delay.
- 14.4 If either PARTY is delayed in performing the PURCHASE ORDER by a force majeure occurrence, the COMPLETION and DELIVERY DATES but not the PRICE, except as otherwise expressly provided in the PURCHASE ORDER, shall be adjusted in accordance with Clause 13 and Clause 14.5.
- 14.5 Upon cessation of any force majeure occurrence the SUPPLIER shall prepare a revised PROGRAMME to include for rescheduling of the delivery and completion of the GOODS and SERVICES so as to minimise the effects of the delay. Having made due allowance for any instruction to accelerate delivery given in accordance with Clause 13, the COMPANY shall authorise a VARIATION to adjust the COMPLETION and DELIVERY DATES in order to take into account any remaining effects of such delay.
- 14.6 Following notification of a force majeure occurrence in accordance with Clause 14.3, the PARTIES shall meet without delay with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.

### 15. SUSPENSION

- 15.1 The COMPANY shall have the right, by notice to the SUPPLIER, to suspend the delivery of the GOODS and SERVICES or any part thereof to the extent detailed in the notice, for any of the following reasons:
- (a) subject only to Clause 15.3, in the event of some default on the part of the SUPPLIER; or
  - (b) in the event that suspension is necessary for the proper execution or safety of the PURCHASE ORDER, or persons; or
  - (c) to suit the convenience of the COMPANY.
- 15.2 Upon receipt of any such notice, the SUPPLIER shall, unless instructed otherwise:
- (a) discontinue delivery of the GOODS and SERVICES or the part of the GOODS And SERVICES detailed in the notice, on the date and to the extent specified; and
  - (b) properly protect and secure work in progress as required by the COMPANY.
- 15.3 In the event of default on the part of the SUPPLIER and before the issue by the COMPANY of a notice to suspend the delivery of the GOODS and SERVICES or any part thereof the COMPANY shall give notice of default to the SUPPLIER giving details of such default. If the SUPPLIER, upon receipt of such notice, does not commence and thereafter continuously proceed with action satisfactory to the COMPANY to remedy such default the COMPANY may issue a notice of suspension in accordance with the provisions of Clause 15.1.
- 15.4 Unless the suspension arises as a result of default on the part of the SUPPLIER, the PRICE and COMPLETION and DELIVERY DATES shall be adjusted in accordance with the relevant provisions of the PURCHASE ORDER or in the absence of such provisions, in accordance with Clause 13.
- 15.5 If suspension results from default on the part of the SUPPLIER, any additional costs reasonably incurred by the COMPANY as a direct result shall be recoverable by the COMPANY from the SUPPLIER.
- 15.6 The COMPANY may, by further notice, instruct the SUPPLIER to resume work to the extent specified.
- 15.7 In the event of any suspension, PARTIES shall meet at not more than 7 day intervals with a view to agreeing a mutually acceptable course of action during the suspension.
- 15.8 If the period of any suspension not arising as a result of default on the part of the SUPPLIER exceeds the longer of 8 weeks, or the period stated in the GCC APPENDIX or elsewhere in the PURCHASE ORDER, the SUPPLIER may serve a notice on the COMPANY requiring permission within 2 weeks from the receipt of such notice to proceed with delivery or that part thereof subject to suspension. If within the said 2 weeks the





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COMPANY does not grant such permission the SUPPLIER, by a further notice, may (but is not bound to) elect to treat the suspension as either:

- (a) where it affects part only of the PURCHASE ORDER, an omission of such part under Clause 13; or
- (b) where it affects the whole of the PURCHASE ORDER, termination in accordance with Clause 28.1 (a).

### 16. TERMS OF PAYMENT

- 16.1 For the performance and completion of the GOODS and SERVICES, the COMPANY shall pay or cause to be paid to the SUPPLIER the amounts detailed in the PURCHASE ORDER, in the manner specified in this Clause and within 60 days of receipt of a valid invoice in accordance with Clause 16.6, or alternatively in the period specified in the GCC APPENDIX or in the body of the PURCHASE ORDER as appropriate.
- 16.2 Except where it is expressly provided that the COMPANY shall carry out an obligation under the PURCHASE ORDER at its own cost, all things to be supplied or performed by the SUPPLIER under the PURCHASE ORDER shall be deemed to be included in the PURCHASE ORDER.
- 16.3 The SUPPLIER shall submit to the COMPANY an invoice within 1 month after the end of such stages as are specified in the PURCHASE ORDER.
- 16.4 All prices quoted in the PURCHASE ORDER are exclusive of VAT, but subject to it as applicable, and which shall be charged by, paid and accounted to the relevant tax authority by the relevant PARTY as is required under prevailing VAT legislation. Furthermore, the SUPPLIER will comply with all applicable invoicing requirements regarding the charging and accounting of VAT
- 16.5 Accompanying any invoice submitted by the SUPPLIER after COMPLETION shall be a schedule of all items for which, in the opinion of the SUPPLIER, payment is due under the PURCHASE ORDER but for which, at the date of issue of the said invoice, payment in part or in full has not been received. Such items shall be limited to those for which previous notification has been given by the SUPPLIER to the COMPANY pursuant to Clauses 13.3 and 13.5. The schedule shall include estimates of cost against each item fully supported by necessary documentation as described in Clause 13.5.

Following COMPLETION the SUPPLIER shall not be entitled to receive any payment on any invoice received by the COMPANY for the longer of, 3 months after COMPLETION or the time period specified in the GCC APPENDIX, as the latest time for receipt of invoices. Nevertheless, the COMPANY may, at its sole discretion, make payment against any such invoice.

- 16.6 Each invoice shall be correctly prepared and adequately supported and shall show separately the individual amounts rightly due and shall quote the PURCHASE ORDER Number, Title and such other details as may be specified in the PURCHASE ORDER.
- 16.7 Each invoice shall be forwarded to the address given in the PURCHASE ORDER header or body, or that contained in the GCC APPENDIX if given.
- 16.8 Upon receipt of a correctly prepared and adequately supported invoice by the COMPANY at the address determined by the PURCHASE ORDER, the COMPANY shall make payment in respect of such invoices in the currency detailed in the PURCHASE ORDER to the nominated bank account of the SUPPLIER.
- 16.9 If the COMPANY disputes any items on any invoice in whole or in part or if the invoice is prepared or submitted incorrectly in any respect, the COMPANY shall notify the SUPPLIER of the reasons and request the SUPPLIER to issue a credit note for the unaccepted part or whole of the invoice as applicable. Upon receipt of such credit note the COMPANY shall be obliged to pay the undisputed part of a disputed invoice.

If any other dispute connected with the PURCHASE ORDER exists between the PARTIES the COMPANY may withhold from any money which becomes payable under the PURCHASE ORDER the amount which is the subject of the dispute. The COMPANY shall not be entitled to withhold monies due to the SUPPLIER under any other PURCHASE ORDERS with the COMPANY as set off against disputes under the PURCHASE ORDER, nor shall it be entitled to withhold monies due under the PURCHASE ORDER as set off against disputes under any other PURCHASE ORDER.

On settlement of any dispute the SUPPLIER shall submit an invoice for sums due and the COMPANY shall make the appropriate payment in accordance with the provisions of Clause 16.8 and Clause 16.11 where applicable.

- 16.10 Neither the presentation nor payment or non-payment of an individual invoice shall constitute a settlement of a dispute, an accord and satisfaction, a remedy of account stated, or otherwise waive or affect the rights of the PARTIES hereunder.



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In particular the COMPANY may correct or modify any sum previously paid in any or all of the following circumstances:

- (a) any such sum was incorrect;
- (b) any such sum was not properly payable to the SUPPLIER;
- (c) any work in respect of which payment has been made and which does not comply with the terms of the PURCHASE ORDER.

16.11 If the COMPANY at any time incurs costs which, under the provisions of the PURCHASE ORDER, the COMPANY is entitled to recover from the SUPPLIER, the COMPANY may invoice the SUPPLIER for such costs, provided always that the COMPANY may deduct the amount of such costs from any amount due, or that may become due to the SUPPLIER under the PURCHASE ORDER.

The SUPPLIER shall pay the COMPANY within 30 days of receipt of invoice any sums outstanding after such deduction.

16.12 For the purposes of Clause 16.10, and elsewhere in the PURCHASE ORDER, wherever a PARTY is entitled to recover from the other PARTY, any costs incurred, then the amount of such costs shall be the amount of all claims, losses, damages, charges, disbursements, costs (including amounts paid to third parties), overheads and expenses directly resulting from the matter in question, but no element of profit.

### 17. TAXATION

17.1 The SUPPLIER shall, in accordance with the provisions of Clause 20, except as may otherwise be provided for elsewhere in the PURCHASE ORDER, be responsible for:

- (a) the payment of all taxes, duties, levies, charges and contributions (and any interest or penalties thereon) for which the SUPPLIER is liable as imposed by any appropriate governmental authority, whether or not they are calculated by reference to the wages, salaries, benefits or expenses and other remuneration paid directly or indirectly to persons engaged or employed by the SUPPLIER; and
- (b) the payment of all taxes, duties, levies, charges and contributions (and any interest or penalties thereon) including but not limited to income, profits, corporation taxes and taxes on capital gains, turnover and added value taxes for which the SUPPLIER is liable, now or hereafter levied or imposed by any appropriate governmental authority, arising from this PURCHASE ORDER; and
- (c) compliance with all statutory obligations to make deductions on account of tax and remit the required amounts to any appropriate governmental authority, including, but not limited to income tax, PAYE, national insurance, employee taxes, charges, social security costs, levies and contributions whether or not they are measured by the wages, salaries or other remuneration or benefits paid to persons employed by the SUPPLIER, or persons providing services in connection with the PURCHASE ORDER to the SUPPLIER, and the imposition of a similar obligation upon all SUB-SUPPLIERS or any other persons employed by them or providing services to them in connection with the PURCHASE ORDER; and
- (d) ensuring that any SUB-SUPPLIERS or any other person employed, or providing services on or in connection with the PURCHASE ORDER shall comply with this Clause.

17.2 The SUPPLIER shall supply to the COMPANY all such information, in connection with activities under the PURCHASE ORDER, as is necessary to enable the COMPANY to comply with the lawful demands for such information by any appropriate governmental authority.

17.3 The SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY against all levies, charges, contributions and taxes and any interest or penalty thereon which may be assessed, by any appropriate governmental authority, on the SUPPLIER GROUP in connection with the PURCHASE ORDER and from all costs reasonably incurred in connection therewith.

17.4 If the COMPANY receives a notice requiring it to pay any levies, charges, contributions or taxes and/or any interest or penalty thereon whether with respect to the SUPPLIER, any SUB-SUPPLIER, their respective AFFILIATES or any other person employed by the SUPPLIER or any SUB-SUPPLIER or providing any services to the SUPPLIER or any SUB-SUPPLIER on or in connection with the PURCHASE ORDER, the COMPANY shall forthwith notify the SUPPLIER who shall work with the COMPANY to make all reasonable endeavours to make any valid appeal against such payment. If the COMPANY is ultimately required to make such payment, the COMPANY may recover from the SUPPLIER any such sums and all costs reasonably incurred in connection therewith and the SUPPLIER shall within 14 days of receiving written notice from the COMPANY pay to the



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COMPANY any such sum or the COMPANY shall be entitled to deduct such sums from any monies due, or which may become due, to the SUPPLIER.

- 17.5 The COMPANY shall save, indemnify, defend and hold harmless the SUPPLIER against all levies, charges, contributions and taxes of the type referred to in this Clause and any interest or penalty thereon which may be assessed, by any appropriate governmental authority, on the COMPANY in connection with the PURCHASE ORDER and from all costs incurred in connection therewith, other than those taxes and other matters referred to above which the provisions of this Clause allow the COMPANY to recover from the SUPPLIER.

### 18. OWNERSHIP

- 18.1 Subject to Clauses 18.2 and 18.3, the rights of possession of and right of use for the purpose of the PURCHASE ORDER and the operation and maintenance of the PERMANENT WORK, and title to, copyright in and ownership of all things created under or arising out of the PURCHASE ORDER, including but not limited to, drawings, specifications, calculations, other documents, computer tapes, discs and other essential recording matter, materials and work shall vest in the COMPANY as soon as the preparation, production or creation thereof commences.
- 18.2 All rights of title to, copyright in and ownership of any such items developed by the SUPPLIER outside the PURCHASE ORDER shall remain with the SUPPLIER.
- 18.3 Except as provided in Clause 18.6, all rights of title to, copyright in and ownership of any such items which the SUPPLIER provides in relation to the GOODS and SERVICES and which is merely supplemented, enhanced, modified or adapted in the course of executing the PURCHASE ORDER shall remain with the SUPPLIER.
- 18.4 Notwithstanding Clauses 18.2 and 18.3 the SUPPLIER, from the acceptance of the PURCHASE ORDER, grants the COMPANY the non-exclusive and irrevocable right to use any technical information, including software, provided by the SUPPLIER, for the life of the PERMANENT WORK for the purposes of its operation and maintenance and for no other purpose. Such right shall be non-transferable with the exception that the COMPANY may transfer such right to any successor.
- 18.5 The COMPANY shall retain title to COMPANY provided items and information, including but not limited to, TECHNICAL INFORMATION and materials and equipment.
- The PERMANENT WORK shall be and shall remain the property of the CLIENT.
- 18.6 Subject to the provisions of Clause 19, all equipment, materials and supplies provided by the SUPPLIER for incorporation into the PERMANENT WORK shall become the property of the COMPANY upon delivery to the WORKSITE or payment by the COMPANY whichever is the earlier.
- The SUPPLIER shall ensure that all SUPPLIER provided items are free from all liens and/or retention of title claims from any third party.
- 18.7 Title to any equipment, materials and supplies provided by the SUPPLIER which do not comply with the requirements of the PURCHASE ORDER and which are rejected by the COMPANY, shall re-vest immediately in the SUPPLIER.
- Title to such items provided by the SUPPLIER for which no payment has been made by the COMPANY and which are no longer required for the purposes of the PURCHASE ORDER, shall re-vest in the SUPPLIER.
- 18.8 All items of COMPANY property in the possession of the SUPPLIER shall be suitably marked or clearly identified as the property of the COMPANY. As far as possible all such items shall be segregated from other property.

### 19. PATENTS AND OTHER PROPRIETARY RIGHTS

- 19.1 Neither PARTY shall have the right of use, other than for the purposes of the PURCHASE ORDER, whether directly or indirectly, of any patent, copyright, proprietary right or confidential know how, trademark or process provided by the other PARTY and the intellectual property rights in such shall remain with the PARTY providing such patent, copyright, proprietary right or confidential know how, trademark or process.
- 19.2 Where any potential patent or registrable right in any country in the world results from:
- (a) developments by the SUPPLIER GROUP which are based wholly on data, equipment, processes, substances and the like in the possession of the SUPPLIER GROUP upon the acceptance of the PURCHASE ORDER or otherwise produced outside the PURCHASE ORDER; or



- (b) enhancements of or in the existing intellectual property rights of the SUPPLIER GROUP, such rights shall vest in the SUPPLIER or another company within the SUPPLIER GROUP as the case may be.
- 19.3 Where any potential patent or registrable right in any country in the world results from:
- (a) developments by the COMPANY GROUP which are based wholly on data, equipment, processes, substances and the like in the possession of the COMPANY GROUP at the acceptance of the PURCHASE ORDER or otherwise produced outside of the PURCHASE ORDER; or
- (b) enhancements of or in the existing intellectual property rights of the COMPANY GROUP, such rights shall vest in the COMPANY and its AFFILIATES as the case may be.
- 19.4 Except as provided in Clause 19.1, Clause 19.2 and Clause 19.3, where any potential patent or registrable right in any country in the world arises out of the PURCHASE ORDER and is invented during the term of the PURCHASE ORDER, such rights shall vest in the SUPPLIER or alternatively the party or parties specified in the GCC APPENDIX if applicable.
- 19.5 Where under Clause 19.4 a right vests in one of the PARTIES absolutely, such PARTY may at its sole discretion give the other PARTY and its AFFILIATES a royalty free, irrevocable, non-exclusive, non-transferable, world-wide licence to use such right which shall not be sub-licensed.
- 19.6 Where under Clause 19.4 a right vests in the PARTIES jointly, then the PARTIES shall unless otherwise agreed in writing jointly file a patent or other registration application in that joint right.
- 19.7 The SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY GROUP from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the SUPPLIER under the PURCHASE ORDER except where such infringement necessarily arises from the TECHNICAL INFORMATION and/or the COMPANY's instructions. However, the SUPPLIER shall use its reasonable endeavours to identify any infringement in the TECHNICAL INFORMATION and/or the COMPANY's instructions of any patent or proprietary or protected right, and should the SUPPLIER become aware of such infringement or possible infringement then the SUPPLIER shall inform the COMPANY immediately.
- 19.8 The COMPANY shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from all claims, losses, damages, costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the COMPANY under the PURCHASE ORDER or the use by the SUPPLIER of TECHNICAL INFORMATION or materials or equipment supplied by the COMPANY.

## 20. COMPLIANCE WITH LAWS AND REGULATIONS

- 20.1 The SUPPLIER shall comply with all applicable laws, rules and regulations of any governmental or regulatory body having jurisdiction over the delivery of the GOODS and SERVICES or the WORKSITE.
- 20.2 The SUPPLIER shall obtain all licences, permits, temporary permits and authorisations required by the applicable laws, rules and regulations for the performance of the purchase order requirements, save to the extent that the same can only be legally obtained by the COMPANY.

## 21. INDEMNITIES

- 21.1 The SUPPLIER shall be responsible for and shall save, indemnify, defend and hold harmless the COMPANY GROUP from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
- (a) loss of or damage to property of the SUPPLIER GROUP whether owned, hired, leased or otherwise provided by the SUPPLIER GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
- (b) personal injury including death or disease to any personnel of the SUPPLIER GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
- (c) subject to any other express provisions of the PURCHASE ORDER, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the SUPPLIER GROUP. For the purposes of this Clause 21.1 (c) "third party" means any party which is not a member of the COMPANY GROUP or SUPPLIER GROUP.





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- 21.2 The COMPANY shall be responsible for and shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
- (a) loss of or damage to property of the COMPANY GROUP whether
    - (i) owned by the COMPANY GROUP, or
    - (ii) Leased or otherwise obtained under arrangements with financial institutions by the COMPANY GROUParising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER, but excluding the PERMANENT WORK; and
  - (b) personal injury including death or disease to any personnel of the COMPANY GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
  - (c) subject to any other express provisions of the PURCHASE ORDER, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the COMPANY GROUP. For the purposes of this Clause 21.2 (c) "third party" means any party which is not a member of the SUPPLIER GROUP or COMPANY GROUP.
- 21.3 Without limitation to the SUPPLIER's other obligations under the PURCHASE ORDER and at law, the SUPPLIER shall be responsible for any portion of the PERMANENT WORK that they are performing activities on from the acceptance of the PURCHASE ORDER until the date of the HANDOVER CERTIFICATE or the COMPLETION CERTIFICATE, whichever is the earlier, in respect of the whole or the relevant part of the PERMANENT WORK, at which date or dates responsibility shall pass to the COMPANY. Before the date of any such HANDOVER CERTIFICATE or COMPLETION CERTIFICATE as applicable, in the event of loss or damage to the PERMANENT WORK, the SUPPLIER shall, if instructed by the COMPANY, reconstruct, repair or replace the same. Where the necessity for such reconstruction, repair or replacement activities was solely caused by the COMPANY GROUP, such activities shall be at the expense of the COMPANY.
- 21.4 Except as provided by Clause 21.1(a), Clause 21.1(b) and Clause 21.5, the COMPANY shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from and against any claim of whatsoever nature arising from pollution originating from the property of the COMPANY GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER.
- 21.5 Except as provided by Clause 21.2(a) and Clause 21.2(b), the SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY GROUP from and against any claim of whatsoever nature arising from pollution occurring on the premises of the SUPPLIER GROUP or originating from the property and equipment of the SUPPLIER GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER.
- 21.6 All exclusions and indemnities given under this Clause (save for those under Clauses 21.1 (c) and 21.2 (c)) shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under PURCHASE ORDER or otherwise at law.
- 21.7 If either PARTY becomes aware of any incident likely to give rise to a claim under the above indemnities it shall notify the other and both PARTIES shall co-operate fully in investigating the incident.
- 21.8 The indemnities given by the PARTIES under this PURCHASE ORDER are full and primary, and shall apply irrespective of whether the indemnified party has, or has not insurance in place relating to any claims, losses, damages or costs in respect of the subject matter of any indemnity given under this PURCHASE ORDER.
- 21.9 Each PARTY expressly agrees that the indemnities set out in this Clause do not extend to criminal sanctions imposed upon it, arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER.

## 22. INSURANCE

- 22.1 The SUPPLIER shall arrange as a minimum the insurances set out in this Clause and those required under LOCAL LAW, and shall ensure that they are in full force and effect throughout the life of the PURCHASE ORDER. All such insurances shall be placed with reputable and substantial insurers, satisfactory to the COMPANY, and shall for all insurances (including insurances provided by SUB-SUPPLIERS) other than



Employers Liability / Workmen's Compensation types of Insurance to the extent of the liabilities assumed by the SUPPLIER under the PURCHASE ORDER, include the COMPANY, and its AFFILIATES as additional assureds. All insurances required under this Clause shall be endorsed to provide that underwriters waive any rights of recourse, including in particular subrogation rights against the COMPANY and its AFFILIATES in relation to the PURCHASE ORDER to the extent of the liabilities assumed by the SUPPLIER under the PURCHASE ORDER. Such insurances shall also where possible, provide that the COMPANY shall be given not less than 30 days' notice of cancellation of or material change to cover. The provisions of this Clause shall in no way limit the liability of the SUPPLIER under the PURCHASE ORDER.

- 22.2 The insurances required to be effected under Clause 22.1 shall be as follows (to the extent that they are relevant to the delivery and completion of the GOODS and SERVICES):
- (a) Employers Liability and/or (where the jurisdiction of where the work is to be performed or under which the employees are employed requires the same) Workmen's Compensation insurance covering personal injury to or death of the employees of the SUPPLIER engaged in the delivery of the GOODS and SERVICES to the greater of,
    - (i) the minimum value required by any applicable legislation including extended cover (where required) for working offshore; or
    - (ii) the sum as set out the GCC APPENDIX if any.
  - (b) General Third Party Liability insurance for any incident or series of incidents covering the operations of the SUPPLIER in the performance of the PURCHASE ORDER, in an amount not less than US\$2,000,000 or as otherwise set out in the GCC APPENDIX or elsewhere in the PURCHASE ORDER;
  - (c) Third Party and Passenger Liability insurance and other motor insurance as required by applicable jurisdiction;
  - (d) such further insurances (if any) as set out in the GCC APPENDIX.
- 22.3 The SUPPLIER shall supply the COMPANY with evidence of such insurance on demand.
- 22.4 The SUPPLIER shall procure that SUB-SUPPLIERS are insured to appropriate levels as may be relevant to their work.

### 23. CONSEQUENTIAL LOSS

- 23.1 For the purposes of this Clause the expression "Consequential Loss" means consequential or indirect loss, loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit, in each case whether direct or indirect and whether or not foreseeable at the acceptance of the PURCHASE ORDER.
- 23.2 Notwithstanding any provision to the contrary elsewhere in the PURCHASE ORDER and except to the extent of any agreed liquidated damages (including without limitation any predetermined termination fees) provided for in the PURCHASE ORDER, the COMPANY shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from the COMPANY GROUP's own Consequential Loss and the SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY GROUP from the SUPPLIER GROUP's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER.
- 23.3 All exclusions and indemnities given under this Clause shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under PURCHASE ORDER or otherwise at law.

### 24. CONFIDENTIALITY

- 24.1 The SUPPLIER shall at no time without the prior written agreement of the COMPANY either:
- (a) make any publicity releases or announcements concerning the subject matter of the PURCHASE ORDER, or
  - (b) except as may be necessary to enable the SUPPLIER to perform its obligations under the PURCHASE ORDER, use, reproduce, copy, disclose to, place at the disposal of or use on behalf of any third party or enable any third party to use, peruse or copy any information including but not limited to drawings, data, and computer software which:





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- (i) is provided to the SUPPLIER by or on behalf of the COMPANY, its CLIENTS or its or their AFFILIATES in or in relation to the PURCHASE ORDER; or
- (ii) vest in the COMPANY in accordance with the PURCHASE ORDER; or
- (iii) the SUPPLIER prepares in connection with the delivery of the GOODS and SERVICES.

24.2 The provisions of Clause 24.1 shall not apply to information which:

- (a) is part of the public domain; or
- (b) was in the possession of the SUPPLIER prior to award of the PURCHASE ORDER and which was not subject to any obligation of confidentiality owed to the COMPANY; or
- (c) was received from a third party whose possession is lawful and who is under no obligation not to disclose; or
- (d) is required to be disclosed in order to comply with the requirements of any law, rule or regulation of any governmental or regulatory body having jurisdiction over the delivery of the GOODS and SERVICES or the SUPPLIER, or of any relevant stock exchange.

24.3 The SUPPLIER shall ensure that the provisions of this Clause are incorporated in any SUB-SUPPLIER purchase order and that the officers, employees and agents of the SUPPLIER and of the SUB-SUPPLIERS comply with the same.

### 25. TRANSPORTATION, DELIVERY AND CUSTOMS

- 25.1 The applicable delivery term shall be that term specified in the PURCHASE ORDER given meaning by the latest published version of the International Chamber of Commerce's Incoterms, the rules and definitions of which shall be applicable to the PURCHASE ORDER and shall be deemed to be incorporated in the PURCHASE ORDER.
- 25.2 Unless otherwise stipulated elsewhere in the PURCHASE ORDER, the transportation of the GOODS should be by the most economical and direct routing to the specified place of delivery in order to meet the DELIVERY DATE.
- 25.3 The SUPPLIER will properly mark and segregate all merchandise. Each loose item will be marked or tagged with the PURCHASE ORDER number and item number. SUPPLIER will affect any special marking specified in the PURCHASE ORDER. All shipments must include two legible packing lists, with the description of each item, including serial numbers or other form of positive identification. All packages, shipments, correspondence, documents, and invoices must show COMPANYS name, PURCHASE ORDER number and also item number where applicable.
- 25.4 The SUPPLIER shall provide with any shipment, any relevant and necessary documents, such as materials safety datasheets, instruction manuals, drawings, datasheets and certificates of origin as necessary to complete the requirements of the PURCHASE ORDER and to clear customs, and shall be deemed to form an integral part of the goods.
- 25.5 When applicable the COMPANY and the SUPPLIER shall each apply to any government entity for any relief from customs duties for their respective import, export and re-import of materials, goods, tools, equipment and supplies required for the PURCHASE ORDER.
- 25.6 The SUPPLIER undertakes to import, export and re-import any items required for the delivery of the GOODS and SERVICES which are subject to customs control in such a way as to enable maximum advantage to be taken of Customs procedures.
- 25.7 The PARTIES shall each develop with government authorities, customs procedures for their respective export to the WORKPOINT and re-import from the WORKPOINT of all materials, goods, tools, equipment and supplies to be provided under the PURCHASE ORDER.
- 25.8 The PARTIES shall each respectively be accountable and liable for compliance with customs procedures based on each PARTY being a customs authorised trader and who is in possession (not ownership) of the items subject to customs control at any given time.
- 25.9 The SUPPLIER shall pay and make payment at such times when due and payable, all import/export taxes and duties on materials, goods, tools, equipment and supplies required for the PURCHASE ORDER and imported or exported by the SUPPLIER. The SUPPLIER will be responsible for ensuring that it holds the necessary import/export licences issued by the relevant authorities prior to the delivery of the GOODS and SERVICES.



25.10 Where equipment and materials are sold to the COMPANY under the PURCHASE ORDER the SUPPLIER shall:

- (a) prepare and provide to the COMPANY full documentation to show and certify all information regarding items subject to customs control, including the origin, customs status and customs commodity code number as may be necessary for the COMPANY to minimise or nullify the effect of customs duty on such items; and
- (b) make available on a confidential basis to the relevant Customs authorities all data reasonably necessary to enable the SUPPLIER to obtain the maximum benefits in terms of reliefs and shall pass all such benefits in full to the COMPANY; and
- (c) inform the COMPANY without delay in the event that the SUPPLIER is unsuccessful in any application for reliefs. In such event, the COMPANY shall have the option to import or export or re-import any items affected under its own authorised procedure.

### 26. DELIVERY, ACCEPTANCE, HANDOVER AND COMPLETION

26.1 Acceptance of the GOODS by the COMPANY shall be from the time when a duly authorised employee or representative of the COMPANY accepts the GOODS, delivered or collected, and where such GOODS are not defective or damaged in any way and comply with the PURCHASE ORDER. If a defect in or damage to the GOODS, latent or otherwise, or any damage to the PERMANENT WORKS, or any breach of the PURCHASE ORDER is identified by the COMPANY, it shall be deemed not to have accepted the GOODS until such defect, damage or breach is remedied by the SUPPLIER.

Such acceptance shall be within a reasonable time of delivery or collection or first use, but shall be without prejudice to the SUPPLIERS liability for any defect or damage, or any breach of the PURCHASE ORDER which is not identified by such duly authorised employee or representative of the COMPANY at the time of acceptance.

26.2 When the SUPPLIER considers the whole or the relevant part of the SERVICES to be in a condition for handover to the care, custody and control of the COMPANY, the SUPPLIER shall so notify the COMPANY and shall request the issue of a HANDOVER CERTIFICATE.

26.3 If the COMPANY satisfied that the whole or the relevant part of the SERVICES is to be handed over by the SUPPLIER to the care, custody and control of the COMPANY then the COMPANY shall issue a HANDOVER CERTIFICATE in respect of the whole or the relevant part of the SERVICES, and the whole or the relevant part of any PERMANENT WORK shall be handed over by the SUPPLIER to the COMPANY as of the date specified in the HANDOVER CERTIFICATE.

26.4 When the SUPPLIER considers that:

- (a) the whole of the work (including where the COMPANY has terminated the whole of the SERVICES under Clause 28.1 (a)); or
- (b) any part of the SERVICES for which a separate time for completion is included in the PROGRAMME; has been completed and has satisfactorily passed any final test that may be prescribed in the PURCHASE ORDER, the SUPPLIER shall so notify the COMPANY and request the issue of a COMPLETION CERTIFICATE.

26.5 The COMPANY shall, as soon as reasonably practicable either:

- (a) issue to the SUPPLIER a COMPLETION CERTIFICATE in respect of the whole or the relevant part of the delivery of the SERVICES; or
- (b) notify the SUPPLIER of any defects in the delivery of the SERVICES or the relevant part of same, arising from any default of the SUPPLIER.

Should the COMPANY fail to either issue a COMPLETION CERTIFICATE or notify the SUPPLIER of any defects within 30 days of receipt of such notice, then it shall be deemed as if a COMPLETION CERTIFICATE was issued by the COMPANY, such deemed completion to be effective as of the expiry of said 30 day period

26.6 Any notice issued under Clause 26.5 (b) shall include details of the specific nature of each defect and shall specify the part or parts of the PURCHASE ORDER containing the obligations which the SUPPLIER has failed to meet.

The SUPPLIER shall on receipt of any such notice, promptly correct all defects. When it has completed such correction it shall notify the COMPANY in accordance with Clause 26.3.

26.7 In the event that the SUPPLIER fails to correct any defects in accordance with Clause 26.6, the COMPANY may undertake the SUPPLIER's responsibilities in respect of such defects. In this event the COMPANY shall



be entitled to recover from the SUPPLIER all costs incurred by the COMPANY in carrying out such responsibilities.

- 26.8 On completion of the SERVICES or any portion thereof, the SUBCONTRACTOR shall without delay clear and remove all equipment and materials provided by the SUBCONTRACTOR together with any debris, thereby leaving the WORKSITE in a clean, clear, safe and tidy condition.

### 27. DEFECTS CORRECTION

- 27.1 The SUPPLIER warrants and guarantees that it has performed and shall deliver the GOODS and SERVICES in accordance with the provisions of the PURCHASE ORDER, and that the PERMANENT WORK will be free from defects.

- 27.2 In the event that the COMPANY notifies the SUPPLIER of any delivery defect in the GOODS and SERVICES prior to or subsequent to the DELIVERY DATE or the COMPLETION DATE in accordance with Clause 26 and within a 12 month period following the DELIVERY DATE or the COMPLETION DATE, or any alternative period specified in the GCC APPENDIX or elsewhere, the SUPPLIER shall, subject to the operational requirements of the COMPANY and to the provisions of Clause 27.3, carry out all works necessary to correct any defects arising from any default of the SUPPLIER GROUP at no additional cost to the COMPANY.

In the event that any of the work is re-performed, rectified or replaced by the SUPPLIER under the provisions of this Clause 27.2, this Clause 27.2 shall apply to the portion so re-performed, rectified or replaced. A further defects correction period of 12 months or any alternative period specified in the GCC APPENDIX or elsewhere in respect of such work, shall commence on the date upon which such re-performance, rectification or replacement was completed in accordance with the PURCHASE ORDER provided that the cumulative defects correction period shall not exceed 24 months or alternatively any period stated in the GCC APPENDIX or elsewhere.

- 27.3 The COMPANY may decide that the carrying out by the SUPPLIER of work necessary to correct defects will be prejudicial to its interests. In such cases the COMPANY may undertake the SUPPLIER's responsibilities described in Clause 27.2. The COMPANY shall notify the SUPPLIER in such cases and shall be entitled to recover from the SUPPLIER all additional costs reasonably incurred by the COMPANY as a direct result of carrying out such responsibilities.

For the purpose of Clauses 27.2 and 27.3 the SUPPLIER shall not be liable to the COMPANY for the costs of helicopter transport of personnel between the shore-based heliport and offshore or for the costs of offshore accommodation and messing.

### 28. TERMINATION

- 28.1 The COMPANY shall have the right by giving notice to terminate all or any part of the content or the entirety of the PURCHASE ORDER at such time or times as the COMPANY may consider necessary for any or all of the following reasons:

- (a) to suit the convenience of the COMPANY; or
- (b) subject only to Clause 28.2 in the event of any default on the part of the SUPPLIER; or
- (c) in the event of the SUPPLIER becoming bankrupt or making a composition or arrangement with its creditors or a winding-up order of the SUPPLIER being made or (except for the purposes of amalgamation or reconstruction) a resolution for its voluntary winding-up being passed or a provisional Liquidator, Receiver, Administrator or Manager of its business or undertaking being appointed or presenting a petition or having a petition presented applying for an administration order to be made or possession being taken by or on behalf of the holders of any debenture secured by a Floating Charge of any property comprised in or subject to the Floating Charge, or any equivalent act or thing being done or suffered under any applicable law.

- 28.2 In the event of default on the part of the SUPPLIER and before the issue by the COMPANY of an order of termination of all or any part of the PURCHASE ORDER, the COMPANY shall give notice of default to the SUPPLIER giving the details of such default. If the SUPPLIER upon receipt of such notice does not commence and thereafter continuously proceed with action satisfactory to the COMPANY to remedy such default the COMPANY may issue a notice of termination in accordance with the provisions of Clause 28.1.

- 28.3 In the event of the COMPANY giving the SUPPLIER notice of termination of all or any part of the PURCHASE ORDER, such notice shall become effective on the date specified therein (or in the absence of any specified date at the date of receipt of the notice) whereupon the SUPPLIER shall immediately:



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- (a) cease performance of the delivery of the GOODS and SERVICES or such part thereof as may be specified in the notice;
- (b) allow the COMPANY or its nominee full right of access to the WORKSITE to remove and/or take over delivery or the relevant part of the GOODS AND SERVICES so far completed together with all materials and equipment which are the property of the COMPANY;
- (c) assign to the COMPANY, or its nominee, to the extent desired by the COMPANY all or the relevant parts of the rights, titles, liabilities and third party purchase orders relating to delivery of the GOODS and SERVICES which the SUPPLIER may have acquired or entered into;
- (d) except as required under Clause 28.3 (b), remove all the equipment or materials, of the SUPPLIER from the WORKSITE or the relevant part thereof is being performed unless otherwise instructed by the COMPANY.

Within 30 days of the effective date of termination the SUPPLIER shall deliver to the COMPANY all the relevant parts respectively of the TECHNICAL INFORMATION and originals, copies and reproductions of all drawings, specifications, requisitions, calculations, programme listings, erection plans, schedules, computer tapes, discs and other essential recording matter and all other data and documents prepared by the SUPPLIER or any SUB-SUPPLIER.

In the event of termination under Clause 28.1 (b) or Clause 28.1 (c) the COMPANY shall have the right to obtain completion of the PURCHASE ORDER or any relevant part by other sources of supply.

- 28.4 In the event of termination under Clause 28.1 (a) the SUPPLIER shall be entitled to payment for the part of the GOODS and SERVICES performed in accordance with the PURCHASE ORDER together with such other payments and fees as may be set out in there or, in the absence of such provisions, such reasonable costs as agreed between the PARTIES at the time of termination.
- 28.5 In the event of termination in accordance with Clause 28.1 (b) the SUPPLIER shall be entitled to payment only or the part of the GOODS and SERVICES performed in accordance with the PURCHASE ORDER. Any additional costs reasonably incurred by the COMPANY as a direct result of such termination shall be recoverable from the SUPPLIER.
- 28.6 In the event of termination of all of the requirements of the PURCHASE ORDER in accordance with Clause 28.1 (b) or Clause 28.1(c) the following conditions shall apply:
- (a) the SUPPLIER shall cease to be entitled to receive any money or monies on account of the PURCHASE ORDER until the expiration of the Defects Correction Period specified in Clause 27 (assuming that the COMPLETION DATE in respect of the whole of the requirements would have been the date specified in the PROGRAMME) and thereafter until the costs of COMPLETION and all other costs arising as a result of the SUPPLIER's default or other events giving rise to the termination have been finally ascertained;
  - (b) thereafter and subject to any deductions that may be made under the provisions of the PURCHASE ORDER the SUPPLIER shall be entitled to payment only for the part of the GOODS and SERVICES delivered in accordance with the PURCHASE ORDER up to the date of termination; and
  - (c) any additional costs reasonably incurred by the COMPANY as a direct result of the SUPPLIERS default or other events giving rise to termination shall be recoverable from the SUPPLIER.
- 28.7 (a) In the event of termination of the PURCHASE ORDER the rights and obligations of the PARTIES included in the following Sections and Clauses shall remain in full force and effect:
- (i) Section I - Form of Agreement;
  - (ii) Section II (a) - Conditions of PURCHASE ORDER Clauses 4, 5, 8, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38 and 39;
  - (iii) Such additional Clauses and Special Conditions of PURCHASE ORDER (if any) as are set out in the ADDITIONAL CONDITIONS, the GCC APPENDIX or the body of the PURCHASE ORDER.
- (b) In the event of termination of all or any part of the PURCHASE ORDER the following will apply:
- (i) the whole of the PURCHASE ORDER shall remain in full force and effect in connection with the performance of the portion of the PURCHASE ORDER which has not been terminated.
  - (ii) The provisions of Clause 28.7 (a) shall apply to confirm the Sections and Clauses which will remain in full force and effect in connection with the portion of the PURCHASE ORDER which has been terminated.





## 29. AUDIT AND RECORD KEEPING

29.1 During the course of delivery and for a period ending 2 years after the SCHEDULED COMPLETION DATE, the COMPANY or its duly authorised representative shall have the right to audit at all reasonable times and, upon request, take copies of all of the SUPPLIER's records (howsoever stored), books, personnel records, accounts, correspondence, memoranda, receipts, vouchers and other papers of every kind relating to:

- (a) all invoiced charges made by the SUPPLIER on the COMPANY; and
- (b) any provision of this PURCHASE ORDER under which the SUPPLIER has obligations the performance of which is capable of being verified by audit.

In this respect the COMPANY shall not be entitled to investigate the make-up of rates and lump sums included in the PURCHASE ORDER except to the extent necessary for the proper evaluation of any VARIATIONS.

29.2 The SUPPLIER shall co-operate fully with the COMPANY and/or its representatives in the carrying out of any audit required by the COMPANY. The COMPANY will conduct any audit in a manner which will keep to a reasonable minimum any inconvenience to the SUPPLIER.

29.3 The SUPPLIER shall obtain equivalent rights of audit to those specified above from all SUB-SUPPLIERS and will cause such rights to extend to the COMPANY.

29.4 The PARTIES shall keep all documents and data, howsoever stored, related to this PURCHASE ORDER for a period of 6 years after the SCHEDULED COMPLETION DATE.

## 30. LIENS

30.1 The SUPPLIER shall not claim any lien or attachment on the GOODS or on any property of the COMPANY in the possession of the SUPPLIER or at the WORKSITE.

30.2 Without prejudice to any other provisions of this Clause, the SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY from and against all liens or attachments by any SUB-SUPPLIER in connection with or arising out of the PURCHASE ORDER.

30.3 The SUPPLIER shall immediately notify the COMPANY of any possible lien or attachment which may affect proper delivery and completion of the GOODS and SERVICES or any part thereof.

30.4 If at any time there is evidence of any lien or attachment to which, if established, the COMPANY or its property might be subjected, whether made by any persons against the SUPPLIER or made by any SUB-SUPPLIER against the COMPANY, then the COMPANY shall have the right to withhold and/or set off or otherwise recover from the SUPPLIER such sum of money as will fully indemnify the COMPANY against any such lien or attachment.

30.5 Before withholding any payment due to the SUPPLIER in accordance with Clause 30.4, the COMPANY shall give the SUPPLIER a reasonable opportunity to demonstrate that the purported lien or attachment is either unenforceable or is covered by the provisions of a security to the reasonable satisfaction of the COMPANY.

30.6 For the purpose of this Clause reference to the COMPANY shall include its AFFILIATES and references to the SUPPLIER shall include its AFFILIATES.

## 31. BUSINESS ETHICS

31.1 Both PARTIES shall uphold the highest standards of business ethics in the performance of the PURCHASE ORDER. Honesty, fairness and integrity shall be paramount principles in the dealings between the PARTIES.

31.2 Neither PARTY shall knowingly involve itself in any business in connection with, or use information arising from, the PURCHASE ORDER, in any manner which conflicts with the interests of the other PARTY.

## 32. ANTI-BRIBERY AND CORRUPTION

32.1 Each PARTY warrants and represents that in negotiating and concluding the PURCHASE ORDER it has complied, and in performing its obligations under the PURCHASE ORDER it has complied and shall comply, with all APPLICABLE ANTI-BRIBERY LAWS.

32.2 The SUPPLIER warrants that it has an ABC PROGRAMME setting out adequate procedures to comply with APPLICABLE ANTI-BRIBERY LAWS and that it will comply with such ABC PROGRAMME in respect of the PURCHASE ORDER.



- 32.3 In addition and subject to Clause 29, on provision of no less than 30 days' formal notice, the COMPANY or its duly authorised representatives shall have the right to audit, at its own cost, the existence, content and implementation of the SUPPLIERS ABC PROGRAMME, but such right shall not include access to only those documents that are legally privileged or which enjoy statutory protection.
- 32.4 Where it is legally able to do so, and subject to a request by a COMPETENT AUTHORITY not to notify, each PARTY shall notify the other in writing immediately upon whichever is the earlier of:
- (a) becoming aware of any investigation or proceedings initiated by a COMPETENT AUTHORITY relating to an alleged breach of APPLICABLE ANTI-BRIBERY LAWS by either PARTY or any member of its GROUP in connection with the PURCHASE ORDER; or
  - (b) having a reasonable belief that either PARTY or any member of its GROUP may have breached APPLICABLE ANTI-BRIBERY LAWS in connection with the PURCHASE ORDER.
- The affected PARTY shall use reasonable efforts to keep the other PARTY informed as to the progress and findings of such investigation or proceedings, the details of any measures being undertaken by the affected PARTY to respond to the alleged or potential breach and the remedial measures that are being or will be implemented to prevent such conduct in the future.
- 32.5 (a) Subject to the remaining provisions of this Clause 32.5, in the event that the COMPANY has a reasonable belief that the SUPPLIER has breached Clause 32.1, the COMPANY may give formal notice of its intention to suspend payments under the PURCHASE ORDER to the SUPPLIER giving the basis of such reasonable belief. If within 7 days of receipt of such formal notice the SUPPLIER neither responds with information reasonably satisfactory to the COMPANY to refute such belief nor commences and continues with action reasonably satisfactory to the COMPANY to remedy such suspected breach of Clause 32.1, the COMPANY may, by the provision of formal notice, suspend with immediate effect any payments due to the SUPPLIER.
- (b) The COMPANY shall not be entitled to suspend payment for sums due and are in accordance with the PURCHASE ORDER that the SUPPLIER can reasonably substantiate as not being connected with the suspected breach.
  - (c) In the event of any such suspension, the COMPANY and the SUPPLIER shall meet at not more than 7 day intervals with a view to agreeing an appropriate course of action during the period of suspension.
  - (d) On expiration of the longer of a 3 month period or the period stated in the GCC APPENDIX or elsewhere, the COMPANY shall, unless otherwise agreed, either:
    - (i) within 30 days make full payment of any sums retained pursuant to this Clause 32.5 which are otherwise due; or
    - (ii) if its reasonable belief remains, within 30 days serve formal notice that the PURCHASE ORDER is terminated pursuant to this provision.
- 32.6 In the event of termination in accordance with Clause 32.5 (d) (ii) the following conditions shall apply:
- (a) subject to the remaining provisions of this Clause 32.6, the PURCHASE ORDER is deemed to have been terminated in accordance with Clause 28.1(b), but Clause 28.2 is not applicable;
  - (b) subject to paragraph Clause 32.6 (c), the SUPPLIER shall be entitled to payment only for GOODS and SERVICES completed in accordance with the PURCHASE ORDER up to the date of termination;
  - (c) the SUPPLIER shall not be entitled to payment for any sums connected with the possible breach of APPLICABLE ANTI-BRIBERY LAWS (including those retained under Clause 32.5(a));
  - (d) subject to the COMPANY being able to evidence that a breach of Clause 32.1 has occurred, the COMPANY shall be entitled to receive from SUPPLIER any additional costs reasonably incurred by the COMPANY as a result of a breach by the SUPPLIER;
  - (e) payment shall be made to the SUPPLIER within 30 days of the date of termination of the PURCHASE ORDER;
  - (f) provided that the COMPANY had a reasonable belief at the time of issuing the termination notice that the SUPPLIER breached APPLICABLE ANTI-BRIBERY LAWS, the COMPANY shall not be in breach of the PURCHASE ORDER in issuing a termination notice even if it transpires that the SUPPLIER is not in breach of APPLICABLE ANTI-BRIBERY LAWS; and





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- (g) notwithstanding any other provision of the PURCHASE ORDER, if at a subsequent date it is determined or agreed that the SUPPLIER did not breach Clause 32.1, the SUPPLIER shall be entitled to payment for all sums retained under Clause 32.6(c) (including those retained under Clause 32.5(a)).

## 33. GENERAL LEGAL PROVISIONS

### 33.1 Waiver

None of the terms and conditions of the PURCHASE ORDER shall be considered to be waived by either PARTY unless a waiver is given in writing by one PARTY to the other. No failure on the part of either PARTY to enforce any of the terms and conditions of the PURCHASE ORDER shall constitute a waiver of such terms.

### 33.2 Retention of Rights

Subjects to the provisions of Clauses 21 and 35, unless otherwise specifically stated in the PURCHASE ORDER, both PARTIES shall retain all rights and remedies, both under the PURCHASE ORDER and at law, which either may have against the other.

The SUPPLIER shall not be relieved from any liability or obligation under the PURCHASE ORDER by any review, approval, authorisation, acknowledgement or the like, by the COMPANY.

### 33.3 Suppliers Affiliates

Any limitation of liability given by the COMPANY to the SUPPLIER under the PURCHASE ORDER shall include the AFFILIATES of the SUPPLIER.

### 33.4 Independence

The SUPPLIER shall act as an independent supplier with respect to delivery of the GOODS and SERVICES and shall exercise control, supervision, management and direction as to the method and manner of obtaining the results required by the COMPANY.

### 33.5 Law and Language

The PURCHASE ORDER, and any non-contractual rights and obligations arising out of or in connection with it and its subject matter, shall be governed and construed in accordance with LOCAL LAW. The PURCHASE ORDER, and any non-contractual rights and obligations arising out of or in connection with it and its subject matter and subject to the provisions of Clause 36, shall be subject to the exclusive jurisdiction of LOCAL LAW Courts.

The ruling language of the PURCHASE ORDER shall be the English Language.

### 33.6 Notices

All formal notices in respect of the PURCHASE ORDER shall be given in writing and delivered by hand, by fax, by courier or by first class post to the relevant address specified in the PURCHASE ORDER and copied to such other office or offices of the PARTIES as shall from time to time be nominated by them in writing to the other.

Such notices shall be effective:

- (a) if delivered by hand, at the time of delivery;
- (b) If sent by fax, on the first working day at the recipient address following the date of sending;
- (c) if sent by first class post or courier, 48 hours after the time of posting.

Subject to any specific administrative instructions agreed between the PARTIES, any standard business correspondence associated with the PURCHASE ORDER and/or the GOODS and SERVICES can be made by either e-mail, fax or letter.

### 33.7 Status of COMPANY

The COMPANY enters into the PURCHASE ORDER for itself and notwithstanding the above:

- (a) the SUPPLIER agrees to look only to the COMPANY for the due performance of the PURCHASE ORDER and nothing contained in the PURCHASE ORDER will impose any liability upon, or entitle the SUPPLIER to commence any proceedings against any party other than the COMPANY; and
- (b) the COMPANY is entitled to enforce the PURCHASE ORDER on behalf of the COMPANY GROUP as well as for itself. For that purpose the COMPANY may commence proceedings in its own name to enforce



all obligations and liabilities of the SUPPLIER and to make any claim which any member of the COMPANY GROUP may have against the SUPPLIER; and

- (c) All losses, damages, costs (including legal costs) and expenses recoverable by the COMPANY pursuant to the PURCHASE ORDER or otherwise shall include the losses, damages, costs (including legal costs) and expenses of the COMPANY and its AFFILIATES except that such losses, damages, costs (including legal costs) and expenses shall be subject to the same limitations or exclusions of liability as are applicable to either PARTY under the PURCHASE ORDER. For the avoidance of doubt any and all limitations of the SUPPLIER's liability set out in the PURCHASE ORDER shall represent the aggregate cumulative limitation of the liability of the SUPPLIER to the COMPANY and its AFFILIATES.

### 33.8 Entire Agreement

The PURCHASE ORDER constitutes the entire agreement between the PARTIES hereto with respect to the delivery and completion of the GOODS and SERVICES and supersedes all prior negotiations, representations or agreements related to the PURCHASE ORDER, either written or oral. No amendments to the PURCHASE ORDER shall be effective unless evidenced in writing and signed by the PARTIES to the PURCHASE ORDER.

### 33.9 Mitigation of Loss

Both PARTIES shall take all reasonable steps to mitigate any losses resulting from any breach of PURCHASE ORDER by the other PARTY.

### 33.10 Invalidity and Severability

If any provision of this PURCHASE ORDER shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of this PURCHASE ORDER and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The PARTIES agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

## 34. LIQUIDATED DAMAGES

- 34.1 If the SUPPLIER fails to complete any of the significant events listed in the GCC APPENDIX or in the body of the PURCHASE ORDER as appropriate in the time specified and/or fails to achieve the requirements of the PURCHASE ORDER in respect of any other time-based items, the SUPPLIER shall be liable to the COMPANY for Liquidated Damages. The amounts of such Liquidated Damages shall be 1% of the PRICE per week up to a limit of 10% of the PRICE, or alternatively the value given in the GCC APPENDIX or in the body of the PURCHASE ORDER as appropriate.
- 34.2 Payment of such Liquidated Damages shall be the sole and exclusive financial remedy of the COMPANY in the event of SUPPLIER's failure under Clause 34.1 above. However, payment of Liquidated Damages shall not relieve SUPPLIER of its obligation to perform the PURCHASE ORDER and shall not limit SUPPLIER's liability with respect to any other provision of this PURCHASE ORDER.

## 35. LIMITATIONS OF LIABILITY

### 35.1 Limitation of Liability

- (a) Limitation of Liability before the COMPLETION DATE

Before the COMPLETION DATE, the SUPPLIER's total cumulative liability to the COMPANY arising out of or related to the performance of the PURCHASE ORDER shall be limited to the sum specified in the GCC APPENDIX or elsewhere, or in the absence of such sum the PRICE.

- (b) Limitation of Liability after the COMPLETION DATE

After the COMPLETION DATE, the SUPPLIER's total cumulative liability to the COMPANY arising out of or related to the performance of the PURCHASE ORDER shall be limited to the sum specified in in the GCC APPENDIX or elsewhere, or in the absence of such sum the PRICE.

Provided however, that: -

- (i) the above limitation under Clause 35.1 (a) shall not apply to any liabilities assumed by the SUPPLIER under Clause 27;



- (ii) the above limitations under Clause 35.1 (a) and Clause 35.1 (b) shall not apply to any liabilities assumed by the SUPPLIER under Clauses 17, 19, 22, 25 and 30 or to any indemnity given by the SUPPLIER under Clause 21; and
- (iii) the limitation under Clause 35.1 (b) shall not apply to any costs arising from any cause of action of the COMPANY notified to the SUPPLIER before the COMPLETION DATE.

### 35.2 Limitation Period

The SUPPLIER's liability under the PURCHASE ORDER shall cease at the end of the cumulative defects correction period given in Clause 27 or alternatively the period described in the GCC APPENDIX or elsewhere, provided, however, that the provisions of this Clause 35.2 shall not apply to any liabilities assumed by the SUPPLIER under Clauses 17, 19, 22, 25 and 30 or any indemnity given by the SUPPLIER under Clause 21.

### 35.3 Extent of Exclusion or Limitation of Liability

Any exclusion or limitation of liability under the PURCHASE ORDER shall exclude or limit such liability not only in PURCHASE ORDER but also in tort or otherwise at law.

### 35.4 Precedence

Subject to the provisions of Clause 23, this Clause 35 shall apply notwithstanding any provisions to the contrary elsewhere in the PURCHASE ORDER.

## 36. RESOLUTION OF DISPUTES

**36.1** Any dispute between the PARTIES in connection with or arising out of the PURCHASE ORDER or the delivery of the GOODS and SERVICES shall be resolved by means of the following procedure:

- (a) the dispute shall initially be referred, by means of a formal notice containing the information set out in Clause 36.5 and served in accordance with Clause 33.6, to the COMPANY REPRESENTATIVE and SUPPLIER REPRESENTATIVE who shall discuss the matter in dispute and make all reasonable efforts to reach an agreement;
- (b) if no agreement is reached within 4 weeks of the service of such formal notice under Clause 36.1(a), the dispute may be referred to two nominated Senior Managers of the PARTIES by formal notice from either PARTY, with one such person being nominated by the COMPANY and one by the SUPPLIER, who shall meet to discuss the matter in dispute within 2 weeks of the service of the notice under this Clause 36.1 (b);
- (c) if no agreement is reached within 4 weeks of the service of such formal notice under Clause 36.1(b), the dispute may be referred to two nominated Senior Executives of the PARTIES by formal notice from either PARTY, with one such person being nominated by the COMPANY and one by the SUPPLIER, who shall meet to discuss the matter in dispute within 2 weeks of the service of the notice under in this Clause 36.1 (c).

**36.2** If no agreement is reached within 4 weeks of the serving of the notice under Clause 36.1 (c), the PARTIES may attempt to settle the dispute by a form of Alternative Dispute Resolution to be agreed between the PARTIES.

**36.3** In the absence of any agreement being reached on a particular dispute within 4 weeks of the serving of a notice under Clause 36.1 (c), either PARTY may, subject to Clause 36.4, take appropriate action in the Courts to resolve the dispute at any time.

**36.4** It shall be a condition precedent to the referral of a dispute to the Courts under Clause 36.3 that the PARTY which intends to commence proceedings in relation to the dispute has used its reasonable endeavours to follow and complete the procedures set out in Clauses 36.1 (a), (b) and (c).

**36.5** Where any claim or counter claim in connection with or arising out of the PURCHASE ORDER is made, the PARTY making the claim or counter claim shall ensure that such claim or counter claim contains, without limitation, the following information:

- (a) a clear summary of the facts on which the claim or counter claim is based; and
- (b) the basis on which the claim or counter claim is made, including the principal contractual terms and/or statutory terms relied on; and
- (c) the nature of the relief claimed; and



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- (d) where a claim or counter claim has been made previously and rejected by the other PARTY, and the PARTY making the claim or counter claim is able to identify the reason(s) for such rejection, the grounds of belief as to why the claim or counter-claim was wrongly rejected.

**36.6** Whilst any matter or matters are in dispute, the SUPPLIER shall proceed with the delivery of the GOODS and SERVICES and both PARTIES shall comply with all the provisions of the PURCHASE ORDER.

### **37. HEALTH, SAFETY AND ENVIRONMENT**

**37.1** The COMPANY places prime importance on health, safety and environment (hereinafter "HS&E") issues and requires that the SUPPLIER GROUP subscribes to and actively pursues the highest standards of HS&E performance.

**37.2** The SUPPLIER shall take full responsibility for the adequacy, stability and safety of all its operations and methods necessary for the performance of the PURCHASE ORDER and shall keep strictly to any HSE requirements contained within the TECHNICAL INFORMATION or the PURCHASE ORDER.

**37.3** Failure to meet the HSE requirements in the PURCHASE ORDER or in the TECHNICAL INFORMATION or to satisfy the COMPANY's reasonable requirements with regard to the control of HS&E risks in any material respect will be regarded as due cause for the COMPANY giving notice to terminate all or any part of the PURCHASE ORDER in accordance with Clause 28.1 (b).

**37.4** The SUPPLIER shall co-operate with the COMPANY in providing an appropriate response to any emergency occurring at the WORKSITE and shall immediately take such action as may be necessary to protect life and make safe property where such is in imminent peril.

**37.5** The SUPPLIER will ensure that the GOODS will comply with the requirements of all applicable law and, to the extent that they contain toxic, corrosive or hazardous materials, the SUPPLIER will ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions.

**37.6** GOODS supplied under the PURCHASE ORDER, which are contaminated, at the time of delivery, shall be regenerated or disposed of by the SUPPLIER at their expense.

**37.7** When making delivery of the GOODS to COMPANY premises, the SUPPLIER shall do so in a safe, prudent and responsible manner consistent with its duty of care to its personnel, or those of its delivery agent, and shall obey all COMPANY site safety instructions without exception.

**37.8** The SUPPLIER must comply at all times with COMPANY directions, procedures and policies relating to occupational health, safety and security when performing any part of the SERVICES and/or delivery of the GOODS on premises owned, leased, controlled by, occupied by or under the direction of COMPANY.

**37.9** SUPPLIER personnel and vehicles shall not be mobilized or deployed unless they are in full compliance with any applicable COMPANY safety standards and procedures.

**37.10** All required Personal Protection Equipment including but not limited to hard hat, safety boots, safety glasses and work gloves to perform activities required under the PURCHASE ORDER or as required by the COMPANY shall be provided by the SUPPLIER at its own expense for all their personnel.

**37.11** The SUPPLIER acknowledges that any SUPPLIER driver/operator of any SUPPLIER vehicle is responsible for the safety of vehicle, the required lashing/load restraining belts as well as general load safety. The SUPPLIER driver/operator is required to carry out a mandatory full inspection of their vehicle and any load to ensure that it is safe and secure before beginning any journey.

**37.12** The SUPPLIER must have written permission from the COMPANY prior to mobilising personnel and or vehicles to or from Site.

**37.13** Any fines or warnings handed down to the SUPPLIER as a result of a CLIENT or regulatory non-compliance or road safety infringement will solely be the responsibility of the SUPPLIER.

### **38. WORKER WELFARE**

#### **38.1. Compliance**

- (a) The SUPPLIER undertakes, warrants and represents that in the performance of its obligations under the PURCHASE ORDER that it and each member of its own supply chain shall comply without limitation with all applicable laws, statutes, regulations and codes from time to time in force and where there is no conflict shall as a minimum comply with the WORKER WELFARE PROCEDURE.



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- (c) Any breach of clause by the SUPPLIER shall be deemed a fundamental breach of the PURCHASE ORDER and shall entitle the COMPANY to terminate and PURCHASE ORDER as applicable.

### 38.2. Due Diligence

- (a) The SUPPLIER represents and warrants that its responses to any COMPANY due diligence questionnaire is complete and accurate.
- (b) The SUPPLIER further represents and warrants that none of its officers, employees (or other persons associated with it) has been convicted or is in the process of being investigated for any offence involving slavery and human trafficking, bribery or any breach of competition law.
- (c) The SUPPLIER undertakes to implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains to ensure that there is no slavery or human trafficking, bribery or breach of competition law within its own supply chains.

### 38.3. Reporting

The SUPPLIER shall notify the COMPANY as soon as it becomes aware of any breach, or potential breach, of Clause 38.1 (a) by it or any member of its own supply chain.

### 38.4. Audit

The SUPPLIER shall:

- (a) allow the COMPANY a general right of audit, and for the avoidance of doubt, a particular right to audit any employee accommodation facility upon demand and to COMPANY access to their employees to be interviewed where deemed appropriate.
- (b) demonstrate they have taken reasonable and appropriate steps to ensure that their own supply chain meet the requirements of the WORKER WELFARE PROCEDURE.

### 38.5. Training

The SUPPLIER shall conduct a programme of regular training for its officers, employees, agents, subcontractors and other members of its supply chain to ensure compliance with the policies as set out in the WORKER WELFARE PROCEDURE.

### 38.6. Indemnity

The SUPPLIER shall indemnify and hold harmless the COMPANY, its Shareholders, Directors, officers and employees in full and on demand from and against any and all liabilities, claims, fines, demands, damages, losses, costs or expenses (including legal and other professional adviser's fees and disbursements), interest and penalties incurred by them howsoever arising whether wholly or in part resulting from a breach of the policies as set out in the WORKER WELFARE PROCEDURE.

### 38.7. Warranties

The SUPPLIER represents, warrants and undertakes that it conducts its business in a manner that is consistent with the policies as set out in the WORKER WELFARE PROCEDURE.

### 38.8 Precedence

This Clause 38 shall apply notwithstanding any provisions to the contrary elsewhere in the PURCHASE ORDER.

## 39. ADDITIONAL CONDITIONS

**39.1** The SUPPLIER and the COMPANY agree that any ADDITIONAL CONDITIONS set out in or appended to the PURCHASE ORDER will be treated as an integral part of the PURCHASE ORDER and that they shall, in the event of any conflict or ambiguity arising, take precedence over any General Terms and Conditions.

**39.2** The SUPPLIER and the COMPANY also agree that the terms and conditions of any CLIENT contract referred to in the PURCHASE ORDER or in the GCC APPENDIX they will also be treated as an integral part of the PURCHASE ORDER and that in the event of any conflict or ambiguity arising, shall take precedence over any applicable General or Special Terms and Conditions.