

GENERAL TERMS & CONDITIONS (GOODS AND/OR SERVICES)

1 Interpretation

1.1 Definitions: In these Conditions:

Affiliate means, in reference to a person, any other person that (a) directly or indirectly Controls or is Controlled by the first person; or (b) is directly or indirectly Controlled by a person that also directly or indirectly Controls the first person.

Anti-Corruption Laws means all Applicable Laws that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments or other benefits to, any Government Official or any other person, including the United States Foreign Corrupt Practices Act of 1977 and the United Kingdom Bribery Act 2010.

Applicable Laws means, where applicable to a person, property or circumstance, and as amended from time to time, (a) statutes (including regulations enacted under those statutes); (b) national, regional, provincial, state, municipal or local laws; (c) judgments and orders of courts of competent jurisdiction; (d) rules, regulations and orders issued by Authorities; and (e) regulatory approvals, permits, licences, approvals and authorisations.

Authorities means the government and any county, municipality, local government, or other political subdivision, instrumentality, ministry, or department which has jurisdiction over any part of the Contract, or any county, municipality, local government or other political subdivision thereof.

Background IP means the Intellectual Property existing prior to the Contract or generated other than in the course of providing the Services that the Supplier (or its licensors, as the case may be) make(s) available to the Customer in the course of providing the Services.

Business Day means Sunday to Thursday, excluding any public holidays in the Kingdom of Bahrain.

Commencement Date has the meaning given in clause 2.2.

Conditions means these terms and conditions as amended from time to time in accordance with clause 18.2.

Contract means the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Control, in relation to a body corporate (**A**), means the power of a person (**P**) to secure that the affairs of A are conducted in accordance with P's wishes (a) by means of the holding of shares or the possession of voting power in relation to A or any other body corporate or (b) as a result of any powers conferred by the articles of association or other document regulating A or any other body corporate.

Customer means Bapco Refining B.S.C.(c), a closed joint stock company incorporated in the Kingdom of Bahrain with Commercial Registration No. 48602-1 and having its registered office at Building 245, Road 4511, Block 945, Awali, Kingdom of Bahrain.

Customer Materials has the meaning set out in clause 5.3(i).

Deliverables means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including

drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location has the meaning given in clause 4.2(b).

DPL means the Personal Data Protection Law of the Kingdom of Bahrain promulgated by Law No. 30 of 2018.

Foreground IP means the Intellectual Property created, generated or developed by or on behalf of the Supplier in the provision of the Services (including any within the Deliverables).

Goods means the goods (or any part of them) set out in the Order.

Goods Specification means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

Government Official means (a) any official or employee of any government, or any agency, ministry or department of a government (at any level); (b) anyone acting in an official capacity for a government regardless of rank or position; (c) any official or employee of a company wholly or partially controlled by a government, a political party or any official of a political party; (d) any candidate for political office or any officer or employee of a public international organisation; and (e) any immediate family member (meaning a spouse, dependent child or household member) of any of the foregoing.

Group (with respect to a Party) means that Party and any Subsidiary or Holding Company, for the time being, of that Party.

Holding Company of any person means a person in respect of which that person is a Subsidiary.

HSSE means Health, Safety, Security and Environment.

HSSE Standards means (a) all HSSE policies, manuals, standards, rules and procedures, as communicated to the Supplier, by or on behalf of the Customer's Group, designed to manage HSSE risks during performance of the Contract; (b) all Applicable Laws relating to HSSE; and (c) any other rules and procedures (whether issued by the Customer's Group or otherwise) in force at a relevant Customer Group worksite at the time of performance of the Contract.

Intellectual Property means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Mandatory Policies means the Customer's business policies and codes listed in the Order and/or the Specification.

Order means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or in the Customer's written acceptance of the Supplier's quotation, as the case may be.

Parties means the Customer and the Supplier.

Personal Data has the meaning set out in the DPL.

Restricted Jurisdiction means a country or state that is subject to comprehensive trade sanctions or embargoes (as may be amended by the relevant Authorities from time to time).

Restricted Party means (a) any person targeted by national, regional or multilateral trade or economic sanctions under Applicable Laws; (b) any person designated on the United Nations Financial Sanctions Lists, European Union (EU) or EU Member State Consolidated Lists, US Department of the Treasury Office of Foreign Assets Control Lists, US State Department Non-proliferation Sanctions Lists or US Department of Commerce Denied Persons List, in force from time to time; or (c) any affiliates of such persons; and (d) any person acting on behalf of a person referred to in the foregoing.

Services means the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Specification means the Goods Specification and/or the Services Specification (as applicable).

Service Specification means the description or specification for Services agreed in writing by the Customer and the Supplier.

Subsidiary means an entity of which a person has direct or indirect control or owns directly or indirectly more than fifty percent (50%) of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise.

Supplier means the person or firm from whom the Customer purchases the Goods and/or Services.

Trade Control Laws means all Applicable Laws concerning the import, export or re-export of goods, software or technology or their direct product, including: (a) applicable customs regulations; (b) Council Regulation (EC) No. 428/2009; (c) any sanction regulations issued by the Council of the European Union; (d) the International Traffic in Arms Regulations; (e) the Export Administration Regulations; and (f) the regulations and orders issued or administered by the US Department of the Treasury, Office of Foreign Assets Control in relation to export control, anti-boycott and trade sanctions matters.

1.2 **Interpretation:** Unless a contrary indication appears, in these Conditions:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) references to clauses are to clauses of these Conditions;
- (c) references to a Contract include it as amended from time to time in accordance with its terms (and references in a Contract to these Conditions are to them as revised by the Customer from time to time);
- (d) clause and paragraph headings shall not affect the interpretation of the clause or paragraph;
- (e) a reference to one gender shall include a reference to the other genders;
- (f) words in the singular shall include the plural and vice versa;

- (g) references to any agreement or instrument shall include such agreement or instrument as it may from time to time be amended or supplemented in writing;
- (h) a reference to a Party includes its personal representatives, successors and permitted assigns;
- (i) a reference to a statute or statutory provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that statute or statutory provision;
- (j) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (k) a reference to **writing** or **written** includes fax but not email;
- (l) if a Party agrees to create security over property with “full title guarantee”, the Party is deemed to covenant that (i) it has the right to create security over the property concerned; (ii) it will at its own cost do all that it reasonably can to give the title or perfect the security interest which it purports to give or create; and (iii) the property is free from subsisting charges or encumbrances (whether monetary or not), and is free from any rights exercisable by third parties, other than any of which the Party could not reasonably be expected to be aware;
- (m) references to times are to Bahrain time and all periods of time shall be based on, and computed according to, the Gregorian calendar; and
- (n) any obligation on a person not to do something includes an obligation not to agree or acquiesce to that thing being done or to allow or permit that thing to be done.

2 Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier issuing written acceptance of the Order; or
 - (b) any act by the Supplier consistent with fulfilling the Order,
 at which point and on which date the Contract shall come into existence (the **Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4 All these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3 Supply of Goods

- 3.1 The Supplier shall ensure that the Goods:
 - (a) correspond with their description and any applicable Goods Specification;
 - (b) are of satisfactory quality (i.e. they meet the standard that a reasonable person would regard as satisfactory, taking account of any description of the Goods, the price (if relevant) and all the other relevant circumstances) and fit for any purpose held out by the Supplier or

made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;

- (c) where they are manufactured products, are free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to their manufacture, labelling, packaging, storage, handling and delivery.
- 3.2 The Supplier shall always ensure that it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4 Delivery of Goods

- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (c) it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the date specified in the Order or, if no such date is specified, then as soon as practicable the date of the Order;
 - (b) to the location specified in the Order or as instructed by the Customer before delivery (the ***Delivery Location***); and
 - (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Supplier:

- (a) delivers less than ninety-five percent (95%) of the quantity of Goods ordered, the Customer may reject the Goods; or
- (b) delivers more than one hundred and five percent (105%) of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.6 Title and risk in the Goods shall pass to the Customer on completion of delivery.

5 Supply of Services

5.1 The Supplier shall from the Commencement Date or (if later) the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (the **Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; and
- (k) comply with any additional obligations as set out in the Service Specification.

6 Customer remedies

6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
- (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Goods are not delivered by the applicable date or the Services are not performed by the applicable date, or both, the Customer may, at its option, claim or deduct one percent (1%) of the price of the Goods for each week's delay in delivery of the Goods and/or claim or deduct one percent (1%) of the price of the Services for each week's delay in performance of the Services, in each case by way of liquidated damages, until the earlier of delivery of the Goods or performance of the Services, as applicable, or termination or abandonment of the Contract by the Customer, up to a maximum of fifteen percent (15%) of the total price of the Goods (in respect of late delivery of the Goods) and up to a maximum of fifteen percent (15%) of the total price of the Services (in respect of late performance of the Services). These amounts are agreed between the Parties as a genuine pre-estimate of the loss the Customer incurs as a result of any delay, having regard to factors including (a) scheduled maintenance activities; (b) resource and production planning; and (c) delayed, reduced or cancelled services.

6.3 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
 - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.4 If the Supplier has supplied Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
 - (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
 - (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
 - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.3(d).
- 6.5 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.6 The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

7 Customer's obligations

- 7.1 The Customer shall:
- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services;
 - (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

8 Charges and payment

- 8.1 The price for the Goods:
- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
 - (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 8.2 The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed

- in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 8.3 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
 - 8.4 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within forty-five (45) days of the date it receives a correctly rendered invoice to a bank account nominated in writing by the Supplier.
 - 8.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
 - 8.6 If a Party fails to make any payment due to the other Party under the Contract by the due date for payment, then the defaulting Party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at the annual rate that is two (2) percentage points above the one (1)-month deposit rate published by the Central Bank of Bahrain on the date on which payment was due, but at two percent (2%) a year for any period when such rate is below zero percent (0%). Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
 - 8.7 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 9 Intellectual Property**
- 9.1 Nothing in the Contract shall affect the ownership of Background IP.
 - 9.2 Where the Supplier's Background IP forms part of any Deliverable supplied to the Customer in the course of providing the Services the Supplier shall grant the Customer a non-exclusive, perpetual, irrevocable royalty-free licence to use such Background IP as part of such Deliverable and for such purposes as are necessary to allow the use and exploitation of such Deliverable (or any part thereof) by the Customer and its successors and assigns.
 - 9.3 Subject to clause 9.1, the Deliverables and the Foreground IP shall be owned by the Customer and, accordingly, the Supplier assigns to the Customer absolutely, with full title guarantee and free from all third party rights (by way of present and future assignment) any and all such Foreground IP. The Supplier hereby waives, and shall procure the waiver, in favour of the Customer of all moral rights in the Deliverables.
 - 9.4 The Supplier acknowledges that as between the parties all title to and all Intellectual Property in any data, documents or other information provided to the Supplier by the Customer or on its behalf in connection with the Contract (the **Relevant Information**) shall remain with the Customer and the

Supplier shall only make use of the Relevant Information for such purposes as are strictly necessary for the Supplier to carry out its obligations under the Contract.

- 9.5 The Relevant Information shall remain at all times the property of the Customer but shall be at the Supplier's risk so long as it remains in its possession or control. At the conclusion or termination of the Contract the Supplier shall return the Relevant Information to the Customer.
- 9.6 All Customer Materials are the exclusive property of the Customer.

10 Indemnity

- 10.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
 - (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
 - (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 10.2 Unless otherwise agreed in writing the Customer will control any legal proceedings with third parties in respect of which it is being indemnified by the Supplier.
- 10.3 This clause 10 shall survive termination of the Contract.

11 Insurance

- 11.1 Without limiting the obligations or liabilities of the Supplier under the Contract, the Supplier shall, at its sole cost, obtain and maintain in full force and effect, or ensure the taking out and maintenance during the performance of its obligations under the Contract the following insurances which must be legal and valid in the Kingdom of Bahrain (or the countries where work is to be carried out):
- (a) Workmen compensation, health and/or all other social insurance, required for the Supplier's employees who are engaged in the work; and related employer's liability cover. The limit of cover should be as required to comply with applicable legal and statutory requirements.
 - (b) Adequate insurance covering loss of or damage to the Supplier's property, including construction equipment owned or hired, including property under the care, custody and control of the Supplier.
 - (c) Adequate motor vehicle liability insurance for owned or non-owned units in the care, custody or control of the Supplier; with limits of cover as required by applicable legal and statutory requirements. Where applicable, the motor vehicle liability policy should also include a 'tools of trade' extension.

- (d) Where applicable, adequate waterborne and airborne craft liability insurance for owned, non-owned, or hired craft, covering liabilities arising from the use and/or operation of the waterborne craft (including floating construction equipment) or the airborne craft (as the case may be) in the care, custody or control of the Supplier including liability for damage due to collision, pollution, piracy and removal of wreck. To avoid any doubt, liability cover for waterborne vessels should be through a P&I club within the International Group of P&I Clubs.
 - (e) Third party liability insurance covering bodily injury to or death of persons and/or loss of or damage to property of third parties. This policy should include a 'cross liability clause' and should also include cover for sudden and accidental pollution. The minimum amount of cover should be no less than BD 250,000 per occurrence and unlimited in the aggregate. If CAR cover as specified in clause 11.1(f) is taken out by the Supplier, the third party liability under this clause can be arranged as part of the CAR cover.
 - (f) Where applicable, Contractors All Risk (**CAR**) insurance covering loss or damage to the facility and associated property on the site, including equipment and materials furnished that are to be incorporated into the completed facility or temporary works and all risks of loss or damage associated with all start-up and testing activities prior to commercial operation. This insurance should include cover during the defects liability period as per such period under the Contract. The CAR cover should also include cover for "damage to principal's existing / surrounding property" with a limit of BD 250,000 each and every occurrence, unlimited in the aggregate.
 - (g) Where applicable, professional negligence indemnity insurance for a minimum amount of BD 250,000 each and every occurrence, such policy to be maintained in full force and effect throughout the currency of the Contract and for a period of not less than (3) years following termination.
 - (h) Any other insurance which the Supplier is obligated to carry under any applicable law, including but not limited to such insurance for or with respect to Supplier's personnel, third parties or Contract work.
- 11.2 The limits of cover specified above are the minimum requirements. For some specific contracts, depending on the size and complexity, the Customer may require higher limits of cover and/or additional covers. However, these will be communicated to the Supplier in advance.
- 11.3 Supplier shall ensure that all its sub-suppliers shall take out and maintain similar insurances as referred to above (wherever applicable, as the case may be).
- 11.4 All insurance policies taken out by the Supplier (or its sub-suppliers) shall include the Customer (including its personnel and affiliates) as co-insured, and shall include a waiver of subrogation in favour of the Customer (including its personnel and affiliates). This requirement will not be required for workmen compensation and employer's liability insurance and motor vehicle insurance.
- 11.5 The Supplier shall not commence any portion of the work until the applicable insurance to cover such works or portions of work that the Supplier is required to effect and maintain are in full force and effect and certificates of insurance and/or full policy documents have been provided to the Customer in a form satisfactory to it, evidencing that the insurance(s) required above are in full force and effect.
- 11.6 The insurances required to be arranged by the Supplier shall be arranged with reputable insurers with a minimum financial rating of BBB+ from one of the globally leading rating agencies. For policies arranged locally in Bahrain, these should be through a local insurance company registered with the Central Bank of Bahrain.

- 11.7 Not less than thirty (30) days' written notice shall be given to the Customer prior to any cancellation or restrictive modification of the insurance policies.
- 11.8 All insurances taken out by the Supplier (or its sub-suppliers) shall be considered as primary insurances in relation to the insurances arranged by the Customer.
- 11.9 If the required insurance is not obtained by the Supplier, the Customer may effect such insurance(s) and recover the relevant costs from the Supplier.

12 Compliance with Applicable Laws etc.

- 12.1 Applicable Laws: The Supplier will comply with Applicable Laws in the performance of the Contract and will notify the Customer of any material breaches.

12.2 Anti-Corruption Laws

- (a) The Supplier represents that, in connection with the Contract and related matters (i) it is knowledgeable about Anti-Corruption Laws applicable to the performance of the Contract and will comply with those laws; and (ii) the Supplier Group has not made, offered, authorised or accepted, and will not make, offer, authorise or accept any payment, gift, promise or other advantage, whether directly or through any other person, to or for the use or benefit of any Government Official or any other person where that payment, gift, promise or other advantage would comprise a facilitation payment or violate the relevant Anti-Corruption Laws.
- (b) The Supplier will immediately notify the Customer if the Supplier receives or becomes aware of any request from a Government Official or any other person that is prohibited by the preceding paragraph.
- (c) The Supplier affirms that no person in the Supplier Group is a Government Official or other person who could assert illegal influence on behalf of any member of the Customer's Group. If a person in the Supplier Group becomes a Government Official, the Supplier will promptly notify the Customer and remove that individual from performance in connection with the Contract at the Customer's request.
- (d) The Supplier will maintain adequate internal controls and procedures to ensure compliance with Anti-Corruption Laws, including the ability to demonstrate compliance through adequate and accurate recording of transactions in its books and records.
- (e) The Customer will have the right to confirm compliance with Anti-Corruption Laws and record keeping by audit. The Supplier will keep books and records available for audit while the Contract is in effect and thereafter for five (5) years following termination of the Contract.
- (f) The Supplier will indemnify, release, save, defend and hold harmless the Customer's Group for any claims, losses, damages, costs (including legal fees) and expenses arising out of the Supplier's breach of Anti-Corruption Laws or any related undertakings under this Clause 12.
- (g) A breach of Anti-Corruption Laws by the Supplier (or third parties that the Supplier has retained in connection with the Contract) in connection with the performance of its duties and obligations shall always be deemed a material breach and shall entitle the Customer to terminate the Contract for good cause with immediate effect. If the Customer has reason to believe that a material breach under this Clause 12.2 has occurred, the Supplier shall cooperate fully and in good faith in order to determine whether a material breach has occurred.

12.3 Export and Trade Controls

- (a) The Supplier will comply with, all applicable Trade Control Laws and will provide the Customer with necessary data to comply with Trade Control Laws.
- (b) The Supplier will ensure that, except with the prior written consent of the Customer (i) any Customer Materials or other materials, equipment, services or facilities provided by the Customer to the Supplier to perform the Contract are not exported, provided or made available to any Restricted Jurisdiction or Restricted Parties; (ii) Supplier personnel with access to the Customer Group's technical information, information technology resources (including the Customer Group's infrastructure) or Customer Group worksites are not Restricted Parties or nationals of a Restricted Jurisdiction; and (iii) the Supplier will not utilise subcontractors that are Restricted Parties.

12.4 Personal Data Protection: The Parties may provide each other with Personal Data in the course of the performance of a Contract, the processing and transfer of which will be done in accordance with Applicable Data Protection Law. Each Party is a data controller in respect of the Personal Data.

12.5 HSSE

- (a) In performing the Contract at Customer Group worksites or any other location specified in the HSSE Standards, the Supplier will at all times comply with all applicable HSSE Standards.
- (b) The Supplier will cause Supplier personnel to take precautions necessary to comply with HSSE Standards. The Customer may require the Supplier to remove, at the Supplier's cost, any Supplier personnel from any Customer Group worksite or from the performance of the Contract, for violation, in the Customer's opinion, of HSSE Standards. In such event, the Supplier will provide a suitable replacement for any such Supplier personnel within a reasonable time and at no additional cost to the Customer.
- (c) The Supplier is responsible for the adequacy, stability, and safety of all its operations and methods necessary for the performance of the Contract at all worksites. The Supplier is solely responsible for determining the nature and scope of HSSE risks associated with the performance of the Contract and for managing those risks.
- (d) Where performance of the Contract requires HSSE accreditations, the Supplier will satisfy all requirements for the accreditation prior to commencement of performance and will keep its accreditations in good standing.
- (e) The Supplier will take all reasonable precautions to protect the environment during necessary actions in its performance of the Contract to minimise any adverse impact to the environment, including the surface, subsurface, sea, air, animal life, plant life, other natural resources and property, and to prevent any breach of any Applicable Laws.
- (f) The order of priority for such necessary actions by the Supplier will be: the protection of life, the environment, then property.
- (g) The responsibilities of the Supplier include the prevention of nuisance to any third party or pollution caused by Supplier Equipment, whether in the possession of the Customer or not, as well as the protection of wildlife, streams, rivers, roads, bridges, and neighbouring property.
- (h) The Supplier will comply with and implement the environmental protection rules and regulations issued by the Bahrain Government and the Supreme Council for Environment

of the Kingdom of Bahrain. Where the rules and regulations specify more than one standard with which Supplier must comply, the highest of those standards will apply.

- (i) The Supplier will dispose of produced water, effluents, chemicals, spent catalysts, hazardous or toxic wastes, and other by-products, or liquid or solid wastes resulting from the performance of the Contract in an environmentally sound manner and in accordance with all Applicable Laws.
- (j) The Customer may suspend the performance of the Contract at any time if the Bahrain Government requires suspension due to any breach by Supplier of its obligations relating to health, safety, or the protection of the environment, and that breach threatens the health or safety of any person, or the environment in Bahrain.

12.6 Customs Procedures

- (a) When applicable, the Supplier will apply to the relevant customs authorities for applicable available relief for the export of items required for the Contract.
- (b) Where items are sold to the Customer in connection with the performance of the Contract, the Supplier will take all steps reasonably necessary to enable the Supplier to obtain the maximum benefits in terms of reliefs and will pass all such benefits in full to the Customer.
- (c) The Customer and the Supplier will each develop with government authorities, customs procedures for their respective export to an offshore location or vessel from which exploration or exploitation of oil or gas is carried out and for their re-import from an offshore location or vessel from which exploration or exploitation of oil or gas is carried out under the Contract.
- (d) The Customer and the Supplier will each be accountable for compliance with customs procedures based on each Party being a customs authorised trader in possession (not ownership) of the items subject to customs control at any given time.
- (e) The Supplier will pay when due, all import and export taxes and duties on items required for the Contract and imported or exported by the Supplier. The Supplier will be responsible for ensuring that it holds the necessary import and export licences issued by the relevant authorities prior to the commencement of performance of the Contract.

13 Confidentiality

- 13.1 Each Party undertakes that it shall not at any time during the Contract and for a period of two (2) years after its termination, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party, except as permitted by clause 13.2.
- 13.2 Each Party may disclose the other Party's confidential information:
 - (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under the Contract. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this clause 13; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 13.3 Neither Party shall use the other Party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

14 Data Protection

- 14.1 Unless circumstances otherwise require, the Customer shall be treated, for the purposes of the DPL, as if it were the data controller of any Personal Data given to the Supplier. To the extent that the Supplier processes Personal Data as part of the provision of Services it shall do so in accordance with this clause 14.
- 14.2 The Supplier shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of the Contract and in accordance with the Customer's instructions from time to time and shall not process the Personal Data for any other purpose. The Supplier shall keep a record of any processing of Personal Data it carries out on behalf of the Customer.
- 14.3 The Supplier shall promptly comply with any request from the Customer requiring the Supplier to amend, transfer or delete the Personal Data.
- 14.4 If the Supplier receives any access request, complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to either Party's compliance with applicable data protection laws and/or principles, it shall immediately notify the Customer and it shall provide the Customer with full co-operation and assistance in relation to any such complaint, notice or communication.
- 14.5 The Supplier shall promptly inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted or unusable other than as a result of the Customer's fault. The Supplier shall restore such Personal Data at its own expense.
- 14.6 The Supplier shall:
- (a) process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments; and
 - (b) take appropriate technical and organisational measures against the unauthorised or unlawful processing of the Personal Data and against the accidental loss or destruction of, or damage to, the Personal Data to ensure the Customer's compliance with the seventh data protection principle.
- 14.7 The Supplier shall notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of the Personal Data.
- 14.8 The Supplier hereby indemnifies and shall keep the Customer indemnified against all losses, claims, damages, costs and expenses that the Customer may suffer or incur arising out of the Supplier's use and/or processing of Personal Data.

15 Termination

- 15.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
 - (i) there is a change of Control of the Supplier; or

- (ii) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - (iii) the Supplier commits a breach of clause 18.4.
 - (b) for convenience by giving the Supplier three (3) months' written notice.
- 15.2 Without affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- (a) the other Party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within seven (7) days after being notified in writing to do so;
 - (b) the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
 - (c) the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

16 Consequences of termination

- 16.1 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables, whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 16.2 Termination or expiry of the Contract shall not affect the Parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 16.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

17 Notices

- 17.1 A notice or other communication (each a **notice**) given to a Party under or in connection with the Contract shall be (a) in writing and in English; (b) sent by email, letter or fax; (c) signed by or on behalf of the Party giving it; and (d) marked for the attention of the person and sent to the (email) address or fax number specified in the relevant Order (or to such other (email) address, fax number or person as that Party may notify to the other in accordance with the provisions of this clause 17).
- 17.2 A notice properly prepared and addressed in accordance with this clause 17 will only be effective:
- (a) if by email, when actually received in readable form;
 - (b) if by letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post in an envelope with postage prepaid; or
 - (c) if by fax, when received in legible form.

17.3 Any notice which becomes effective, in accordance with clause 17.2, after 3:30 p.m. in the place in which the Party to whom the relevant notice is sent has its address for the purposes of the Contract shall be deemed only to become effective on the following day.

17.4 This clause 17 does not apply to the service of process in any legal action or proceedings.

18 General

18.1 Agency/partnership: Nothing in the Contract shall create, or be deemed to create, a joint venture, partnership or the relationship of principal and agent between the Parties. Except as expressly authorised in the Contract, neither Party has any authority to act, make representations or bind or contract on behalf of the other Party.

18.2 Amendment/variation: No amendment or variation of the Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

18.3 Assignment/subcontracting

(a) The Supplier shall not assign, sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of the Contract without the prior consent in writing of the Customer. If the Supplier sub-contracts any of its obligations under the Contract, every act or omission of the sub-contractor shall for the purposes of the Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Customer as if such act or omission had been committed or omitted by the Supplier itself.

(b) The Customer may at any time transfer, assign, novate, sub-contract or otherwise dispose of the whole or any part of its rights and obligations under the Contract (i) to an Affiliate without the consent of the Supplier by giving written notice to the Supplier; or (ii) to any other person with the prior consent in writing of the Supplier (not to be unreasonably withheld, delayed or conditioned). The Supplier agrees to carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal.

18.4 Compliance: In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes, regulations and codes from time to time in force and the Mandatory Policies.

18.5 Costs: The Parties shall each bear their own legal costs and expenses in connection with the drafting, negotiation and execution of the Contract.

18.6 Counterparts: The Contract may be executed in any number of counterparts. Once it has been executed and each Party has executed at least one counterpart, each counterpart will constitute a duplicate original copy of the Contract. All the counterparts together will constitute a single agreement. The transmission of an executed counterpart of the Contract (but not just a signature page) by e-mail (such as in PDF or JPEG) will take effect as the delivery of an executed original counterpart of the Contract. If that method of delivery is used, each Party will provide the other Party with the original of the executed counterpart as soon as possible.

18.7 Entire agreement

(a) The Order, the Specification, these Conditions and the Mandatory Policies together constitute the entire agreement between the Parties relating to the subject matter of the Contract and supersede any previous oral or written understanding, commitments, contracts or representations relating to the subject matter of the Contract. To the fullest extent permitted by law, all terms, warranties or conditions implied by law or by custom or course of dealing are also excluded.

- (b) Subject to clause 18.7(a), each Party agrees that in entering into the Contract it has not relied on any representation, warranty, collateral contract or other assurance (except those expressly set out in the Contract) made by or on behalf of the other Party before the signature of the Contract. Each Party waives all rights and remedies that, but for this clause 18.7(b), might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
 - (c) Nothing in this clause 18.7 limits or excludes any liability or remedy for fraud.
- 18.8 Force majeure: If and to the extent that either of the Parties (the **Affected Party**) is directly or indirectly hindered or prevented, due to circumstances not reasonably foreseeable and not within its reasonable ability to control, from performing any of its obligations under the Contract (except a payment obligation) and promptly so notifies the other Party, giving full particulars of the circumstances in question, then the Affected Party shall be relieved of liability to the other for failure to perform such obligations, but shall nevertheless use its best endeavours to resume full performance without avoidable delay, and pending such resumption shall permit and shall use its best endeavours to facilitate any efforts that the other Party may make to procure alternative supplies or services. If the force majeure event hinders or prevents the Affected Party's performance of its obligations for a continuous period of more than thirty (30) days, the other Party may terminate the Contract with immediate effect by giving written notice to the Affected Party.
- 18.9 Further assurance: Each Party undertakes, at the request of the other, to sign all documents and do all other acts promptly, and use commercially reasonable efforts to procure that a third party promptly signs all documents and does all other acts, that may be necessary to give full effect to the Contract.
- 18.10 Records and inspection: The Supplier shall during the term of a Contract and for a minimum of six (6) years after it has expired or terminated maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 18.11 Remedies cumulative: The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law or equity. Any right or remedy may be enforced separately or concurrently with any other right or remedy.
- 18.12 Severance: If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision pursuant to this clause 18.12 shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18.13 Successors and assigns: The Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns and references to a Party include its successors and permitted assigns.
- 18.14 Survival: Without prejudice to clause 16.3, the rights and obligations of the Parties under clauses 10, 11, 13, 14.8, 18 and 19 shall survive the expiry or termination of the Contract and such obligations shall continue until fully and finally discharged.

18.15 Third party rights: A person who is not a Party shall not have any rights to enforce any term of the Contract.

18.16 Waiver: A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

19 Governing law and dispute resolution

19.1 Governing law: The construction, validity and performance of the Contract and all non-contractual obligations arising from or connected with the Contract shall be governed by the laws of the Kingdom of Bahrain.

19.2 Dispute resolution: Any controversy or claim arising out of or in connection with the Contract (including any question regarding its existence, validity, breach or termination) or any non-contractual obligation arising out of or in connection with the Contract shall be determined by arbitration administered by the Bahrain Chamber for Dispute Resolution (the **BCDR**) in accordance with its Arbitration Rules (the **Rules**) from time to time in force. In this regard:

- (a) The number of arbitrators shall be one (1) unless either Party asserts the amount in controversy exceeds five million US dollars (USD \$5,000,000) or equivalent, when the number of arbitrators will be three (3) with each Party appointing one arbitrator and the two so appointed appointing a third.
- (b) The place of arbitration shall be Manama, Bahrain (BCDR premises).
- (c) The language of the arbitration shall be English.
- (d) The arbitrators are not authorised, except with the prior consent of both Parties, to appoint an expert pursuant to Article 25 of the Rules or otherwise. The arbitrators may be addressed by experts appointed on behalf of each Party. Unless otherwise agreed, the number of experts who may be appointed by each Party to represent it in the arbitration shall be limited to three (3).
- (e) The arbitral award shall be final and binding on the Parties and in lieu of any other remedy and no appeal or challenge on grounds of nullity shall lie to the courts of Bahrain or to any other judicial authority.