CONDITIONS OF CONTRACT

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SECTION 1

GENERAL PROVISIONS

1 DEFINITIONS

"Acceptance Certificate" means the certificate to be issued by the Company in accordance with Art. 22.4 when the Work (including all work necessary to complete all Minor Outstanding Items and all Guarantee Work) has been completed in accordance with the Contract.

"Affiliate" means with respect to any specified person, any other person that, directly or indirectly, controls, is controlled by or is under common control with such specified person and "Affiliates" shall be construed accordingly. For the purposes of this definition, "control" means the direct or indirect beneficief ownership of more than fifty per cent (50%) of the issued share capital, stock or other participating interest or the legal power to direct or cause the direction of the general management, of the company, partnership or other person in question, and "controlled" shall be construed accordingly. [redacted]

"Appendices" mean the following:

(a) Appendix A: Scope of Work

(b) Appendix B: Compensation

(c) Appendix C: Contract Schedule

(d) Appendix D: Administration Requirements

(e) Appendix E: Company's Documents

(f) Appendix F: Contractor's Documents

(g) Appendix G: Company's Obligations

(h) Appendix H: Subcontractors

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(j) Appendix J: Standard Performance and Guarantee Bond

(k) Appendix K: Form of Novation

(l) Appendix L: Parent Company Guarantee

(m) Appendix M: Local Requirements

(n) Appendix N: ECA Financing Requirements

"Applicable Laws" means any act, statute or piece of legislation; any executive or royal order or decree; any delegated or subordinate legislation, order, statutory instrument, rules or regulations; any judgement or order of a court of competent jurisdiction; any administrative act or decision of a Public Authority (including the terms of any Permit) having legally binding effect; any codes or guidance having legally binding effect, irrespective of whether the same are

applicable at a local, regional, federal, national or supranational level, including but not limited to all applicable Polish legislation (including applicable European Union legislation), which are applicable to the performance of the Contract, the Work, the Deliverables and/or the Project.

"Bank Confirmation Letter" means the signed and dated bank confirmation letter substantially in the form set out in Annex 2 to Appendix N.

"**Company**" is defined in the Form of Contract.

"**Company Contract Liability Limit**" is as defined in Art. 31.7.

"**Company Group**" means:

(a) the Company; and the successors in title and all Affiliates of such entities;

(b) the Company's contractors, service providers and suppliers and sub-contractors, sub-service providers and sub-suppliers of any tier (but excluding any member of the Contractor Group);

(c) the employees (including consultants and agency personnel), agents, directors and officers of the entities referred to in (a) and (b), above,

all if and to the extent they are participating in the Project.

"**Company's Documents**" mean the documents listed in Appendix E (*Company's Documents*), as may be added to or revised in accordance with Art. 8.1.

"**Company's Materials**" mean all equipment and/or materials to be supplied by the Company, in accordance with Appendix G (*Company's Obligations*) and which are to be incorporated in the Contract Object.

"**Company's Representative**" means the person who at any time is appointed in accordance with Art. 4.1 to act on behalf of the Company.

"**Completion**" means when the whole of the Work has been completed by the Contractor in accordance with the Contract, any other requirements for Completion stated in the Contract have been met and "Completed" shall be construed accordingly.

"**Completion Certificate**" means the certificate issued by the Company in accordance with Art. 19.3 when the Work has achieved Completion.

"**Contract**" means the Form of Contract, these Conditions of Contract and the Appendices.

"**Contract Date**" means the date of the Form of Contract.

"**Contract Liability Limit**" is as defined in Art. 31.1.

"**Contract Object**" means the object, to be delivered by the Contractor in accordance with Contract as detailed in Appendix A (*Scope of Work*).

"**Contract Price**" means the contract price set out in Appendix B (*Compensation*) as may be adjusted in accordance with the Contract.

"**Contract Schedule**" means the contract schedule set out in Appendix C (*Contract Schedule*), as varied in accordance with the provisions of the Contract.

"**Contractor**" is defined in the Form of Contract.

"**Contractor's Documents**" means the documents set out on in Appendix F (*Contractor's Documents*).

"**Contractor's Equipment**" means all plant, facilities, temporary structures and accommodation equipment, machinery, tools, apparatus, temporary works, materials, supplies, appliances or things of every kind used in connection with the Contractor's performance of the Work, but which are not intended to become a part of the Contract Object (excluding any equipment to be provided by the Company pursuant to Art. 8.5(a)).

"**Contractor Group**" means:

(a) the Contractor and all its Affiliates;

(b) the Contractor's contractors, service providers and suppliers and sub-contractors, sub-service providers and sub-suppliers of any tier; and

(c) the employees (including consultants and agency personnel), agents, directors and officers of the entities referred to in (a) and (b), above,

all if and to the extent they are participating in the performance of any part of the Work and/or the performance of the Contractor's obligations under the Contract.

"**Contractor's Representative**" means the person who at any time is appointed in accordance with Art. 4.1 to act on behalf of the Contractor.

"**Cost**" means all expenditure reasonably incurred (or to be incurred) by the Contractor, including overheads but not profit.

"**Cyber Incident**" means any actions by the Contractor, through the use of computer networks, that may result in breaches of, and/or unauthorized access to, the Company's confidential information, Company's software or any other data systems used for, or in relation to, the Contract.

"**Defect**" means a defect, failure, fault or error in the Deliverables (unless and to the extent the Contractor demonstrates such defect, failure or fault is not due to a failure of the Deliverables to comply with the requirements of the Contract) and "Defective" shall be construed accordingly.

"**Delay Liquidated Damages**" means the amounts payable in accordance with Art. 23.1 to Art. 23.8 and Appendix B (*Compensation*).

"**Deliverables**" means the Contract Object, all Final Documentation, any other documentation and other items which the Contractor is obliged to deliver under the Contract.

"**Delivery**" means when the Contract Object or a Unit (as the case may be) achieves the criteria stated in Appendix A (Scope of Work) necessary for delivery to be achieved (excluding any Minor Outstanding Items) and the Contract Object or Unit (as the case may be) otherwise has been completed, has passed the tests specified in the Contract and is ready for delivery; and Deliver and Delivered shall be construed accordingly.

"**Delivery Certificate**" means a document issued by the Company in accordance with Art. 19.2 when the Contract Object or a Unit has been Delivered.

"**Delivery Date**" means the date set out in the Contract Schedule (as varied in accordance with the provisions of the Contract) by which the Contract Object or a Unit must have achieved Delivery.

"**Dispute(s)**" means any claim (including any demand or cause of action), dispute or difference of any kind whatsoever arising between the Parties in connection with or arising out of the

Contract, including any question regarding its existence, validity or termination or the execution of the Work, whether during the progress of the Work or after completion and whether before or after the abandonment or breach of the Contract or the termination of the Contract.

"**Disputed Variation Order**" means a document issued by the Company in response to a Variation Order Request.

"ECA" means any export credit agency providing support to the Project.

"**ECA Credit**" means the loan facilities provided under the Financing Agreements supported or having the benefit of political risk and/or comprehensive risk cover from each or some of the ECAs.

"**ECA Credit Table**" has the meaning given to it in Appendix N.

"**Early Works**" means any part of the Work performed by the Contractor before the Contract Date.

"**Eligible Goods and Services**" means equipment, materials or services incorporated in the Work which qualify for financing support from ECAs under their respective financing regulations and content guidelines.

"**Equator Principles Requirements**" means the requirements in relation to the standards, action plan and social and environmental management system entitled "An industry approach for financial institutions in determining, assessing and managing environmental and social risk in project financings" adopted by financial institutions for project financing and published on the website http://www.equator–principles.com, as the same may be revised, amended or supplemented from time to time.

"**Final Documentation**" means the documents as stated in Appendix A (*Scope of Work*) and Appendix D (*Administration Requirements*).

"**Financing Agreements**" means any credit agreement, reimbursement agreement, note purchase agreement, disbursement agreement, trust indenture, lease agreement or other document under which the Company obtains financing for the purposes of the implementation of the Project.

"Financial Close" means the date on which all of the conditions precedent to the initial funding under the Financing Agreements have been satisfied or waived.

"Force Majeure" means an exceptional occurrence beyond the control of the Party affected, to the extent that the affected Party can show:

(a) that it, exercising Good Industry Practice, could not have Foreseen, and additionally, could not have avoided or overcome the occurrence or its consequences, and

(b) that such occurrence has not arisen due to a breach of the Contract or negligence on the part of the affected Party or its subcontractors and is not otherwise substantially attributable to the affected Party.

Force Majeure may include, but is not limited to, exceptional occurrences of the kind listed below, so long as the conditions referred to in (a) and (b) of this definition are satisfied:

(i) war (whether declared or not), invasion, acts of foreign enemies, hostilities;

(ii) rebellion, act of terrorism, revolution, insurrection, military or usurped power, or civil war;

(iii) riot, civil commotion, blockage, embargo or sabotage, but not if solely related to the employees of: (i) the affected Party; (ii) the Company Group (where the Company is affected by Force Majeure); (iii) the Contractor Group (where the Contractor is affected by Force Majeure) and/or (iv) the affected Party's subcontractors;

(iv) expropriation or compulsory acquisition, or seizure of the Deliverables or Materials by a Public Authority;

(v) radio-active contamination or ionising radiation, except as may be attributable to the Contractor's use of such radiation or radio-activity;

(vi) loss or damage to the Deliverables occurring from pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds, and

(vii) earthquake, tsunami or volcanic activity.

Notwithstanding the foregoing Force Majeure shall not include the following occurrences:

(A) any act, omission, failure or delay of any Subcontractor, unless itself caused by an event of Force Majeure;

(B) any shortage of subcontractors, labour or materials and/or Contractor's Equipment, unless itself caused by an event of Force Majeure;

(C) any strike, lock out or other industrial disturbance of the affected Party's employees and/or the employees of the affected Party's subcontractors, which are not part of a wider industrial dispute materially affecting employees of other businesses;

(D) any failure of either Party to make any payment of money in accordance with its obligations under the Contract;

(E) any mechanical or electrical breakdown or failure of equipment, machinery or plant owned or operated by either Party, unless itself caused by an event of Force Majeure;

(F) any failure by a Party to obtain and/or maintain a Permit which it is its responsibility under the Contract to obtain and maintain;

(G) any inability to raise finance;

(H) risks which are expressly assumed by the Party which relies on the Force Majeure event;

(I) other than as stated in ((b)(vii)) above, adverse meteorological (including hurricanes), climatic, or hydrographic conditions, regardless of season or severity;

(J) an Insolvency Event being encountered by a Party or one of the Party's subcontractors; and/or

(K) change of economic, market, monetary or fiscal circumstance, which renders compliance with the terms of the Contract uneconomic or less financially viable.

"**Foreseeable**" means reasonably foreseeable on or before the Contract Date to a contractor exercising Good Industry Practice, and "Foreseen" shall be construed accordingly.

"**Form of Contract**" means the document to which these Conditions of Contract are attached.

"**Good Industry Practice**" means all of the following:

(a) good engineering practices and other practices, methods, equipment and procedures usually employed in engineering, design, procurement, construction, operation and maintenance activities within the offshore wind power sector worldwide;

(b) the degree of skill, diligence, prudence and foresight which would reasonably be expected to be observed by a skilled, qualified and experienced international turnkey designer, engineer and contractor engaged in carrying out activities the same as or similar to the Work under the same or similar circumstances;

(c) Equator Principles Requirements (to the extent they apply to the Works);

(d) World Bank Standards; and

(e) to the extent any of the above standards is inconsistent (internally or with each other) the higher or best (as applicable) standard shall apply.

"**Guarantee Bond**" has the meaning given in Art. 20.5(d).

"**Guarantee Period**" and "**Guarantee Work**" have the meanings given to them in Art. 22.3.

"**Information Documents**" mean documents specifically identified as being "Documents for information" in Appendix E (*Company's Documents*).

"**Insolvency Event**" means a person:

(a) having any distress, execution, attachment or other process levied upon its property or assets and which materially affects such person's performance of the Contract;

(b) entering into or offering to enter into any arrangement, compromise or composition in satisfaction of its debts (excluding entering into a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction);

(c) without a declaration of solvency, passing a resolution or making a determination that it be wound up, a petition being presented to the court for its winding up or it having a winding up order made against it;

(d) having an application made to the court for an administration order against it or an administrator being appointed over it, or having appointed to it an administrative receiver or a receiver or manager of its undertaking, property or assets or any part of them;

(e) having a moratorium come into force in respect of it under the Insolvency Act 1986, or having a petition presented to the court for its bankruptcy or having a bankruptcy order made against it, or

(f) being the subject of any event which is analogous to any of the foregoing events in any applicable jurisdiction.

"**Intellectual Property Rights**" means rights and interests in trademarks, service marks, patents, designs, utility marks, copyrights, inventions, technology, trade secrets, database rights, utility models, confidential information, know-how or other intellectual property and/or

industrial property rights or any other rights of similar or equivalent effect anywhere in the world (whether in written form, or generated by or maintained on a computer or similar system or otherwise and whether registered or not and including pending applications to register such rights).

"**Key Personnel Liquidated Damages**" means the amounts payable in accordance with Art. 4.1(l) to Art. 4.1(n) and Appendix B (*Compensation*).

"**Key Subcontractors**" means contractors listed as such in Appendix H (*Subcontractors*).

"**Lenders**" means any bank, trust company, mortgage company, insurance company, real estate investment trust or other lending or financial institutions (including indirect lenders, shareholders of the Company or their Affiliates and loan participants), providing debt, equity, lease or bond financing or financial services or credit support or other credit enhancement for the Works including as the case may be any security agent, trustee or facility agent appointed by the Lenders and "Lender" means any of them.

"**Lenders' Direct Agreement**" means an agreement between each of the Parties and the Lenders substantially in the form of lenders' direct agreement set out in Annex 1 to Appendix N.

"**Lenders' Technical Adviser (Lenders' TA)**" means an engineering firm or independent technical person of recognised expertise appointed by the Lenders, notified to the Contractor by the Company".

"**Lien**" means any mortgage, lien, pledge, claim, charge, lease, easement, security interest or encumbrance of any kind.

"**Liquidated Damages**" or "**LDs**" means the amounts payable in accordance with Art. 4.1(l) to 4.1(n), Art. 10.4, Art. 23.1 to Art. 23.8 in the Conditions of Contract and as detailed in Appendix B (*Compensation*) and Appendix C (*Contract Schedule*).

"**Materials**" means all equipment and materials required for the Work.

"**Mechanical Completion**" means when a part of the Contract Object has been built, tested, inspected and documented in accordance with the Contract and achieves the mechanical completion criteria stated in Appendix A (Scope of Work).

"**Mechanical Completion Certificate**" means a document issued by the Company in accordance with Art. 19.1, when the Contract Object or a relevant part of the Contract Object has achieved Mechanical Completion.

"**Milestone**" means a particular part of the Work which is described as a Milestone in Appendix C (*Contract Schedule*).

"Milestone Completion" means when the whole of the Work for a Milestone has been completed by the Contractor in accordance with the Contract and the criteria set out in Appendix A (*Scope of Work*) and Appendix C (Contract Schedule) necessary for completion of a Milestone to be achieved (excluding any Minor Outstanding Items).

"**Milestone Completion Date**" means the date set out in the Contract Schedule (as varied in accordance with the provisions of the Contract) by which a particular Milestone must have been achieved.

"**Minor Outstanding Items**" means items of an administrative or unimportant nature which have not been completed in accordance with the Contract, but which (i) do not affect the safe, lawful and reliable testing, commissioning or commercial operation of the Contract Object or Unit (as appropriate), (ii) are not required by Applicable Laws or the Permits to be completed before the testing, commissioning or commercial operation of the Contract Object or Unit (as appropriate)

and (iii) do not, in the Company's reasonable opinion, when taken as a whole constitute significant uncompleted work.

"**Offshore Site**" is defined in Appendix A (*Scope of Work*).

"**Onshore Site**" means any site onshore where Work is being performed, including Yards (as defined in Appendix A (*Scope of Work*)).

"**Parent Company Guarantee**" has the meaning given in Art. 20.6(a).

"**Parties**" means the Company and the Contractor.

"**Performance Bond**" has the meaning given in Art. 20.5(a).

"**Permits**" means any permit (including work permits and visas), consent, approval, authorisation, agreement, no objection certificate, waiver or licence which must be obtained from any person (including both private persons and Public Authorities) in order for any part of the Work to be performed and for any goods to be transported, imported or exported.

"**Project**" means the development of the **[●]** offshore wind farm. (**[●]** means project).

"**Project Agreements**" means leases, crossing agreements, and all other existing and future agreements, contracts, and other documents, other than this Contract, relating to the Project to which the Company is party, including agreements with Public Authorities and those agreements listed in Appendix A (*Scope of Work*) and Appendix E (*Company's Documents*).

"Project Agreement Obligations" means the obligations in the extract from the Project Agreements set out in Appendix A *(Scope of Work)*.

"Public Authority" means any national, federal, regional, state, municipal or local government with jurisdiction over the performance of any obligations under the Contract or the Project, equipment used in performing the Work or the Contract Object, and any division, ministry, department, agency or other emanation of any of the same, including any court, commission, board, branch or similar authority and anybody empowered to grant, withdraw or determine the terms and conditions of any Permit.

"**Release of Liens Certificate**" has the meaning given in Art. 21.2.

"**Relied Upon Information**" means the data and information specifically identified as Relied Upon Information in Appendix E (*Company's Documents*).

"**Representative**" means either the Company's Representative or the Contractor's Representative, as the context requires.

"**Safety Liquidated Damages**" means the amounts payable in accordance with Art. 10.4.

"**Scope of Work**" means the scope of work set out in Appendix A (*Scope of Work*).

"**Security Trustee**" means any security trustee appointed by the Lenders pursuant to the Financing Agreements.

"**Site**" means the Offshore Site, Onshore Site and any other site where Work is being performed.

"**Specific Compliance Requirements**" means the separate document forming part of these Conditions of Contract which sets out compliance requirements.

"**Subcontract**" means any contract between the Contractor and Subcontractor for Subsupply.

"**Subcontractor**" means a person who is engaged by the Contractor subcontracted directly or indirectly (at any tier) for the supply of works, goods or services in connection with the Work.

"**Subsupply**" means the part of the Work to be performed by a Subcontractor.

"**Unit**" means each part of the Contract Object specified in Appendix A (*Scope of Work*) as a Unit (if any).

"**Variation**" means a variation to the Work (including an increase or decrease in the quantity, or a change in character, quality or kind of the Work), Scope of Work, Contract Schedule, the Company's Documents and/or the Company's obligations referred to in Art. 8.5, save that increases or decreases to the quantity of Work for which the Contractor is paid on a measured rates, norms and/or prices basis in Appendix B (*Compensation*) shall not be a Variation.

"**Variation Order**" has the meaning given in Art. 13.1.

"**Variation Order Request**" has the meaning given in Art. 17.1(b).

"**Work**" means all work which the Contractor must perform or cause to be performed in order to comply with its obligations under and in accordance with the Contract (including in respect of the Deliverables).

"**World Bank Standards**" means the environmental guidelines and occupational health and safety standards of the World Bank as in effect on the Contract Date, as the same may be revised, amended or supplemented from time to time.

2 INTERPRETATION AND CONTRACT DOCUMENTS

2.1 Interpretation of the Contract

In the Contract:

(a) words importing the singular shall include the plural and vice versa except where the context otherwise requires;

(b) the words "**include**" and "**including**" are to be construed without limitation;

(c) any reference to a "**person**" shall be construed as including reference to any individual, corporation, firm, partnership, joint venture, association, organisation, trust or Public Authority (in each case whether or not having separate legal personality);

(d) references to any Applicable Laws shall be treated as including reference to Applicable Laws as the same may be amended from time to time, or which may replace or consolidate the same, in each case whether such amendment, replacement or consolidation occurred before or after the Contract Date (but without prejudice to Art. 7.1(b) to 7.1(d));

(e) references to contracts, agreements and instruments concluded between the Company or the Company Group and any other person shall be treated as including reference to such contracts, agreements or instruments as amended, supplemented, substituted, novated or assigned from time to time;

(f) except where it is expressly stated to the contrary, any reference to: "**day**" means a calendar day (including Saturday, Sunday and holidays); "**week**" means any period of seven days and "**month**" means a calendar month of the Gregorian Calendar;

(g) all headings, titles and references thereto are included for ease of reference and shall not constitute a part of the Contract, nor affect its interpretation;

(h) a reference in the Contract to any article ("Article" or "Art.") is, except where it is expressly stated to the contrary, a reference to a such Article in these Conditions of Contract;

(i) references made in the Contract to the "Appendices" or an "Appendix" are references to the content of one or a number of the specific Appendices attached to the Form of Contract (including other documents or data referred to therein), as amended by any Variations made in accordance with the provisions of Art. 13 to Art. 17 and/or deviations approved by the Company in accordance with the procedure in Appendix D (*Administration Requirements*),

(j) provisions including the word "agree", "agreed" or "agreement" require the agreement or approval to be recorded in writing,

(k) references made in the Contract to codes and standards in accordance with which the Work is to be performed, the edition or version of such codes and standards specified in this Contract shall apply or, if no edition or version is specified, the most recent edition or version shall apply.

(l) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and

(m) references made in the Contract to "adjustment to the Contract Price" or phrases of similar import shall be construed as references to adjustments to the lump sums, rates, norms, prices and other things comprising the Contract Price as set out in Appendix B (*Compensation*).

2.2 Joint and Several liability of the Contractor

If the Contractor constitutes a joint venture, consortium or other unincorporated grouping of two or more persons:

(a) these persons shall be deemed to be jointly and severally liable to the Company for the performance of and discharge of all liabilities and obligations of the Contractor arising under or in connection with the Contract;

(b) these persons shall notify the Company of their leader who shall have authority to bind the Contractor and each other in respect of all matters arising in connection with the Contract; and

(c) the Contractor and each person comprising the Contractor hereby agree that none of them shall, without the prior written consent of the Company, remove or replace (or allow the removal or replacement) of any such person from the Contract nor undergo or permit a change in control in any person comprising the Contractor until issue of the Acceptance Certificate.

2.3 Status of the Contractor

(a) The Contractor shall not alter his composition or legal status without the prior consent of the Company (at its discretion); and

(b) The Contractor shall not, without the prior written consent of the Company (which may be given or withheld at the Company's sole discretion) undergo or permit a change in control until issue of the Acceptance Certificate.

2.4 Communications

The language of the Contract shall be English which shall be used in all communications, reports, documents, correspondence, drawings, specifications, calculations, as-built documentation and invoices between the Parties. The Contractor shall procure that the same obligation shall apply with regard to any contracts for the Subcontractors. If any documents, correspondence and/or communications exist in English and a language other than English, the English language version shall prevail.

2.5 Amendments to the Contract

(a) Any amendment to the Contract must be in writing, expressly state an intention to take effect as an amendment to the Contract and be duly executed by an authorised representative of each Party. To avoid doubt the provisions of this Art. 2.5 do not apply to Variation Orders.

(b) Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, dated and signed by the Representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived. Other than in the case of a waiver agreed in writing, dated and signed by a Party's Representative, no relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of the Contract operate as a waiver of any subsequent or continuing breach of the Contract.

(c) The Contractor agrees that he will not unreasonably withhold his consent to any amendment to this Contract which any Lender or other provider of funds or facilities in connection with the financing of the Project or prospective Lender or other provider of funds or facilities of the Project requires to be made to the Contract provided that in the case of a prospective Lender or other provider of funds or facilities no such amendment shall actually be made save to the extent that any such person in fact becomes a Lender or provider of funds or facilities and such amendment is required by such person in connection with the actual funds or facilities made available.

2.6 Priority of Documents

(a) Subject to the provisions of the remainder of this Art. 2.6, all documents comprising the Contract are intended to be read and construed as being mutually explanatory of each other. However, in the event of any inconsistency between the different documents comprising the Contract, they shall be given priority in the following order:

(i) the Form of Contract;

(ii) these Conditions of Contract, with the Specific Compliance Requirements and Appendix N (*External Financing*);

(iii) Appendix M (*Local Requirements*);

(iv) all Appendices, except Appendix N (*External Financing*), Appendix M (*Local Requirements*), Appendix D (*Administration Requirements*) and Appendix F (*Contractor's Documents*) in the order they are listed in the Definitions;

(v) Appendix D (*Administration Requirements*); and

(vi) Appendix F (*Contractor's Documents*).

(b) Notwithstanding the provisions of Art. 2.6(a), where there is a reference in the Contract to two or more standards of performance applying in the case of conflicting standards the higher standard shall always apply. Where the Contractor requests, the Company shall determine which of two incompatible standards is to be taken as the higher for the purposes of this Art. 2.6(b).

(c) If inconsistencies are discovered within the documents forming the Contract (or in other documents or data referred to within such documents) and this cannot be resolved by applying the order of priority or the highest standard as referred to in Art. 2.6(a) or 2.6(b) as applicable, the Party discovering it shall as soon as reasonably practicable notify the other Party. If requested by the Company, the Contractor shall as soon as reasonably practicable propose a resolution to any inconsistency within the documents forming the Contract. The Company shall issue to the Contractor an instruction as to how to resolve the inconsistency, which instruction

may give precedence to one provision in the Contract over another where the two are inconsistent.

2.7 Project Agreements and Project Agreement Obligations

(a) The Contractor confirms that it has reviewed the Project Agreement Obligations. The Contractor shall be deemed to be fully aware of the duties, obligations and liabilities of the Company specified in the Project Agreement Obligations.

(b) The Company shall provide the Contractor with any amendments or modifications which may be made to the Project Agreement Obligations, if, and to the extent relevant to, the Contractor's performance of its obligations under this Contract.

(c) If, on or after the Contract Date, the Company provides such additional Project Agreement Obligations to Contractor and/or the Company provides the Contractor with any amendments or modifications to the Project Agreement Obligations affecting the Contractor's performance of its obligations under this Contract, and as a result of which the Contractor is delayed in achieving any Milestone and/or incurs additional Costs, then the Contractor may, in accordance with Art. 12.2, claim:

(i) an adjustment to the Contract Schedule to reflect such delay; and/or

(ii) an adjustment to the Contract Price to reflect such additional Costs.

(d) The time period for submission of a Variation Order Request in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs under Art. 2.7(c), as referred to in Art. 17.1(b)(ii) shall be fourteen (14) days from the date the Contractor receives such additional or amended Project Agreement Obligations.

(e) The Contractor shall:

(i) carry out and complete the Work and otherwise perform the Contract so that no act, omission or default of the Contractor shall cause or contribute to any breach by the Company of any of the Project Agreement Obligations provided to the Contractor; and

(ii) assume and perform all of the obligations and comply with all of the conditions of the Project Agreement Obligations provided to the Contractor by the Company to be assumed, performed, observed and complied with insofar as they apply to the Work or any other obligation of the Contractor under the Contract.

(f) To the extent that any breach of any Project Agreement is caused by any default or negligent act or omission of both the Company and the Contractor, liability for such breach shall be apportioned between the Company and the Contractor to the extent that the default or negligent act or omission of the Company and the default or negligent act or omission of the Contractor in complying with the Project Agreement Obligation have each contributed to the breach of the Project Agreement.

(g) Without prejudice to any of the foregoing provisions of Art. 2.7, where any Project Agreement Obligation requires the Company to supply information concerning the Work (or any part thereof) to any third parties, the Contractor shall, in accordance with Art. 33, whenever requested by the Company, provide such relevant information reasonably requested by the Company in a timely manner, so as to enable the Company to comply with the Project Agreement Obligation concerned.

2.8 Compliance with the Contract

The Contractor shall promptly provide to the Company any information within the Contractor's possession, custody or control which the Company may reasonably require from time to time in order to verify the Contractor's compliance with the Contract.

2.9 Prior work

(a) Any Early Works by the Contractor in respect of the Project prior to the Contract Date (including under any agreement for Early Works) shall be deemed to have been carried out pursuant to, and shall be subject to the requirements of, the Contract and the warranties and undertakings set out in this Contract shall apply to such activities. This Contract will supersede and replace any contractual arrangement or otherwise between the Company and the Contractor in respect of the Early Works, or the Work, unless otherwise stated in the Contract.

(b) Payments by the Company of any amounts to the Contractor prior to the Contract Date shall be deemed to have been made on account of the Contract Price (such that the Contract Price shall be reduced by the total amount paid).

2.10 Cyber Security Incidents

(a) The Contractor shall implement appropriate measures to, maintain its equipment, systems, software, and interfaces to ensure that no viruses, tracking or other cookies, or any other harmful software are, or become, embedded in, or attached to, their systems in accordance with Good Industry Practice and Applicable Laws. The Contractor agrees that steps may be necessary to track and or remediate a cyber vulnerability and will provide to the Company all information and/or support that the Company may reasonably require to do so.

(b) The Contractor shall notify the Company of any Cyber Incident, as soon as practicable, or as required by Applicable Laws.

(c) The Contractor shall indemnify, defend and hold harmless the Company and its Affiliates from, and against all claims, suits, liabilities, losses, costs and expenses from its failure to comply with its cyber security obligations set forth in this Contract.

(d) The Contractor will ensure that each of its employees, agents and Subcontractors are aware of its commitments described herein and that Subcontractors undertake to enter into cyber security provisions no less stringent than those included in this Art. 2.10.

3 CONTRACT DATE

3.1 The Contract shall come into effect on the Contract Date.

3.2 The Company shall receive the executed Parent Company Guarantee and the Performance Bond within thirty (30) days after the Contract Date. Company shall not be obliged to make any payments under the Contract until such performance security is received.

3.3 The Parties shall put into effect the insurance policies which each Party is required to put into effect pursuant to Art. 30. Evidence of such insurance shall be provided to the other Party within thirty (30) days after the Contract Date

3.4 The Company may, after the Contract Date, request the Contractor to provide to the Company, at its own cost, the number of Legal Opinions required by the Company to adequately address the required subject matter of the Legal Opinion, such Legal Opinions may include (but shall not be limited to):

3.4.1. a Legal Opinion from the Contractor's internal legal counsel (except where the Lenders do not accept such internal counsel, in which case, the legal opinion shall be

from external counsel) in a form and substance satisfactory to the Company and its Lenders, covering the capacity, power and authority of each entity forming the Contractor to enter into the Contract and the Direct Agreement; and

3.4.2. the Parent Company's internal legal counsel (except where the Lenders do not accept such internal counsel, in which case, the legal opinion shall be from external counsel) in a form and substance satisfactory to the Company and its Lenders, covering the capacity, power and authority of the Parent Company to provide the Parent Company Guarantee and the legality, validity and binding nature of the Parent Company Guarantee,

each being a "Legal Opinion". The Legal Opinions referred to in this Article shall be provided by the Contractor as a condition precedent to any additional payment of any sum under the Contract.

When a Legal Opinion is issued by the Contractor prior to the Lenders being mandated, and the Company subsequently requires a new Legal Opinion to be issued for the benefit of the Lenders or following a refinancing, the Company shall be entitled to request the Contractor to reissue this Legal Opinion for the benefit of the Lenders, at the cost of the Company.

4 REPRESENTATIVES AND PERSONNEL OF THE PARTIES AND ACCESS ARRANGEMENTS

4.1 Representatives and Personnel

(a) Unless the Representatives are named in the Contract, then subject to Art. 4.1(c), each Party shall notify the other Party of its Representative at least fifteen (15) days prior to the Contract Date, , as well as a named deputy for their Representative. Each Party's Representative shall be deemed to have authority to act on that Party's behalf in all matters concerning the Contract and to receive all communications under the Contract on behalf of their appointing Party.

(b) A Representative or his deputy may delegate specific tasks to one or more persons appointed by him or revoke earlier delegations. In such case the other Party's Representative shall be notified of the authority given to or removed from such appointed person or persons and such delegation or revocation shall become valid when a copy thereof has been delivered to the other Party's Representative. Any act or exercise by any person to whom powers have been delegated pursuant to this Art. 4.1 in respect of such delegated powers, shall be deemed to be an act or exercise by the relevant Party's Representative.

(c) If the Company wishes to replace the person appointed as Company Representative, or restrict or modify the authority of the Company Representative under the Contract, the Company shall give the Contractor not less than five (5) days' notice of the replacement's name, address, duties and authority and the date of the appointment, or the restriction or modification in his authority as applicable;

(d) The Contractor shall not, without the Company's approval:

(i) appoint a Contractor Representative, if a Contractor's Representative is not named in the Contract; and/or

(ii) revoke the appointment of a Contractor's Representative; and/or

(iii) replace the Contractor's Representative; and/or

(iv) replace any persons appointed or to be appointed to key positions listed in Appendix D (*Administration Requirements*)**.**

(e) With any request, the Contractor shall submit the name and contact details of the proposed Contractor Representative, or the persons listed in Appendix D (*Administration Requirements*) and any further information the Company may require to consider the Contractor's request. The Company's approval shall not be unreasonably withheld (especially if in the case of death, long term illness, retirement or cessation of employment) and shall be deemed to have been given in relation to the appointment of individuals specifically named in Appendix D (*Administration Requirements*).

(f) The Contractor acknowledges that only the Company's Representative and his deputies shall be authorised to issue instructions to the Contractor on behalf of the Company under or in connection with the Contract. The Contractor shall inform the Company's Representative if other persons attempt to issue instructions to the Contractor on behalf of the Company and the Company shall not be bound by any such purported instructions.

(g) All notices, permissions, claims, instructions, consents, approvals, information and other communications given by the Contractor to the Company under the Contract shall be given to the Company's Representative.

(h) The Contractor shall at his own cost replace personnel who in the Company's opinion:

(i) conduct themselves in a manner which is prejudicial to, or does not comply with, safety, environmental or other regulations at Site;

(ii) persist in any misconduct or lack of care;

(iii) carry out duties incompetently or negligently; or

(iv) fails to conform with any provisions of the Contract.

(i) At the request of the Contractor, the Company shall provide its reasons for requesting any such replacement of personnel.

(j) If a person appointed to a key position listed in Appendix D (*Administration Requirements*) or a Contractor's Representative is removed from that position the Contractor shall be responsible for promptly engaging a replacement. The Contractor shall only appoint a replacement with a person of similar qualifications, skill and experience to the person being replaced. If any proposed replacement is not approved by the Company in accordance with Art. 4.1(d), the Contractor shall propose such further replacements until the replacement is approved by the Company.

(k) The Contractor shall ensure that:

(i) persons are appointed to the key positions listed in Appendix D (*Administration Requirements*), and commence performing services in connection with the Contract in relation to their respective positions, by the date specified in Appendix C (*Contract Schedule*), and for the duration of the Contract; and

(ii) persons who are appointed to the key positions listed in Appendix D (*Administration Requirements*) dedicate the working time specified in Appendix D (*Administration Requirements*) in respect of the relevant position to the Work and the Contract.

(l) If the Contractor fails to comply with its obligations in respect of person appointed as the Contractor's Representative and/or to a key position listed in Appendix D (*Administration Requirements*) as set out in Art. 4.1(j) or Art. 4.1(k)(ii), the Contractor shall be liable to pay or allow Key Personnel Liquidated Damages to the Company, for each individual breach.

(m) Key Personnel Liquidated Damages payable by the Contractor to the Company shall be paid within fourteen (14) days of the Company giving the Contractor a notice requiring payment.

Alternatively, the Company may elect to deduct any Key Personnel Liquidated Damages from any amount due or payable to the Contractor in respect of the Contract.

(n) The Parties agree that the Key Personnel Liquidated Damages are not a penalty and that they are reasonable and proportionate to protect the Company's legitimate interest in performance considering the losses likely to be suffered by the Company in the event of failure by the Contractor to comply with its obligations in respect of key personnel as set out in Art. 4.1(j) or Art. 4.1(k)(ii), and are not a penalty, however if, for any reason enforcement of any Key Personnel Liquidated Damages is prohibited, rendered void, invalid or unenforceable by any Applicable Laws or otherwise, then the Contractor shall nonetheless be liable to pay general damages in respect to the relevant breach and such general damages shall be limited to the amount of Key Personnel Liquidated Damages which would have been payable had they been enforceable.

4.2 Contractor's personnel

(a) The Contractor shall ensure that all of its personnel who have to perform their duties at Site are healthy, fit and suitable in every respect to perform the Work. The Contractor shall ensure that all of his personnel understand safety related notices, verbal instructions, and public announcements. The Contractor shall also ensure that its supervisory personnel have a good working knowledge of the English language.

(b) The Contractor shall always be fully responsible for the safety, security, health and welfare of its personnel, including payment of all expenses in connection with medical attention, treatment, examination, care, hospitalisation and ambulance transport as may be required for his personnel.

(c) The Contractor shall provide its personnel with all necessary personal safety equipment and protective clothing.

(d) Upon the outbreak of any strike involving any of the Contractor's or the Contractor's Subcontractors' personnel engaged in the Work, the Contractor shall forthwith give details thereof to the Company together with details of the steps being taken to settle the strike.

(e) All personnel employed by the Contractor for the Work shall, for the works which they are required to perform, be competent, properly qualified, skilled and experienced in their respective trades and occupations. The Contractor shall verify all relevant qualifications of the personnel to be appointed to the key positions listed in Appendix D (*Administration Requirements*) to the Company not less than seven (7) days prior to the personnel being engaged in the Work.

(f) The Contractor shall ensure that all employees of the Contractor and any Subcontractors engaged in the performance of the Work comply with Applicable Laws, including for the avoidance of doubt, immigration laws and where required are in possession of a valid work permit for the duration of the Contract. When requested, the Contractor shall provide any such documentation reasonably required, prior to the employees being engaged on the Work.

4.3 Access Arrangements

(a) The Company shall provide to the Contractor access to the Site(s) as may be required and at such times as may be required to perform the Work and in accordance with the procedure and subject to the limitations and restrictions specified in Appendix D (*Administration Requirements*) and in accordance with the Contract Schedule.

(b) The Contractor hereby acknowledges and agrees that:

(i) it may not be given exclusive access to or possession of the Site;

(ii) it shall be given access to the Company's Site in accordance with the procedure and subject to the limitations specified in Appendix D (*Administration Requirements*); and

(iii) any access rights conferred upon Contractor pursuant to the Contract shall not be construed in any way as conferring any right of ownership of the Site, upon the Contractor and the Contractor shall make no claims as a result of being given such access rights.

(c) The Contractor shall:

(i) comply with the requirements set out in Appendix A (*Scope of Work*) and the Contract Schedule to cooperate with the Company and other contractors; and

(ii) organise its operations to ensure that all activities on Site are carried out efficiently and without delay.

(d) To the extent stated in Appendix A (*Scope of Work*) or the Contract Schedule, or as otherwise requested by the Company, the Company is entitled to perform work or have other contractors perform work at the Site and the Contractor shall cooperate and coordinate with the Company and such other contractors.

(e) If and to the extent that the Company performs work or has other contractors perform work at the Site other than in accordance with Appendix A (*Scope of Work*) and the Contract Schedule, and as a result the Contractor is delayed in achieving any Milestone and/or incurs additional Costs, then the Contractor shall be entitled to, by using a Variation Order Request, subject to Art. 12.2, to:

(i) an adjustment to the Contract Schedule to reflect such delay; and/or

(ii) an adjustment to the Contract Price to reflect such additional Costs.

(f) The time period for submission of a Variation Order Request in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs under Art. 4.3(e)(e), as referred to in Art. 17.1(b)(ii), shall be three (3) days from the date the Contractor became aware that the Company has performed work or has had other contractors perform work on the Contract Object which was not in accordance with Appendix A (*Scope of Work*) or the Contract Schedule.

(g) If the progress of Work is, in the opinion of Contractor, prevented or delayed by the presence of the Company, the Company's Representative, a member of the Company Group or any third party authorised in writing by the Company, the Contractor shall immediately inform the Company of such prevention.

SECTION 2

PERFORMANCE OF THE WORK

5 OBLIGATIONS OF THE CONTRACTOR

5.1 The Contractor shall perform all Work, provide all Materials, personnel, goods, consumables, Contractor's Equipment and other things and services, whether of a temporary or permanent nature and whether explicitly identified in the Contract or which can be inferred from the Contract, as being required in and for the design, execution and completion of the Work and the satisfaction of the requirements of the Contract and shall remedy all Defects.

5.2 The Contractor shall, upon completion of the Work, provide a complete, functional and operating Contract Object which meets the requirements set out in the Contract and includes the procurement of all Materials and the performance of all work and services not specifically mentioned in the Contract but which can be reasonably inferred from the Contract as being required in a project of the size, nature and complexity of this Project for the proper performance and completion of the Work as if the Materials, work and services were expressly mentioned in the Contract.

5.3 The Contractor shall comply with the requirements set out in Appendix N (ECA Financing Requirements).

5.4 Obligations regarding performance of the Work

(a) The Contractor warrants and undertakes that it shall carry out and complete the Work, in accordance with:

(i) the requirements of the Contract;

(ii) the requirements of Applicable Laws and Permits;

(iii) the terms and conditions of any Project Agreement Obligations; and

(iv) Good Industry Practice.

such that the Deliverables when complete shall be fit for the purposes for which they are intended as evidenced by or reasonably to be inferred from the Contract.

(b) The Contractor shall comply with the Company's instructions in relation to the Work and the Contract.

(c) The Contractor warrants and undertakes that all Materials (excluding the Company's Materials) shall be new and unused, and the Work shall comply with all requirements necessary for maintaining the guarantees and warranties provided by Subcontractors supplying Materials. In particular, the Contractor shall ensure that all Materials incorporated as a part of the Contract Object shall be manufactured within 48 months directly preceding the date of the first generation of electricity, indicated in the Contract Schedule, with the use of Materials and that such Materials has not before been subject to depreciation within the meaning of the provisions on accounting by any entity. The Contractor shall provide the Company with the certificate confirming compliance with the above requirement before issuance of Completion Certificate.[1]

(d) Without limiting the Contractor's obligations under Art. 28, the Contractor shall take good care of the Contract Object and the Materials and shall ensure that these are kept in good order and

[1] This is based on the Polish laws and regulations applicable under the Offshore Wind Act

condition. The Contractor shall not be entitled to make temporary use of the Materials to be incorporated into the Contract Object, other than for fulfilling the Contract.

(e) The Contractor shall be responsible for the adequacy, stability and safety of all the Site operations, all methods of construction and of all the Work.

5.5 Marine Warranty Surveyor

(a) The Company will appoint a marine warranty surveyor (the "**Marine Warranty Surveyor**") to review all construction procedures related to any marine operations (including load out, sea fastening, transportation and offshore installation operations) forming part of the Work and to inspect the Contract Object, any Unit and Contractor's Equipment in order to issue the appropriate certificates of compliance with the relevant regulations and insurance policies and to the marine warranty standard in Appendix A (*Scope of Work*) and Appendix E (*Company's Documents*).

(b) The Contractor shall, and shall ensure that its Subcontractors, make available to the Marine Warranty Surveyor all necessary information, and allow full access and inspection by the Marine Warranty Surveyor of any part of the Contract Object and any other relevant Work undertaken by the Contractor or any Subcontractor as the Marine Warranty Surveyor may reasonably require from time to time in order to ensure insurance for the Project remains in place.

(c) The Contractor shall comply with the Marine Warranty Surveyor's requirements and recommendations.

(d) No approval, expression of satisfaction, comment, review, test, inspection or certificate made or given (or any failure to make or give or attend the same) by or on behalf of the Marine Warranty Surveyor, shall relieve the Contractor of any of its obligations, risks or liabilities under the Contract.

(e) The Contractor shall bear all costs associated with providing all necessary support services to the Marine Warranty Surveyor and complying with its requirements. The Contractor shall at its own cost and risk be fully responsible for obtaining all required certificates of approval from the Marine Warranty Surveyor for the Work and the Contractor shall be fully responsible for all consequences of delays in obtaining such certificates of approval.

5.6 Inspection

(a) The Parties agree that, notwithstanding anything to the contrary elsewhere in the Contract, the Contractor shall provide to the Lender's TA with any such safe access to the Deliverables and any site where Deliverables are delivered (or are to be delivered) or risk is transferred to the Company, as may be required to carry out any inspection pursuant to the Contract.

(b) The Parties agree that, notwithstanding anything to the contrary elsewhere in the Contract, the Lender's TA shall, acting reasonably, have access to the Contractor’s sites following prior written notice, for the purposes of auditing processes and management systems, monitoring the progress of the Works, and checking the conformance of the Works with the requirements of the Contract; and any inspection or monitoring of the Contractor's sites shall be reasonably coordinated between the Company, the Lender's TA and the Contractor to minimise any impact or disruption to the activities of the Contractor.

6 CONDUCT

6.1 The Contractor warrants and represents that it has fully complied with and shall during the carrying out and completion of its obligations under the Contract continue to fully comply with, the requirements and restrictions set out in the Specific Compliance Requirements.

6.2 The Contractor shall be responsible for the travel and immigration of all of the Contractor's and its Subcontractors' personnel, as required for the performance of its obligations under the Contract. The Contractor shall obtain all Permits required for these purposes.

7 CHANGE IN LAW, PERMITS AND PUBLIC AUTHORITY REQUIREMENTS

7.1 Change in Law

(a) The Contractor shall keep itself up to date and informed of any amendments, re-enactments or replacements or other changes to Applicable Laws. In carrying out its obligations under or arising out of the Contract, the Contractor shall comply with:

(i) all Applicable Laws which apply to the Contract, the Work and/or the Site; and

(ii) all Permits.

(b) Where there is a change to any Permits or Applicable Laws (including the introduction of new laws and the repeal or modification of existing laws) or to the way in which Public Authorities interpret or apply such Applicable Laws, after the Contract Date, which:

(i) necessitates a change to the Work or its execution, in order to achieve compliance with the Permits or Applicable Laws, which would not otherwise be required under the terms of the Contract and as a result of which the Contractor is delayed in achieving any Milestone and/or incurs additional Costs; and/or

(ii) has a beneficial effect on the Contractor's Costs or progress,

provided, in each case, that the adverse or beneficial effect on the Contractor's Costs as the case may be, exceeds EUR 50,000.

either Party may, using a Variation Order Request, claim an adjustment to the Contract Price and/or Contract Schedule reflecting the effect of such changes. In the case of a claim by the Contractor this shall be made in accordance with Art. 12.2. In the case of a claim by the Company the Company shall be entitled to determine a fair and reasonable adjustment to the Contract Price and/or Contract Schedule and the provisions of Art. 15.2 to Art. 15.5 and Art. 16.2 shall apply (*mutatis mutandis*) to such determination.

(c) The time period for submission of a Variation Order Request in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs due to a change as described in Art. 7.1(b), as referred to in Art. 17.1(b)(ii), shall be fourteen (14) days from the date the Contractor became aware, or should have become aware of such change.

(d) Notwithstanding the foregoing provisions of this Art. 7.1, neither Party shall be entitled to claim an adjustment to the Contract Price or Contract Schedule resulting from a change in the Applicable Laws or Permits which:

(i) occurs in a jurisdiction other than other than Poland;

(ii) was Foreseeable; or

(iii) relates to taxation or labour laws or the general conduct of a business.

7.2 Permits

(a) The Contractor shall in due time obtain and maintain all Permits necessary for the performance of the Work, other than those detailed in Art. 7.2(c).

(b) The Company shall provide any assistance reasonably requested by the Contractor as may be necessary to obtain the Permits listed in Art. 7.2(a). Such assistance, or lack thereof, shall not relieve the Contractor of its responsibilities under Art. 7.2(a).

(c) The Company shall in due time obtain and maintain the Permits if listed in Appendix E (*Company's Documents*) as being the responsibility of the Company.

(d) The Contractor shall provide any assistance reasonably requested by the Company as may be necessary to obtain such Permits. Such assistance, or lack thereof, shall not relieve the Company of its responsibilities under Art. 7.2(a).

(e) The Contractor shall comply with the Permits and shall carry out the Work so as not to put the Company in breach of any of the Permits. The Contractor shall notify the Company of any breach of the Permits as soon as the Contractor becomes aware of such breach.

(f) If the Contractor fails to comply with its obligations under Art. 7.2(a) or Art. 7.2(e), the Contractor shall forthwith, at its own expense, alter, repair or replace any affected Work or part thereof, and indemnify and hold the Company harmless against any fines and penalties incurred by the Company as a result of such failure.

7.3 Public Authority Requirements

The Contractor shall if required to do so by the Company, submit to the Company such information about the performance of the Work and/or the Contractor Group as the Company is obliged to submit to Public Authorities.

8 COMPANY'S DOCUMENTS, RELIED UPON INFORMATION, COMPANY MATERIALS, COMPANY'S OBLIGATIONS AND CONTRACTOR'S DOCUMENTS

8.1 Company's Documents

(a) In the event that errors, inaccuracies, inconsistencies or omissions within the documents forming the Contract, and as a result of which, the Contractor is delayed in achieving any Milestone and/or incurs additional cost, which is notified:

(i) within a period of sixty (60) days after the Contract Date, the provisions of Art. 13 to Art. 17 shall apply in the event that the Company's instruction as to how to resolve such notified error, inaccuracy, inconsistency or omission amounts to a Variation; or

(ii) more than sixty (60) days after the Contract Date, the Contractor shall not be entitled to: (i) an adjustment to the Contract Schedule; (ii) an adjustment to the Contract Price; (iii) any other additional payment; or (iv) any other remedy, as a result of inconsistencies in the documents forming the Contract (including documents referred to within such documents) or the Company's instruction as to how to resolve the same, irrespective of which Party was responsible for the preparation of such document(s).

For the avoidance of doubt, this Article 8.1(a) shall not apply in respect of errors, inaccuracies, inconsistencies or omissions within Relied Upon Information and/or the Information Documents, in which case Art. 8.2 and Art. 8.3 shall apply (as applicable).

(b) The Company shall be entitled, following the Contract Date, to issue additional and/or revised Company's Documents to the Contractor. The Contractor shall upon receipt of and before implementing the new or revised documents inspect such documents and, within a reasonable time and in any event within the later of: (i) fourteen (14) days of receipt and (ii) sixty (60) days after the Contract Date, notify the Company of its acceptance of such documents or of any error, inaccuracy, inconsistency or omission within such documents or between such documents and

any other document forming part of the Contract. In the event that the Contractor notifies the Company of an error, inaccuracy, inconsistency or omission in the additional and/or revised documents within the relevant time limit referred to in (i) or (ii) of this Art. 8.1(b), the Company shall within fourteen (14) days of receipt of such notice, either:

(i) withdraw the document(s) containing errors, inaccuracies and/or inconsistencies; or

(ii) correct the notified error, inaccuracy, inconsistency or omission and resubmit the documents, in which case this Art. 8.1(b) shall reapply.

(c) The provisions of Art. 13 to Art. 17 shall apply in the event that such additional and/or revised Company's Documents, unless withdrawn as described in Art. 8.1(b)(i), amount to a Variation.

(d) Any documents, data or information received by the Contractor, from the Company or otherwise, shall not, except as stated in Art. 8.1(e)(i), relieve the Contractor from its responsibility for the design and execution of the Work.

(e) For the avoidance of doubt, this Art. 8.1(e) shall not apply in respect of errors, inaccuracies, inconsistencies or omissions within Relied Upon Information and/or the Information Documents, in which case Art. 8.2(a) to Art. 8.3 shall apply (as applicable). The Contractor shall be solely responsible for the design of the Work and for the accuracy and completeness of the contents of Appendix A (*Scope of Work*) and the Company's Documents (including design criteria and calculations and the information, data and designs and other data set out therein and including additional and revised Company's Documents issued by the Company pursuant to Art. 8.1) as if it had carried out and prepared the same itself, except:

(i) that the Contractor shall not, save as set out in Art. 8.3, be responsible for any error, inaccuracy, inconsistency or omission in the Company's Document originally included in the Contract, which has been notified by one Party to the other within sixty (60) days after the Contract Date, in accordance with Art. 2.6(c);

(ii) that the Contractor shall not, save as set out in Art. 8.3, be responsible for any error, inaccuracy, inconsistency or omission in an additional and/or revised Company's Document which has been notified to the Company before the end of the relevant time period referred to in (i) or (ii) of Art. 8.1(b); or

(iii) as stated in Art. 8.2(a) to Art. 8.2(d).

8.2 Relied Upon Information

(a) The Company:

(i) shall provide the Contractor with the Relied Upon Information on or before the Contract Date; and

(ii) acknowledges that the Contractor, subject to the Contract, shall be able to rely upon, the Relied Upon Information and save as described in Art. 8.2(b) and Art. 8.2(c), the Contractor shall not be liable to the Company for any error, inaccuracy, inconsistency or omission in the Relied Upon Information.

(b) Upon receipt of the Relied Upon Information, the Contractor shall review the Relied Upon Information and satisfy itself as to the adequacy and completeness of the Relied Upon Information. The Contractor shall notify the Company as soon as it becomes aware of any error, inaccuracy, inconsistency or omission in the Relied Upon Information.

(c) To the extent that, prior to Completion, an error, inaccuracy, inconsistency or omission is identified in the Relied Upon Information and as a direct result of which error, inaccuracy,

inconsistency or omission there are defects and/or deficiencies in the Work which would cause the Work to fail to meet the requirements of the Contract or would cause the Contractor to be unable to comply with any other obligation in the Contract, then unless otherwise instructed by the Company the Contractor shall be responsible for rectifying the defects and deficiencies, achieving the requirements and complying with its obligations under the Contract provided that where in doing so the Contractor is delayed in achieving any Milestone and/or incurs additional Costs, the Contractor shall be entitled to, by using a Variation Order Request, in accordance with Art. 12.2, to claim:

(i) an adjustment to the Contract Schedule to reflect such delay; and/or

(ii) an adjustment to the Contract Price to reflect such additional Costs,

provided that the Contractor shall not be entitled to submit a claim for an adjustment to the Contract Schedule and/or the Contract Price in relation to errors, inaccuracies, inconsistencies or omissions in the Relied Upon Information which:

(A) were apparent to the Contractor, or would have been apparent had the Contractor subjected the Relied Upon Information to examination using Good Industry Practice a prior to the Contract Date; and/or

(B) have arisen due to the Contractor's own interpretation of the Relied Upon Information.

(d) The time period for submission of a Variation Order Request in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs under Art. 8.2(c), as referred to in Art. 17.1(b)(ii), shall be seven (7) days from the date the Contractor became aware, or should have become aware, of the relevant error, inaccuracy, inconsistency or omission in the Relied Upon Information.

8.3 Documents for Information

Documents specifically identified as being "Documents for Information" in Appendix E (*Company's Documents*) are given for information purposes only and do not constitute requirements of the Contract. The Company shall not be responsible for any error, inaccuracy, inconsistency or omission of any kind in such documents and shall not be deemed to have given any representation of accuracy of any data or information contained in such documents. An error, inaccuracy, inconsistency or omission within such documents shall not relieve the Contractor from its responsibility for the design and execution of the Work and the Contractor shall not be entitled to: (i) an adjustment to the Contract Schedule; (ii) an adjustment to the Contract Price; (iii) any other additional payment; or (iv) any other remedy, as a result of an error, inaccuracy, inconsistency or omission in such documents, irrespective of which Party was responsible for the preparation of such documents.

8.4 Company's Materials

(a) Upon receipt of Company's Materials, the Contractor shall make an immediate visual inspection of Company's Materials. Within a reasonable time after receipt of Company's Materials, the Contractor shall carry out such examinations of Company's Materials as described in Appendix A (*Scope of Work*) and any such other examination as a prudent contractor would carry out.

(b) Company is responsible for defects, discrepancies and inconsistencies in Company's Materials unless otherwise stated in this Art. 8.4. The Contractor shall immediately notify Company of any defect, discrepancy or inconsistency discovered within Company's Materials, whether as a result of the inspections carried out under Art. 8.4(a) or at a later date.

(c) Upon receipt of notice from the Contractor in accordance with Art. 8.4(b), the Company shall, without undue delay and without prejudice to the Company's rights under Art. 8.4(d)(i), either

have the necessary corrections made within the Company's Materials and/or give the Contractor instructions on how to proceed. Subject to Art. 8.4(d), if such correction or instruction results in the Contractor being delayed in achieving any Milestone and/or incurring additional Costs, it shall constitute a Variation and the Contractor shall be entitled to submit a Variation Order Request in accordance with Art. 12.2.

(d) If the Contractor: (i) fails to comply with its inspection obligations pursuant to Art. 8.4(a) or fails to identify any defects, discrepancies or inconsistencies discovered in the Company's Materials which ought to have been discovered by the Contractor subjecting the Company's Materials to such examination using Good Industry Practice would have done and/or through the correct application of the quality management system which the Contractor is required to implement in accordance with Art. 11.1, or (ii) fails to immediately notify the Company of any defect, discrepancy or inconsistency discovered within the Company's Materials in accordance with Art. 8.4(b):

(i) and as a result, the Company incurs costs or losses (including the costs of rectifying defects, discrepancies and/or inconsistencies in the Company's Materials and/or the effects of the same on the Work, after Load Out) over and above that which the Company would have incurred had the Contractor complied with its obligations under Art. 8.4(a) and/or Art. 8.4(b) (as the case may be), then the Company shall be entitled to recover all such additional costs and losses from the Contractor; and

(ii) the Contractor shall not be entitled to: (i) an adjustment to the Contract Schedule; (ii) an adjustment to the Contract Price; (iii) any other additional payment or (iv) any other remedy, as a result of any such defect, discrepancy or inconsistency, and any such entitlement is hereby expressly excluded.

(e) Without limiting the application of Art. 23.1, Art. 24 or Art. 28, the remedies provided in this Art. 8.4 shall be the Contractor's sole liability and the Company's sole remedy against the Contractor, whether under the laws governing the Contract or otherwise, in respect of the Contractor's failure to properly inspect the Company's Materials and/or notify the Company of any defect, discrepancy or inconsistency identified within the Company's Materials.

8.5 Company's Obligations

(a) The Company shall provide the deliverables, and undertake the activities, set out in Appendix G (*Company's Obligations*) in accordance with the terms of that Appendix. The deliverables and activities set out in Appendix G (*Company's Obligations*) are an exhaustive description of the Company's obligations to provide materials, personnel, goods, consumables, equipment and other things and services in connection with the execution of the Work.

(b) Subject to any express provisions of the Contract to the contrary, all costs and expenses incurred in respect of the performance of the Company's obligations under this Art. 8.5 shall be the responsibility of the Company, except to the extent that they arise as a result of a breach of the Contract by the Contractor and/or negligence by the Contractor Group.

8.6 Contractor's Documents

(a) The Contractor has full responsibility for the documents in Appendix F (*Contractor's Documents*). The Contractor shall search for errors, inconsistencies and omissions within Appendix F (*Contractor's Documents*) and between Appendix F (*Contractor's Documents*) and the rest of the Contract and without delay notify the Company of any errors, inconsistencies and omissions discovered in said documents and thereafter, at its own cost, have necessary corrections made, if not otherwise instructed by the Company.

(b) The Contractor shall not be entitled to: (i) an adjustment to the Contract Schedule; (ii) an adjustment to the Contract Price; (iii) any other additional payment; or (iv) any other remedy, as

a result of an error, inconsistency or omission within Appendix F (*Contractor's Documents*) and between Appendix F (*Contractor's Documents*) and the rest of the Contract.

9 SUBCONTRACTORS

9.1 The Contractor shall not:

(a) subcontract the whole of the Work; and/or

(b) enter into any Subcontract concerning parts of the Work without the prior consent of the Company.

9.2 The Contractor shall only engage Subcontractors who, in consideration of Good Industry Practice, are safe, environmentally responsible, careful, skilled, experienced, and competent in their respective discipline. Subject to Art. 9.4, where the Contractor wants to enter into any Subcontract with a Subcontractor then the Contractor shall require the Company's approval. When the Contractor requests approval of a Subcontractor, the Contractor shall provide to the Company:

(a) full particulars in writing of the part of the Work to be subcontracted, the name and address of the proposed Subcontractor and the proposed site for the subcontracted work;

(b) details of the Subcontractor's relationship with the Contractor; and

(c) information establishing the financial, technical and personnel capacity (including details of previous experience and safety and environmental records) to successfully perform the subcontracted work to be performed by the proposed Subcontractor.

9.3 The Company shall notify the Contractor of its decision, or request further information, within seven (7) days after having been asked by the Contractor to approve a proposed Subcontractor.

9.4 The Contractor does not require the Company consent:

(a) for pre-approved Subcontractors listed in Appendix H (*Subcontractors*); or

(b) where the value of the relevant Subsupply (and any related Subsupply in respect of the same element of the Work) is less than EUR 100,000.

9.5 The Contractor shall be fully responsible for the acts, omissions, default and neglect of any Subcontractors as if they were the acts, omissions, default or neglect of the Contractor, and this shall apply equally to Subcontractors who have been nominated by the Company.

9.6 All employees and representatives of the Contractor and its Subcontractors engaged in connection with performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Company.

9.7 Subcontracts which the Contractor enters into shall:

(a) contain provisions, reasonably satisfactory to the Company, providing that upon receipt of a notice from the Company the Subcontract between the Contractor and the Subcontractor shall be deemed to have been novated from the Contractor to the Company or an appointee stated in the Company's notice;

(b) state that the Subcontractor is included in the Contractor Group with regard to the provisions of Art. 29;

(c) include provisions analogous to Art. 21, so as to allow the Contractor to fully comply with its obligations in Art. 21, including:

(i) ensuring unencumbered title in the relevant Materials passes to the Contractor on or before the date such Materials are to become the property of the Company pursuant to Art. 21.1; and

(ii) that the Subcontractor waives any Liens or other encumbrances (whether for non-payment or otherwise) to which the relevant Subcontractor would otherwise be entitled;

(d) include analogous provisions to Art. 32, so as to allow the Contractor to fully comply with its obligations in Art. 32;

(e) contain provisions preventing assignment, transfer or further subcontracting under such contract without the Company's consent;

(f) contain provisions substantially identical to those contained in Art. 6;

(g) contain a provision preventing the Subcontractor from arguing that a person, to whom the Contractor assigns the benefit of any rights under its contract with the Subcontractor or any warranty provided by the Subcontractor, is not able to make a claim under such assigned warranty as the Contractor has not suffered and/or would not have suffered a loss;

(h) contain such other provisions, which are analogous with the relevant provisions of the Contract, necessary to enable the Contractor to fulfil its obligations in accordance with the Contract; and

(i) be in writing.

9.8 When requested by the Company, the Contractor shall provide copies of all contract documents prior to entering into a Subcontract, provided that the Subsupply is one in respect of which the Company's approval is necessary under Art. 9.1 or is one listed in Appendix H (*Subcontractors*). However, the Company shall not be entitled to request copies showing provisions of price and payment, unless the Company is to pay for the Subsupply on a rates basis.

9.9 Unless directed by the Company to the contrary, in addition to any warranty and guarantee provided to the Contractor by a Key Subcontractor, the Contractor shall execute, and procure that each of the Key Subcontractors executes, a collateral warranty in the form set out in Appendix H (*Subcontractors*), Annex H1 (*Subcontractor Collateral Warranty*), with such executed collateral warranty to be delivered to the Company promptly following the Contractor's engagement of the Key Subcontractor.

10 SAFETY COURSES

10.1 The Contractor shall at its own cost ensure that personnel performing parts of the Work offshore shall have passed a safety course and medical examinations, in accordance with Company requirements and/or Applicable Laws, unless the relevant Public Authorities have granted a dispensation.

10.2 The Contractor shall:

(a) comply with all applicable safety regulations and institute a safety procedures system in accordance with Appendix A (*Scope of Work*), Appendix D (*Administration Requirements*) and Appendix E (*Company's Documents*);

(b) take care for the safety of the Contractor's personnel and shall have due regard to the safety of all other persons entitled to be on the Site;

(c) use reasonable efforts to keep the Site and Work clear of unnecessary obstructions so as to avoid danger to these persons;

(d) provide all reasonable safety and protective measures, lighting, guarding and watching of the Work until Completion; and

(e) provide any temporary works which may be necessary, because of the execution of the Work, for the use and protection of the public and of owners and occupiers of adjacent land.

10.3 If, in the reasonable opinion of the Company's Representative, the Contractor fails to meet its health and safety obligations under the Contract, the Company's Representative shall be entitled to issue a safety improvement notice and the Parties shall follow the safety improvement procedure as set out in this Art. 10. On receipt of the safety improvement notice, the Contractor shall at his own cost as soon as is reasonably practicable, but in no event more than seven (7) days after receipt of such notice, provide the Company's Representative with full supporting details on the steps taken to address the issues raised in the safety improvement notice.

10.4 The Company's Representative shall audit the actions taken by the Contractor to determine any additional actions that the Contractor needs to take or whether the safety improvement notice has been satisfactorily handled by the Contractor. Where, in the reasonable opinion of the Company's Representative, the Contractor has failed to act on a safety improvement notice, the Contractor shall pay liquidated damages to the Company in an amount of EUR 5,000 per commenced day ("**Safety Liquidated Damages**") until the safety improvement notice has been satisfactorily handled and rectified by the Contractor.

10.5 The Parties agree that the Safety Liquidated Damages are not a penalty and that they are reasonable and proportionate to protect the Company's legitimate interest in performance considering the losses likely to be suffered by the Company in the event of failure by the Contractor to comply with its the safety obligations as set out in this Art. 10, and are not a penalty, however if for any reason enforcement of any Safety Liquidated Damages is prohibited, rendered void, invalid or unenforceable by any Applicable Laws or otherwise, then the Contractor shall nonetheless be liable to pay general damages in respect to the relevant breach and such general damages shall be limited to the amount of Safety Liquidated Damages which would have been payable had they been enforceable.

11 QUALITY MANAGEMENT

11.1 The Contractor shall implement and document a management system in accordance with the requirements stated in Appendix A (*Scope of Work*) and Appendix D (*Administration Requirements*) prior to the Contract Date.

11.2 The Company's Representative and personnel authorised by him shall have the right at any time to undertake quality audits and verification of the Contractor's and the Subcontractors' quality management system (including the examination, inspection, measurement and testing of materials, workmanship, the Work, and the Deliverables themselves). In the event that any audit or verification by the Company demonstrates that any part of the Work or the Contract Object is below the standard required in the Contract, the Contractor shall without undue delay rectify such deficiencies in the Work at its own expense.

11.3 The Contractor shall, and shall ensure that all Subcontractors, give such personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. Without prejudice to Art. 28, no such activity shall relieve the Contractor from any obligation, warranty or responsibility under the Contract.

11.4 The Parties shall adhere to the requirements described in Appendix D (*Administration Requirements*) provided that compliance with the quality management system shall not relieve the Contractor of any duties obligations or responsibilities under the Contract.

SECTION 3

PROGRESS OF THE WORK

12 CONTRACT SCHEDULE AND DELAYED PROGRESS

12.1 The Contractor shall perform the Work (excluding the Guarantee Work and Minor Outstanding Items) in accordance with the Contract Schedule, including achieving Milestone Completion for each Milestone by the relevant Milestone Completion Date*.*

12.2 Delay

(a) If and to the extent that the Contractor has been or will be delayed in achieving any Milestone as a result of any of:

(i) a cause of delay giving the Contractor an express entitlement to an adjustment of the Contract Schedule in an Art. of the Contract;

(ii) an event of Force Majeure; or

(iii) any delay, impediment or prevention caused by or attributable to the Company or the Company Group (including as a result of breach of the Contract but excluding any action which by the terms of the Contract the Company is entitled to take on the express basis that any resulting delays are at the Contractor's risk),

in each case whether occurring before or after the relevant Milestone Completion Date, the Contractor shall be entitled to, by using a Variation Order Request, subject to Art. 17.1 and Art. 27.1, to an adjustment to the Contract Schedule (including the Milestone Completion Dates).

(b) In addition, the Company may at any time on its own initiative and at its sole discretion review and grant or increase (but not decrease) extensions to the Contract Schedule, whether or not for a reason stated in the Contract.

(c) Without limiting any other provision of the Contract providing an entitlement to the adjustment of the Contract Price, if and to the extent that the Contractor has or will incur additional Costs due to the cause listed in Art. 12.2(a)(iii) (whether or not a delay is also incurred due to the same cause), the Contractor shall also be entitled, subject to Art. 17.1, to an adjustment of the Contract Price to reflect such additional Costs.

(d) The time period for submission of a Variation Order Request, in relation to a claim for a delay in achieving any Milestone under Art. 12.2(a)(iii) or for incurring additional Costs under Art. 12.2(c) as referred to in Art. 17.1(b)(ii), shall be seven (7) days from the date the Contractor became aware of the relevant delay, impediment or prevention.

12.3 Entitlement to adjustment

(a) The Contractor shall have no entitlement to any adjustment to the Contract Schedule or the Contract Price for a delay in achieving any Milestone or additional Costs incurred:

(i) to the extent that such delay is, or additional Costs are, due to any breach, neglect, or default of the Contractor Group or any other person for whom the Contractor is responsible in accordance with the Contract; or

(ii) to the extent that the Contractor failed to use Good Industry Practice to avoid or minimise any such delay (or the consequences thereof) or additional Cost.

12.4 Anticipated delay

(a) The Contractor shall notify the Company if at any time it should have cause to believe that it will be delayed in achieving completion of any Milestone or any other element of the Work, for reasons which do not entitle the Contractor to an adjustment to the Contract Schedule under the terms of the Contract. The Company shall also be entitled to notify the Contractor that in its reasonable opinion it believes such delay will occur.

(b) The Contractor shall, as soon as possible and in any event within fourteen (14) days of its notification to the Company as described Art. 12.4(a), or after receipt of notification from the Company that in the Company's reasonable opinion it believes such delay will occur, communicate to the Company:

(i) the cause of the delay;

(ii) its estimated effect on the attainment of the Milestone(s) and/or other element(s) of the Work; and

(iii) the measures which the Contractor considers appropriate to avoid, recover or limit the delay.

(c) The Company shall without undue delay notify the Contractor of its view of the information provided by the Contractor in accordance with this Art. 12.4, and if requested by the Company the Contractor shall take into account any comments made by the Company and shall resubmit the information required under this Art. 12.4. Unless the Company notifies otherwise, the Contractor shall adopt the measures referred to in Art. 12.4(b)(iii), at the risk and cost of the Contractor. If these revised measures cause the Company to incur additional costs to supervise and/or to monitor the Contractor as a result of the revised methods, the Contractor shall pay these costs to the Company. Such notification shall not release the Contractor from any of its obligations under this Art. 12.4.

(d) If the measures proposed or implemented by the Contractor are insufficient to avoid, limit or recover the delay referred to in this Art. 12.4, then the Company may instruct the Contractor to take such measures as the Company considers necessary to avoid, limit and/or recover the delay. Such measures shall be undertaken at the risk of the Contractor and at the cost of the Contractor unless and to the extent that the Company's instruction amounts to a Variation in which case the provisions of Art. 13 to Art. 17 shall apply, subject always to the restriction in Art. 15.6.

(e) Without limiting Art. 13, in any circumstances where the Contractor is or would be entitled to an adjustment to the Contract Schedule, the Company may instruct the Contractor to submit without undue delay written proposals regarding the feasibility of acceleration of the Work as an alternative to an adjustment to the Contract Schedule, stating:

(i) any adjustment which the Contractor will reasonably require to the Contract Price if instructed by the Company to accelerate the Work pursuant to this Art. 12.4(e), together with details showing the manner of calculation of the adjustment and proposals for the terms of payment thereof;

(ii) the extent to which the adjustment to the Contract Schedule to which the Contractor would otherwise be entitled can be cancelled or reduced; and

(iii) any other amendments to the Contract which the Contractor would reasonably require if the Company were to instruct an acceleration of the Work pursuant to this Art. 12.4(e).

(f) Following receipt of the Contractor's proposals the Company and the Contractor shall, acting in good faith, use their best efforts to agree:

(i) the amount by which the Contract Price is to be adjusted;

(ii) any adjustments to the Contract Schedule (including the reduction in any extension of time previously granted to take account of such acceleration);

(iii) the details of the acceleration and the alteration of sequence or timing required; and

(iv) any other appropriate amendments to the Contract.

12.5 Interfaces

(a) The Contractor shall:

(i) comply with those provisions relating to interface and cooperation with the Company and Company Group contained in Appendix A (*Scope of Work*), Appendix D (*Administration Requirements*) and Appendix E (*Company's Documents*) in the performance of the Work under the Contract; and

(ii) ensure that the Contract Schedule incorporates all obligations upon the Contractor relating to interface and cooperation with the Company and Company Group contained in Appendix A (*Scope of Work*), Appendix D (*Administration Requirements*) and Appendix E (*Company's Documents*).

(b) Without prejudice to Art. 12.5(a), the Contractor shall when programming the Work, make due allowance for, consider and coordinate the programme for the Work with the programme of the Company Group (in the form of the Company's contractors, service providers and suppliers and sub-contractors, sub-service providers and sub-suppliers of any tier).

(c) The Contractor shall not be entitled to an adjustment to the Contract Schedule, an adjustment of the Contract Price or to any additional Cost for carrying out any activity which:

(i) is expressly stated in those provisions relating to interface and cooperation with the Company Group (in the form of its contractors, service providers, suppliers, sub-contractors, sub-service providers and sub-suppliers of any tier), contained in Appendix A (*Scope of Work*), Appendix D (*Administration Requirements*) and Appendix E (*Company's Documents*) or the Contract Schedule, to the extent that such activity:

(A) is identified in the above documents as being an activity for which the Contractor is responsible; or

(B) should reasonably have been anticipated by the Contractor acting in accordance with Good Industry Practice; and/or

(ii) is a reasonable day to day co-operation with the Company Group.

SECTION 4

VARIATIONS AND SUSPENSION

13 RIGHT TO VARY THE WORK

13.1 The Company has the right to instruct such Variations as in the Company's opinion are desirable (each such instruction being a "**Variation Order**"). The Company may instruct Variations to omit Work, which is subsequently to be carried out by the Company or other contractors, however omissions of Guarantee Work shall not be treated as Variations and shall instead be governed by the provisions of Art. 22.3(b) to Art. 22.3(m).

13.2 The Company may require that the Contractor submits an estimate in respect of a potential Variation which the Company may subsequently instruct, (without any obligation on the Company to subsequently issue a Variation Order).

14 ISSUE OF VARIATION ORDERS

14.1 The Company shall instruct Variations by way of a Variation Order in the form expressly identified as such and be submitted on a prescribed form attached in Appendix D (*Administration Requirements*), however a failure by the Company to use the prescribed form shall not limit the Contractor's obligations as set out in Art. 16.1.

14.2 When the Company either (i) issues a Variation Order or (ii) requests an estimate prior to instructing a Variation Order, the Contractor shall without undue delay, and in any event within thirty (30) days of receipt, submit an estimate to the Company containing:

(a) a detailed description of the Variation to the Work and a method statement for implementation;

(b) a detailed schedule for the execution of the Variation showing the required resources and significant milestones;

(c) the effect on the Contract Price of the Variation with an explanation of how it is calculated in accordance with Art. 15.3(a) together with details of the timings of the payment of any increase to the Contract Price;

(d) the effect of the Variation on the Contract Schedule and the attainment of the Milestone by the relevant Milestone Completion Dates, as far as it is possible in the specific case;

(e) if the Contractor considers that the implementation of the Variation would be inconsistent with the performance of the Contractor's obligations under the Contract, a statement of such inconsistencies; and

(f) the additional Costs incurred by the Contractor in the preparation of the estimate required under this Art. 14.2,

together with all information in support of the above which is reasonably required in order for the Company to assess the Contractor's submissions.

14.3 The Contractor may issue a Variation Order Request in accordance with Art. 12.2 and Art. 17.

15 EFFECTS OF A VARIATION

15.1 All of the Contractor's obligations under the Contract also apply to Variations, unless otherwise agreed.

15.2 The Parties shall endeavour to agree the effect of the instructed Variation on the Contract Price and the Contract Schedule (including the effects on the Milestone Completion Dates).

15.3 Subject always to the provisions of Art. 17.3, if the Parties are unable to agree on any adjustments to the Contract Price or Contract Schedule as the result of a Variation, within fifty six (56) days of the issue of a Variation Order by the Company including under Art. 17.3(a), then the Company shall within a further twenty eight (28) days following the end of such fifty six (56) day period, determine a fair and reasonable adjustment to the Contract Price and/or Contract Schedule (including the effects on the Milestone Completion Dates) arising due to such Variation (in each case whether positive or negative) in accordance with the following principles and subject to Art. 15.5, and shall notify the Contractor accordingly:

(a) in determining any adjustment to the Contract Price:

(i) to the extent that Appendix B (*Compensation*) contains rates and prices for the Variation work in question, then the Company shall apply such rates and prices;

(ii) for any part of the Variation work in question to which a) does not apply or where the Variation requires an adjustment to the rates or prices comprising the non-lump sum elements of the Contract Price, the Company shall apply market prices; and

(iii) for any part of the Variation work in question to which a) does not apply or where the Variation requires an adjustment to the rates or prices comprising the non-lump sum elements of the Contract Price, and where there are no available market prices, the Company shall:

(A) apply a calculation of the actual Cost (plus profit on such Costs at the rate described in Appendix B (*Compensation*)) of such Variation work, or

(B) in the case of an adjustment to the rates or prices comprising the non-lump sum elements of the Contract Price, apply the actual change in the Cost (plus profit on such Costs at the rate described in Appendix B (*Compensation*)) of performing the work to which such rates or prices apply; and

(b) in determining any adjustment to the Contract Schedule, the Company shall apply a fair and reasonable assessment of the effects of the Variation on the attainment of the Milestones.

15.4 The Contract Price and/or Contract Schedule (including Milestone Completion Dates) shall be amended to reflect any agreement reached or the outcome of the Company's determination under Art. 15.2 and Art. 15.3 (as the case may be).

15.5 Any such determination shall, however, be without prejudice to the right of the Contractor to refer the matter for resolution pursuant to Art. 34 (subject always to Art. 16.2 and Art. 17.4) and shall take due account of any submissions made by the Contractor pursuant to Art. 14.2 and in the course of any attempts to reach agreement with the Company on the consequences of the Variation.

15.6 If and to the extent that a Variation is instructed, or arises, as a result of any default of the Contractor in the performance of its obligations under the Contract or is caused by circumstances for which the Contractor is responsible under the Contract, no adjustment shall be made, and the Contractor shall not be entitled to claim, in respect of that Variation, any adjustment to the Contract Price, adjustment to the Contract Schedule, other additional payment or other remedy, and any such entitlement is hereby expressly excluded.

16 CONSEQUENCES OF VARIATION ORDERS – DISPUTES ABOUT CONSEQUENCES

16.1 On receipt of a Variation Order, the Contractor shall implement it without undue delay, even if the effects of the Variation Order have not yet been agreed or determined. For avoidance of doubt, implementation of a Variation shall not be delayed pending the resolution of any dispute referred to in Art. 15.5 or on the basis that a Variation Order Request or a Disputed Variation Order has been issued.

16.2 Unless an adjustment to the Contract Price or Contract Schedule determined by the Company under Art. 15.3 and implemented under Art. 15.4, has been submitted for resolution by arbitration in accordance with Art. 34 within six (6) months of notification to the Contractor by the Company of its determination, such adjustment to the Contract Price or Contract Schedule shall be considered final and binding on both Parties and the Contractor shall no longer have any right to challenge the Company's determination or make any further claim for the consequences of the Variation Order to which the adjustment to the Contract Price and/or Contract Schedule related and any such rights are expressly excluded. If another amount for the Variation is finally decided which differs from the compensation paid by the Company, the Company shall immediately pay the wrongfully withheld amount and interest thereon calculated in accordance with Art. 20.2(d). Interest shall be calculated from the date when the Contractor could have invoiced the amount had it not been disputed by the Company.

17 DISPUTE AS TO WHETHER A VARIATION EXISTS AND DISPUTED VARIATION ORDERS

17.1 If the Contractor:

(a) considers that any instruction issued by the Company requires the performance of work which in the opinion of the Contractor is a Variation; or

(b) is otherwise entitled to do so pursuant to an Article of the Contract,

then the Contractor shall be entitled to submit to the Company a variation order request in the prescribed form attached in Appendix D (*Administration Requirements*) ("**Variation Order Request**"). Where the Contractor is entitled to submit a Variation Order Request:

(i) pursuant to Art. 17.1(a) within seven (7) days after receipt by the Contractor of the relevant instruction; or

(ii) pursuant to Art. 17.1(b) the Contractor must do so within the shorter of the period stated in the relevant Article and thirty (30) days,

and if the Contractor fails to comply with Art. 17.1(a) or Art. 17.1(b), the Contractor shall lose the right to submit a Variation Order Request and/or receive a Variation and/or any remedy or entitlement in respect of the matter.

17.2 The Contractor shall within fourteen (14) days of the date of a Variation Order Request submit to the Company a detailed estimate containing the items listed in Art. 14.2. If the event or circumstance giving rise to the issue of a Variation Order Request under Art. 17.1(b) has a continuing effect:

(a) the estimate provided by the Contractor shall be considered as interim;

(b) the Contractor shall send updated estimates to the Company at biweekly intervals, addressing the items listed in Art. 14.2 and specifying the accumulated delay to achieving any Milestone and/or the additional Costs resulting from the event or circumstance; and

(c) the Contractor shall send a final detailed estimate within fourteen (14) days after the effects resulting from the event or circumstance cease, or within such other period as may be proposed by the Contractor and approved by the Company in writing.

17.3 Where the Contractor submits a Variation Order Request in accordance with Art. 17.1, the Company shall:

(a) in relation to a Variation Order Request submitted under Art. 17.1(a), at any time after receipt of the Variation Order Request and not later than ten (10) days after receipt of the Contractor's estimate containing the items listed in Art. 17.2(b) in relation to that Variation Order Request, either:

(i) issue a Variation Order and the provisions of Art. 15 and Art. 16 shall apply accordingly;

(ii) withdraw or dispute having given the relevant instruction; or

(iii) if the Company is of the opinion that the instructed work is not a Variation or that the Variation Order Request has not been submitted in accordance with Art. 17.1, issue a Disputed Variation Order identifying the work in dispute between the Parties and stating the Company's reason as to why the instructed work is not a Variation or that the Variation Order Request was not submitted in accordance with Art. 17.1,

(b) in relation to a Variation Order Request submitted under Art. 17.1(b), either:

(i) make a fair and reasonable determination of any adjustment to the Contract Price and/or Contract Schedule to which the Contractor is entitled as a result of the event or circumstance giving rise to the entitlement to submit the Variation Order Request, and the provisions of Art. 15.3 and Art. 15.4 shall apply (*mutatis mutandis*) to such determination, save that in applying the provisions of Art. 15.3 to the determination there shall only be an adjustment to the Contract Price or Contract Schedule if and to the extent that the provision of the Contract entitling the issue of the relevant Variation Order Request expressly allows for such adjustment (including in respect of profit on Costs).

The Company shall make such determination within fifty six (56) days of receipt of the Contractor's detailed estimate in accordance with Art. 17.1, or where the event or circumstance giving rise to the issue of a Variation Order Request has a continuing effect, within fifty six (56) days of receipt of the Contractor's final detailed estimate in accordance with Art. 17.2(c); or

(ii) if the Company is of the opinion that the Variation Order Request has not been submitted in accordance with Art. 17.1, within ten (10) days of receipt by the Company of the purported Variation Order Request, issue a Disputed Variation Order stating the Company's reason for regarding that the purported Variation Order Request was not submitted in accordance with Art. 17.1.

17.4 Unless an adjustment to the Contract Price or Contract Schedule determined by the Company under Art. 17.3(b) or a Disputed Variation Order has been submitted for resolution by arbitration in accordance with Art. 34 within six (6) months of: (i) notification to the Contractor by the Company of its determination or (ii) the Contractor's receipt of such Disputed Variation Order, then the Company's determination shall be considered final and binding on both Parties and the Contractor shall no longer have any right to challenge the contents of the Disputed Variation Order and any such right is expressly excluded. If another amount for the Variation is finally decided which differs from the compensation paid by the Company, the Company shall immediately pay the wrongfully withheld amount and interest thereon calculated in accordance with Art. 20.2(d). Interest shall be calculated from the date when the Contractor could have invoiced the amount had it not been disputed by the Company.

18 COMPANY'S RIGHT TO TEMPORARY SUSPENSION OF THE WORK

18.1 The Company may temporarily suspend the performance of the Work, or parts thereof, by giving notice to the Contractor.

18.2 The notice shall specify which part of the Work shall be suspended, the effective date of the suspension and the expected date for resumption of the Work. Furthermore, it may state any support functions which shall be maintained while the Work is suspended.

18.3 Subject to Art. 18.7, the Contractor shall resume the Work without undue delay after notification by the Company to do so.

18.4 During such a suspension the Contractor shall, properly protect, store and secure the suspended Unit(s) and upon resumption of the Work shall make good any deterioration or defect in or loss of any Unit(s) which has occurred during suspension.

18.5 Unless and to the extent a suspension under Art. 18.1 is reasonably required due to some breach of Contract or negligence by the Contractor or some default of a member of the Contractor Group (including breach of obligations in relation to the protection of life, health, property and the environment described in Appendix A (*Scope of Work*) or Appendix D (*Administration Requirements*)) and as a result of which the Contractor is delayed in achieving any Milestone and/or incurs additional Costs as a result of a suspension pursuant to Art. 18.1, the Contractor may, in accordance with Art. 12.2:

(a) claim an adjustment to the Contract Schedule to reflect any such delay; and/or

(b) claim an adjustment to the Contract Price to reflect such additional Costs to the extent arising in relation to:

(i) demobilisation of personnel and equipment;

(ii) safeguarding Company Materials, the Contract Object and Materials in the Contractor's possession or control; and

(iii) personnel, Subcontractors and equipment which must be kept available in accordance with the mobilisation plan.

18.6 The time period for submission of a Variation Order Request, in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs under Art. 18.5, referred to in Art. 17.1(b)(ii), shall be fourteen (14) days from the date the Company instructs the suspension.

18.7 If the Work or parts thereof have been suspended continuously for a period exceeding one hundred and eighty (180) days, then, (unless such suspension is reasonably required due to: (i) breach of contract or negligence by the Contractor; or (ii) some default of a member of the Contractor Group; or (iii) the Company orders a resumption of the suspended Work prior to the expiry of the relevant fourteen (14) day notice period described in Art. 18.7(a) or Art. 18.7(b) below):

(a) where the suspended Work comprises the whole or substantially the whole of the Work, the Contractor may terminate the Contract by giving fourteen (14) days' notice of its intention to do so to the Company, and following such termination the provisions of Art. 26 shall apply accordingly; or

(b) where the suspended Work is only a part of the Work, and not the whole or substantially the whole of the Work, the Contractor may issue a notice to the Company stating that if the suspended Work is not resumed within fourteen (14) days of receipt of such notice by the Company then the Company shall be deemed to have issued a Variation Order pursuant to Art. 13 omitting the suspended part of the Work from the Work.

SECTION 5

DELIVERY AND PAYMENT

19 MECHANICAL COMPLETION, DELIVERY AND COMPLETION

19.1 Mechanical Completion

(a) The Contractor shall be entitled to apply to the Company for a Mechanical Completion Certificate in respect of each Unit which Appendix A (*Scope of Work*) states is capable of individually achieving Mechanical Completion, not earlier than fourteen (14) days before the date upon which the Contractor reasonably considers that such Unit will achieve Mechanical Completion.

(b) The Company shall within twenty-eight (28) days after Mechanical Completion has been achieved in relation to a Unit issue a Mechanical Completion Certificate to the Contractor, stating the date on which the Unit achieved Mechanical Completion and any Minor Outstanding Items which are to be completed by the Contractor.

(c) If Mechanical Completion is not achieved for the relevant Unit, the Company shall not be required to issue the Mechanical Completion Certificate. The Contractor shall take all necessary actions to remedy the failure to achieve Mechanical Completion for that Unit. Once the necessary actions have been taken by the Contractor, the Contractor shall reapply to the Company in accordance with this Art. 19.1.

(d) After the issue of a Mechanical Completion Certificate, the Contractor shall without undue delay complete any Minor Outstanding Items detailed in the Mechanical Completion Certificate or which were otherwise present in the relevant Unit (as the case may be) at Mechanical Completion within a reasonable period (or such other period as may be agreed by the Parties in the Mechanical Completion Certificate).

19.2 Delivery

(a) Immediately following the issue of a Mechanical Completion Certificate of a Unit, the Company shall be entitled to perform work and/or operate the Unit prior to Delivery, in accordance with Appendix A *(Scope of Work)*. The Contractor shall achieve Delivery by the relevant Delivery Date for the Contract Object or Unit, as stated in the Contract Schedule at the Contract Date (unless the Delivery Date, as amended in accordance with the Contract, is earlier in which case such earlier date shall be the relevant date referred to in this Art. 19.2).

(b) The Contractor shall be entitled to apply to the Company for a Delivery Certificate in respect of the Contract Object or a Unit (as specified in Appendix A *(Scope of Work)*), not earlier than fourteen (14) days before the date upon which the Contractor reasonably considers that Delivery of the Contract Object or such Unit will occur.

(c) The Company shall, within twenty-eight (28) days after Delivery of the Contract Object or a Unit has been achieved, issue a Delivery Certificate to the Contractor, stating the date on which the Contract Object or the relevant Unit achieved Delivery and any Minor Outstanding Items which are to be completed by the Contractor.

(d) Notwithstanding that Delivery may have been previously achieved, the Company shall not, unless it otherwise agrees in its absolute discretion, be obliged to accept physical delivery of the Contract Object or a Unit from the Contractor before the relevant Delivery Date for the Contract Object or a Unit as set out in the Contract Schedule at the Contract Date.

(e) If Delivery is not achieved for the relevant Unit, the Company shall not be required to issue the Delivery Certificate. The Contractor shall take all necessary actions to remedy the failure to achieve Delivery for that Unit. Once the necessary actions have been taken by the Contractor, the Contractor shall reapply to the Company in accordance with Art. 19.2.

(f) The Contractor shall complete any Minor Outstanding Items detailed in the Delivery Certificate or which were otherwise present in the Contract Object or relevant Unit at Delivery within thirty (30) days (or such other time stated in the Delivery Certificate).

(g) Where the Contract provides for the Delivery of Units, once all Units have been Delivered, the Contractor shall be entitled to apply for a Delivery Certificate for the Contract Object. The provisions of Art. 19.2 shall apply equally to such application.

19.3 Completion

(a) The Contractor shall be entitled to apply to the Company for a Completion Certificate not earlier than fourteen (14) days before the date upon which the Contractor reasonably considers that the Work will achieve Completion. For the avoidance of doubt, all Mechanical Completion Certificates and Delivery Certificates will need to have been issued.

(b) The Company shall, within twenty-eight (28) days after Completion has been achieved, issue a Completion Certificate to the Contractor, stating the date on which Completion was achieved.

(c) If Completion is not achieved, the Company shall not be required to issue the Completion Certificate. The Contractor shall take all necessary actions to remedy the failure to achieve Completion. Once the necessary actions have been taken by the Contractor, the Contractor shall reapply to the Company in accordance with this Art. 19.3.

(d) If the Company fails to respond to the Contractor in respect of an application under Art. 19.3(a), within the twenty-eight (28) day period referred to in that Article, and the Contractor is delayed in achieving a Milestone as set out in Appendix C (*Contract Schedule*) and/or incurs additional Cost as a result of the Company's failure to respond, the Contractor may in accordance with Art. 12.2(a):

(i) claim an adjustment to the Contract Schedule to reflect any such delay; and/or

(ii) claim an adjustment to the Contract Price to reflect such additional Costs

(e) The time period for submission of a Variation Order Request, in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs referred to in Art. 17.1(b)(ii), shall be three (3) days from the date the Company fails to respond.

(f) The issue of a Mechanical Completion Certificate, Delivery Certificate and/or Completion Certificate or notice by the Company under Art. 19.1(b), 19.2(a)Art. 19.2(c) or Art. 19.3(b) as applicable shall not be taken as acceptance of any part of the Work, including for the avoidance of doubt, confirmation that the Contract Object is free of Defects, or shall be considered as a waiver of Company's rights or affect in any way the Contractor's liability in respect of the Contract.

20 PAYMENT, INVOICING, AUDIT AND SUBMISSION OF SECURITY

20.1 Contract Price

(a) The Company shall pay the Contract Price to the Contractor, in consideration of the performance by the Contractor of its obligations under the Contract, within the time limits and in accordance with the provisions stated in this Art. 20 and Appendix B (*Compensation*).

(b) The Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the lump sums, rates, norms, prices and other things comprising the Contract Price as set out in Appendix B (*Compensation*). Unless otherwise expressly stated in the Contract, the Contract Price (as calculated in accordance with Appendix B (*Compensation*)) covers all the Contractor's obligations under the Contract.

(c) If for any reason either Party has paid the other sums in excess of those properly due under the Contract, the overpaying Party may require that such excess be repaid and the other Party shall without undue delay make such repayment.

(d) The Contract Price shall be the amount specified in Appendix B (*Compensation*). The Contract Price shall not be subject to any alteration except in the event of a Variation or as otherwise expressly provided in the Contract. The Company shall have no liability for increases in the Contractor's costs of performing the Contract of any nature caused by currency fluctuations, changes in taxation, inflation or otherwise and the Contractor shall in no circumstances (including breach of the Contract or negligence by the Company or persons for whom the Company is responsible) become entitled to any additional payment in connection with the Work or the Contract or the activities of the Parties in connection with the foregoing except as expressly provided in the Contract (and any such entitlement is hereby excluded).

(e) No payment, under the Contract and no consent or approval given or payment made by the Company to the Contractor, shall be conclusive evidence that the Contractor has performed any of its obligations under the Contract or that any Work or Materials are in accordance with the Contract.

(f) The Company shall not be obliged to pay any amount to the Contractor until the Contractor has provided the Parent Company Guarantee and Performance Bond to the Company in accordance with Art. 20.5(a) and Art. 20.6(a). In the event that a replacement Performance Bond is required to be issued pursuant to Art. 20.5(f), or a replacement Parent Company Guarantee is required to be issued pursuant to Art. 20.6(a), the Company shall not be obliged to pay any further amounts to the Contractor until the replacement Performance Bond or Parent Company Guarantee (as the case may be) has been received by the Company.

20.2 Invoicing

(a) Unless otherwise prescribed in Appendix D (*Administration Requirements*), the following provisions apply to invoicing:

(i) for the purposes of this Art. 20.2, "cut-off date" shall mean the last Sunday in each calendar month;

(ii) within ten (10) days of the cut-off date, the Contractor shall submit to the Company an invoice for the part of the Contract Price payable in respect of the period starting from, and including, the day after the cut-off date before last, up to and including the most recent cut-off date; and

(iii) the invoice shall be prepared in accordance with the provisions of Appendix B (*Compensation*), and any other requirements in this Contract. Documentation necessary for control of the invoiced amount shall be appended.

(b) The Company shall, within thirty (30) days after receipt of an invoice which satisfies the requirements of Art. 20.2(c), pay the amount due to the Contractor according to the invoice.

(c) Unless otherwise provided for in the Contract, the following deductions may be made from payment of the Contract Price:

(i) any previous payments on account to the Contractor which relate to, or directly concern, the work covered by the invoice;

(ii) such parts of the invoiced amount as are insufficiently documented or otherwise disputed, provided the Company, as soon as possible and no later than at payment, specifies what documentation is considered insufficient or what the dispute concerns;

(iii) all amounts relating to the Contract due to the Company from the Contractor.

(d) The Company is entitled to withhold any taxes or other amounts from payments due to Contractor to the extent that such withholding is required by Applicable Laws and regulations, by any competent Public Authority or court or by any agreement. Company will make the necessary withholding and remit the amounts withheld to the appropriate authorities without further notice to Contractor. Company shall provide Contractor with a receipt of the remittance to the authorities (or a certified copy thereof) to the extent such receipt has been, or by reasonable efforts can be, obtained.

In the event of late payment by the Company, the Contractor shall be entitled to interest on the unpaid amount, calculated at one percent (1%) of the unpaid amount, per month. The Parties acknowledge that interest payable under this Art. 20.2(d) is a substantial remedy for the purposes of section 9 of the Late Payment of Commercial Debt (Interest) Act 1998.

20.3 Final Account

(a) Within forty-five (45) days after issue of the Completion Certificate, the Contractor shall submit his proposal for the final account. The proposal shall contain a breakdown of the total compensation for the Work, including all claims to be made by the Contractor, less any Liquidated Damages and other amounts due to the Company. The proposal shall contain documentation relating to each item included in the breakdown.

(b) Amounts stated by the Contractor in the proposal for the final account as due to the Company shall be paid forthwith.

(c) Claims not included in the proposed final account cannot be submitted later by the Contractor.

(d) Within forty-five (45) days of receiving the proposed final account, the Company must notify the Contractor of any objections to the proposal. The Company must explain the grounds for its objections and state the amount that the Company considers to be the correct final account. If the Company does not object within the time limit, the Contractor's proposal shall be regarded as accepted.

(e) If the Parties do not agree on the final account, and the dispute has not been submitted for resolution by arbitration in accordance with Art. 34.7 within twelve (12) months of having received the Company's reply under Art. 34.4, however not later than fifteen (15) months after the issue of the Completion Certificate, the Contractor shall lose the right to submit the dispute to arbitration. In such case, the Contractor shall pay the disputed amount within fourteen (14) days after the expiry of the deadline.

(f) If an arbitration award has not been given within two (2) years of the Contractor having received the Company's reply under Art. 34.4, then the Contractor shall immediately pay the disputed amount. Final settlement shall be made after the arbitration decision.

20.4 Company's right to audit

(a) The Company is entitled to audit all payments for reimbursable work at the Contractor's and Subcontractors' premises. The Company's right to audit does not apply to a Subcontractor where the Subcontract entails minor purchases and limited use of hired labour.

(b) The Contractor may require the audit to be performed by a neutral auditor to the extent he demonstrates that there is a probability of confidential information, or information which is not relevant for the purposes of the audit, being disclosed to the wrong parties.

(c) The Company is entitled to audit during the period of Contract and for up to two (2) years after the end of the year of issue of the Completion Certificate.

(d) Payment shall not affect the Company's audit rights. If charges are proven incorrect, then the Company may require that an adjustment shall be made.

20.5 Performance Bond and Guarantee Bond

~~(a)~~ The Contractor shall at its own cost, provide a duly executed bond issued by a first class international financial institution, located in a country acceptable to the Company whose long-term debt credit rating is not less than ***A- Standard and Poor's*** and who is otherwise acceptable to the Company, with a content conforming to the text in Appendix J (*Standard Performance and Guarantee Bond*) or another form approved by the Company at its absolute discretion ("**Performance Bond**").

(b) The Performance Bond shall initially be valid for an amount equal to fifteen per cent (15%) of the Contract Price at the Contract Date. If in accordance with the Contract the Contract Price is increased by:

(i) more than ten per cent (10 %) of the Contract Price at the Contract Date; or

(ii) (if an increased Performance Bond has previously been provided under this Art. 20.5(b)) more than five per cent (5%) of the Contract Price by reference to which that increased Performance Bond was calculated,

then the Contractor shall, at its own cost, deliver to the Company a duly executed Performance Bond for the amount of fifteen per cent (15%) of the Contract Price as so increased less any amounts previously paid to the Company under the Performance Bond, and otherwise satisfying the requirements of this Art. 20.5(b). On receiving the replacement Performance Bond, the Company shall return the previously provided Performance Bond to the Contractor within fourteen (14) days.

(c) The Contractor shall ensure that the Performance Bond is valid until the issue of the Completion Certificate. If the Performance Bond expires or is due to expire before this date then the Contractor shall ensure the extension of its validity, so that it is always valid for the period required according to this Art. 20.5.

(d) The Contractor shall, at its own cost, as a pre-condition to the achievement of Completion provide a duly executed bond issued by a first class international financial institution, located in a country acceptable to the Company whose long-term debt credit rating is not less than ***A- Standard and Poor's*** and who is otherwise acceptable to the Company, with a content conforming to the text in Appendix J (*Standard Performance and Guarantee Bond*) or another form approved by the Company at its absolute discretion ("**Guarantee Bond**").

(e) The Guarantee Bond shall be issued for an amount equal to seven and a half per cent (7.5%) of the Contract Price as at Completion and the Contractor shall ensure that the Guarantee Bond is valid until the issue or deemed issue (as the case may be) of the Acceptance Certificate. If the Guarantee Bond expires or is due to expire earlier than this date then the Contractor shall ensure the extension of its validity, so that it is always valid for the period required according to this Art. 20.5.

(f) If a Performance Bond or a Guarantee Bond will, in accordance with its terms, expire at a time when Art. 20.5(c) or Art. 20.5(e) requires the Contractor to ensure that it remains valid and enforceable, or the rating of the financial institution falls below the requirement in Art. 20.5(a) or Art. 20.5(d), as applicable, the Contractor shall, not less than twenty eight (28) days before its expiry, deliver to the Company a duly executed replacement Performance Bond or Guarantee Bond (as applicable) for the same amount as the bond being replaced, and otherwise satisfying the requirements of Art. 20.5(a) to Art. 20.6(c). On receiving the replacement bond, the Company shall return the previously provided bond to the Contractor within fourteen (14) days.

(g) If the Contractor fails to provide the Company with a replacement bond as required under Art. 20.5(f), the Company may immediately call the outstanding balance of the bond (required to be replaced) and hold the proceeds as security for compliance by the Contractor with his obligations and liabilities in respect of the Contract. The Company may make deductions against the proceeds so held in respect of any claim he would have been entitled to bring in relation to the bond (which should have been provided). If the Contractor subsequently provides a replacement bond as required (and for the amount required under the Contract less the total of any deductions made by the Company under this Art. 20), the Company shall return the balance of the proceeds (without any interest to the Contractor).

(h) If the Contractor fails to provide the Company with a Guarantee Bond as required under Art. 20.5(f), the Company may immediately make a drawing of the Performance Bond and hold the proceeds as security for compliance by the Contractor with his obligations and liabilities in respect of the Contract. The Company may make deductions against the proceeds so held in respect of any claim he would have been entitled to bring in relation to the Guarantee Bond (which should have been provided). If the Contractor subsequently provides a Guarantee Bond as required (and for the amount required under the Contract less the total of any deductions made by the Company under this Art. 20), the Company shall return the balance of the proceeds (without any interest to the Contractor).

(i) In the event that the bank issuing the Performance Bond and/or the Guarantee Bond, pursuant to Art. 20.5(a) and Art. 20.5(d) (as the case may be) has a credit rating which falls below a rating of A- Standard and Poor's a "**Downgrade Trigger**", the Contractor shall promptly procure a replacement Performance Bond and/or Guarantee Bond (as the case may be), in an amount equal to or otherwise on the same terms as, the Performance Bond and/or Guarantee Bond being replaced, to take effect: (i) in case of expiry, from the expiry date of the Performance Bond and/or Guarantee Bond being replaced (as the case may be), or (ii) in case of a **Downgrade Trigger**, by the date falling fourteen (14) days following such occurrence.

(j) The Company shall have the right to make a demand against the Performance Bond or Guarantee Bond (as applicable) if (i) the Contractor has failed to pay any amount due to the Company under the Contract (including any liquidated damages amount) after giving effect to any grace period thereunder or (ii) failure by the Contractor to remedy a default under the Contract within 14 days after receiving the Company's notice requiring the default to be remedied (iii) an event set forth in Art. 24.1 which entitles the Company to terminate the Contract has occurred.

20.6 Parent Company Guarantee

(a) The Contractor shall deliver to the Company a guarantee with a content conforming to the text in Appendix L (*Parent Company Guarantee*), duly executed by the Contractor's ultimate parent company ("**Parent Company Guarantee**"). If the Parent Company Guarantee fails to be fully effective or becomes invalid or unenforceable for any reason, prior to the required expiry date stated in the Parent Company Guarantee, then the Contractor shall, at its own cost, deliver to the Company a duly executed valid replacement Parent Company Guarantee.

(b) If the Contractor fails to provide the Company with a replacement Parent Company Guarantee, as required under Art. 20.6(a), the Company may immediately call the outstanding balance of the Performance Bond or make a demand under the existing Parent Company Guarantee and hold the proceeds as security for compliance by the Contractor with his obligations and liabilities in respect of the Contract. The Company may make deductions against the proceeds so held in respect of any claim he would have been entitled to bring in relation to the Parent Company Guarantee (which should have been provided). If the Contractor subsequently provides a Parent Company Guarantee as required (and for the amount required under the Contract less the total of any deductions made by the Company under this Art. 20), the Company shall return the balance of the proceeds (without any interest to the Contractor).

(c) If the credit rating of the company providing the Parent Company Guarantee falls below the credit rating of [*insert credit rating on time of signing],* the Company may require equivalent additional financial security.

21 OWNERSHIP OF THE CONTRACT OBJECT, MATERIALS AND COMPANY'S MATERIALS

21.1 Ownership of and title to the Deliverables, free from Liens and other encumbrances, shall pass to Company progressively as the Work is being performed. Ownership and title of Materials (other than the Company's Materials), to the extent consistent with Applicable Laws, passes to the Company free from Liens and other encumbrances on the earlier of:

(a) delivery of such Materials to the Site; or

(b) the Contractor being entitled to payment in respect of such Materials under the Contract, including in respect of a Milestone of which such Materials are a part.

As soon as Materials arrive at Site, the Contractor shall mark them with an identification number and the Company's name, and as far as possible keep them separate from other items. The Contractor shall ensure that no Materials where ownership and title have passed to the Company are removed from the Site.

The Contractor shall, at its own cost, complete all documents and formalities necessary to effect the provisions of this Art. 21.1 and the Contractor warrants that it has or will have title to all Materials (other than the Company's Materials), to ensure compliance this Art. 21.1.

Ownership of the Company's Materials shall remain vested in the Company at all times, despite the delivery of such Company's Materials to the Contractor, and ownership of the Contractor's Equipment shall remain with the Contractor and/or its Subcontractors

Upon and following delivery of the Company's Materials to any Site, the Contractor shall as far as possible keep them separate from other items and shall not remove any identification number or mark affixed to them.

Notwithstanding the transfer of ownership of the Materials, the responsibility for care and custody thereof, together with the risk of loss or damage thereto, shall as between the Parties be as prescribed in Art. 28.

21.2 The Contractor shall not file, claim or register any Lien and shall use its best efforts to prevent any Lien from being filed, claimed or registered by any Subcontractor or by any employee, servant or agent of the Contractor or any Subcontractors against the property of the Company or the property of the Contractor used for any Work.

The Contractor shall indemnify and hold harmless the Company from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of the breach of Art. 21.1 or this Art. 21.2.

The Contractor shall certify to the Company, as set out in Appendix B (*Compensation*) by way of a certificate (the "**Release of Liens Certificate**") that there are not any outstanding Liens or claims which may result in Liens affecting the Work.

21.3 The Company shall have the right to register its ownership of the Contract Object (or any Unit) (including with any relevant shipping or maritime register), the Materials and the Contract. The Contractor shall, at the Company's cost without undue delay, execute and deliver to the Company such documents, and take such actions as the Company requires to effect such registration. The Contractor shall hereunder ensure that ownership to Subsupplies shall be so registered if the Company cannot do so itself.

21.4 The Contractor shall be responsible for the export, import, customs clearance and carriage of all goods, Materials, the Contractor's Equipment and other materials and equipment required for the performance of its obligations under the Contract, including the obtaining of relevant Permits and the payment of all duties, taxes, and excesses in connection with the same, other than in relation to the Company's Materials prior to their delivery to the Contractor (which shall be the Company's responsibility). Contractor shall minimize accrual of indirect taxes and shall ensure that Company receives the full benefit of all available indirect tax exemptions or refunds, whether based on Applicable Laws and regulations or agreements Company informs Contractor of.

22 DEFECTIVE WORK, CONTRACTOR'S GUARANTEE AND ACCEPTANCE CERTIFICATE

22.1 Defective Work

(a) Notwithstanding any previous quality audit, test or certification, prior to the issue of the Delivery Certificate in respect of the Contract Object or a Unit, or prior to the issue of the Completion Certificate in respect of all other Deliverables, the Company may instruct the Contractor to replace any item of Materials and/or re-execute any Work, which is not in accordance with the Contract. If the Contractor fails to carry out any instruction which complies with this Art. 22.1 within reasonable time after receipt of such instruction, the Company shall be entitled to employ and pay other contractors to carry out such work and recover all costs arising from this failure from the Contractor*.*

(b) In the event that the Contractor believes that an instruction issued by the Company under this Art. 22.1 amounts to a Variation, the provisions of Art. 13 to Art. 17 shall apply.

22.2 If requested to do so by the Company prior to the issue of the Delivery Certificate in respect of the Contract Object or a Unit, the Contractor shall open up, and subsequently reinstate, any part of the Work which has been previously completed, in order for the Company to inspect and verify whether that part of the Work complies with the requirements of the Contract. In the event that following such opening up:

(a) all of the Work in question is determined to be in accordance with the requirements of the Contract, and as a result of the opening up of the Work the Contractor is delayed in achieving any Milestone and/or incurs additional Costs, then the Contractor may, in accordance with Art. 12.2, issue a Variation Order Request to claim:

(i) an adjustment to the Contract Schedule to reflect such delay; and/or

(ii) an adjustment to the Contract Price to reflect such additional Costs.

(b) any part of the Work in question is found not to be in accordance with the requirements of the Contract, the provisions of Art. 22.1 shall apply and the Contractor shall not be entitled to: (i) an adjustment to the Contract Schedule, (ii) an adjustment to the Contract Price, (iii) any other additional payment or (iv) any other remedy, as a result of the opening up and subsequent reinstatement of the Work.

The time period for submission of a Variation Order Request, in relation to a claim for a delay in achieving any Milestone and/or incurring additional Costs under Art. 22.2(a), referred to in Art. 17.1(b)(ii), shall be fourteen (14) days from the date the Work in question is determined to be in accordance with the requirements of the Contract.

22.3 Contractor's Guarantee

(a) The Contractor hereby guarantees that:

(i) for a period commencing on the issue of the Completion Certificate and expiring five (5) years after the date of the Completion Certificate, subject to extensions of

such period under Art. 22.3(k) (the "**Guarantee Period**") the Deliverables will be free from all Defects; and

(ii) the Contractor will during the Guarantee Period:

(A) complete any Minor Outstanding Items within the time stated in the Delivery Certificate and/or the Completion Certificate (or such other time that may have been agreed); and

(B) execute all work, including redesign, repair, reconstruction, rectification, replacement or otherwise, required to rectify a Defect and/or any damage to the Deliverables caused by the Defect (**"Guarantee Work**").

If a Defect appears or is discovered during the Guarantee Period, the Company shall notify the Contractor accordingly. If the Contractor contends that a defect notified by the Company is not a Defect, then:

(1) the Contractor shall notify the Company and if the Company instructs, the Contractor shall, in accordance with Art. 22.3(b) to Art. 22.3(h) and carry out all Guarantee Work necessary to rectify the notified defect notwithstanding any dispute as to whether it amounts to a Defect; and

(2) If the Contractor subsequently demonstrates that the notified defect did not amount to a Defect, the Contractor shall be entitled to recover the Costs incurred in carrying out the Guarantee Work in respect thereof.

(b) The Contractor shall carry out all Guarantee Work and at the Contractor's own risk and cost.

(c) The Contractor shall as soon as possible after becoming aware of a Defect submit to the Company, for the Company's approval details of the measures it intends to apply in carrying out Guarantee Work, the duration of any such Guarantee Work and the proposed dates and if possible times for undertaking such Guarantee Work. The Contractor shall provide all assistance and information required by the Company. The Company shall notify the Contractor of its views on the plan for the Guarantee Work without undue delay.

(d) The Company shall afford the Contractor such access to the Site and Work as may be reasonable in the circumstances for such purposes. If the Guarantee Work can be carried out without shutting down the Work, the Contractor shall carry out the Guarantee Work as soon as reasonably practicable. If the Guarantee Work necessitates shutting down of the Work, the Guarantee Work shall be carried out at a time and during the periods agreed with the Company.

(e) The Contractor shall in undertaking any Guarantee Work observe the Site safety and operational requirements and all other reasonable requirements of the Company with regard to the safe and efficient use or operation of the Work.

(f) If the Guarantee Work cannot be remedied expeditiously on the Site, and the Company gives consent, the Contractor may remove from the Site for the purposes of repair such items of Materials as are Defective. The consent may be given on the condition that the Contractor first increases the amount of the Guarantee Bond by the full replacement cost of these items, or to provide other security to the Company.

(g) If the work of remedying of any Defect or damage may affect the performance of the Work, the Company may require the repetition of any of the tests described in the Contract, including Delivery and Completion. The requirement shall be made by notice within twenty-eight (28) days after the Defect or damage is remedied. These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under this Art. 22.3, for the cost of the remedial work.

(h) The Contractor shall, if required by the Company, search for the cause of any Defect, under the direction of the Company. Unless the Defect is to be remedied at the cost of the Contractor under this Art. 22.3, the Cost of the search shall be agreed or determined in accordance with the Variation Order procedure and Art. 17.2 and such additional agreed Cost shall be added to the Contract Price.

(i) If the Contractor fails to complete any Guarantee Work or complete a Minor Outstanding Item within the required time period in Art. 22.3 or Art. 19.2(f) (as the case may be), a date may be fixed by (or on behalf of) the Company, on or by which the Guarantee Work or Minor Outstanding Item is to be completed. The Contractor shall be given reasonable notice of this date. If the Contractor fails to complete the Guarantee Work or Minor Outstanding Item by this notified date, the Company may (at its option):

(i) carry out the work itself or by others, in a reasonable manner and at the Contractor's cost; and

(ii) require the Contractor to pay or allow to the Company an amount fairly and reasonably determined by the Company to reflect the reduced value to the Company as a result of the presence of the incomplete Guarantee Work or complete a Minor Outstanding Item, and the provisions of Art. 15.5 and Art. 16.2 shall apply (*mutatis mutandis*) to such determination.

(j) Subject to and without prejudice to Art. 24, the remedies provided in Art. 22.3(a) to Art. 22.3(i), Art. 22.3(n) and Art. 24 shall be the Contractor's sole liability and the Company's sole remedy, whether under the laws governing the Contract or otherwise in respect of any Defect in the Deliverables appearing or discovered after the start of the Guarantee Period, to the exclusion of any other liability or remedies in respect thereof whether in contract, in tort (including negligence), by reason of breach of statutory duty or otherwise including any remedies that might otherwise be implied by law.

(k) Where the Contractor performs Guarantee Work the Guarantee Period applicable to such Guarantee Work shall be extended so that it expires on the later of (i) five (5) years after the completion of such Guarantee Work; and (ii) the remaining part of the original Guarantee Period. The Guarantee Period cannot be extended by more than two (2) years past the end of the initial Guarantee Period.

(l) To the extent that the Contractor has received the benefit of any warranties from any Subcontractor which extends beyond the Guarantee Period, the Contractor shall, to the extent that the Contractor is legally able to do so, assign the benefit of all such warranties to the Company when requested to do so by the Company.

(m) The Company may, acting reasonably, refuse to allow the Contractor to perform any Guarantee Work or to complete any Minor Outstanding Items referred to in Art. 19.1(d) or Art. 19.2(c), and following notification of such refusal by the Company, the Contractor shall pay or allow to the Company an amount equivalent to the cost of carrying out the Guarantee Work and/or completion of Minor Outstanding Items calculated on the basis of the pricing assumption in Art. 15.3(a) to be fairly and reasonably determined by the Company. The provisions of Art. 16.2 shall apply (*mutandis mutandis*) to such determination. The Contractor shall not be liable for Guarantee Work in case such Guarantee Work is not performed by the Contractor.

(n) In the event that any serial or recurring defect is discovered in any parts or components of the Contract Object (where two or more identical parts or components are discovered to be defective), all potentially affected parts or components elsewhere in the Contract Object shall be checked by the Contractor and, to the extent that any defect exists or is reasonably expected to occur in any such part or component, all affected or potentially affected parts or components shall be replaced at the cost of the Contractor.

22.4 Acceptance Certificate

(a) The Company shall issue an Acceptance Certificate within twenty-eight (28) days after the latest of:

(i) the end of the Guarantee Period;

(ii) the date upon which the Guarantee Work has been completed; and

(iii) the date upon which all outstanding Minor Outstanding Items (other than those which the Company refuses to allow the Contractor to perform under Art. 22.3(m)), have been completed.

SECTION 6

BREACH OF CONTRACT

23 CONTRACTOR'S DELAY

23.1 Without limiting the Contractor's obligation to carry out and complete the Work, if the Contractor fails to achieve a Milestone on or before the relevant Milestone Completion Date then if Appendix C (*Contract Schedule*) provides that Delay Liquidated Damages are payable in relation to that Milestone the Contractor shall be liable to pay or allow Delay Liquidated Damages to the Company as set out in Appendix B (*Compensation*), for each day or part day of the period commencing on the day after the relevant Milestone Completion Date and expiring on the date the Milestone was actually achieved.

23.2 Delay Liquidated Damages which arise in respect of more than one Milestone shall run concurrently.

23.3 Delay Liquidated Damages payable by the Contractor to the Company shall be paid within seven (7) days of the Company giving the Contractor a notice requiring payment. Alternatively, the Company may elect to deduct any Delay Liquidated Damages from any amount due or payable to the Contractor in respect of the Contract.

23.4 If, after any deduction or payment of Delay Liquidated Damages under Art. 23.1, an adjustment to the Contract Schedule under the Contract includes an extension of the relevant Milestone Completion Date, any Delay Liquidated Damages previously paid or allowed in respect of the period of such extension shall be refunded or re-credited to the Contractor. Such repaid or re-credited Delay Liquidated Damages shall not count towards the limits on liability stated in Art. 31.2 or the Contract Liability Limit.

23.5 Subject to Art. 29, Delay Liquidated Damages shall be the Company's sole remedy, the only damages due from the Contractor and the Contractor's exclusive liability for the Contractor's failure to meet the Milestones by the relevant Milestone Completion Date, other than:

(a) as described in Art. 12.4(a) to Art. 12.4(f), Art. 23.6 to Art. 23.10; and

(b) in the event of termination under Art. 24 or Art. 27.9, in which case the liabilities described in Art. 24 or Art. 27.9 shall apply accordingly.

23.6 For the avoidance of doubt, the payment or deduction of Delay Liquidated Damages shall not relieve or excuse the Contractor from his obligations to perform, carry out and complete the Work or from any other obligations and/or liabilities under the Contract.

23.7 The Contractor shall not, and hereby waives any right to, contend that the Company cannot recover, or that the Liquidated Damages may not take into account, damages, losses, liabilities or expenses of the Company's Affiliates by reason that the Company has not suffered or will not itself suffer such damages, losses, liabilities and expenses.

23.8 The Parties agree that the Delay Liquidated Damages are reasonable and proportionate to protect the Company's legitimate interest in performance considering the losses likely to be suffered by the Company in the event of failure by the Contractor to meet the Milestones by the relevant Milestone Completion Date, and are not a penalty, however if for any reason enforcement of any Delay Liquidated Damages is prohibited, rendered void, invalid or unenforceable by any Applicable Laws or otherwise, then the Contractor shall nonetheless be liable to pay general damages in respect to the relevant breach, provided that, the Contractor's maximum liability in relation to such general damages shall be limited to the amount of Delay Liquidated Damages which would have been payable had they been enforceable.

23.9 In the event that:

(a) the Contract Object (or any Unit) has not achieved Delivery by the Delivery Date as specified in the Contract Schedule, for reasons not attributable to Contractor; or

(b) the Delivery Date for the Contract Object (or any Unit) as specified in the Contract Schedule, which would have applied in the absence of an ongoing event of Force Majeure, is reached,

the Company is entitled to take over from the Contractor, and the Contractor shall if requested by the Company deliver to the Company forthwith the Deliverables, Materials and documents (including as-built drawings) whether completed or in draft and other (notwithstanding any outstanding amounts which may be payable to the Contractor under the Contract in relation to the same), necessary to enable the Company to complete the Deliverables either by itself or with the assistance of any other person.

23.10 If the Company has required such taking over, then the Company is not obliged to pay that part of the Contract Price and shall be entitled to be repaid or allowed any pre-payments, which relate to the unfinished part of the Work. In the case of taking over pursuant to Art. 23.9(b) the Contractor shall be entitled to be paid all necessary and documented termination charges, demobilisation costs, and administration costs incurred by the Contractor in connection with the early taking over by the Company but the Contractor shall not be paid such charges and/or costs in the case of taking over pursuant to Art. 23.9(a).

23.11 Payment of any Liquidated Damages or general damages in accordance with Art. 23.1 or Art. 23.5 shall not relieve the Contractor of its obligations to complete the Work or from any other duties, obligations or responsibilities which it has under the Contract (including where the aggregate amounts paid as Liquidated Damages are equal to the limit in Art. 31.2).

24 TERMINATION DUE TO CONTRACTOR DEFAULT

24.1 Termination by Company

(a) The Company is entitled to terminate the Contract with immediate effect by notifying the Contractor, when:

(i) the Company has become entitled to be paid the maximum amount of Liquidated Damages as set out in Art. 31.2, or if general damages are applicable as described in Art. 23.7 the maximum amount of general damages described therein;

(ii) the Contract Liability Limit has been reached;

(iii) the Contractor abandons the Work or otherwise plainly demonstrates the intention not to continue performance of its obligations under the Contract;

(iv) the Contractor fails to maintain satisfactory progress such that the Contractor is reasonably expected to fail to achieve Delivery of any Unit and/or the Contract Object prior to the date upon which the Company would become entitled to be paid the maximum amount of Liquidated Damages set out in Art. 31.2 (or general damages if the Liquidated Damages are not enforceable);

(v) the Contractor, other than as specifically referred to in this Art. 24.1, is in material breach under the Contract, or in case the breach is capable of remedy, the Contractor has failed to implement necessary measures to remedy such breach within seven (7) days after having received a notification from the Company to do so or thereafter fails to diligently progress such measures or Contractor has not remedied the breach within 30 days;

(vi) the Contractor repudiates the Contract;

(vii) the Contractor or the guarantor under the Parent Company Guarantee is subject to an Insolvency Event;

(viii) the Contractor fails to pay any sum due to the Company hereunder and such failure continues for a period of twenty-eight (28) days after the due date for its payment, provided that the Company after such twenty-eight (28) days period shall give not less than seven (7) days' notice in writing to the Contractor of its intention to terminate and the Contractor has not made such payment within such seven (7) days period; and/or

(ix) in relation to the Performance Bond or the Guarantee Bond (whichever is in place from time to time)

(A) the bank or insurance company providing the Performance Bond or the Guarantee Bond is subject to an Insolvency Event or its long-term credit rating falls below ***BBB+ Standard and Poor's***; or

(B) the Performance Bond or the Guarantee Bond expires prior to the required expiry date referred to or stated in Art. 20.5(c) or Art. 20.5(e) (as the case may be),

and, within a period of seven (7) days of a request to do so by the Company, the Contractor fails to provide a duly executed replacement Performance Bond or the Guarantee Bond on the same terms, for the same amount as the Performance Bond or the Guarantee Bond being replaced and from a financial institution acceptable to the Company (acting reasonably);

(x) the Parent Company Guarantee fails to be fully effective or becomes invalid or unenforceable for any reason, prior to the required expiry date referred to or stated in Art. 20.6(a) and the Contractor fails to provide a duly executed replacement Parent Company Guarantee which complies with the requirements in Art. 20.6(a) within a period of seven (7) days of a request to do so by the Company;

(xi) the Contractor commits repeated breaches, or a single material breach, of the HSE requirements which the Contractor is required to comply with pursuant to the Contract, and the Contractor has failed to implement necessary measures to remedy such breaches or breach without undue delay after having received a notification from the Company to do so or thereafter fails to diligently progress such measures;

(xii) the Contractor subcontracts the whole of the Work;

(xiii) the Contractor breaches its obligations (including for the avoidance of doubt, the Project Agreement Obligations) under the Contract which results in (i) the termination of any Project Agreement, or (ii) revocation of any Permits necessary for the Company to construct the Project, or which causes the Company to be obliged under the terms of any of the aforesaid documents to terminate the Contract;

(xiv) the Contractor assigns, mortgages or otherwise parts with or purports to assign, mortgage or otherwise part with an interest in the Contract or novates or purports to novate the Contract, in violation of Art. 35.1; or

(xv) the Contractor is found to (A) have made a misrepresentation for which liability is not excluded under Art. 38.3 or (B) have breached the warranty or undertaking in the Specific Compliance Requirements and termination right for such breach is set forth in such Specific Compliance Requirements.

24.2 Consequences of Termination

(a) Upon termination of the Contract pursuant to this Art. 24:

(i) the Company is entitled to take over from the Contractor, and the Contractor shall deliver to the Company forthwith the Deliverables, Materials and other documents, including as-built drawings, in their current state whether completed or in draft and other rights (notwithstanding any outstanding amounts which may be payable to the Contractor under the Contract in relation to the same), necessary to enable the Company to complete the Deliverables either by itself or with the assistance of any other person (all documents to be in an editable electronic format);

(ii) the Contractor shall cease all further work, except for such work as the Company may specify in the notice of termination for the sole purpose of protecting that part of the Work being executed;

(iii) to the extent legally possible and required by the Company, the Contractor shall procure the transfer to the Company or such person as the Company may direct, of all rights, title and benefit of the Contractor to the Work as at the date of termination and shall novate to the Company any Subcontracts;

(iv) to the extent legally possible, the Contractor shall procure that any Permits obtained in connection with the Contract are transferred into the name of the Company or such other person as the Company may direct;

(v) to the extent legally possible, the Contractor shall procure that the benefit of all warranties which the Contractor has received from any Subcontractors in relation to the Work, together with the benefit of the provision(s) referred to in Art. 9.7(g) in the relevant Subcontractors' contracts, are assigned to the Company; and

(vi) the Company may, in its sole discretion and without any obligation to do so, pay Subcontractors amounts payable in accordance with their Subcontracts with the Contractor (where such contracts are not novated to the Company in accordance with Art. 24.2(a)(iii)), in respect of any Materials delivered or work or services carried out for the purposes of the Work whether before or after the date of termination insofar as the price for the same has not already been discharged by the Contractor, and any payments so made may be deducted from any sum due or to become due to the Contractor under the Contract or may be recovered from the Contractor as a debt.

(b) As soon as practicable after a notice of termination under Art. 24.1 has taken effect, the Company's Representative shall proceed in accordance with Art. 17.3 (mutatis mutandis), to agree or determine the value of the Work, Materials and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract. The Contractor is entitled to be paid for the part of the Work performed in accordance with the Contract as at the date of termination. However, the Contractor shall not be entitled to receive payment of any such amounts due, or any further payment or compensation, after the date of termination except as and when provided in Art. 24.2(c).

(c) Following termination under this Art. 24, the Company shall draw up and advise the Contractor of an account setting out:

(i) if the Company chooses to complete the Work, the excess cost which the Company has, and will be, caused to incur in order to complete the Work after termination (including construction and financing costs), which shall be calculated as the excess of X over Y, where:

(A) X = the sums paid or due to the Contractor under the Contract, plus the reasonable costs incurred by the Company in completing the Work, including correcting any defects; and

(B) Y = the net amount that would have been paid by the Company under the Contract had the Contractor completed the Work;

(ii) if the Company chooses not to complete the Work, an amount equal to any shortfall in the market value of the Deliverables (excluding the value of any Company's Materials incorporated therein) and Materials (other than the Company's Materials) in the Company's possession or subsequently delivered to the Company pursuant to Art. 24.2(a) at the date of termination, compared to the aggregate of the sums paid or due to the Contractor under the Contract;

(iii) all other loss and/or expense which it is estimated will be incurred by the Company as a result of the termination; and

(iv) any other amounts due from the Contractor to the Company but not paid or otherwise recovered,

and the Contractor shall make payment to the Company within fourteen (14) days after receipt of the calculation from the Company.

(d) If the Company decides after the termination of the Contract not to have the Work carried out and completed (or it is unable to do so) it shall so notify the Contractor within six (6) months of such decision. Within a reasonable time of such notice or (where the Company determines to complete the Work) within thirty (30) days of the completion of the Work and the making good of any Defects therein, the Company shall make the calculations referred to in Art. 24.2(c).

(e) At any time following termination and pending final establishment of relevant values pursuant to Art. 24.2(c), the Company may notify to the Contractor its provisional assessment of the net amount (if any) which will be due from the Contractor following such final establishment of relevant values, and any amount so determined shall be due and payable forthwith by the Contractor. The Contractor waives its right to dispute or challenge such provisional assessment but shall be entitled to dispute in accordance with Art. 34 any values finally claimed or asserted by the Company pursuant to Art. 24.2(c) and to require a reconciliation between any such provisional assessment and final establishment of such values.

25 TERMINATION FOR COMPANY CONVENIENCE

25.1 Termination by Company

The Company may terminate the Contract for the Company's convenience by giving notice of such termination to the Contractor, and termination shall be deemed to be effective with immediate effect after the notice is received by the Contractor. After a termination pursuant to this Art. 25.1, the Contractor shall proceed in accordance with Art. 24.2(c) and shall be paid in accordance with Art. 26.2.

26 TERMINATION DUE TO COMPANY DEFAULT AND CONSEQUENCES OF TERMINATION

26.1 Termination by Contractor

The Contractor is entitled to terminate the Contract with immediate effect by notifying the Company when:

(a) the Company fails to pay to the Contractor any sum (which is not in dispute) due under the Contract in excess of an amount equal to twenty-five per cent (25%) of the Contract Price for a period exceeding sixty (60) days after the due date for its payment, provided that the Contractor

shall first have given not less than sixty (60) days' notice of its intention to terminate the Contract in writing to the Company and payment of such overdue amount has not been made within such sixty (60) day notice period; or

(b) the Company is subject to an Insolvency Event.

26.2 Consequences of Termination

(a) Following termination pursuant to Art. 25.1 or Art. 26.1, the Company shall pay:

(i) the unpaid balance due to the Contractor for that part of the Work already performed;

(ii) the Contractor's Costs related to the copying of documents in accordance with Art. 26.2(c)(ii);

(iii) all necessary, reasonable and documented termination charges, demobilisation costs, and administration costs incurred by the Contractor in connection with the termination; and

(iv) within thirty (30) days after receiving an invoice from the Contractor, a termination fee equal to three per cent (3%) of the product of A – (B + C), where:

(A) A = the Contract Price;

(B) B = that part of the Contract Price which has been paid to the Contractor at the date of termination; and

(C) C = that part of the Contract Price which is to be paid pursuant to Art. 26.2(a)(i).

However, the Parties agree and acknowledge that the Contractor shall, at all times, be subject to a general duty to mitigate any such costs and charges. The Contractor is obliged to use its best endeavours to minimise the termination fee and any Costs, by seeking alternative employment and/or utilisation of personnel and Materials during such period.

(b) The Company shall be entitled to deduct from any termination fee which the Company is liable to pay to the Contractor under the Contract any debt or other moneys due from the Contractor to the Company and any claim to money which the Company may have against the Contractor whether for damages (including Liquidated Damages) or otherwise.

(c) Following termination pursuant to Art. 25.1 or Art. 26.1 and notwithstanding any outstanding amounts which may be payable to the Contractor under the Contract:

(i) the Company shall be entitled to take over from the Contractor and, at its own cost, remove the Deliverables and Materials whether wholly or partly completed from the Site(s). If such removal is not done within a reasonable time, then the Contractor may, after having given notice to the Company, remove them to a suitable location for storage at the Company's cost and risk. The Contractor shall, until the Deliverables and Materials have been removed, keep them in a safe manner at the Company's cost and risk.

(ii) the Contractor shall deliver copies (in an editable electronic format) of all design and procurement documentation prepared up to the termination, including such documents as are not yet completed. The Contractor shall also deliver one set of drawings of the Contract Object reflecting actual "as-built" status on the termination date;

(iii) the Contractor shall deliver copies (in an editable electronic format) of all plans, drawings, specifications and other documents which the Company has the right to use in accordance with Art. 32, and any liability the Company would otherwise have to pay any amounts to the Contractor following a termination in accordance with Art. 26.1 or Art. 25.1 shall be suspended until such time as such plans, drawings, specifications and other documents have been delivered to the Company;

(iv) the Contractor shall cease all further work, except for such work as the Company may specify in the notice of termination for the sole purpose of protecting that part of the Work being executed;

(v) to the extent legally possible and required by the Company, the Contractor shall procure the transfer to the Company or such person as the Company may direct, of all rights, title and benefit of the Contractor to the Work and other Deliverables and in the Materials as at the date of termination and shall use its best efforts to novate to the Company any Subcontracts or terminate Subcontracts on terms acceptable to the Company;

(vi) to the extent legally possible, procure that any Permits obtained in connection with the Contract are transferred into the name of the Company or such other person as the Company may direct; and

(vii) to the extent legally possible, procure that the benefit of all warranties which the Contractor has received from any Subcontractors in relation to the Work, together with the benefit of the provision(s) referred to in Art. 9.7(g) in the relevant Subcontracts, are assigned to the Company.

(d) To the extent legally possible, the express rights of termination set out in the Contract are the Parties' exclusive rights to terminate the Contract and the Parties' exhaustive rights and remedies in respect of such termination. The Contract may not be terminated by either Party for any other reason, and any other such rights or remedies (whether for breach of contract, tort (including negligence) or under any other legal theory) are hereby excluded.

SECTION 7

FORCE MAJEURE

27 EFFECTS OF FORCE MAJEURE

27.1 A Party shall not be considered to be in breach of an obligation under the Contract to the extent that the Party can establish that fulfilment of that obligation has been prevented by Force Majeure, provided that a Party shall not be entitled to relief in respect of Force Majeure unless notice of such event of Force Majeure has been given to the other Party within the relevant period stipulated in Art. 27.4.

27.2 Notwithstanding the occurrence of an event of Force Majeure an affected Party shall use all reasonable endeavours to mitigate the effects of the event of Force Majeure.

27.3 If an affected Party's subcontractor is entitled under any contract or agreement relating to the Project to relief from force majeure on terms additional to or broader than those specified in the Contract, such additional or broader force majeure events or circumstances shall not excuse the affected Party's non-performance or entitle it to relief under this Art. 27.

27.4 The Party invoking Force Majeure shall, without undue delay, but, in any event no later than five (5) days after it becomes aware of the occurrence of Force Majeure or, if it is not possible to give such notice by reason of the event of the Force Majeure, three (3) days after the resumption of any means of providing notice between the Parties, notify the other Party of the Force Majeure situation, such notice shall:

(a) describe the event constituting the Force Majeure in reasonable detail; and

(b) to the extent that can be reasonably determined at the time of the notice, set out a preliminary evaluation of the obligations affected, estimate of the period of time that the affected Party will be unable to perform such obligations, the measures which the affected Party is planning to undertake to mitigate the duration and/or effects of the Force Majeure and other relevant matters.

27.5 When appropriate or when reasonably requested to do so by the other Party, the affected Party shall provide further notices to the other Party more fully describing the event of Force Majeure and its causes and providing or updating information referred to in Art. 27.4(b).

27.6 The affected Party shall also provide notice to the other Party of:

(a) the cessation of the Force Majeure; and

(b) the cessation of the effects of the Force Majeure on the affected Party's ability to recommence performance of its obligations under the Contract,

without undue delay, but, in any event, not later than five (5) days after the occurrence of each of sub-paragraphs (a) and (b).

27.7 The Contractor shall be entitled to submit a Variation Order Request in respect of delay caused to the Contractor as a result of the Force Majeure that has been notified by either Party pursuant to Art. 27.4.The period for the submission of notice in Art. 27.4 shall also be the time period for submission of a Variation Order Request, as referred to in Art. 17.1(b)(ii), in relation to delay caused to the Contractor as a result of an event of Force Majeure.

27.8 Each Party shall cover its costs, losses and expenses arising from an event of Force Majeure.

27.9 If an event of Force Majeure, which prevents the affected Party from performing the whole or substantially the whole of its remaining obligations under the Contract, lasts without interruption

for one hundred and eighty (180) days or more, then subject to Art. 27.10, each Party shall have the right to terminate the Contract by notice to the other. In the event of such termination the provisions of Art. 26.2(a) (excluding Art. 26.2(a)(iv)) to Art. 26.2(c) shall apply accordingly.

27.10 The Company may elect to extend, by written notice to the Contractor, the period which must elapse (as referred to in Art. 27.9) before either Party may terminate the Contract, provided that such extension may not exceed a further one hundred and eighty (180) days, without the Contractor's consent.

SECTION 8

LIABILITY AND INSURANCES

28 LOSS OF OR DAMAGE TO THE DELIVERABLES OR THE COMPANY'S MATERIALS

28.1 The Contractor shall take full responsibility for the care of, and subject to this Art. 28, be responsible for damage to or risk of loss of, the Deliverables (including Company's Materials following their delivery to the Contractor) from the Contract Date until the Delivery Certificate is issued or until any earlier date on which the Contract is terminated, as the case may be, when responsibility shall pass to the Company.

28.2 If loss of or damage occurs to the Deliverables (including Company's Materials following their delivery to the Contractor) while the Contractor has the care thereof, then the Contractor shall make good forthwith any such loss or damage from any cause and carry out the necessary measures to ensure that the Deliverables are completed in accordance with the Contract.

28.3 The Contractor's obligation to carry out measures stated in this Art. 28 applies regardless of whether any member of the Company Group has been negligent in causing the loss or damage in question or otherwise and/or whether the loss or damage in question arose in whole or in part due to an error, omission or inaccuracy in the Relied Upon Information.

28.4 The costs of making good loss or damage under Art. 28.2 shall be borne by the Contractor, except that to the extent loss of or damage is caused by one of the risks described in Art. 28.6, the Contractor shall be entitled to, by using a Variation Order Request, subject to Art. 28.7 and in accordance with Art. 12.2(a), claim an adjustment to the Contract Price to reflect the costs incurred by the Contractor in making good such loss or damage.

28.5 The time period for submission of a Variation Order Request, in relation to a claim for Costs under Art. 28.4, referred to in Art. 17.1(b)(ii), shall be seven (7) days from the date the Contractor became aware of the loss or damage giving rise to the Costs.

28.6 The risks referred to in this Art. 28, shall be borne by the Company to the extent they are covered by the Company's insurances:

(a) war (whether declared or not), invasion, acts of foreign enemies, hostilities;

(b) radio-active contamination or ionising radiation, except as may be attributable to the Contractor's use of such radiation or radio-activity;

(c) rebellion, act of terrorism, revolution, insurrection, military or usurped power, or civil war;

(d) riot, civil commotion or disorder, by persons other than the Contractor's personnel and other employees of the Contractor or employees of any Subcontractors;

(e) expropriation or compulsory acquisition or seizure of the Deliverables or Materials by a Public Authority;

(f) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; or

(g) any catastrophic effect of the natural elements including earthquake.

28.7 The Contractor shall immediately notify the Company when the Contractor becomes aware of the occurrence of any loss or damage described in Art. 28.2, and shall within fourteen (14) days (or such longer period as agreed by the Company) of such initial notice notify the Company of the works it proposes for making good such loss or damage, together with a method statement for their implementation and costings for such works.

28.8 The Contractor shall not be entitled to any adjustment of the Contract Price or any other additional payment in respect of the making good of loss or damage (if any) prior to receipt by the Company of the Contractor's initial notice of the occurrence of the loss or damage in accordance with Art. 28.7 and this Art. 28.8. The Company may at any time notify the Contractor that the Company does not require the Contractor to make good any loss or damage described in Art. 28.7, which instruction shall be treated as a Variation Order excluding the performance of that part of the Contract Object thereby lost, destroyed or damaged.

29 INDEMNIFICATION

29.1 Contractor Indemnity

(a) The Contractor waives all rights of recourse against the Company Group and shall indemnify and hold harmless the Company Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of any:

(i) personal injury to or loss of life of any employee of the Contractor Group; and

(ii) loss of or damage to any property owned, leased or otherwise provided by the Contractor Group,

which may arise in connection with the Work, be caused by the Deliverables in their lifetime and/or arise otherwise in respect of the performance or non-performance of the Contract. This waiver and indemnity applies regardless of whether such personal injury, loss of life or loss of or damage to property is caused or contributed to by any member of the Company Group including due to any breach of statutory duty or negligence in whatever form, on the part of the Company Group.

The Contractor undertakes to ensure that other entities in the Contractor Group waive their right to make any claim against the Company Group when such claims are covered by the Contractor's obligation to indemnify pursuant to the foregoing provisions of this Art. 29.1(a).

29.2 Company Indemnity

(a) The Company waives all rights of recourse against the Contractor Group and shall indemnify and hold harmless the Contractor Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of any:

(i) personal injury to or loss of life of any employee of the Company Group; and

(ii) loss of or damage to any property owned, leased or otherwise provided by the Company Group, other than the Work or Materials (including Company Materials following their delivery to the Contractor); and Deliverables before the relevant risk transfer date applicable to such Materials or Deliverables as stated in Art. 28,

which may arise in connection with the Work, be caused by the Deliverables in their lifetime and/or arise otherwise in respect of the performance or non-performance of the Contract including due to any breach of statutory duty or negligence in whatever form, on the part of the Contractor Group.

(b) The Company undertakes to ensure that other entities in the Company Group waive their right to make any claim against the Contractor Group when such claims are covered by the Company's obligation to indemnify pursuant to the foregoing provisions of this Art. 29.2(b).

29.3 Public Authorities, Pollution and Third Party Damages Indemnity

(a) Each Party shall indemnify and hold harmless the other Party's group (Company Group or Contractor Group as applicable) from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of any:

(i) requirements of Public Authorities in connection with the removal of wrecks, vessels or other floating devices provided by the indemnifying Party's group (Company Group or Contractor Group as applicable) for use in connection with the Work and/or removal of such wrecks which would otherwise interfere with the other Party's group's (Company Group or Contractor Group as applicable) ongoing work or operations at the Offshore Site (as appropriate);

(ii) pollution (including noise pollution), emissions or other environmental damage to the extent caused or contributed to by the indemnifying Party or its Subcontractors in the performance of the Contract, save that the provisions of Art. 29.1(a) shall apply to the extent that the consequences of such pollution (including noise pollution), emissions or other environmental damage are within the scope of the indemnity provided at Art. 29.1(a); and

(iii) loss of or damage to any property of, personal injury to or loss of life of any person who is not within the either Party's group (Company Group or Contractor Group as applicable), which arises out of or in the course of or by reason of the performance or non-performance of the Contract or which is attributable to any negligence, wilful misconduct or breach of the Contract by the indemnifying Party or its group (Company Group or Contractor Group as applicable),

provided that in each case the indemnifying Party's liability shall be proportionately reduced to the extent the claim, damages, losses and/or expenses are attributable to any negligence, wilful misconduct or breach of the Contract by the other Party or its group (Company Group or Contractor Group as applicable).

29.4 Intellectual Property Indemnity

(a) The Contractor shall indemnify and hold harmless the Company Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent resulting from an actual or alleged infringement, misappropriation or misuse of any Intellectual Property Rights in relation to:

(i) the design, manufacture, construction or execution of the Work,

(ii) the use of Contractor's Equipment, or

(iii) the proper use of the Deliverables.

(b) If, as a consequence of any claim threatened or brought against the Company or the Company Group arising out of the matters referred to in this Art. 29.4, any part of the Deliverables or their use is held or is accepted by the Contractor to constitute infringement and its use is prohibited, the Contractor shall at its own expense forthwith obtain for the Company the right to use or continue using the Deliverables, provided that, if the Contractor is unable to obtain such right within one (1) month after it was notified of such infringement, the Contractor shall, at its own expense and at the Company's discretion, either:

(i) as soon as reasonably possible replace the Deliverables, or part thereof with equivalent non-infringing Deliverables; or

(ii) as soon as reasonably possible modify the Deliverables so that they become non-infringing,

in each case without loss of performance.

(c) Any such replacement or modified Deliverables shall be subject to the provisions of the Contract applicable to the original Deliverables, and the Contractor shall not, as a result of having to obtain a licence to enable the Company to utilise the Deliverables or from undertaking any action required under Art. 29.4(b)(i) or Art. 29.4(b)(ii), be entitled to claim to any extension of time, adjustment to the Contract Price, other additional payment or other remedy, and any such entitlement is hereby expressly excluded.

(d) Notwithstanding the foregoing, the Company shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement, misappropriation or misuse of any Intellectual Property Rights which is or was directly due to Contractor's compliance with the Company's Documents or directly caused by use of any Company Materials.

(e) A Party shall without undue delay notify the other Party if it receives a claim that the other Party is obliged to indemnify. Whenever possible, the other Party shall take over treatment of the claim.

The Parties shall give each other information and other assistance needed for handling the claim. Neither Party shall, without the consent of the other Party, approve of a claim which shall be indemnified, in whole or in part, by the other Party.

29.5 Other Indemnities

(a) The Contractor shall indemnify and hold harmless the Company Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent that the same are no longer insured or recoverable under insurance as a consequence of any vitiating acts in respect of any policy of insurance (including fraud, material misrepresentation, non-disclosure or breach of any warranty or condition of any policy by the Contractor) required to be provided or maintained pursuant to Art. 30.

(b) The Contractor shall indemnify and hold harmless the Company Group from and against all and any claim, damages, liabilities, costs, losses and expenses (including legal fees and expenses) to the extent arising:

(i) due to any breach by the Contractor or any Subcontractors of the requirements of the Permits or any Applicable Laws, save that the provisions of Art. 29.1(a) shall apply to the extent that the consequences of such breach are within the scope of the indemnity provided at Art. 29.1(a);

(ii) due to a breach by the Contractor of the confidentiality obligations in Art. 33 or the Specific Compliance Requirements; or

(iii) as a consequence of any failure of Contractor Group to pay the required taxes or any other non-compliance with such laws and regulations.

30 INSURANCES

30.1 The Company shall at its expense take out and maintain in effect the insurances described in part B of Appendix I (*Insurances*) in accordance with the requirements specified therein. These policies of insurance shall state that the insurers waive all rights of subrogation against the Contractor Group and that the members of the Contractor Group are co-insured.

30.2 The Company shall, at the request of the Contractor, produce certified copies of the policies or insurance certificates with the necessary information, including the expiry date, relating to all insurances provided by the Company in accordance with Art. 30.1.

30.3 If one of the Parties fails to take out and/or maintain in effect, or the Contractor fails to ensure that its Subcontractors take out and/or maintain in effect, insurance according to the obligations of this Art. 30, then the other Party is entitled to take out and maintain in effect such insurance and claim a refund of the costs incurred in doing so (including any premium) from the Party in accordance with the terms of the Contract.

30.4 The Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, the insurances specified in part A of Appendix I (*Insurances*) in accordance with the requirements specified therein. These policies of insurance shall state that the insurers waive all rights of subrogation against the Company Group and that the members of the Company Group are co-insured. The identity of the insurers and the form of the policies shall be subject to the approval of the Company, such approval not to be unreasonably withheld or delayed.

30.5 The Contractor shall, at the request of the Company, produce certified copies of the policies or insurance certificates with the necessary information, including the expiry date, relating to all insurances provided by the Contractor or its Subcontractors in accordance with Art. 30.4 and Art. 30.6.

30.6 The Contractor shall ensure that its Subcontractors shall take out and maintain in effect adequate insurance policies for their own personnel and equipment and all work executed by them under the Contract unless the Subcontractors are covered by the policies taken out by either the Company or the Contractor.

30.7 The Contractor shall ensure that full disclosure is made through the brokers to those insurers (the "**Insurers**") providing insurance cover in respect of any risk relating to the Work where the Contractor is an insured, of:

(a) all information which the Insurers specifically request to be disclosed;

(b) all information which is of a type which insurance brokers in relation to the relevant policy advise should be disclosed to the Insurers;

(c) without prejudice to the above, all technical information to the extent required to be provided by the Contractor under the Contract;

(d) details of any significant problems encountered in relation to the Work; and

(e) all other information which the Contractor acting in accordance with Good Industry Practice and in good faith could reasonably consider to be material to the relevant insurance coverage.

30.8 The Contractor shall put in place appropriate internal reporting procedures to ensure that full disclosure as described above is made by the management and managers of the Contractor.

30.9 Neither Party shall make any material alteration to the terms of any insurance without the other's prior written approval. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall without undue delay give notice thereof to the other Party.

30.10 When any incident occurs for which cover is granted under one of the Parties' insurance policies, the other Party shall notify that Party without undue delay, enclosing a description of the incident that gives rise to the insurance claim. The Contractor shall give all such assistance to the Company as may be appropriate in connection with any claims that may be made under the policies of insurance effected pursuant to this Art. 30 and the Company shall give to the Contractor all such reasonable assistance as may be reasonably requested and appropriate in connection with claims under such insurances made by the Contractor reasonably requested by the Contractor. Neither the Contractor nor the Company shall give any release or make any compromise with any insurer without the prior written consent of the other.

30.11 Nothing in this Art. 30 limits the obligations, liabilities or responsibilities of the Parties under the other terms of the Contract or otherwise. Any amounts not insured (including by reason of limitation, exclusion, deductible or excess) shall be borne by the Company and the Contractor in accordance with their liabilities under the Contract and, in particular, Art. 28 and Art. 29, subject to Art. 30.12.

30.12 If a Party required to insure a risk under this Art. 30, fails to take out and/or maintain or that Party (or, in the case of the Contractor its Subcontractor) vitiates the relevant insurance, and the other Party does not approve such omission nor effects replacement insurance pursuant to Art. 30.3, any monies which would have been recoverable by the other Party under the relevant insurance had it been properly taken out and maintained as required and not vitiated, shall be paid or allowed by the Party originally required to insure to the other Party.

30.13 All policies of insurance required by this Art. 30 shall be issued in the relevant language required by Applicable Law and translated to the English language if necessary.

30.14 Nothing in this Art. 30 limits the obligations, liabilities or responsibilities of the Parties under the other terms of the Contract or otherwise. Other than as described in Art. 29.5(a) and Art. 30.12, any amounts not insured (including by reason of limitation, exclusion, deductible or excess) shall be borne by the Company and the Contractor in accordance with their liabilities under the Contract.

SECTION 9

LIMITATION AND EXCLUSION OF LIABILITY

31 LIMITATION AND EXCLUSION OF LIABILITY

31.1 The Contractor's total aggregate liability to the Company for any matters arising under or in connection with the Contract (however arising including for breach of contract, in tort (including negligence), by reason of indemnification, breach of statutory duty, equity or any other legal theory) shall in no case, exceed one hundred per cent (100%) of the Contract Price from time to time (the "**Contract Liability Limit**"). The Parties acknowledge that the Contract Liability Limit shall not be reduced by, and that no account shall be taken of:

(a) liabilities in respect of which the Contractor:

(i) can recover from any insurance that the Contractor is obliged to take out under Art. 30, or which the Contractor would have been able to recover under such insurance but for the vitiation of such insurance by the Contractor or its Subcontractors or a breach by the Contractor of its obligations under the Contract in relation to effecting and maintaining insurance, or

(ii) would have recovered from any insurer from a Company procured insurance, but for a vitiating act for the applicable insurance required pursuant to the Contract attributable to the Contractor or its Subcontractors or a breach by the Contractor of its obligations under the Contract (including for the avoidance of doubt, negligence);

(b) the Contractor's liability in the case of fraud, fraudulent misrepresentation, wilful misconduct, (where committed by, under the instruction of or with the knowledge of a person within the management structure of the Contractor, at or above engineering manager level), wilful default, gross negligence and/or breach of the requirements of the Specific Compliance Requirements;

(c) liability in respect of the Contractor's indemnity obligations set out in 2.10(c), Art. 7.2(f). Art. 29.1(a), Art. 29.3(a), Art. 29.4(a) and Art. 29.5(b);

(d) the Contractor's liability in respect of its warranty of title pursuant to Art. 21.1, any failure to pay any Subcontractor and in respect of any Lien and the discharge of any Lien pursuant to Art. 21.2, including in respect of its indemnity obligations set out in Art. 21.2; or

(e) any costs or expenses which the Contractor is obliged to expend prior to the achievement of Completion or termination of the Contract, in order to:

(i) carry out and complete the Work and/or the Deliverables (including in respect of the construction and assembly of the Contract Object, compliance with Art. 22.1 and reinstatement required pursuant to Art. 28.2); or

(ii) carry out its other obligations under the Contract; or

(f) any costs or expenses which the Contractor is obliged to expend in order to carry out the Guarantee Work and/or complete any Minor Outstanding Items.

31.2 The liability of the Contractor to the Company for Liquidated Damages shall not exceed thirty per cent (30%) of the Contract Price from time to time.

31.3 Neither Party shall be liable to the other Party whether pursuant to any provision of the Contract, by way of damages for breach of contract, in tort (including negligence), breach of statutory duty, equity, or under any other legal theory for any loss of profit or revenue, loss of use of equipment or associated equipment, loss of production, loss of opportunity, loss of contract, loss

of goodwill, the cost of obtaining any new financing or maintaining any existing financing, including the making of any scheduled or other repayment or prepayment of debt and the payment of any interest or other costs, fees or expenses incurred in connection with the obtaining or maintaining of financing, subject to Appendix N, ECA financing and Article 35.6, (in each case whether direct or indirect), provided always that this Art. 31.3 shall not prevent, limit or exclude:

(a) liability arising out of fraud, fraudulent misrepresentation, wilful misconduct, gross negligence, or wilful default;

(b) liability arising out of bribery or violation of any Applicable Laws, including for the avoidance of doubt, a breach of the Specific Compliance Requirements;

(c) liability which the Contractor has recovered or is entitled to recover from any insurer (including funds received from the Company), or a third party and/or would have recovered from an insurer, but for a breach by the Contractor of its obligations under the Contract in relation to effecting and maintaining any insurance;

(d) liability for such losses or costs insofar as they form part of the pre-estimated losses for the purposes of calculation of Liquidated Damages or any equivalent general damages payable in the event that the Liquidated Damages are found to be prohibited, rendered void, invalid or unenforceable by any Applicable Laws or otherwise;

(e) liability for the payment of amounts following termination of the Contract under Art. 26.2(a)(iv); or

(f) the calculation of amounts under Art. 24.2(c)(i)(A) and Art. 24.2(c)(ii).

31.4 Unless expressly stated to the contrary and to the extent legally permitted, the rights and remedies expressly afforded by the Contract for failure to satisfy obligations arising hereunder or for a breach hereof are the sole and exclusive remedies of the Parties for such breaches or failures, notwithstanding any remedy otherwise available at law or in equity. To the extent a right or remedy is not specifically provided for by the Contract, such right or remedy as may be available at law or in equity shall in any event be limited by the limitations, waivers and releases of liability set forth in the Contract.

31.5 Nothing in the Contract shall prevent or restrict the right of either Party to seek injunctive relief or a decree of specific performance against the other Party.

31.6 The Contractor may at any time propose an increase to the Contract Liability Limit and/or to any of the limits set out in Art. 31.3 by notice to the Company, subject always to the Company's consent (to be given in his discretion) prior to such increases becoming applicable under the Contract. If the Company consents, such new limit shall be deemed to replace the Contract Liability Limit.

31.7 The Company's total aggregate liability to the Contractor for any matters arising under or in connection with the Contract (however arising including for breach of contract, in tort (including negligence), by reason of indemnification, breach of statutory duty, equity or any other legal theory) shall in no case, exceed one hundred per cent (100%) of the Contract Price from time to time (the "**Company Contract Liability Limit**"). The Company Contract Liability Limit shall not apply to or be reduced by (and in calculating the same no account shall be made in respect of):

(a) liabilities in respect of which the Company:

(i) can recover from any insurance that the Company is obliged to take out under Art. 30, or which the Company would have been able to recover under such insurance but for the vitiation of such insurance by the Company or its contractors or a breach

by the Company of its obligations under the Contract in relation to effecting and maintaining insurance, or

(ii) would have recovered from any insurer from a Contractor procured insurance, but for a vitiating act for the applicable insurance required pursuant to the Contract attributable to the Company or its contractors or a breach by the Company of its obligations under the Contract (including for the avoidance of doubt, negligence);

(b) the Company's liability in the case of fraud, fraudulent misrepresentation, wilful misconduct (where committed by, under the instruction of or with the knowledge of a person within the management structure of the Company, at or above engineering manager level);

(c) liability in respect of the Company's indemnity obligations set out in Art. 29.2(a), Art. 29.3(a) and Art. 29.4(d); or

(d) payment of the Contract Price.

SECTION 10

PROPRIETARY RIGHTS AND CONFIDENTIALITY

32 RIGHTS TO INFORMATION, TECHNOLOGY AND INVENTIONS

32.1 Each Party shall retain any right, title or interest in their respective industrial, commercial or Intellectual Property Rights that have been developed, acquired or obtained independent from or prior to the date of the Contract.

32.2 Ownership of all commercial and technical information, including but not limited to reports, plans, drawings, details, levels, setting out dimensions, specifications and other documents as well as computer programs regardless of method of storage and models, industrial know-how, items and processes (including dies, patterns and stamps) and copies thereof that are prepared at any time relating to the Contract or the Work (referred to elsewhere in this Art. 32 as "**Documents**") and, subject to Art. 32.3, all Intellectual Property Rights subsisting in or relating to the Documents or subsisting in or relating to the Deliverables themselves or their design, construction, commissioning, completion, operation and maintenance, shall automatically vest in the Company upon their creation. The Contractor shall notify the Company of such commercial and technical information and such Intellectual Property Rights which shall be the Company's property and the Contractor shall provide the necessary assistance to enable the Company to acquire the ownership of such Intellectual Property Rights. For the avoidance of doubt, ownership of all data generated by the Contract Object, whether raw data or data transmitted via or generated by Contractor or third party provided systems, shall automatically vest in the Company upon their creation.

32.3 The information and Intellectual Property Rights referred to in Art. 32.1 and Art. 32.2 shall not be used by the Contractor other than for the purpose of the Work, and all Documents and copies thereof shall be returned to the Company prior to issue of the Completion Certificate, unless otherwise agreed.

32.4 The Contractor hereby grants the Company an irrevocable, worldwide, perpetual, royalty-free, non-exclusive licence to use copy, reproduce, construct, modify, communicate, and translate any Intellectual Property Rights not owned by the Company prior to the Contract and in respect of which ownership is not transferred to the Company pursuant to the Contract, which Intellectual Property Rights are necessary for any purpose in connection with the Deliverables including the completion, operation, use, maintenance, repair, rebuilding, modification, extension, replacement, renewing or decommissioning the Contract Object and/or interface facilities. Such licence shall:

(a) apply throughout the actual or intended working life (whichever is longer) of the Deliverables;

(b) entitle any person in proper possession of the relevant part of the Deliverables to copy, use and communicate such Intellectual Property Rights for the purposes of completing, operating, using, maintaining, repairing, rebuilding, modifying, extending, replacing, renewing or decommissioning the Deliverables; and

(c) carry the right to grant sub-licences and be transferable.

32.5 The Contractor shall acquire for itself from all relevant third parties and members of the Contractor's Group necessary, and shall execute or procure the execution of such documents and do all such things as may be necessary or reasonably desirable, in order for the Contractor to be able to perfect the grant of the licence in Art. 32.4 and otherwise comply with its obligations under this Art. 32.

32.6 The Contractor warrants to the Company that the Contractor, the members of the Contractor's Group and their respective employees and agents will not infringe the Intellectual Property Rights of any person in the course of performing the Contractor's obligations under the Contract

and the Deliverables will not by their nature constitute or depend for their existence upon an infringement of the Intellectual Property Rights of any person and that the Work may be used and operated by the Company and its successors and assigns without any such infringement whether on the part of the Company, or the Contractor, any member of the Contractor's Group or their respective employees.

32.7 As between the Parties, the Intellectual Property Rights in the Company's Documents and other designs, data and documents made by (or on behalf of) the Company shall be vested in the Company. The Contractor may, at its cost, copy, use, and obtain communication of the Company's Documents for the purposes of the Contract.

32.8 The provisions of this Art. 32 shall survive termination or expiry for whatever reason of the Contract and be without limit in point of time.

33 CONFIDENTIAL INFORMATION

33.1 All information exchanged between the Parties (including information disclosed to the Contractor on behalf of the Company by any member of the Company Group) in connection with the Contract or the Work, irrespective of whether such information has been furnished prior to the making of the Contract or at any time thereafter, shall be treated as confidential (including the terms and conditions of the Contract) and shall not be disclosed to any other person other than a member of the Company Group, or a Related Project Company, without the other Party's written permission, unless such information:

(a) may be disclosed in accordance with Art. 32,

(b) may be disclosed in accordance with this Art. 33;

(c) is already known to the Party in question at the time the information was received, or

(d) is or becomes part of the public domain other than through a fault of the Company Group or the Contractor Group; or

(e) is rightfully received from any other person without an obligation of confidentiality.

Each of the Parties may, however, use or disclose confidential information:

(i) to the extent required by Applicable Laws;

(ii) to the extent required by the rules of a relevant and recognised stock exchange;

(iii) to any insurer under a policy of insurance issued pursuant to the Contract;

(iv) to any tax, insurance or legal advisors who are bound by professional standards of confidentiality no less stringent than those imposed by this Art. 33;

(v) to professional advisers of either Party or one of its Affiliates on terms that such professional advisers undertake to comply with confidentiality obligations not less stringent than this of Art. 33;

(vi) to any assignee or transferee of the Company (including party to whom the Contract is novated) and their advisors and any potential purchasers of shares in the Company and their advisors, in each case such that the disclosing Party shall ensure that such person is subject to obligations of confidentiality in respect of the disclosed confidential information in terms no less stringent than the terms of this Art. 33;

(vii) to subcontractors of either Party and/or to the Company's other contractors on the Project on terms that require them to undertake to comply with confidentiality obligations not less stringent than this of Art. 33; and/or

(viii) to any other person, to the extent necessary for (i) the performance of and control of the Work or other obligations under the Contract and/or (ii) use of the Deliverables by the Company, or any other assignment of the assets (including conducting the sale of a direct ownership interest in the Project). In such cases the disclosing Party shall ensure that such person is subject to obligations of confidentiality in respect of the disclosed confidential information in terms no less stringent than the terms of this Art. 33.

33.2 The Contractor shall not publish information concerning the Work or the Contract without the Company's written approval, which shall not be unreasonably withheld.

33.3 The Contractor shall not use any documents or other information received from the Company for any purpose other than the performance of its obligations under the Contract.

33.4 The provisions of this Art. 33 shall survive termination or expiry for whatever reason of the Contract and be without limit in point of time.

34 GOVERNING LAW AND DISPUTES

34.1 The Contract and any non-contractual obligations arising out of or in connection with the Contract shall be governed by and construed in accordance with the laws of England and Wales.

34.2 Subject only to the limited exception in Art. 34.4, all Disputes shall first be submitted to one or more senior representatives of each Party, who will seek to resolve the Dispute. Each Party shall appoint one or more senior representatives for this purpose.

34.3 A Party shall notify the other in writing of a Dispute (a "**Notice of Dispute**") and shall include in its Notice of Dispute reasonable details of the matter(s) in dispute and the name(s) of its senior representative(s).

34.4 Within five (5) days of receipt of a Notice of Dispute, the Party in receipt shall notify the other Party of its senior representative(s) (a "**Response Notice**"). If the Party in receipt does not send its Response Notice within five (5) days, the other Party may proceed to resolve the Dispute pursuant to Art. 34.7 to Art. 34.21 without further notice.

34.5 Within ten (10) days of the date of the Response Notice, or such longer period as the Parties may agree, the Parties' senior representatives shall meet and attempt in good faith and use their reasonable endeavours to resolve the Dispute. In the event that the Parties' senior representatives do not meet within ten (10) days, or such longer period as the Parties may agree, either Party may proceed to resolve the Dispute pursuant to Art. 34.7 to Art. 34.21 without further notice.

34.6 If the meeting takes place and the Dispute is not resolved, as evidenced by the signature of both Parties on written terms which fully and finally settle the Dispute, within twenty (20) days of the meeting of the Parties' senior representatives, or such longer time as the Parties may mutually agree, either Party may thereafter proceed to resolve the Dispute pursuant to Art. 34.7 to Art. 34.21 without further notice.

34.7 All Disputes which are not resolved under Art. 34.2 to Art. 34.6 shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this Art. 34.7, save as amended by this Art. 34. In the event of a conflict between the LCIA Rules and the terms set out herein, the terms set out herein shall prevail:

(a) The number of Arbitrators shall be three.

(b) The seat or legal place shall be London, England.

(c) The language to be used in the arbitral proceedings shall be English.

34.8 The Parties agree that Arbitrators shall be persons with not less than 10 years' experience of the implementation and/or interpretation of contracts relating to the design, engineering, construction, operation and maintenance of projects of a similar nature to the Work. Present or former employees or agents of, or consultants or counsel to, any Party may not be nominated or appointed as an Arbitrator.

34.9 Any decisions or awards in the arbitration, including all materials in the arbitration created for the purposes of the arbitration and all other documents produced by another Party in the proceedings not otherwise in the public domain, shall be kept confidential by the arbitral tribunal and be treated as confidential information by the Parties, pursuant to Art. 33.

34.10 Each Party shall bear its costs and expenses incurred with the arbitration, including solicitors' fees. The Parties shall also share equally the arbitrators' fees and expenses provided, however, that the arbitrators may provide for alternative allocation of such expenses to a Party, including if the arbitrators determine in writing that such Party's position was not taken in good faith.

34.11 Each Party agrees that it may be joined as an additional party to an arbitration involving another Party to this Contract. The Contractor agrees that, if a Dispute between it and the Company has been referred to arbitration, it shall not object to the Company joining a Company's other contractor for the Project (for the purposes of this Article a "**Third Party Contractor**") appointed under a contract (the "**Third Party Contract**") to that arbitration.

34.12 Where a Dispute has been referred to arbitration, and the Company has a related dispute with (1) a Third Party Contractor under a Third Party Contract and which Third Party Contractor agrees to similar joinder and consolidation obligations as set out herein, or (2) either Party has claims against a guarantor under a guarantee issued in relation to this Contract (each, a "**Related Dispute**"), notwithstanding that an arbitral tribunal may already have been agreed or appointed in relation to the Dispute and/or the Related Dispute, the Company or the Contractor may give written notice ("**Related Dispute Notice**") requiring, as appropriate:

(a) the joinder of the parties to the Related Dispute to the Dispute under this Contract;

(b) the concurrent hearing of the Dispute under this Contract and the Related Dispute by the same arbitral tribunal; or

(c) the consolidation of the Dispute under this Contract and the Related Dispute between the same arbitral tribunal.

34.13 Such Related Dispute Notice must be served on: (i) any arbitral tribunal already agreed or appointed in relation to the Dispute and/or the Related Dispute; and (ii) the other Party and all parties to the Related Dispute.

34.14 In the event of all concerned parties not having agreed upon joinder, the concurrent hearing of disputes or consolidation as required in the Related Dispute Notice within 14 days after receipt of such notice, any party to the Dispute or a Related Dispute may request any arbitral tribunal appointed in respect of such dispute to make a ruling on the matter and the Parties agree that any such arbitral tribunal shall have the power to:

(a) determine whether a dispute is a Related Dispute;

(b) order joinder, consolidation or concurrent hearings as they consider appropriate, to give effect to the Related Dispute Notice; and

(c) make all such other orders as if the parties to the Related Dispute were a party to this arbitration agreement.

34.15 In the event of inconsistent decisions by different arbitral tribunals relating to joinder, concurrent hearings or consolidation (including which arbitral tribunal should preside over any concurrent hearings or consolidated dispute), the decision of the arbitral tribunal appointed first in time must prevail. Any decision by an arbitral tribunal in relation to a matter raised in a Related Dispute Notice shall be determined taking into account:

(a) the likelihood and consequences of inconsistent decisions if joinder, concurrent hearings or consolidation is not allowed;

(b) the extent of any delay on the part of the party that served the Related Dispute Notice;

(c) the extent of any delay on the part of any party objecting to the approach required in the Related Dispute Notice;

(d) how far the arbitration or any other dispute resolution process in relation to the Dispute and/or the Related Dispute has progressed; and

(e) the likely consequences of joinder, concurrent hearings or consolidation in terms of cost and time.

34.16 In the event that the parties agree on, or an order is made for, joinder, concurrent hearings or consolidation of the Dispute and the Related Dispute ("**Unified Dispute**"), the arbitral tribunal with jurisdiction over the Unified Dispute in accordance with this Article ("**Tribunal**") shall then have discretion to revise any procedural directions, timetables or time limits that may have been agreed or ordered in relation to the Dispute or the Related Dispute and give any order in respect of the joinder, concurrent hearings or consolidation of the Dispute and the Related Dispute as may be necessary. Any such award, decision or order of the Tribunal shall be binding on all parties to the Unified Dispute.

34.17 Documents disclosed in an arbitration concerning the Dispute shall be admissible in and may be relied upon in a Related Dispute or Unified Dispute.

34.18 The Tribunal shall have jurisdiction to resolve finally the Unified Dispute to the exclusion of any other arbitral tribunal and any appointment of another arbitral tribunal in relation to the Unified Dispute will be deemed to be functus officio. Any such termination of an arbitral tribunal's appointment shall be without prejudice to:

(a) (subject to the foregoing provisions) the validity of any act done or order made by the arbitral tribunal or by the court in support of that arbitration before the termination of its appointment;

(b) its entitlement to be paid its proper fees and disbursements; and

(c) the date when any claim or defence was raised for the purposes of applying any limitation bar or any similar rule or provision.

34.19 The Parties hereby waive any objections they may have as to the validity and/or enforcement of any arbitral awards made by the arbitral tribunal following the joinder of parties, concurrent hearings or consolidation of disputes or arbitral proceedings in accordance with this Art. 34 where such objections are based solely on the fact that joinder, concurrent hearing or consolidation has occurred.

34.20 Notwithstanding any reference to dispute resolution hereunder the Parties shall continue to perform their respective obligations under the Contract unless the Parties otherwise agree.

34.21 Any determination which the Company is entitled to make pursuant to the terms of the Contract (including as to adjustments to Contract Price or Contract Schedule), shall be binding on the Parties on an interim basis pending the outcome of any dispute proceedings commenced in respect of such determination pursuant to this Art. 34.

SECTION 11

OTHER PROVISIONS

35 TRANSFER OF THE CONTRACT AND THIRD PARTY RIGHTS

35.1 The Contractor shall not assign, transfer, convey, or otherwise dispose of this Contract (or its right, title, or interest in it or any part of it) without the prior written consent of the Company.

35.2 The Company shall not assign, transfer, convey, or otherwise dispose of this Contract (or its right, title, or interest in it or any part of it) without the prior written consent of the Contractor; provided that, no such consent shall be required with respect to an assignment to:

(a) any Affiliate of the Company;

(b) a special purpose company established for the purpose of a financing or refinancing of the Project;

(c) any other person, provided that the Company can reasonably demonstrate that the assignee (directly or through financial security provided by or on behalf of the assignee) has the financial strength required to fulfil the Company's obligations under the Contract.

35.3 The Contract shall be binding upon and shall inure to the benefit of the Parties' successors and permitted assigns.

35.4 The Company may, without the prior consent of the Contractor, collaterally assign, transfer, charge, mortgage, pledge, novate or otherwise encumber this Contract (or its right, title, or interest in it or any part of it) to any person.

35.5 The Contractor shall, at the Company's request, duly execute and return to the Company a deed or agreement necessary to give effect to any permitted assignment, charge, encumbrance or novation referred to above and the form of such deed or agreement in respect of a novation, shall be in the form attached at Appendix K (*Form of Novation*) subject to any changes the beneficiary may reasonably require.

35.6 ASSISTANCE TO LENDERS

The Contractor shall provide such documents and other technical assistance as the Company may reasonably request in connection with the financing of the Project or the Work.

From the Contract Date and during the performance of the Work, the Contractor shall make available information to the Company and the Lenders providing answers to questions relating to the status of the Work, including information relating to the design, engineering, procurement, construction, commissioning, testing and delivery of the Work, the status of any required licenses, and permits, and such other matters as the Company or the Lenders may reasonably request.

The Contractor shall agree to such amendments to the Contract and furnish such consents to assignment, certifications, and representations, estoppel certificates, and opinions of counsel addressed to the Company and the Lenders as may be reasonably requested by the Company or the Lenders in connection with the financing of the Project.

The Contractor agrees that in the event of an assignment of the Contract to the agent of the Lenders or any person providing finance to the Project or any other permitted assignee, the Contractor shall, if requested by the Company, execute an acknowledgement of assignment and shall upon the request of the Company enter into a direct agreement in favour of the agent of the Lenders in the form of Lenders' Direct Agreement laid down in Appendix N, Annex N1, or

on such other terms as may be reasonably required by the Lenders subject to such form being consistent with the requirements for a non-recourse or limited recourse financing.

The Contractor acknowledges and agrees that the Lenders may appoint representatives or engineers to monitor the performance of the Works and compliance with other provisions within the Contract. The Contractor shall allow the Lenders' TA or any other agents and advisers of the Lenders such reasonable access to the Site, to accompany the Company to any inspection or test that the Company is otherwise entitled to attend or witness in accordance with the Contract, and to any documentation in relation to the Contract at such times as they shall reasonably require.

The Contractor agrees to appoint representatives or engineers to deal with the Lenders and to perform the obligations of the Contractor under this Art. 35.6 and shall notify the Lenders of the identity of such representative. The Contractor agrees to bear all expenses incurred by it or its representative in connection with its or its representative's dealings with the Lenders.

36 NOTICES, CLAIMS AND NOTIFICATIONS

36.1 All notices, claims, approvals, consents, instructions, determinations, orders, certificates and requests to be given in accordance with the provisions of the Contract shall be submitted by the Company's collaboration system as stated in Appendix D (*Administration Requirements),* in letter format by personal delivery (against receipt), registered post or courier to the address for the recipient's communications, or as changed by the recipient by the provision of prior notice.

36.2 Written communications sent by:

(a) registered post shall be deemed to have been received two (2) days after posting from the same country as the recipient's postal address, and ten (10) days after posting from a country other than the country of the recipient's postal address. Any days when banks in the country of the recipient's postal address are not generally open for business do not count towards these periods of time;

(b) personal delivery or courier shall be deemed to have been received upon delivery (against proof of receipt), except that delivery cannot occur after 17:00hrs local time or on a day when banks in the country of the recipient's postal address are not generally open for business, in which event the communication is deemed to have been received at 9:00hrs local time on the next day; and

(c) e-mail shall be deemed to have been received at the time they are uploaded to and available for viewing on the project information management system referred to in Appendix D (*Administration Requirements*), except where this occurs after 17:00hrs local time or on a day when banks in the country of the recipient's postal address are not generally open for business, in which event the communication is deemed to have been received at 9:00hrs local time on the next day.

36.3 The Contractor irrevocably appoints [●] as its agent under this Contract for service of process in any proceedings in relation to any Dispute.

36.4 If any person appointed as process agent under Art. 36.3 is unable for any reason so to act, the Contractor must immediately (and in any event within 14 days of such date) appoint another agent on terms acceptable to the Company.

36.5 The Contractor agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.

36.6 The service of process provisions set out herein shall not affect any other method of service allowed by Applicable Law.

37 GENERAL REPRESENTATIONS AND WARRANTIES

37.1 The Contractor[2] hereby makes the following representations and warranties to the Company each of which the Contractor further covenants, warrants and represents are true and correct as of the date of this Contract and shall remain true and correct for the duration of the term of this Contract:

(a) it has been incorporated under the laws of [●], and is validly existing under those laws and has the power and authority to carry on its business in its jurisdiction of incorporation, and such other jurisdictions where work will be performed pursuant to this Contract;

(b) it has requisite power and authority to enter into this Contract and comply with its obligations under it;

(c) this Contract and the transactions under it do not contravene its constituent documents or any Applicable Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation of its powers or the powers of its directors to be exceeded;

(d) it has in full force and effect the authorisations necessary for it to enter into this Contract and the transactions under it;

(e) its obligations under this Contract are valid and binding and are enforceable against it in accordance with the terms of this Contract;

(f) it is not in breach of any Applicable Law or obligation affecting it or its assets in a way which may result in a material adverse effect on its business or financial condition;

(g) there is no pending or threatened proceeding affecting the Contractor or any of its assets that would affect the validity or enforceability of this Contract, the ability of the Contractor to fulfil its commitments under this Contract in any material respect, or that could result in any material adverse change in the business or financial condition of the Contractor;

(h) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;

(i) it has the necessary skills and experience to perform the Work in accordance with this Contract; and

(j) it owns or has the right to use all Intellectual Property Rights necessary to perform its obligations under this Contract.

38 MISCELLANEOUS

The Contractor shall not, prior to any termination of the Contract, take any action or other steps, or present or issue a petition or legal proceedings or otherwise be a party to any winding-up of the Company or intended to lead to any other Insolvency Event in respect of the Company.

38.1 No Waiver

No approval, expression of satisfaction, comment, review, test, inspection, payment or certificate made or given (or any failure to make or give or attend the same) by or on behalf of the Company, shall be evidence that the Contractor has performed any of its obligations under

[2] These representations and warranties will require amendment if the Contractor is a joint venture or a consortium.

the Contract or that the Work is in accordance with the Contract or relieve the Contractor of any of its obligations, risks or liabilities under the Contract

38.2 Mitigation

In all cases the Party claiming a breach of the Contract or a right to be indemnified in accordance with the Contract shall be obliged to take all reasonable measures to mitigate the loss or damage which has occurred or may occur.

38.3 Entire Agreement and Representations

The Contract constitutes the entire agreement between the Company and the Contractor with respect to the subject matter of the Contract and supersedes all prior commitments, arrangements, agreements and contracts (whether written or oral) made between or entered into by the Parties with respect thereto prior to the Contract Date except to the extent they are expressly incorporated herein. The Company and the Contractor acknowledge that:

(a) neither Party has entered into the Contract in reliance upon any representation, warranty or undertaking of any Party which is not expressly set out or referred to in the Contract; and

(b) no Party shall have any remedy in respect of misrepresentation or untrue statement made by any other Party which is not contained in the Contract nor for breach of warranty which is not contained in the Contract;

(c) this Art. 38.3 shall not exclude any liability for, or remedy in respect of, fraud or fraudulent misrepresentation; and

(d) except to the extent that the same cannot be excluded under Applicable Laws, no terms shall be implied (whether by custom, usage or otherwise) into the Contract.

38.4 Costs

Each of the Parties shall pay its own costs and expenses of and incidental to the negotiation, preparation, completion and entering into of the Contract**.**

38.5 Contractor Remedies

Except as expressly provided in the Contract, the Contractor shall have no rights, whether at law or under or pursuant to the Contract or otherwise, to any extension of the time limits contained in the Contract or to any adjustment to the Contract Price or to claim any additional sums or other forms of relief or to treat the Contract as terminated.

38.6 Severability

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

38.7 Further Assurance

Each Party agrees, upon the request of the other, to execute any documents and take any further steps as may be reasonably necessary in order to implement and give full effect to the Contract.

38.8 Relationship of the Parties

(a) Nothing in the Contract shall be deemed to constitute a partnership between the Parties nor constitute any Party the agent of the other Party for any purpose, unless the Contract expressly provides to the contrary.

(b) The Parties do not intend that any term of the Contract should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.

38.9 Survival

Provisions of the Contract which are expressed, or by their nature intended, to survive termination, including this Art. 38.9 and all indemnities provided by a Party under this Contract, shall survive the termination or expiry of the Contract and continue in full force and effect.

38.10 Counterparts

(a) The Contract may be executed in any number of counterparts, all of which when taken together shall constitute the one and the same instrument.

(b) The Contract may be executed by using electronic signature software, including portable document format (PDF), and delivered through electronic transmission, including email, and all signatures so obtained and transmitted shall be deemed for all purposes under the Contract to be original signatures until such time, if ever, original counterparts are exchanged by the Parties.