

TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND/OR SERVICES

ARTICLE 1 - DEFINITIONS

- 1.1 "CONTRACTOR" shall have the meaning ascribed to it in the Form of Purchase Order and includes CONTRACTOR's personnel, representatives, successors and assignees.
- 1.2 "GOODS" means goods, equipment, materials, supplies or other such items purchased by NIPPON and provided by CONTRACTOR as set forth in the ORDER.
- 1.3 "ORDER" means
- a) the Form of Purchase Order issued by NIPPON to CONTRACTOR which sets forth NIPPON's commitment to purchase GOODS or other similar document officially executed and issued by NIPPON for the request of GOODS and/or SERVICES;
 - b) this Terms and Conditions; and
 - c) any other document listed herein and shall constitute the entire agreement between the Parties.
- 1.4 "SERVICES" means all activities or services to be performed and rendered by CONTRACTOR as set forth in the ORDER.
- 1.5 "WORK" means the provision of GOODS and/or performance of SERVICES by CONTRACTOR as set forth in the ORDER.

ARTICLE 2 - ACCEPTANCE OF WORK

- 2.1 The WORK performed by CONTRACTOR shall comply strictly with the requirements, specifications or standards required by NIPPON as set forth in the ORDER. In the case of WORK performed by CONTRACTOR not conforming with the ORDER, NIPPON shall have the right to reject the WORK.
- 2.2 Written confirmation by NIPPON's authorised personnel that the WORK performed have complied with the ORDER, including, where applicable having been rectified, repaired or replaced in accordance with the ORDER to reasonable satisfaction of NIPPON's authorised personnel shall constitute acceptance of the WORK by NIPPON.

ARTICLE 3 - AMENDMENTS AND INCONSISTENCIES

NIPPON and CONTRACTOR shall mutually agree in writing to any amendment to the ORDER. In the event of any conflict or inconsistency between this Terms and Conditions and the new amendment, the new amendment shall prevail.

ARTICLE 4 – DISPUTE RESOLUTION

NIPPON and CONTRACTOR shall refer any disputes or differences arising out of or in connection with this ORDER to Arbitration in accordance with the Rules of the Asian International Arbitration Centre (AIAC) if not settled amicably by NIPPON and CONTRACTOR. The place of arbitration shall be in Kuala Lumpur, Malaysia and the language to be used in the arbitration proceedings shall be English. The Parties hereto shall agree on one (1) arbitrator to be mutually appointed by the Parties. In the event that the Parties fail to appoint the arbitrator, the appointing authority shall be the Director of AIAC.

ARTICLE 5 - ACCESS AND AUDIT

NIPPON shall have the right to access to CONTRACTOR's premises as well as audit all CONTRACTOR's documents and records related to this ORDER. Such right shall remain in force until up to twelve (12) months after expiry or termination of this ORDER.

ARTICLE 6 - CONFIDENTIALITY

CONTRACTOR shall maintain the confidentiality of this ORDER and all matters arising out of it which are not in the public domain (unless the matters are in public domain through CONTRACTOR's breach of this ORDER's conditions).

ARTICLE 7 - FORCE MAJEURE

Neither CONTRACTOR nor NIPPON shall be liable to the other Party for any breach of the terms and conditions of this ORDER where such breach occurs as a result of a Force Majeure. Force Majeure shall include but not limited to acts of God or force of nature, land-slide, lightning , earthquake, flood, fire, explosion, storm or storm warning, tidal wave, shipwreck and perils to navigation, act of war (declared or undeclared) or public enemy strike (excluding strikes, lockouts or other industrial disputes or action solely amongst employees of CONTRACTOR) act or omission of sovereign or those purporting to represent sovereign states, blockade, embargo, pandemic, quarantine, public disorder, sabotage or similar events beyond the control of the Parties or either of them.

ARTICLE 8 - HEALTH, SAFETY AND ENVIRONMENT

CONTRACTOR shall comply with all laws (whether federal, local or otherwise) and regulations pertaining to safety, health, environmental protection, fire protection and security regulations in performing the WORK and strictly adhere to NIPPON Health Safety & Environment manual, policies, procedures/practices, instructions and requirement (a copy of which is available from NIPPON's office) including possession of valid safety passport, medical certificate and the use of personal protective equipment at all times in the execution of this ORDER.

ARTICLE 9 – GOVERNING LAW

This ORDER is governed, construed and effected in accordance with the laws of Malaysia.

CONTRACTOR shall bear all costs for compliance with all applicable laws, rules and regulations and obtaining authorities' approval, licenses, permits for the performance of this ORDER.

ARTICLE 10 - LIABILITIES AND INDEMNITIES

- 10.1 CONTRACTOR shall in the execution of this ORDER be responsible for and shall protect, indemnify, save and hold NIPPON harmless from and against any claims, demands, and causes of action for property damage and/or injury arising out of the act or omission to act, negligent or otherwise, of CONTRACTOR.
- 10.2 Neither NIPPON nor CONTRACTOR shall be liable to the other (or anyone for whom the other may be acting) for special, indirect or consequential and/or contingent loss or damage (and such loss or damage shall include without limitation loss of use or profit, loss of revenue, loss of product, economic loss, loss of contracts or loss of business) whether or not the same are foreseeable and whether arising out of breach of contract tort, statutory duty or otherwise.

ARTICLE 11 - INVOICING & PAYMENT

CONTRACTOR shall submit its invoice(s) complete with the required supporting documentations in one (1) original and one (1) softcopy as follow:

- a) Original invoices shall be addressed to the address specified below or any other address as advised by NIPPON:

JX NIPPON OIL & GAS EXPLORATION (MALAYSIA) LIMITED
Level 15, Menara Prestige
No. 1, Jalan Pinang
50450 Kuala Lumpur
Attn: MANAGER, FINANCE & ACCOUNTING DEPARTMENT

- b) Softcopy of invoices in PDF file format (in black & white copy) shall be emailed to the email address as stated in the Order.

Payment in RINGGIT MALAYSIA (RM) shall be made to CONTRACTOR's bank as advised by the CONTRACTOR.

Unless otherwise stated in the ORDER, NIPPON shall, subject to its right to dispute the invoice, make payment within thirty (30) days of receiving the original invoice together with the required supporting documents.

CONTRACTOR is required to submit monthly statement of account commencing from issuance of the first invoice. The monthly statement of account shall be submitted before 7th calendar day of each month.

ARTICLE 12 - SUBCONTRACTS AND ASSIGNMENT

CONTRACTOR must obtain NIPPON's written approval before CONTRACTOR can subcontract or assign any portion of the WORK or money due under this ORDER.

ARTICLE 13 - SUSPENSION

At any time, NIPPON may elect at its sole option to suspend all or any part of the remaining WORK for any reason whatsoever and shall give notice to CONTRACTOR specifying the part of the WORK to be suspended and the effective date of suspension. CONTRACTOR shall cease performance of the said suspended part of the WORK on the effective date of suspension.

Such suspension shall remain in force until such time that the above reasons are no longer applicable as determined by NIPPON or otherwise when waived in writing by NIPPON. For the avoidance of doubt, no payment shall be made to CONTRACTOR if such suspension is due to a default, negligence or omission or by CONTRACTOR.

ARTICLE 14 - TERMINATION

NIPPON may terminate this ORDER at any time by giving notice in writing to CONTRACTOR. On receipt of such notice, CONTRACTOR shall cease performance of the WORK and NIPPON shall pay CONTRACTOR for part of the WORK performed (if any) up to the date of termination as specified in the notice.

ARTICLE 15 - WARRANTY

CONTRACTOR warrants and guarantees that the WORK will be performed in a professional manner in accordance with good and sound industry practices and shall comply with the applicable

specifications, codes and standards and fit for the purpose of this ORDER's requirements. If NIPPON discovers any defects in the WORK, NIPPON shall notify CONTRACTOR of the defects. At NIPPON's option, NIPPON may instruct CONTRACTOR to repair or replace or remedy the defective WORK at the cost of the CONTRACTOR. The scope of CONTRACTOR's warranty herein shall cover all expenses incurred in the repair, replacement, labour, transportation and all direct cost and remedy of the defective WORK.

If CONTRACTOR fail to perform the WORK or part thereof or make good the defect as required by NIPPON within the specified period after delivery of written notice to CONTRACTOR by NIPPON, NIPPON shall be entitled to have the WORK or part thereof, as the case may be, carried out by its own personnel or by other contractor appointed by NIPPON at the cost of the CONTRACTOR.

ARTICLE 16 - ACTIONS ON BEHALF OF NIPPON

In performing the WORK, CONTRACTOR shall not take any actions on behalf of NIPPON or conduct any operations that would subject either party to liability or penalty under any law, rules, regulations, or decrees by any government authority.

ARTICLE 17 - COMMENCEMENT AND COMPLETION OF WORK

CONTRACTOR shall commence the WORK as instructed by NIPPON and shall per-form the WORK with due diligence and complete them on or before the scheduled completion date as stated in the ORDER. Time shall be of the essence of this ORDER.

ARTICLE 18 - LIENS AND CLAIMS

CONTRACTOR shall indemnify NIPPON against all liens, claims and encumbrances against CONTRACTOR's actions. NIPPON shall have the right to retain from any amount it owes CONTRACTOR a sum sufficient to offset such lien or claim until such lien or claim is satisfied, discharged or settled.

ARTICLE 19 - INSURANCE

CONTRACTOR shall, for performance of the WORK, effect and maintain at its own cost, all applicable insurances as required by law and as may be specified in the ORDER.

ARTICLE 20 - TAXES AND DUTIES

Sales and Service Tax

Any Sales and/or Service tax payable on the lump sums, fixed rates and any other prices set forth in this CONTRACT must be specified and separately stated in the ORDER.

When an invoice is due for payment, NIPPON shall reimburse CONTRACTOR the amount of Sales Tax for any taxable goods manufactured and supplied in Malaysia by the CONTRACTOR under the ORDER provided always CONTRACTOR shall provide NIPPON with a copy of Sales Tax notification letter issued by the Royal Malaysian Custom Department ('Custom Department') confirming that CONTRACTOR is licensed under the Sales Tax Act 2018 as a taxable person supplying taxable goods.

When an invoice is due for payment, NIPPON shall reimburse CONTRACTOR the amount of Service Tax for any taxable services rendered in Malaysia by the CONTRACTOR under the CONTRACT provided always CONTRACTOR shall provide NIPPON with a copy of Service Tax notification letter issued by the Custom Department confirming that CONTRACTOR is licensed under the Service Tax Act 2018 as a taxable person providing taxable services.

In each of the above invoices, the Sales Tax and Service Tax amount shall be separately stated from the price and/or rates, shall be separately itemised and must state the SST registration number in the invoice accordingly.

In each of the above invoices, the equivalent amount in Ringgit Malaysia for the purpose of calculating the Sales and Services Tax ("SST") amount in accordance with Sales Tax Act 2018 and Service Tax Act 2018 shall be stated in the invoice. The exchange rate to be used to calculate the equivalent amount in Ringgit Malaysia shall be in compliance with the requirements under the law, regulations or guidelines issued by the Royal Malaysian Customs.

CONTRACTOR shall defend, protect and indemnify and hold NIPPON safe and harmless from any and all claims or liability for income, excess profits, royalty and other taxes assessed or levied by the Government of Malaysia or by any relevant authorities thereof or by the government of any other country against CONTRACTOR or any subcontractor or against NIPPON on account of any payment made to or earned by CONTRACTOR or any subcontractor. CONTRACTOR further shall protect and hold NIPPON harmless from all taxes assessed or levied against or on account of wages, salaries or other benefits paid to or enjoyed by employees of CONTRACTOR or any subcontractor, and all taxes assessed or levied against or on account of any property or equipment of CONTRACTOR or any subcontractor.

ARTICLE 21 – INTELLECTUAL PROPERTY INDEMNITY

CONTRACTOR shall indemnify NIPPON against any claim arising out of any infringement of copyrights, trademarks, patents, registered designs or other rights which may arise as a result of the WORK performed by the CONTRACTOR.

ARTICLE 22 - SPECIAL CONDITIONS

Where special conditions are stated on the ORDER, those conditions shall apply equally with the general conditions shown above except that where any inconsistency arises between the general and special conditions, the special conditions shall prevail.

ARTICLE 23 - NOTICES

- 23.1 All notices required herein shall be in writing and shall be deemed to have been properly given or made if sent to the respective Party at the addresses mentioned in the ORDER.
- 23.2 Notice shall be deemed to have been received:
- a) If delivered by hand - At time of delivery to either Party.
 - b) If sent by facsimile or email - At time of transmission.
 - c) If sent by registered mail or courier service - At time of receipt or record of delivery.
- 23.3 Either Party may change the person or address to which notice shall be sent by giving the other Party written notice of such change.

ARTICLE 24 - PASSING OF TITLE AND RISK

The title and risk of loss of or damage to the GOODS shall pass from CONTRACTOR to NIPPON upon acceptance of services in accordance to Article 2 – ACCEPTANCE OF WORK.

ARTICLE 25 - LIQUIDATED DAMAGES

Time is of the essence of the ORDER. CONTRACTOR shall deliver GOODS on or before the stipulated delivery date failing which NIPPON may cancel any ORDER or any part thereof without

any liability whatsoever to CONTRACTOR, CONTRACTOR shall give written notice to NIPPON of any anticipated delay.

In case of late delivery of the GOODS or any part thereof after the agreed ORDER delivery time, CONTRACTOR shall pay **0.3% percent per day up to a maximum of 10% of the ORDER value**, from the stipulated delivery date until the date of actual delivery.

All amounts of such Liquidated Damages are agreed as a genuine pre-estimate of the losses that may be sustained by NIPPON in the event that the CONTRACTOR fails to complete within schedules and is not a penalty. CONTRACTOR agrees to pay such Liquidated Damages without the need for NIPPON to prove its actual damage or loss.

NIPPON may deduct such Liquidated Damages as a debt from any monies due or that becomes due to the CONTRACTOR under this ORDER and Terms & Conditions.

ARTICLES 26 – BUSINESS ETHICS

CONTRACTOR shall not enter into any business arrangements with employees or servants of NIPPON or pay any commissions or fees, or grant any rebates to them nor favour them with gifts or entertainment.

CONTRACTOR shall exercise reasonable care and diligence to prevent any action being taken or condition from arising, which conflicts with NIPPON's best interests. This obligation shall apply to the activities of the employees and agents of CONTRACTOR in their relations with NIPPON's employees and their families, or with vendors, subcontractors and third parties arising from this ORDER or accomplishing work hereunder. CONTRACTOR's efforts shall include, but not be limited to establishing and maintaining precautions and procedures to prevent the CONTRACTOR, its directors, employees, agents or representatives from directly or indirectly making, receiving, providing or offering gifts whether of minimal value or otherwise, entertainment, payments, loans or other consideration to directors, employees, agents or representative of NIPPON for the purpose of influencing individuals to act contrary to NIPPON's interests.

The Parties herein agree that the Malaysian Anti-Corruption Commission Act 2009 (Act 694) ("**MACC Act**"), as may be amended from time to time, is applicable and shall be referred to in this ORDER, which provisions are deemed to be incorporated by reference in this Article. CONTRACTOR states that it is familiar with and shall comply with the MACC Act.

CONTRACTOR shall comply at all times with all laws (whether international, national, state or otherwise) and regulations pertaining to anti-bribery and anti-corruption regulations, which are applicable to the WORK, and requirements as may be required by the Malaysian Government or other authorities having jurisdiction and otherwise as set forth by NIPPON in its Anti-Bribery and Anti-Corruption Policy and procedures and any other requirements.

CONTRACTOR shall have a written policy on Anti-Bribery and Anti-Corruption which is of a standard comparable to NIPPON's Anti-Bribery and Anti-Corruption Policy and which has been signed and dated and is actively supported and endorsed by CONTRACTOR's management. The policy shall be written in English and/or Bahasa Malaysia language. CONTRACTOR's policy shall include a description of CONTRACTOR's responsibilities including adequate measures to counter CONTRACTOR's corporate liability under Section 17A MACC Act.

CONTRACTOR shall maintain records of all transactions relating to the performance of this CONTRACT, including, without limitation, the spending of money, any other disposition of assets and the incurrance of liabilities, expenses and contractual obligations, in accordance with applicable laws. Such records shall fairly and accurately reflect the transactions undertaken by CONTRACTOR in the performance of this ORDER.

CONTRACTOR represents that it has not done any act or attempt to corruptly solicit or receive or agree to receive, or give, promise or offer, or agreed to give or offer, accept or obtain, or agreed to accept or attempt to obtain, any gratification from and/or to any person, which includes but not

limited to, any officer of a public body or foreign public official (as defined under the MACC Act), in connection with this ORDER as an inducement or reward for doing or forbearing to do any act or to secure any improper advantage or benefit in relation to the matters contemplated by this ORDER, either directly or indirectly through a third party, and further, CONTRACTOR represents that it will not so act in the future.

In recognition of the principles of the MACC Act, CONTRACTOR represents and agrees that it will not, directly or indirectly, in connection with this ORDER and the matters resulting therefrom, corruptly solicits or receives or agrees to receive, or gives, promises or offers, or agrees to give or offer, accepts or obtains, or agrees to accept or attempts to obtain any gratification from and/or to any person, which includes but not limited to, any officer of a public body or foreign public official (as defined under the MACC Act), as an inducement or reward for doing or forbearing to do any act or for the purpose of influencing the act, decision or omission to obtain or retain business related to this ORDER, to direct business related to this ORDER to any person, or to obtain any improper advantage or benefit. If CONTRACTOR should become aware of any breach, or possible breach, of the provisions of this Article, it shall at the earliest promptly notify NIPPON thereof in writing, including complete details thereof and lodge a report at the nearest office of the Malaysian Anti-Corruption Commission or police station.

CONTRACTOR covenants that should NIPPON notify it of any concerns that there has been a breach of the provisions of this Article, it shall cooperate in good faith with NIPPON in determining whether such a breach has occurred. If such a breach has occurred or CONTRACTOR has taken any action that would create a material risk of liability for NIPPON under any applicable law, it shall be entitled to treat the breach as an event of default by CONTRACTOR and to exercise any rights it may have under this ORDER upon the occurrence of an event of default by CONTRACTOR, without regard to any waiting periods or cure periods (if any) specified in this ORDER.

ARTICLES 27 – ELECTRONIC SIGNATURE

Parties acknowledge and agree that this ORDER may be executed and delivered by email or by means of any other electronic signature by any of the Parties, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature subject to the Electronic Commerce Act 2006 and NIPPON eSignature Policy.

The receiving Party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received. Without limitation, “electronic signature” shall include faxed versions of an original signature or electronically scanned and transmitted versions of an original signature or signatures delivered by email.

END OF ARTICLES