

CONTRACT FORM

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ARTICLE 1 – CONTRACT DOCUMENTS

- 1.1 The following **CONTRACT** documents together constitute this CONTRACT:

FORM OF AGREEMENT

CONTRACT FORM - ARTICLES 1 to 40

SPECIAL TERMS AND CONDITIONS (If any)

- EXHIBIT 1 - SPECIAL PROVISIONS AND SCOPE OF WORK
- EXHIBIT 2 - EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES
- EXHIBIT 3 - CONTRACT PRICE SCHEDULE
- EXHIBIT 4 - CONTRACTOR PERSONNEL
- EXHIBIT 5 - SUMMARY OF RESPONSIBILITIES
- EXHIBIT 6 - HEALTH, SAFETY AND ENVIRONMENT
- EXHIBIT 7 - BANK GUARANTEE FORMAT
- EXHIBIT 8 - PERFORMANCE GUARANTEE FORMAT
- EXHIBIT 9 - ADMINISTRATIVE PROCEDURES
- EXHIBIT 10 - ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

In the event of any ambiguity, inconsistency or conflict between the provisions of the EXHIBITS, NIPPON shall have the right to decide the order of prevalence amongst the EXHIBITS.

- 1.2 Any reference or detail provided in any one of the above documents but not in others shall be taken as read in all documents in this CONTRACT.
- 1.3 All standards, codes, specifications, drawings, instructions and other documents which are referred to in the EXHIBITS shall be deemed incorporated herein by reference and made a part hereof.
- 1.4 If any discrepancy or divergence exists between any of the documents or parts of any one of them, CONTRACTOR shall immediately notify NIPPON of such instances and NIPPON shall issue instruction in regard thereto. Otherwise, the **ARTICLES** of this CONTRACT FORM shall take precedence in the event of it being ambiguous, or it being in conflict, or inconsistent with any other referred document(s).

Should CONTRACTOR fail to give notice to NIPPON as aforesaid or fail to discover such conflicts, errors or omissions in the abovementioned documents as should reasonably have been discovered by CONTRACTOR, all extra direct costs resulting from such failure shall be borne by the CONTRACTOR.

- 1.5 None of the documents previously mentioned shall be used by CONTRACTOR for any purpose other than for this CONTRACT.

ARTICLE 2 – DEFINITIONS

The following definitions shall apply to this CONTRACT except where the context otherwise requires:

- 2.1 **“Affiliate” or “Affiliated Company”** shall mean a company, enterprise or other legal entity: (i) which controls such company, enterprise or other legal entity, (ii)

- which is controlled by such company, enterprise or legal entity: (iii) which is controlled by a legal entity which controls such company, enterprise or other legal entity; In this definition, “control” means (i) ownership, direct or indirect, of more than fifty percent (50%) of the voting shares or stock; or (ii) the legal control of management for decisional authority for the purpose of material decisions.
- 2.2 “**Approved**” and “**Approval**” wherever used shall mean approved/approval in writing including subsequent written confirmations of previous verbal approvals by NIPPON.
- 2.3 “**CHANGE ORDER**” shall mean a document in the form shown in **APPENDIX 9-4** of **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES** to be issued by NIPPON which sets forth changes in the WORK and adjustments to the CONTRACT Price or Schedule or both, and which sets forth the basis on which CONTRACTOR will be compensated for the change, if applicable.
- 2.4 “**CONTRACT**” shall mean the terms and conditions of this CONTRACT FORM and EXHIBITS, references and documents attached hereto or incorporated by references as may mutually be amended from time to time in accordance with the terms of this CONTRACT.
- 2.5 “**CONTRACTOR**” shall mean the Party entering into the CONTRACT with NIPPON for the performance of the WORK or part thereof as set forth in this CONTRACT.
- 2.6 “**CONTRACTOR CONTRACT Administrator**” shall mean CONTRACTOR’s personnel designated by CONTRACTOR as defined in **ARTICLE 16.1**.
- 2.7 “**CONTRACTOR GROUP**” shall mean CONTRACTOR, its Affiliates and SUBCONTRACTOR.
- 2.8 “**CONTRACTOR REPRESENTATIVE**” shall mean CONTRACTOR’s representative as defined in **ARTICLE 16.2**.
- 2.9 Not used
- 2.10 “**CONTRACT Price**” shall mean the unit price and/or the rates of payment to be paid to CONTRACTOR as specified and qualified in **EXHIBIT 3 – CONTRACT PRICE SCHEDULE**.
- 2.11 “**Co-Venturers**” shall mean PETRONAS CARIGALI SDN BHD and/or any other Parties having a legal interest in the operation of NIPPON to which this CONTRACT or part thereof relate.
- 2.12 “**Demobilization Site**” shall be the Asian Supply Base wharf or any other place designated in **EXHIBIT 1 - SPECIAL PROVISIONS AND SCOPE OF WORK**.
- 2.12 A “**Drilling Rig**” or “**Rig**” shall mean any drilling rig, designated by NIPPON at the WORKSITE(S).
- 2.13 “**Duration of the CONTRACT**” shall mean the period referred to in **ARTICLE 3.1** including any period of extension.

- 2.14 **“Expert”** shall mean a person or company mutually agreed upon by NIPPON and CONTRACTOR in order to expedite settlement of any particular matter as described in **ARTICLE 30 – ARBITRATION**
- 2.15 **“Materials”** shall mean all the materials as specified in **EXHIBIT 2 – MATERIALS SUPPLIES; TECHNICAL SPECIFICATIONS AND PROCEDURES** and all other deliverables as specified in the Purchase Order.
- 2.16 **“Mobilization Site”** shall mean the Asian Supply Base wharf or any other place designated in **EXHIBIT 1 - SPECIAL PROVISIONS AND SCOPE OF WORK**.
- 2.17 **“NIPPON”** shall mean JX NIPPON OIL & GAS EXPLORATION (MALAYSIA) LIMITED.
- 2.18 **“NIPPON CONTRACT Administrator”** shall mean NIPPON's personnel designated by NIPPON as defined in **ARTICLE 15.1**.
- 2.19 **“NIPPON GROUP”** shall mean NIPPON, its Affiliates and Co-Venturers.
- 2.20 **“NIPPON Supply Base”** shall mean NIPPON's warehouse and/or open yard at Asian Supply base, Labuan, which will be the port of call for workboats, and supply boats where supplies, materials and equipment required for NIPPON's offshore facilities are assembled or any other place designated by NIPPON.
- 2.21 **“NIPPON REPRESENTATIVE”** shall mean NIPPON's personnel designated by NIPPON as defined in **ARTICLE 15.2**.
- 2.22 **“PETRONAS”** shall mean PETROLIAM NASIONAL BERHAD, the National Oil Company of Malaysia established under the Petroleum Development Act 1974.
- 2.23 **“Platform”** shall mean any offshore installation, designated by NIPPON as the WORKSITE (S).
- 2.24 **“Purchase Order”** shall mean a document issued by NIPPON which sets forth the NIPPON's commitment to purchase the materials and any others deliverables under this contract.
- 2.25 **“SERVICES”** shall mean the undertakings as described herein and more specifically described in **EXHIBIT 1 - SPECIAL PROVISIONS AND SCOPE OF WORK** and **EXHIBIT 2 - MATERIAL & SUPPLIES; TECHNICAL SPECIFICATIONS & PROCEDURES** of this CONTRACT.
- 2.26 **“Specification”** shall mean a collection of technical documents, codes and standards to which the **MATERIALS** and/or **SERVICES** must conform.
- 2.27 **“SUBCONTRACT”** shall mean any contract between CONTRACTOR and any other third party or parties as approved in writing by NIPPON for the performance of any portion of the WORK or any part thereof.
- 2.28 **“SUBCONTRACTOR”** shall mean any party having a contract with CONTRACTOR as approved in writing by NIPPON for the performance of any portion of the WORK or part thereof.

- 2.29 **“WORK”** shall mean all Materials to be supplied and SERVICES to be performed and rendered by CONTRACTOR or its SUBCONTRACTOR as expressly set forth in the CONTRACT and all of CONTRACTOR's activities that are reasonably inferable from the description of the WORK.
- 2.30 **“WORK ORDER”** shall mean the document issued by NIPPON in the form shown in **APPENDIX 9-1** of **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES** to request CONTRACTOR to commence with the performance of WORK and SERVICES under the CONTRACT.
- 2.31 **“WORKSITE(S)”** shall mean the lands, waters and other places on, under, in or through which the WORK is to be performed including offshore platform, office, workshop and places where equipment, materials or supplies are being obtained, stored or used for the purpose of the CONTRACT.
- 2.32 **“Writing”** shall mean all printed or handwritten documentations including but not limited to all facsimile, e-mails and similar items. All requests, approvals, notices and agreements required under this CONTRACT shall be in writing.
- 2.33 The headings and subheadings in the CONTRACT are used for convenience and ease of reference and shall not be deemed to be part thereof or taken into consideration in the interpretation or construction of this CONTRACT.
- 2.34 Words importing the singular only shall also include the plural and vice versa except where the context otherwise requires.

ARTICLE 3 – DURATION OF CONTRACT AND DELIVERY TERMS

- 3.1 This CONTRACT shall commence on the Effective Date stipulated in the FORM OF AGREEMENT.
- 3.2 CONTRACTOR agrees that time is of the essence of this CONTRACT and shall deliver the Materials and complete the WORK within the stipulated time period as specified in the Purchase Order.
- 3.3 In the event that the CONTRACTOR is unable to deliver the Materials or complete the WORK within the stipulated time period, the CONTRACTOR shall notify the NIPPON at the earliest opportunity.
- a) The NIPPON and CONTRACTOR shall then endeavour to agree a mutually acceptable revised delivery time and method. However, in the event that the
- NIPPON and CONTRACTOR cannot agree, the NIPPON shall have the right to treat such non-delivery as a DEFAULT OF THE CONTRACTOR.
- b) Any agreement by the NIPPON to a revised delivery time shall not, unless otherwise expressly stated, affect any of the NIPPON'S other rights under this CONTRACT including but not limited to right to liquidated damages which shall operate from the original delivery date.

- 3.4 Unless otherwise specified, the delivery terms shall be DAP to NIPPON's Supply Base, in accordance with ICC Incoterms 2010. The CONTRACTOR shall be responsible for the provision of on/off-loading of Materials and shall strictly observe its obligations and responsibilities with respect to the delivery of the Materials.

ARTICLE 4 – CONTRACT PRICE

- 4.1 NIPPON agrees to pay the CONTRACT price and CONTRACTOR agrees to accept the same as full compensation for the complete performance of the WORK in full compliance with the CONTRACT.
- 4.2 Unless expressly otherwise provided for in **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** or in any CHANGE ORDER, the CONTRACT price shall remain fixed and firm throughout the period specified in **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** and shall not be subjected to change for any reason whatsoever including but not limited to cost escalation or currency fluctuations.
- 4.3 Except where it is expressly provided that NIPPON shall carry out an obligation under the CONTRACT at its own cost, all equipment and services required to be supplied or performed by the CONTRACTOR under the CONTRACT shall be at the CONTRACTOR's cost and deemed to be included in the CONTRACT Price.
- 4.4 Notwithstanding any provision to the contrary, all prices and rates specified in **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** are exclusive of value added, good & services, sales, use of similar taxes which, if applicable, will be separately itemised on each invoice.

ARTICLE 5 – INVOICING AND PAYMENTS

5.1. INVOICING

- 5.1.1 CONTRACTOR shall invoice NIPPON after completion of all the WORK and delivery of all the Materials and documentation requested by Nippon. Expenditures on NIPPON's behalf shall be authorised in writing by NIPPON before being incurred. NIPPON shall not be liable for any unauthorized expenditure.
- 5.1.2 All invoice(s) shall be verified and signed by the authorised CONTRACTOR REPRESENTATIVE prior to submission to NIPPON for payment.
- 5.1.3 Where the CONTRACT price is stated in a currency other than Ringgit Malaysia, all invoices shall be as per **Appendix 9-2 of of EXHIBIT 9 - ADMINISTRATIVE PROCEDURES**

Actual payment to CONTRACTOR is still based on the amount in the currency other than Ringgit Malaysia and paid in accordance with **ARTICLE 5.2 Payments**.

- 5.1.4 Any charges made by CONTRACTOR for items reimbursable at cost under this CONTRACT or payments made for the execution of WORK on NIPPON's behalf shall be adequately supported by original documentation for verification by NIPPON. Man-hours invoices shall be supported by original

time sheets and/or man-hour reports verified by NIPPON REPRESENTATIVE.

- 5.1.5 All invoices, financial settlements and billings by CONTRACTOR to NIPPON shall properly reflect all activities and transactions handled for NIPPON's account.
- 5.1.6 CONTRACTOR shall submit the last invoices not later than three (3) months after the WORK have been completed. Time is of the essence for the submission of invoices. If the last invoice is not submitted within three (3) months, the CONTRACTOR is deemed to have immediately waived all outstanding debts owed to the CONTRACTOR. Any approval for extension of time for the submission of invoice shall be given in writing.
- 5.1.7 CONTRACTOR shall submit its invoice(s) complete the CONTRACT number and title, invoice number, invoice date, SST registration number and details of charges as specified in **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** 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 COMPANY:
- 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 the invoices in PDF file format (in black & white copy) shall be emailed to the email address as stated in **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES**.

5.2. PAYMENTS

- 5.2.1 Payments of undisputed invoiced items shall be remitted within the thirtieth (30th) day after receipt thereof. Payments made by NIPPON shall not preclude the right of NIPPON to thereafter dispute any of the items invoiced.
- 5.2.2 If NIPPON disputes any item on an invoice, NIPPON shall inform CONTRACTOR of the disputed item within thirty (30) days of the receipt by NIPPON of that particular invoice. NIPPON shall only be entitled to withhold from payment the actual amount in dispute until the settlement of the dispute.
- 5.2.3 NIPPON shall be entitled to withhold payment if any of CONTRACTOR's invoices do not include the supporting documentation required by NIPPON.
- 5.2.4 If NIPPON receives a claim from any of CONTRACTOR's suppliers or any SUBCONTRACTOR that they have not been paid by CONTRACTOR for work done or materials furnished in connection with the performance of the WORK under this CONTRACT, NIPPON shall first consult with CONTRACTOR with respect to such claim. If, after such consultation, NIPPON is of the reasonable opinion that such claim is valid, NIPPON shall be entitled to:

- a) withhold such amounts from payments due to CONTRACTOR under this CONTRACT until CONTRACTOR discharges such claim whereupon NIPPON will immediately release such sums withheld to CONTRACTOR; or
- b) make payment directly to the CONTRACTOR's suppliers or any SUBCONTRACTORS and to deduct such sums from moneys due to the CONTRACTOR or invoice the CONTRACTOR for that amount.

5.2.5 All payments to CONTRACTOR by NIPPON under the terms of this CONTRACT shall be in Ringgit Malaysia. NIPPON may authorize payment in other currency provided CONTRACTOR makes written request to NIPPON to be paid in such other currency and subject to:

- a) CONTRACTOR furnishing documentary evidence to NIPPON that CONTRACTOR is duly authorized by Bank Negara Malaysia to receive payment in such other currency; or
- b) Bank Negara Malaysia regulations so permitting; and
- c) CONTRACTOR paying to NIPPON all direct costs incurred by NIPPON or may be incurred by NIPPON and complying with any other reasonable terms and conditions imposed from time to time by NIPPON,

Where the CONTRACT price is stated in a currency other than Ringgit Malaysia and NIPPON makes payment in Ringgit Malaysia, for the purpose of translating such other currency to enable payment to be made in Ringgit Malaysia, the rate of exchange to be used shall be the prevailing exchange rate on the day of payment quoted by MUFG bank (Malaysia) Berhad or any other bank as agreed by NIPPON. In the event that on such date the foreign exchange market is in a state of suspension due to official declaration of the Government of Malaysia or an appropriate agency thereof, the rates quoted immediately before such suspension shall be used.

5.2.6 Upon notification of any erroneous billings made by CONTRACTOR or payments made to CONTRACTOR by NIPPON, CONTRACTOR shall, within fourteen (14) days, make appropriate adjustments therein and reimburse to NIPPON any amounts of overpayment still outstanding as reflected by said adjustments, notwithstanding the fact that a temporary withholding or a correction of discrepancy may have been effected previously. Notwithstanding the foregoing, NIPPON shall be entitled to deduct such amounts from payments due to CONTRACTOR. Accordingly, NIPPON shall pay CONTRACTOR any amount of underpayment subject to verification thereof.

5.2.7 Payment due to CONTRACTOR may be withheld by NIPPON on account of unsatisfactory performance of the CONTRACT, the filing of claims against NIPPON caused by acts or omissions of CONTRACTOR or failure of CONTRACTOR to pay amounts when due for labour or materials used by CONTRACTOR in doing WORK or amounts due to any SUBCONTRACTOR for the WORK. In event of default in payment of wages by CONTRACTOR, NIPPON shall have the right to deduct from any moneys due to CONTRACTOR under this CONTRACT for settlement of such claim.

Such payment shall be deemed to be a payment made to CONTRACTOR by NIPPON under and by virtue of this CONTRACT.

5.2.8 If and when the cause or causes for withholding any such payment have been remedied or removed by CONTRACTOR and satisfactory evidence of such remedy or removal has been presented to NIPPON, the payments withheld shall be made forthwith by NIPPON. If CONTRACTOR fails to take appropriate remedial action or refuses to remedy or remove any causes for withholding such payments after delivery of written notice to CONTRACTOR by NIPPON, NIPPON shall be entitled to cause the same to be remedied, settled or removed on its own and may deduct the costs and expenses thereby incurred by NIPPON from any amounts due or owing or which may become due or owing to CONTRACTOR under the CONTRACT provided always that this provision shall not affect any other remedy to which NIPPON may be entitled for the recovery of such sums.

5.2.9 Payment made under this CONTRACT shall not constitute an admission by NIPPON as to the performance by CONTRACTOR of its obligations hereunder and in no event shall any such payment affect the warranty obligations of CONTRACTOR. Any payments withheld shall be without prejudice to any other rights or remedies available to NIPPON.

5.2.10 CONTRACTOR shall advise NIPPON the CONTRACT payment details to facilitate payment under this **ARTICLE**.

ARTICLE 6 – BANK GUARANTEE / PERFORMANCE GUARANTEE

6.1 CONTRACTOR shall furnish to NIPPON an irrevocable first call and unconditional Bank Guarantee in the format as set out in **EXHIBIT 7 – BANK GUARANTEE FORMAT**, issued by commercial bank operating in Malaysia and acceptable to NIPPON within thirty (30) days of the award of this CONTRACT by way of guarantee for the due performance by CONTRACTOR of its obligations under this CONTRACT. The Bank Guarantee shall remain valid ninety (90) days after the end of Duration of the CONTRACT or thirty (30) days after submission of the last invoice whichever is the latest (hereinafter referred to as “Requisite Validity Period of the Bank Guarantee”), and its value shall be as stipulated in the FORM OF AGREEMENT. Such guarantee shall be binding on CONTRACTOR and on the Bank issuing the Bank Guarantee notwithstanding such variation, alterations, or extensions of time as may be made, given, conceded, or agreed under this CONTRACT. The expenses incurred in preparing, completing, and stamping such instrument shall be borne by CONTRACTOR.

6.2 If the Bank Guarantee furnished pursuant to **ARTICLE 6.1** expires before the Requisite Validity Period of the Bank Guarantee, the CONTRACTOR shall provide at least fourteen (14) days before the date of expiry, a fresh guarantee in the form similar to and in the same amount of that previously provided, except for a revised date of expiry which shall be not earlier than ninety (90) days after the end of the duration of this CONTRACT or thirty (30) days after submission of the last invoice or the end of the warranty period as specified in **ARTICLE 11 – WARRANTY** or any extension thereto, whichever is the latest. Should CONTRACTOR fail to provide the fresh Bank Guarantee as required, NIPPON may without prejudice to

any of its other rights under the CONTRACT or the law, invoke the Bank Guarantee referred to in **ARTICLE 6.1**.

- 6.3 NIPPON reserves the right to instruct CONTRACTOR to revise the Bank Guarantee amount to correspond to any increase in the CONTRACT Price. Failure to revise the Bank Guarantee shall constitute a failure by CONTRACTOR to perform this CONTRACT entitling NIPPON to make an immediate call on the Bank Guarantee.
- 6.4 If the Bank Guarantee to be furnished pursuant to **ARTICLES 6.1, 6.2 and 6.3** is not duly furnished by CONTRACTOR to NIPPON within the above prescribed period, NIPPON may at its option and without prejudice to any rights or claims it may have against CONTRACTOR by reason of CONTRACTOR's non-compliance with any of the provisions of this **ARTICLE**, withhold an amount equivalent to the Bank Guarantee as required under this **ARTICLE** from payment due to CONTRACTOR under this CONTRACT until such time the Bank Guarantee is furnished by the CONTRACTOR whereupon NIPPON will immediately release such sums withheld to CONTRACTOR or terminate this CONTRACT by notice in writing to CONTRACTOR. NIPPON shall thereupon not be liable for any claim or demand from CONTRACTOR under the provisions of this CONTRACT in respect of anything then done or furnished, or in respect of any matter or thing whatsoever in connection with or relating to this CONTRACT, but NIPPON shall be entitled to be reimbursed by CONTRACTOR for any loss or damage incurred by NIPPON including the costs incurred by NIPPON in obtaining a new contractor to perform the WORK.
- 6.5 CONTRACTOR shall furnish NIPPON with a Performance Guarantee duly executed by the parent, principal or associate company of CONTRACTOR in the format as set out in **EXHIBIT 8 – PERFORMANCE GUARANTEE FORMAT** hereof.

ARTICLE 7 – TAXES AND DUTIES

- 7.1 CONTRACTOR shall be responsible for and pay at its own expense when due and payable all taxes and duties relating to the WORK including:-
- 7.1.1 All sales, goods and services, excise, storage, consumption and use taxes, licenses, permit and registration fees, income, profit, excess profit, franchise and personal property taxes.
- 7.1.2 All employment taxes and contributions imposed by law, or trade union contracts, or regulations with respect to or measured by the compensation (wages, salaries or other) paid to employees of CONTRACTOR **including**, without limitation, taxes and contributions for unemployment and compensation insurance, old age benefits, welfare funds, pensions and annuities and disability insurance and similar items; and
- 7.1.3 Materials, tools and equipment necessary for the performance of WORK.
- 7.2 NIPPON shall reimburse CONTRACTOR for any payment of Customs duties that may be levied by the relevant authorities on NIPPON's furnished materials and equipment at WORKSITE or other location outside Malaysia provided that

CONTRACTOR has used its best efforts to minimise any cost due to the application of such imports by applying for and obtaining any exemption applicable or has used reasonable diligence in resisting the application of such imports on CONTRACTOR's performance under this CONTRACT.

- 7.3 CONTRACTOR shall defend, protect and indemnify and hold NIPPON GROUP 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 GROUP 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.
- 7.4 NIPPON shall have the right to withhold income, excess profit, royalty and other taxes from payment due to CONTRACTOR under this CONTRACT, to the extent that such withholding may be required by the Government of Malaysia or any relevant authorities thereof, or by the government of any other country, and payment by NIPPON to the respective governmental office of the amount of money so withheld will relieve NIPPON from any further obligation to CONTRACTOR with respect to the amount so withheld. In the event NIPPON pays such withholding taxes to any government entity, it shall furnish CONTRACTOR with a copy of the official tax receipt from the appropriate government entity.
- 7.5 CONTRACTOR shall, under bond, deliver, in CONTRACTOR's name, any equipment imported into Malaysia for performance of the WORK to NIPPON Supply Base. Import of equipment shall be made in the name of CONTRACTOR. CONTRACTOR shall obtain NIPPON's prior written approval and shall provide sufficient notice to NIPPON in the event any equipment is not imported through NIPPON Supply Base but is in the name of NIPPON.
- 7.6 CONTRACTOR shall be responsible for and pay at its own expense when due and payable any Customs duties on imported goods and equipment except for equipment imported in NIPPON's name and which is on the current Master Exemption List (MEL). NIPPON shall hold CONTRACTOR harmless against any Customs duties assessed on equipment listed in the MEL and imported in the name of NIPPON, provided that CONTRACTOR adheres to all of NIPPON's instructions relating to such exemptions.
- 7.7 CONTRACTOR shall be responsible for equipment that is imported while such equipment is in CONTRACTOR's custody. CONTRACTOR shall indemnify NIPPON GROUP from and against any claims, demands and causes of action, which may arise as a result of damage to, shortages or overages in inventory of such equipment.
- 7.8 Upon termination or completion of this CONTRACT or part(s) of the WORK involving the use of such equipment, the CONTRACTOR shall take immediate steps to remove such equipment from Malaysia other than equipment used or expended in the WORK. Unless NIPPON agrees otherwise in writing, CONTRACTOR shall comply with all directions and procedures as required by NIPPON to cause such equipment to be removed as expeditiously as possible.

- 7.9 CONTRACTOR and its SUBCONTRACTOR shall indemnify NIPPON GROUP against all claims, demands and causes of action based on any actual or alleged failure by CONTRACTOR and/or any SUBCONTRACTOR to make timely payment of any taxes or duties for which they are liable or any actual or alleged failure by CONTRACTOR or any SUBCONTRACTOR to comply with applicable reporting, return or other procedural requirements with respect to their payment. This indemnity shall include without limitation all penalties, awards and judgments; court and arbitration costs; attorneys' fees' and other reasonable expenses associated with such claims, demands and causes of action.
- 7.10 CONTRACTOR shall give prompt notice to NIPPON on all matters pertaining to non-payment, payment under protest, or claim of immunity, or exemption from any taxes or duties or levies.
- 7.11 CONTRACTOR shall be responsible to seek clarification through its tax advisor on the applicability of withholding tax provisions under the Income Tax Act, 1967 (the Act) as regards non-resident companies in Malaysia.
- 7.12 CONTRACTOR shall submit a letter to NIPPON from its external company auditor; or tax consultant; or legal counsel stating that CONTRACTOR is a resident in Malaysia under Section 7 or 8 of the Act, failing which NIPPON shall consider the CONTRACTOR a non- resident of Malaysia for tax purposes and thereby subject to the withholding tax provision of the Act. NIPPON is required by law to withhold appropriate amount from all payments due to CONTRACTOR for WORK falling within the withholding tax provisions of the Act until such time that the required letter is submitted to NIPPON.
- 7.13 Sales and Service Tax
- 7.13.1 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 **EXHIBIT 3 CONTRACT PRICE SCHEDULE**.
- 7.13.2 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 CONTRACT 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.
- 7.13.3 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.
- 7.13.4 In each of the above invoices, the Sales Tax and Service Tax amount shall be separately stated from the price and/or rates, and shall be separately itemised and must state the SST registration number in the invoice accordingly.

- 7.13.5 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.
- 7.14 CONTRACTOR shall defend, protect and indemnify and hold NIPPON GROUP 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 GROUP 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 8 – INSURANCE

- 8.1 Throughout the duration of the Contract, the CONTRACTOR shall maintain insurance cover to the extent of its liabilities hereunder. CONTRACTOR shall include NIPPON GROUP and PETRONAS as additional assureds under those insurance policies and shall cause the insurers thereof to waive all expressed or implied rights of subrogation against NIPPON GROUP and PETRONAS.
- 8.2 CONTRACTOR shall further cause the insurance policies to contain a "Severability of Interests" (Cross Liability) clause providing that in the event of one insured Party incurring liability to any of the other insured Parties, the insurance shall apply for the benefit of the Party against whom claim is or may be made in the same manner as if separate policies had been issued to each Party.
- 8.3 At NIPPON's request, CONTRACTOR shall produce evidence of the respective insurance policies and payment receipts of current premiums.
- 8.4 All deductibles, exceptions, and exclusions applicable to the foregoing insurances shall be for the account of and be paid by CONTRACTOR. Any claims disallowed because of breach of conditions and/or warranties contained in such policies of insurances shall also be for the account of CONTRACTOR.
- 8.5 CONTRACTOR shall fully indemnify NIPPON GROUP and PETRONAS against loss or damage arising out of any failure to effect or maintain such insurances specified by this Contract or out of any act or omission, which invalidates the said insurances.

ARTICLE 9 – LIABILITIES AND INDEMNITIES

9.1 Liability for Personnel of CONTRACTOR GROUP

CONTRACTOR shall be liable for and shall indemnify and hold harmless NIPPON GROUP, NIPPON's other contractors and PETRONAS from claims, costs, damages

and expenses of every kind and nature resulting from personal injury, including fatal injury and disease, to any of personnel of CONTRACTOR GROUP howsoever arising and whether or not the negligence or other breach of duty of NIPPON GROUP or NIPPON's other contractors caused or contributed to such personal injury.

9.2 Liability for Personnel of NIPPON GROUP

NIPPON shall be liable for and shall indemnify and hold harmless CONTRACTOR GROUP, from claims, costs, damages and expenses of every kind and nature resulting from personal injury, including fatal injury and disease, to any of the personnel of NIPPON GROUP, NIPPON's other contractors and PETRONAS howsoever arising and whether or not the negligence or other breach of duty of CONTRACTOR GROUP caused or contributed to such personal injury.

9.3 Third Party

CONTRACTOR shall be liable for and shall protect, defend, indemnify and hold harmless NIPPON GROUP and PETRONAS from and against any and all claims, liabilities, cost, damages and expenses of every kind and nature, with respect to injury, illness or death of, or damage to or loss of property of any third party due to the CONTRACTOR's negligence

9.4 Liability for the Property of NIPPON

NIPPON shall be liable for and shall indemnify and hold harmless CONTRACTOR GROUP in respect of loss of or damage to the property of NIPPON GROUP and/or the property of PETRONAS within NIPPON's custody.

9.5 Liability for the Property of CONTRACTOR

CONTRACTOR shall be liable for and shall indemnify and hold harmless NIPPON GROUP, NIPPON's other contractors and PETRONAS in respect of loss of or damage to any property of CONTRACTOR or SUBCONTRACTOR howsoever arising and whether or not the negligence or other breach of duty of NIPPON GROUP and / or NIPPON's other contractors caused or contributed to such loss or damage.

9.6 The indemnities given by the CONTRACTOR shall not be reduced by reasons of any negligence or omission of NIPPON REPRESENTATIVE in failing to supervise or control the CONTRACTOR's site operations or methods of working or to detect or prevent or remedy defective WORK or to ensure proper performance of any other obligations of the CONTRACTOR under this CONTRACT.

9.7 Except as expressly provided otherwise, CONTRACTOR shall be solely responsible for the costs of all loss or damage caused by the negligence or other breach of duty of CONTRACTOR GROUP, and/or their respective officers, agents or employees.

9.8 CONTRACTOR shall notify NIPPON immediately of any damage, loss or destruction of property used in the WORK and any injury or death of persons occurring in the performance of the WORK and to furnish to NIPPON adequate written reports pertaining to same.

9.9 CONTRACTOR shall notify NIPPON immediately of any incident, claims or litigation

affecting the provisions of this **ARTICLE**.

- 9.10 Any exclusion or limitation of liability specified in this CONTRACT shall apply to claims in contract, tort or otherwise at law in respect of matters covered by such exclusion or limitation.
- 9.11 NIPPON and CONTRACTOR hereby agree that the indemnities given in this CONTRACT shall apply unless otherwise provided elsewhere herein, without regard to fault whether sole or concurrent of any Party.

ARTICLE 10 – ACCEPTANCE

- 10.1 All Materials shall be supplied and all SERVICES shall be performed in accordance with this CONTRACT to the satisfaction of NIPPON REPRESENTATIVE.
- 10.2 NIPPON REPRESENTATIVE shall decide on all matters as to the performance and fulfilment of the CONTRACT and his decision thereon shall be final and conclusive.
- 10.3 Notwithstanding the above, acceptance of the WORK of Materials or part thereof or approval of CONTRACTOR's activities for the WORK or partial payments made to the CONTRACTOR shall not relieve CONTRACTOR of any its obligations and/or liabilities provided in this CONTRACT.

ARTICLE 11 – WARRANTY

- 11.1 CONTRACTOR warrants that it has a valid PETRONAS licence for the Standard Work Equipment Category (SWEC) relevant to this particular CONTRACT and that it shall continue to maintain the licence throughout the Duration of the CONTRACT.
- 11.2 (a) CONTRACTOR warrants that the WORK shall be performed in a professional manner in accordance with good and sound offshore engineering and industry practices and with the requirements and conditions of this CONTRACT.

(b) CONTRACTOR warrants that Materials supplied under this CONTRACT fully complies with the technical specifications are free from defects in materials, free from defects in workmanship, fit and suitable for the purpose and use for which they are intended for a period of twenty- four (24) months from the date of receipt of the Materials by NIPPON. CONTRACTOR shall promptly execute at its own cost to replace the defective Materials to comply with the technical specifications and CONTRACT requirements.
- 11.3 Although NIPPON is under no obligation to inspect, if NIPPON discovers any defects in the SERVICES, and/or MATERIALS, NIPPON shall notify CONTRACTOR of the defects. At NIPPON's option, NIPPON may instruct CONTRACTOR to repair or replace or remedy the defective SERVICES and/or MATERIALS at no charge to NIPPON. Alternatively, NIPPON may repair or replace or remedy the defective SERVICES and/or MATERIALS and any/all expenses incurred by NIPPON for such repair or replacement or remedy shall be reimbursed by CONTRACTOR.

- 11.4 The scope of CONTRACTOR's warranty shall cover all expenses incurred in the repair, replacement, labour and all direct cost and remedy of the defective WORK and transportation of the defective MATERIALS.
- 11.5 CONTRACTOR shall obtain from its SUBCONTRACTOR and suppliers, for assignment to NIPPON, the best possible warranties and guarantees with respect to materials and workmanship of third party provided by CONTRACTOR. In the event that CONTRACTOR obtains more favourable warranties from its SUBCONTRACTOR and suppliers than those stated in this **ARTICLE**, such warranties shall be assigned to NIPPON.
- 11.6 CONTRACTOR shall list out procedures, frequency and details of any preventive maintenance and precautions, which are necessary to be carried out so as not to nullify the warranty specified in this **ARTICLE**.
- 11.7 The CONTRACTOR shall also specify the areas of materials that shall not be handled by the NIPPON's personnel in observance of the warranty.
- 11.8 NIPPON's inspecting, testing, witnessing tests, paying invoices or issuing any final acceptance shall not relieve CONTRACTOR from its warranty obligations set forth in this **ARTICLE**.
- 11.9 If CONTRACTOR fail to do the WORK or part thereof, or make good the defect or deficiency as required by NIPPON within the specified period after the delivery of written notice to CONTRACTOR by NIPPON, NIPPON shall be entitled to have the WORK or part thereof, or the defect or the deficiency or part thereof rectified at CONTRACTOR's own cost. NIPPON shall, in addition to its right to invoke any Bank Guarantee which may have been furnished by the CONTRACTOR, be entitled to recover from CONTRACTOR the total cost to NIPPON thereof or may deduct the same from any moneys or payment due or which may become due to CONTRACTOR and if there are no or insufficient moneys available, CONTRACTOR shall reimburse NIPPON within thirty (30) days after invoicing for all such costs.

ARTICLE 12 - CONTRACTOR'S OBLIGATIONS

- 12.1 CONTRACTOR shall perform the WORK in strict compliance with the provisions of this CONTRACT including all **EXHIBITS** attached hereto and shall comply with and adhere strictly to NIPPON instructions and directions on any matter concerning the WORK. The foregoing shall not however be construed to exclude CONTRACTOR's duty to exercise diligence and to perform the WORK in accordance with the warranty set forth in **ARTICLE 11 – WARRANTY** hereof.
- 12.2 CONTRACTOR shall furnish the materials, and supplies required to perform the WORK as specified in the **EXHIBIT 1 – SPECIAL PROVISIONS AND SCOPE OF WORK, EXHIBIT 2 - MATERIAL & SUPPLIES; TECHNICAL SPECIFICATIONS & PROCEDURES** and **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** attached hereto.
- 12.3 CONTRACTOR shall deliver the Materials and commence the WORK as instructed by NIPPON.

- 12.4 CONTRACTOR shall observe all plans, programs, specifications, schedules, and instructions provided or made by NIPPON for carrying out the WORK.
- 12.5 CONTRACTOR at all times shall respond promptly and shall accurately furnish to NIPPON information about the WORK as requested.
- 12.6 In the execution of the WORK, no persons other than the authorised employees or agents of the CONTRACTOR and the employees or agents of NIPPON, shall be allowed on the WORKSITE without the written consent of NIPPON.
- 12.7 Before commencing any hazardous work operations, CONTRACTOR shall inspect the WORKSITE and equipment involved to ensure that the WORK will be performed under safe conditions acceptable to NIPPON. CONTRACTOR shall verify that all "Work Permits" and "Certificates" are obtained prior to initiating any hazardous work.
- 12.8 CONTRACTOR shall at no cost to NIPPON be responsible for the medical welfare of its own and SUBCONTRACTOR's employees and shall take care of periodical medical examinations, arrangements for medical attendance, treatment or hospitalisation if and when necessary and shall arrange suitable insurance coverage for such contingencies. In cases of emergency, NIPPON may make or provide for, the necessary emergency arrangements, the costs of which shall be reimbursed to NIPPON by CONTRACTOR.
- 12.9 CONTRACTOR shall advise NIPPON immediately in writing of any labour dispute or anticipated labour dispute, which may be expected to affect the CONTRACTOR's performance of the WORK.
- 12.10 CONTRACTOR shall promptly review the information data, drawings and specifications provided by NIPPON and shall immediately bring to the attention of NIPPON all things which in CONTRACTOR's opinion appear to be deficiencies, omissions, contradictions or ambiguities in such information, data, drawings or specifications.
- 12.11 In addition to all legal and specific requirements stated herein, CONTRACTOR and CONTRACTOR's agents, employees, representatives and SUBCONTRACTOR who are engaged in the performance on the WORK shall comply with, abide by and enforce at its sole expense any rules, regulations and standards on safety, fire protection and security regulations as set forth by NIPPON in its safety manuals, policies and special instructions.
- 12.12 CONTRACTOR shall ensure that all its employees, agents and SUBCONTRACTOR comply with NIPPON's rules, regulations, practices and requirements in the area of NIPPON's operations. This shall not relieve CONTRACTOR of its obligations as stipulated herein and in particular this **ARTICLE**.

ARTICLE 13 – NIPPON's OBLIGATIONS

- 13.1 The CONTRACT does not constitute or imply a commitment by NIPPON to request CONTRACTOR to perform WORK. The commitment for supply of Materials and / or for performance of WORK under this CONTRACT shall be made by NIPPON through the issuance of PURCHASE ORDER to CONTRACTOR.

- 13.2 The parties' respective roles and responsibilities are set out in **EXHIBIT 5 – SUMMARY OF ROLES & RESPONSIBILITIES** hereof.

ARTICLE 14 – ACTIONS ON BEHALF OF NIPPON

- 14.1 CONTRACTOR shall take no action on behalf of NIPPON in the performance of the WORK or the conduct of operations hereunder which would subject either Party to liability or penalty under any laws, rules, regulations, or decrees of any relevant authority.
- 14.2 CONTRACTOR shall have no authority and shall not make any statements, representations or commitments of any kind or to take action which shall be binding upon NIPPON, except as provided for herein or otherwise authorised in writing by NIPPON
- 14.3 CONTRACTOR shall notify NIPPON promptly upon discovery of any instance where CONTRACTOR has not complied with the requirements of this **ARTICLE**.
- 14.4 CONTRACTOR is an independent CONTRACTOR and neither CONTRACTOR nor CONTRACTOR's respective employees are deemed to be agents or employees of NIPPON.

ARTICLE 15 – NIPPON REPRESENTATIVE(S)

The following defined NIPPON CONTRACT Administrator and NIPPON REPRESENTATIVE as designated in **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES** . Should there be any change, NIPPON shall notify CONTRACTOR in writing.

15.1 **NIPPON CONTRACT Administrator**

NIPPON CONTRACT Administrator is the person who shall be responsible for and is duly authorised to receive and act on behalf of NIPPON on all matters pursuant to the terms and conditions of this CONTRACT.

15.2 **NIPPON REPRESENTATIVE(S)**

NIPPON shall maintain a representative at the WORKSITE(S) authorised to represent NIPPON. NIPPON REPRESENTATIVE(S) shall have the right to receive all information pertaining to records, reports, and any other information pursuant to the WORK and **EXHIBITS** attached hereto. NIPPON may change NIPPON REPRESENTATIVE(S) at any time and shall notify the CONTRACTOR of any change.

NIPPON REPRESENTATIVE(S) shall have the right to issue instructions, reject or disapprove of any part of the WORK which does not conform to this CONTRACT, and to decide on all matters or queries which may arise relating to the performance of the WORK and his decision shall be final and conclusive.

NIPPON REPRESENTATIVE(S) shall be entitled to inspect all WORK performed hereunder and to witness and to check all tests on MATERIALS. Notwithstanding

the above, the presence of and the inspection by NIPPON REPRESENTATIVE(S) shall not relieve CONTRACTOR from CONTRACTOR's obligations and duties and shall not prejudice NIPPON's rights under this CONTRACT.

NIPPON REPRESENTATIVE(S) shall consult with CONTRACTOR REPRESENTATIVE in planning and co-ordinating the WORK, and all instruction(s) given by NIPPON REPRESENTATIVE(S) in relation to this CONTRACT shall be deemed those of NIPPON and shall be complied by the CONTRACTOR.

ARTICLE 16 – CONTRACTOR REPRESENTATIVE(S)

The following defined CONTRACTOR CONTRACT Administrator and CONTRACTOR REPRESENTATIVE as designated in **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES**. Should there be any change, CONTRACTOR shall notify NIPPON in writing.

16.1 CONTRACTOR CONTRACT Administrator

CONTRACTOR CONTRACT Administrator is the person who shall be responsible for and is duly authorised to represent CONTRACTOR at all times during the progress of the WORK and to receive and to act on any request made by NIPPON in the performance of the WORK pursuant to the terms of this CONTRACT.

CONTRACTOR CONTRACT Administrator shall have full authority concerning the WORK and shall be the full authority to proceed with the WORK and every part thereof in conformity with this CONTRACT. NIPPON shall be entitled to rely on all decisions and positions of the CONTRACTOR CONTRACT Administrator as those of CONTRACTOR.

16.2 CONTRACTOR REPRESENTATIVE

CONTRACTOR REPRESENTATIVE is the person employed by CONTRACTOR who shall have supervisory authority over the WORK and with whom NIPPON REPRESENTATIVE may plan and co-ordinate the performance of the WORK. Notice concerning operations, which is transmitted to CONTRACTOR through its designated CONTRACTOR REPRESENTATIVE shall be deemed, for the purpose of this CONTRACT, to have been sufficiently given.

ARTICLE 17 – LIENS AND CLAIMS

17.1 CONTRACTOR agrees that it will not claim any lien, attachment or charge on the WORK or any property of NIPPON in the possession of the CONTRACTOR or at the WORKSITE.

17.2 If at any time there shall be evidence of any lien, attachment, charge or claim to which, if established, NIPPON or its property might be subject and which is made against the CONTRACTOR, NIPPON shall have the right to retain out of any payment to be made under the CONTRACT an amount sufficient to indemnify NIPPON completely against such lien, attachment, charge or claim. Should there prove to be any lien, attachment, charge or claim upon the property of NIPPON after all payments hereunder have been made the CONTRACTOR agrees to refund to NIPPON the costs incurred by NIPPON in discharging any such lien, attachment, charge or claim imposed on the property of NIPPON. The CONTRACTOR shall

notify immediately NIPPON of any possible lien, attachment, charge or claim that may affect the WORK or any part thereof.

- 17.3 Without prejudice to the provisions of this **ARTICLE**, CONTRACTOR shall hold harmless and indemnify NIPPON GROUP and PETRONAS from and against all liens, attachments, charges or claims by any SUBCONTRACTOR or persons alleging to be a SUBCONTRACTOR in connection with or arising out of the CONTRACT. NIPPON shall have the right to withhold the amount of any such lien, attachment, charge or claim from any payment to the CONTRACTOR under the CONTRACT until removal of such claim.
- 17.4 At the completion of the WORK hereunder or upon earlier termination, CONTRACTOR shall submit to NIPPON a duly executed “**CONTRACT CLOSURE LETTER**” and “**CONTRACT CLOSURE CERTIFICATE**” as per format in **APPENDIX 9-5** and **APPENDIX 9-6** of **EXHIBIT 9 - ADMINISTRATIVE PROCEDURES** respectively stating that all debts, taxes, liens, privileges, claims, charges, and obligations arising of the purchase of or lease of equipment, materials, supplies, and labour for use in the WORK hereunder have been fully and finally paid. In the event of any dispute, CONTRACTOR shall post a bond, or other form of security acceptable to NIPPON, to secure NIPPON against any such liens and/or claims.

ARTICLE 18 – SAFETY, HEALTH, ENVIRONMENTAL PROTECTION, FIRE PROTECTION AND SECURITY REGULATIONS

- 18.1 CONTRACTOR shall be responsible for the health and safety of its employees, agents, and invitees and for CONTRACTOR's work area at the WORKSITE. CONTRACTOR shall bear the sole responsibility for maintaining in a neat, clean and safe state, the WORKSITE and all CONTRACTOR's machinery, equipment, facilities, supplies and operations thereon, and all other things in any way associated with or utilised in the performance of the WORK. At the commencement of the WORK and as often thereafter as may be necessary, CONTRACTOR REPRESENTATIVE shall inspect the work area of CONTRACTOR to discover any defects, potential sources of injury or hazardous conditions and operations. CONTRACTOR shall then warn its SUBCONTRACTOR, employees, agents and invitees and NIPPON REPRESENTATIVE of the existence of such operations, dangers, defects or conditions, and shall endeavour to rectify them immediately.
- 18.2 CONTRACTOR shall comply with all laws (whether international, national, local or otherwise) and regulations pertaining to safety, health, environmental protection, fire protection and security regulations which are applicable to the location where the WORK are being carried out.

CONTRACTOR shall comply at all times with the requirements as set forth by NIPPON in its Safety Manual, policies, procedures, special instructions and all requirements stipulated in **EXHIBIT 6 – HEALTH, SAFETY AND ENVIRONMENT** of this CONTRACT.

CONTRACTOR shall ensure that all services, materials and CONTRACTOR's items used in the performance of the WORK comply with laws, regulation and requirements as may be required by the Malaysian Government or other authorities having jurisdiction and otherwise meet generally accepted industry standards for occupational safety and health.

- 18.3 CONTRACTOR shall have a written policy on Safety, Health and Environment which is of a standard comparable to NIPPON 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. CONTRACTOR's policy shall include a description of CONTRACTOR's safety organization and their responsibilities.
- 18.4 CONTRACTOR shall ensure that all machineries, equipment, and tools are operated by competent personnel who are fully trained and certified to carry out the task. The said personnel shall be authorized in writing by CONTRACTOR's management or certified by a reputable training establishment acceptable to NIPPON as specified in **EXHIBIT 6 – HEALTH, SAFETY AND ENVIRONMENT** as being competent to perform the job.
- 18.5 CONTRACTOR shall at its own expense ensure that all its personnel and SUBCONTRACTOR's personnel have been given the necessary job related training required by law and NIPPON regulations, and certificates will be provided to NIPPON prior to the start of the WORK.
- 18.6 CONTRACTOR shall be responsible for maintaining and enhancing the safety awareness of its personnel and SUBCONTRACTOR's personnel, including conducting regular safety meetings, toolbox talk and emergency drills. Copies of minutes of CONTRACTOR's safety meeting shall be sent to NIPPON. NIPPON requires that all CONTRACTOR's personnel shall attend regular safety meetings and names of attendees must appear on the minutes of such meetings. Non-attendance at a safety meeting must be authorised by CONTRACTOR and the reason for non- attendance shall be clearly stated in the minutes.
- 18.7 The CONTRACTOR shall have an accident and incident reporting procedure, which shall be compatible with NIPPON reporting procedures and any hazardous incident involving NIPPON, CONTRACTOR or any third party personnel, plant or equipment, shall be immediately reported to NIPPON.
- 18.8 CONTRACTOR shall appoint a person to act as the Safety Officer who shall be the advisor to CONTRACTOR REPRESENTATIVE on all safety matters relating to the WORK.
- 18.9 CONTRACTOR shall at its own expense supply its personnel and SUBCONTRACTOR's personnel, required in connection with the safe performance of the WORK, with adequate personal protective equipment as specified in **EXHIBIT 6 – HEALTH, SAFETY AND ENVIRONMENT**.
- 18.10 CONTRACTOR shall allow NIPPON REPRESENTATIVE(S) and/or its designated third party personnel access at any time to worksite, plant, equipment, personnel and records when requested, to enable NIPPON to inspect or audit any aspect of CONTRACTOR's operations relevant to safety and the WORK environment.
- 18.11 CONTRACTOR shall ensure that all its employees and SUBCONTRACTOR's employees engaged in the WORK are medically fit and healthy. Any medical disabilities including such disabilities which CONTRACTOR may consider will not adversely influence the employee's ability to perform his role in the WORK should be reported to NIPPON prior to commencement of the WORK. CONTRACTOR, if requested by NIPPON, shall provide medical certificates for CONTRACTOR's and SUBCONTRACTOR's personnel.

- 18.12 CONTRACTOR shall pay due regard to the environment by acting to preserve air, water, animal and plant life from adverse effects of CONTRACTOR's activities, and to minimise any nuisance which may arise from such operation, in accordance with NIPPON Health, Safety and Environment Policy Statement.

CONTRACTOR shall adhere to existing national statutory regulations concerning discharges resulting from the performance of the WORK.

- 18.13 NIPPON REPRESENTATIVE shall have the right, but not the obligation to prohibit the commencement of the WORK or to stop any part of the WORK in progress if the equipment, personnel or work conditions are considered to be unsafe or not in compliance with NIPPON rules and regulations. Valid tool and/or equipment certificate (if necessary) should be available at site.

ARTICLE 19 – DEFAULT OF THE CONTRACTOR

- 19.1 In the event of the refusal or the inability or other failure of the CONTRACTOR to perform any part of the WORK in a safe, efficient, workmanlike, skillful and careful manner or with the required promptness and diligence, or in the event of the failure or refusal or inability of the CONTRACTOR to comply with any of the requirements of the CONTRACT, NIPPON may give written notice to the CONTRACTOR stating the details of such failure. If the CONTRACTOR does not within seven (7) calendar days after the receipt of such notice commence, and having commenced, continuously proceed with action satisfactory to NIPPON to remedy such failure, NIPPON may, at its option and regardless of the stage of completion of the WORK, notify the CONTRACTOR of any claim which NIPPON may have hereunder, and NIPPON shall have the right to immediately suspend part of the WORK, or terminate the CONTRACT by giving the CONTRACTOR notice in accordance with **ARTICLE 21 - TERMINATION**, or issue a notice of suspension in accordance with **ARTICLE 20 – SUSPENSION OF WORK** hereof, at the sole discretion of NIPPON.

- 19.2 In the event of the CONTRACTOR becoming bankrupt or making arrangement with its creditors or having a winding-up order made or (except for the purposes of amalgamation or reconstruction) having a resolution for its voluntary winding-up passed or having a provisional liquidator, receiver or manager of its business or undertaking appointed, or having possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the Floating Charge, NIPPON shall have the right to immediately terminate the CONTRACT by giving the CONTRACTOR notice of termination in accordance with **ARTICLE 21 - TERMINATION** hereof.

- 19.3 In the event of NIPPON giving the CONTRACTOR notice of suspension, or of termination pursuant to **ARTICLE 19.1** and **19.2**, NIPPON shall pay to the CONTRACTOR the amount calculated in accordance with **EXHIBIT 3 – CONTRACT PRICE SCHEDULE** for the part of the WORK satisfactory completed at the date of the suspension or termination, which payment shall be reduced by any additional costs incurred by the NIPPON as a result of the default of the CONTRACTOR. These additional costs, which shall include any costs incurred by NIPPON in having the WORK completed by another contractor in excess of the amount provided in the CONTRACT as payable by NIPPON had the CONTRACTOR completed the WORK, may be billed to CONTRACTOR or offset by NIPPON against any monies due or which may become due to the CONTRACTOR from NIPPON.

- 19.4 If NIPPON terminates for cause only part of the WORK, then CONTRACTOR shall cease its activities on the terminated part and continue on the remaining WORK, with appropriate adjustments to the CONTRACT Price and Scheduled Completion Date(s).
- 19.5 Notwithstanding the foregoing, in the event of default by CONTRACTOR, NIPPON may, at NIPPON's sole discretion, invoke the Bank Guarantee and/or Performance Guarantee for completion of the WORK or as compensation for the losses suffered by NIPPON as a result of the default of CONTRACTOR.
- 19.6 If CONTRACTOR fails to deliver the MATERIALS or any items to be supplied in accordance with the CONTRACT, the CONTRACTOR shall be liable to NIPPON for Liquidated Damages. The amount of Liquidated Damages shall be **0.3% percent per day up to a maximum of 10%** of the WORK 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 which may be sustained by NIPPON in the event that the CONTRACTOR fails in its delivery obligations and 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 CONTRACT.

ARTICLE 20 – SUSPENSION OF WORK

- 20.1 NIPPON shall have the right at any time to suspend without cause all or any part of the WORK by giving CONTRACTOR a written notice specifying the part of the WORK to be suspended. During any suspension, CONTRACTOR shall continue to perform all unsuspended parts of the WORK.
- 20.2 Upon receipt of such notice, the CONTRACTOR shall, unless the notice otherwise requires:
- 20.2.1 immediately discontinue the WORK on the date and to the extent specified in the notice,
 - 20.2.2 place no orders and make no further SUBCONTRACTS with respect to the suspended WORK other than to the extent required in the notice,
 - 20.2.3 promptly make every reasonable effort to obtain suspension upon terms satisfactory to NIPPON of all outstanding orders and SUBCONTRACTS to the extent they relate to the execution of the WORK suspended.
 - 20.2.4 continue to maintain the portion of the WORK already completed, including those parts on which the WORK has been suspended; and
 - 20.2.5 use its best efforts to minimize the cost associated with the suspension.
- 20.3 In the event that NIPPON suspends the performance of the WORK for reasons other than those specified under **ARTICLE 19 – DEFAULT OF THE CONTRACTOR**, or **ARTICLE 26 - FORCE MAJEURE** hereof, NIPPON shall

authorise a CHANGE ORDER to cover the following:

- 20.3.1 the cost of keeping all facilities, CONTRACTOR's equipment and personnel dedicated to the part of the WORK suspended to the extent that the CONTRACTOR is unable to redeploy such resources during the period of suspension,
 - 20.3.2 standby fees, where applicable, for all facilities, CONTRACTOR's equipment and personnel of the CONTRACTOR authorised in advance by NIPPON to be on standby,
 - 20.3.3 other items directly related to the suspended part of the WORK, if authorised in advance by NIPPON; and
 - 20.3.4 any changes to the completion date.
- 20.4 No payment shall be made to the CONTRACTOR under **ARTICLE 20.3** if such suspension is due to a default, negligence, omission or breach of the CONTRACT by the CONTRACTOR or any SUBCONTRACTORS or any other person for whose act any of them may be liable.
- 20.5 If any of the WORK is suspended on account of any of the reasons provided in **ARTICLE 20.4** hereof, the CONTRACTOR shall be liable for all costs and expenses resulting from such suspension.
- 20.6 NIPPON may at any time, by giving written notice to the CONTRACTOR specifying the part of the WORK to be resumed and the effective date of such resumption, authorize the CONTRACTOR to resume all or any part of the WORK suspended pursuant to **ARTICLE 20.1** hereof. The CONTRACTOR shall resume the WORK on the date fixed in such written notice from NIPPON to the extent required in the notice.
- 20.7 Notwithstanding any dispute arising between the Parties during the execution of the WORK, the CONTRACTOR binds itself not to suspend partly or as a whole or to delay for any reason the execution of the WORK.

ARTICLE 21 – TERMINATION

- 21.1 NIPPON shall have the right to terminate this CONTRACT if CONTRACTOR fails to deliver Materials on the Delivery Date or to adhere strictly with the WORK schedule.
- 21.2 Termination Without Cause
- 21.2.1 NIPPON may at any time, terminate without cause the CONTRACT by giving fourteen (14) days prior written notice to CONTRACTOR that NIPPON intends to terminate the CONTRACT, specifying the effective date of termination.
 - 21.2.2 Should NIPPON terminate this CONTRACT without cause, CONTRACTOR shall stop performance of all WORK on the effective date of termination.
 - 21.2.3 Upon receipt and verification of CONTRACTOR's invoice, NIPPON shall pay CONTRACTOR all amount properly due for the WORK performed

prior to the date of termination and all expenses resulting directly from the termination as approved by NIPPON less any moneys which NIPPON is entitled to withhold or deduct under this CONTRACT.

21.3 Termination For Cause

21.3.1 Subject to provision provided under **ARTICLE 19 – DEFAULT OF THE CONTRACTOR** hereof, NIPPON shall have the right to terminate for cause, the CONTRACT by giving notice in writing specifying the effective date of termination. In either event, NIPPON shall have available to all rights and remedies provided in law or equity.

21.3.2 Should NIPPON terminate this CONTRACT for cause, CONTRACTOR shall stop performance of the WORK.

21.4 If NIPPON terminates any part of the WORK in accordance with the **ARTICLE** herein, CONTRACTOR shall execute and deliver to NIPPON the documents required by NIPPON with respect to said part of the CONTRACT.

21.5 If this CONTRACT or any portion of the WORK is suspended or terminated and if NIPPON so requests, CONTRACTOR shall immediately make every reasonable effort to cancel existing SUBCONTRACTS, purchase orders or other obligations entered into by CONTRACTOR with SUBCONTRACTOR, suppliers or others for the performance of the WORK, upon terms satisfactory to NIPPON.

21.6 NIPPON may direct CONTRACTOR to execute and delivery to NIPPON all documents related to the CONTRACT as required by NIPPON and to take all necessary steps to fully vest in NIPPON the rights and benefits of CONTRACTOR under existing SUBCONTRACTS or other obligation with SUBCONTRACTOR, suppliers and others. In addition, CONTRACTOR shall do whatever is necessary to preserve and protect the WORK in progress, materials, drawings, documents, equipment and supplies in transit or at the WORKSITE and to minimise all costs to NIPPON and CONTRACTOR resulting from such suspension or termination.

21.7 If in the performance of this CONTRACT, CONTRACTOR causes the CONTRACT to be terminated, or in the event of default by CONTRACTOR, NIPPON shall have the option to thereafter invoke the Bank Guarantee and/or Performance Guarantee for completion of the WORK.

21.8 If in the performance of this CONTRACT, CONTRACTOR provides services, personnel, facilities and/or equipment in association with or pursuant to its association with the party stipulated in the FORM OF AGREEMENT, the Parties hereby agree that in the event that such association is terminated or for any reason ceases, NIPPON shall have the option at any time, thereafter, to terminate this CONTRACT upon written notice to CONTRACTOR.

21.9 NIPPON shall not be liable for any damages or any loss of profits of CONTRACTOR arising of NIPPON's termination of the CONTRACT.

ARTICLE 22 – SUBCONTRACTS AND ASSIGNMENT

SUBCONTRACTS

- 22.1 The CONTRACTOR shall not subcontract the whole or the majority of the WORK but where a SUBCONTRACT is provided for under this CONTRACT or where the CONTRACTOR wishes to enter into a SUBCONTRACT, then before the CONTRACTOR enters into any SUBCONTRACT, NIPPON shall be given an adequate opportunity to review the form of the SUBCONTRACT, the choice of SUBCONTRACTOR, the part of the WORK which shall be covered under the SUBCONTRACT, any other details NIPPON shall request or specify and, insofar as NIPPON is required to separately reimburse the CONTRACTOR the amounts paid to the SUBCONTRACTOR, the cost of such SUBCONTRACT. The CONTRACTOR shall not enter into the proposed SUBCONTRACT until NIPPON has given its written consent to the proposed SUBCONTRACT. NIPPON may at its sole discretion reject the CONTRACTOR's choice of the SUBCONTRACTOR, the form of the SUBCONTRACT and any other items pertaining to the SUBCONTRACT.
- 22.2 The CONTRACTOR shall ensure that the rights of NIPPON and the requirements in the CONTRACT regarding SUBCONTRACTOR are effectively provided for in each SUBCONTRACT.
- 22.3 Any approval granted pursuant to this **ARTICLE** shall not create any contractual relationship between any SUBCONTRACTOR and NIPPON.
- 22.4 Each SUBCONTRACT shall provide for suspension and/or discontinuance of part or all of the related WORK and for immediate termination of the SUBCONTRACT, consistent with similar provisions of this CONTRACT. The CONTRACTOR shall provide in each SUBCONTRACT that, in the event of discontinuance of part or all of the WORK or termination of the CONTRACT, the CONTRACTOR shall, at NIPPON's option, assign any such SUBCONTRACT to NIPPON. Unless such an assignment takes place, the SUBCONTRACTOR shall be responsible only to the CONTRACTOR who shall in turn be responsible to NIPPON.
- 22.5 No SUBCONTRACT shall relieve the CONTRACTOR from any obligations or liabilities under the CONTRACT and the CONTRACTOR shall be responsible for all works, acts, defaults and breaches of duty of any SUBCONTRACTOR or its employees, servants or agents as fully as if they were the work, acts or defaults or breaches of duty of the CONTRACTOR. Any SUBCONTRACT must include provisions to secure all rights and remedies of NIPPON provided under the CONTRACT and must impose upon the SUBCONTRACTOR all of the general duties and obligations required to fulfil the CONTRACT.
- 22.6 The CONTRACTOR agrees that it shall furnish to NIPPON, if requested, satisfactory evidence that all SUBCONTRACTOR have been paid on time and in full for WORK done or goods supplied in connection with the WORK.
- 22.7 Upon request by NIPPON, CONTRACTOR shall within fourteen (14) days of such request provide NIPPON with a list of all SUBCONTRACTORS utilized by CONTRACTOR in connection with the WORK.

ASSIGNMENT

- 22.8 The CONTRACTOR shall not assign the CONTRACT nor any part of it nor any benefit nor interest in or under it without the prior written approval of NIPPON. Any purported assignment without the written approval of NIPPON shall be

absolutely void against NIPPON and NIPPON in such event shall have no obligation whatsoever to the purported assignee. Any assignment shall not release or relieve the CONTRACTOR of any of its obligations hereunder.

- 22.9 NIPPON shall be entitled to assign (whether in whole or in part), or novate (whether in whole or in part) the rights and obligations under this CONTRACT at any time to any NIPPON's Affiliate or to any other PSC operators in Malaysia provided NIPPON notifies the CONTRACTOR of such assignment or novation. Subject to the foregoing, this CONTRACT shall enure to the benefit of and shall be binding upon, the Parties hereto and their respective successors and assigns.

ARTICLE 23 – AUDIT

- 23.1 CONTRACTOR shall maintain and shall cause its agents, SUBCONTRACTOR, suppliers and consultants to maintain accurate and correct records of all charges and accounts including gifts and entertainment expenses in connection with the WORK and all transactions related thereto and shall retain all such records and accounts for a period of not less than thirty-six (36) months after the final payment under the CONTRACT or expiry or termination of the CONTRACT whichever is later.
- 23.2 From the Effective Date and within the time period mentioned above, NIPPON shall have the rights and access at all reasonable times, to inspect and audit books, records, correspondence, instructions, plans, drawings, receipts, voucher, gifts and entertainment records, data stored in computers, other documentation pertaining to the WORK including but not limited to accounts of CONTRACTOR, and its SUBCONTRACTOR, which are deemed to be directly pertinent to the correctness of any invoice presented for payment in connection with the performance of this CONTRACT, and to verify compliance to the CONTRACT terms and conditions. Such audit may also cover the application of CONTRACTOR's rates in determining the value of WORK performed.
- 23.3 NIPPON shall have the right to reproduce and retain any such documents which have been inspected.
- 23.4 NIPPON's claims for omissions, corrections or errors in charges and credits for NIPPON's account and overpayments of amounts billed by CONTRACTOR and others noted above may be presented at any time during the course of the WORK and within thirty six (36) months after the latest of :-
- a) the final payment under the CONTRACT; or
 - b) CONTRACT expiry; or
 - c) CONTRACT termination.

A written response to NIPPON's claims for omissions, corrections or errors in charges and credits for NIPPON's account shall be made by CONTRACTOR as soon as practicable, and in no event later than thirty (30) days from the date of such claims.

- 23.5 CONTRACTOR shall ensure that the provisions of this **ARTICLE** are included in all SUBCONTRACTS for labour, equipment, materials or services to be provided under this CONTRACT.

ARTICLE 24 – PROCUREMENT OF EQUIPMENT, FACILITIES, MATERIALS, SUPPLIES AND SERVICES

- 24.1 Pursuant to NIPPON's Production Sharing Contract with PETRONAS, NIPPON shall comply with the national objective of maximizing Malaysian participation in the use of local equipment, facilities, goods, material supplies and services required for Petroleum Operations. In pursuance of the foregoing, CONTRACTOR shall take the necessary initiatives to comply with the national objective.
- 24.2 CONTRACTOR acknowledges that the requirements of this **ARTICLE** are fundamental to this CONTRACT.
- 24.3 CONTRACTOR is to note that NIPPON will conduct periodic audits on the local content to ensure compliance with the requirements. Should the CONTRACTOR fail to comply with the above requirements, NIPPON shall have the option to invoke the Bank Guarantee submitted by CONTRACTOR.
- 24.4 To the extent that it is technically and economically practical:
- 24.4.1 materials and supplies to be incorporated into the WORK shall be procured by CONTRACTOR from Malaysian suppliers and manufacturers; and
- 24.4.2 CONTRACTOR shall make use of services and research facilities, professional or otherwise, which are rendered by Malaysians or firms or companies incorporated in Malaysia.
- 24.5 In determining what is "technically and economically practical" the following shall be considered:
- 24.5.1 conformance of the services, materials and supplies to technical and safety standards acceptable to NIPPON; and
- 24.5.2 availability of the services, materials and supplies in required quantities and within the applicable period; and
- 24.5.3 acceptability of the terms and conditions of supply, including maintenance, servicing and availability of spare parts; and
- 24.5.4 acceptability of prices and costs to both NIPPON and CONTRACTOR.
- 24.6 Upon request by NIPPON, CONTRACTOR shall within fourteen (14) days of such request provide NIPPON with a list of materials, supplies and services purchased outside Malaysia and utilized for the WORK.
- 24.7 Pursuant to PETRONAS' Procurement Guidelines, certain materials, equipment and works shall be purchased only from PETRONAS' appointed companies under its Vendor Development Programme ("VDP vendors"). A list of the applicable materials, equipment and works is in **Appendix 2-1 List of PETRONAS VDP Vendors, EXHIBIT 2 EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES**). This list may be updated from time to time by PETRONAS.

In the event that any of the said materials, equipment and works is required for this Contract, CONTRACTOR shall procure them from the VDP vendors.

CONTRACTOR's cost of procurement of materials, supplies and works from such VDP vendors shall be deemed inclusive in **EXHIBIT 3 - CONTRACT PRICE SCHEDULE** and no additional payment shall be made to the CONTRACTOR by reason of procurement from VDP vendors.

If requested by NIPPON, CONTRACTOR shall provide adequate documentation to show compliance with this provision, in default of which NIPPON is entitled to withhold payment for the said materials, equipment and works.

ARTICLE 25 – CHANGES

- 25.1 Changes to the WORK and/or CONTRACTOR's equipment may be required during the performance of WORK and should be handled expeditiously and effectively by the Parties hereto. Such changes may include but not be limited to additions, deletions, substitutions, alterations and modifications.
- 25.2 NIPPON shall have the right, at any time, to make any change but such change shall in no way affect the rights or obligations of the Parties hereto except as provided in a written CHANGE ORDER. All provisions of the CONTRACT shall apply to all changes.
- 25.3 Except as provided in **ARTICLE 25.6** below, CONTRACTOR shall not proceed with any change prior to receipt of a CHANGE ORDER, unless otherwise authorised in writing by NIPPON CONTRACT Administrator.
- 25.4 Should NIPPON desire a change to the WORK and/or CONTRACTOR's equipment, it shall advise CONTRACTOR of said request. CONTRACTOR shall, upon request from NIPPON REPRESENTATIVE, provide NIPPON within fourteen (14) days with a Change Proposal defining the terms and conditions of the change. The terms and conditions shall include but not be limited to prices, method of payment, earliest commencement date and any other information deemed necessary.
- 25.5 If and when NIPPON approves the Change Proposal, NIPPON will issue to CONTRACTOR a written CHANGE ORDER in duplicate originals in the form shown in **APPENDIX 9-4 of EXHIBIT 9 - ADMINISTRATIVE PROCEDURES**. CONTRACTOR shall sign both duplicate originals of the CHANGE ORDER to indicate its receipt, understanding and acceptance of it. After execution by NIPPON, one duplicate original will be returned to CONTRACTOR.
- 25.6 In cases of extreme urgency for which CONTRACTOR is unable to submit a firm proposal prior to commencement of work on the necessary change, NIPPON may issue a "Preliminary CHANGE ORDER" to authorise CONTRACTOR to proceed with the change on the basis of an approximate written estimate prepared by CONTRACTOR. As soon as possible thereafter, CONTRACTOR shall submit a Change Proposal giving its firm price for the change. If the firm price quoted in the Change Proposal is more than that quoted in the "Preliminary CHANGE ORDER", CONTRACTOR shall furnish NIPPON with the reasons for the differences. Upon agreement of the Parties on the firm price, a CHANGE ORDER shall be issued as

outlined in **ARTICLE 25.5**.

- 25.7 CONTRACTOR shall proceed with its obligations under the CONTRACT and Preliminary CHANGE ORDER with all due diligence whether or not parties are able to agree on a firm price without prejudice however to **ARTICLE 30 - ARBITRATION**.

ARTICLE 26 – FORCE MAJEURE

- 26.1 No delay or failure of performance of any obligations under the CONTRACT by either Party shall constitute default hereunder or give rise to any claims for damages if and to the extent that such delay or failure is caused by a Force Majeure event. A Force Majeure is an event which is not within the control of the Party affected, with regard to which event such Party is without fault or negligence, and which, by the exercise of reasonable diligence, such Party is unable to prevent or provide against.

Force Majeure events shall include, but not be limited to, acts of God or force of nature, landslide, 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 GROUP) 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.

However, Force Majeure shall not include the following:

- 26.1.1 Late delivery of materials caused by congestion at a supplier's plant or elsewhere, or oversold condition of the market, inefficiencies, or similar occurrences.
 - 26.1.2 Late performance by a CONTRACTOR and/or SUBCONTRACTOR caused by a shortage of supervisors or labour, inefficiencies, or similar occurrences; unless caused by circumstances that are themselves Force Majeure events and beyond both CONTRACTOR and SUBCONTRACTOR's or Supplier's control and alternate acceptable source of services, equipment and material is unavailable.
 - 26.1.3 Mechanical breakdown of any item of CONTRACTOR's or any SUBCONTRACTOR's equipment, plant or machinery.
 - 26.1.4 Contractual commitment made by CONTRACTOR to third parties which limits CONTRACTOR's ability to provide equipment.
 - 26.1.5 Financial distress of CONTRACTOR, or any SUBCONTRACTOR or any party.
 - 26.1.6 Cumulative effect of recurring weather over time, including, but not limited to excessive cumulative rainfall and/or period of high relative humidity.
- 26.2 If CONTRACTOR's equipment cannot be delivered to the mobilization site on the mobilization date because of a Force Majeure event or if any Force Majeure event

causes suspension of WORK hereunder for a continuous period of at least fourteen (14) days and continuation of this CONTRACT will be adversely affect NIPPON's operation program, then NIPPON shall have the option to terminate the CONTRACT, in which case neither Party shall have any further obligation on liability hereunder or NIPPON may specify a later mobilization date in lieu of that specified in WORK ORDER.

- 26.3 If either party hereunder is prevented from or delayed in performing any of its obligations under the CONTRACT by a Force Majeure event, the Party affected shall promptly give written notice to the other Party and shall do all things reasonably possible to remove the cause and mitigate its effects.
- 26.4 No adjustment to CONTRACT Price shall be allowable for Force Majeure occurrences. Save as otherwise expressly provided in the CONTRACT, no payments of whatever nature shall be made in respect of a Force Majeure occurrence.
- 26.5 Following notification of a Force Majeure occurrence in accordance with **ARTICLE 26.3**, NIPPON and the CONTRACTOR shall meet without delay with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.

ARTICLE 27 – CONFLICT OF INTEREST

- 27.1 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 GROUP in their relations with NIPPON's employees and their families, or with vendors, SUBCONTRACTORS and third parties arising from this CONTRACT 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.
- 27.2 The Parties herein agree that the Malaysian Anti-Corruption Commission Act 2009 (Act694) ("**MACC Act**"), as may be amended from time to time, is applicable and shall be referred to in this CONTRACT, 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.
- 27.3 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 (if any) stipulated in **EXHIBIT 11 – ANTI-BRIBERY AND ANTI- CORRUPTION POLICY**.
- 27.4 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 Bahasa Malaysia. 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...

- 27.5 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 incurrence 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 CONTRACT.
- 27.6 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 CONTRACT 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 CONTRACT, either directly or indirectly through a third party, and further, CONTRACTOR represents that it will not so act in the future.
- 27.7 In recognition of the principles of the MACC Act, CONTRACTOR represents and agrees that it will not, directly or indirectly, in connection with this CONTRACT 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 CONTRACT, to direct business related to this CONTRACT 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.
- 27.8 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 CONTRACT upon the occurrence of an event of default by CONTRACTOR, without regard to any waiting periods or cure periods (if any) specified in this CONTRACT.

ARTICLE 28 – WAIVERS

No failure on the part of NIPPON at any time or from time to time to enforce or to require the strict adherence and performance of any of the terms or conditions of the CONTRACT

shall constitute a waiver of such terms or conditions and/or affect or impair such terms or conditions in any way or the right of NIPPON at any time to avail itself of such remedies as it may have for each and every breach of such terms or conditions.

ARTICLE 29 – CONFIDENTIALITY

- 29.1 "Confidential Information" is any information in whatsoever form disclosed by or on behalf of NIPPON GROUP to the CONTRACTORS, or generated or acquired by the CONTRACTOR in the performance of the WORK, which at the time of disclosure, generation or acquisition is not:-
- 29.1.1 in the lawful, unrestricted possession of the CONTRACTORS, or
- 29.1.2 part of public knowledge or literature.
- 29.2 CONTRACTOR shall obtain written approval from NIPPON prior to making any public release or announcement regarding the WORK or CONTRACTOR's activities related to its participation in the WORK.
- 29.3 CONTRACTOR shall, both within the duration of the CONTRACT and at any time thereafter, preserve and cause its officers, employees, and agents and all SUBCONTRACTOR's officers, employees, and agents to preserve the secrecy of any Confidential Information.
- 29.4 CONTRACTOR shall at all times hold confidential and shall not, without NIPPON's prior written approval, copy, divulge to third parties or use in any way other than for accomplishing the WORK any Confidential Information. However, CONTRACTOR may disclose to the extent that is required to comply with any law, rule or regulation of any governmental or regulatory body having jurisdiction over the WORK or the CONTRACTOR or of any relevant stock exchange provided CONTRACTOR gives NIPPON prior notice of its intention to so disclose.
- 29.5 Upon completion of the WORK or upon receipt by CONTRACTOR of NIPPON's notification of termination of the WORK or any part thereof as the case may be, CONTRACTOR shall, at NIPPON's option, return to NIPPON or destroy all documents, drawings and data provided to CONTRACTOR by NIPPON.
- 29.6 CONTRACTOR shall ensure that the provisions of this **ARTICLE** are adhered to by its employees, its SUBCONTRACTOR, and SUBCONTRACTOR's employees and shall notify NIPPON promptly upon discovery of any instance where the requirements of this **ARTICLE** have not been complied with.
- 29.7 This **ARTICLE** shall continue in force notwithstanding the completion, or earlier termination of this CONTRACT.

ARTICLE 30 – ARBITRATION

- 30.1 All disputes, controversies or claims arising out of or in connection with this CONTRACT or the breach, termination or invalidity thereof unless settled by mutual agreement, shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules before a board of three (3) arbitrators under the auspices of the Asian International Arbitration Centre (AIAC). Place of arbitration shall be in Kuala

Lumpur. The settlement by arbitration under this **ARTICLE** shall be binding on the Parties.

- 30.2 Pending the resolution of any disputes, controversies or claims arising out or relating to this CONTRACT, CONTRACTOR shall perform and/or continue performing all its obligations specified in the CONTRACT.
- 30.3 Notwithstanding the foregoing, the Parties may agree that any particular matter of dispute can most expeditiously be settled by an Expert. In that event, the Parties shall jointly prepare and sign a statement on the issue to be determined by the Expert before agreeing upon the identity of the Expert. The Parties shall then agree upon the identity of the Expert to determine the issue described in the said statement and the decision of the Expert on that issue shall be final and binding on the Parties without further arbitration on that issue. If the Parties cannot agree upon the identity of the Expert within fourteen (14) days after the date the last Party signs the aforesaid statement of issue, then the dispute may be referred to arbitration as indicated above.
- 30.4 The cost of arbitration or the “appointment” of the Expert shall be borne by the Party whose contention was not upheld by the board of arbitrators or the Expert, unless otherwise provided by the arbitration award.

ARTICLE 31 – PERMITS, LAWS AND REGULATIONS

31.1 Applicable Laws

This CONTRACT shall be governed by and construed in accordance with the laws of Malaysia.

31.2 Obtaining of Permits, Licenses and Authorisations

CONTRACTOR shall, at CONTRACTOR's cost, obtain all necessary licenses for CONTRACTOR to do business in the country or countries thereof wherein any part of the WORK is performed and shall obtain all permits and authorisations required by law that must be obtained in CONTRACTOR's name and shall give all required notices.

CONTRACTOR shall defend, indemnify and hold NIPPON GROUP and PETRONAS harmless from all forms of penalties which may be imposed on NIPPON GROUP and / or PETRONAS and from all claims, actions and damages against NIPPON GROUP and / or PETRONAS by reason of any actual or alleged violation of law by CONTRACTOR GROUP.

CONTRACTOR's obligations under this **ARTICLE** shall include without limitation obtaining all necessary or appropriate import and export licenses and Customs clearances for materials and equipment for the WORK and providing all documentation in support of such licenses and clearances.

CONTRACTOR shall comply with all prevailing regulations and requirements of all regulatory agencies and authorities including without limitation to those as stipulated under **ARTICLE 18 – SAFETY, HEALTH, ENVIRONMENTAL PROTECTION, FIRE PROTECTION AND SECURITY REGULATIONS** of this

CONTRACT.

Should the CONTRACTOR fail to obtain and maintain a valid license and or registration with PETRONAS throughout the duration of the CONTRACT, NIPPON shall have the right to terminate the CONTRACT in accordance with **ARTICLE 19 – DEFAULT OF THE CONTRACTOR**.

31.3 Compliance with Laws

CONTRACTOR GROUP shall be subject to all applicable laws in connection with the WORK. If CONTRACTOR GROUP perform any part of the WORK contrary to law, then CONTRACTOR shall bear any additional costs of the WORK resulting from said violation and correction thereof.

For the purpose of this **ARTICLE**, "law" includes any laws (governmental, national, regulatory bodies, state, municipal, local or others) and any requirements, ordinance, rule or regulation of any relevant authority or agency (governmental, national, regulatory bodies, state, municipal, local or others).

CONTRACTOR shall not enter into negotiations with any relevant authority or agency to develop acceptance to exemption, composition, variation or revision to law in connection with this CONTRACT without NIPPON's prior written approval.

NIPPON shall be entitled to recover from the CONTRACTOR the amount of any loss or damage suffered by NIPPON GROUP in the event that the personnel of CONTRACTOR GROUP shall in relation to the CONTRACT, have committed any act, whether before, on or after the Effective Date, which is an offence under the Laws of Malaysia (or any other similar law or enactment in force at either the CONTRACTOR's place of business or the place for the performance of any part of the WORK outside Malaysia) or would have constitute such an offence if the CONTRACTOR, not being an agent hereunder, was deemed for this purpose to be an agent. Where such an act has been committed, NIPPON shall have the right at its absolute discretion to terminate the CONTRACTOR by giving the CONTRACTOR notice of termination in accordance with **ARTICLE 19 – DEFAULT OF THE CONTRACTOR** hereof. The amount of any additional loss or damages arising out of such termination under this **ARTICLE 19 – DEFAULT OF THE CONTRACTOR** shall also be recoverable by NIPPON from the CONTRACTOR.

ARTICLE 32 – COPYRIGHTS AND PATENTS

CONTRACTOR shall promptly give notice to NIPPON if CONTRACTOR has or acquires knowledge of any copyright or patent under which a suit for infringement could reasonably be brought because of the use by NIPPON of any equipment, designs, processes, methods or work products information incorporated or to be incorporated by CONTRACTOR in the performance of WORK. Following notification to NIPPON, CONTRACTOR shall not incorporate into the WORK these equipment, designs, processes, methods or work products information without NIPPON's prior written approval.

Where equipment, designs, processes, methods and work products information specified and used by CONTRACTOR in the accomplishment of WORK infringe any copyright or

patent as the case may be, CONTRACTOR shall indemnify, defend and hold NIPPON GROUP harmless from and against any and all claims, demands or causes of action of whatever nature and shall further agree to pay all costs, including counsel and witness fees, court costs, awards, damages and any and all expenses incurred by or assessed against NIPPON resulting from such claims, demands or causes of action.

In case the said equipment, designs, processes, methods and work products information or any part thereof is held by such a suit to constitute infringement and its use enjoined, CONTRACTOR shall at its own expense either procure for NIPPON the right to continue using the equipment, designs, processes, methods and work products information, or replace or modify the equipment, designs, processes, methods and work products information with non-infringing equipment, designs, processes, methods and work products information so as to remove the infringement.

ARTICLE 33 – ENTIRE CONTRACT

This CONTRACT constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, representations or agreements related to this CONTRACT, either written or oral, including NIPPON's Bid Invitation and CONTRACTOR's Proposal except to the extent they are expressly incorporated herein. No change, alteration or modification to this CONTRACT shall be effective unless in writing and signed by the Parties pursuant to **ARTICLE 25 – CHANGES**.

ARTICLE 34 – NON-EXCLUSIVE CONTRACT

This CONTRACT is non-exclusive and NIPPON reserves the right to engage other contractors to perform similar or identical work. CONTRACTOR shall afford such other contractors adequate opportunity to carry out their contracts and shall accomplish the WORK in co-operation with those contractors and with NIPPON.

ARTICLE 35 – INDEPENDENT CONTRACTOR

- 35.1 NIPPON shall have the right to instruct and direct the CONTRACTOR as to the results to be obtained under the CONTRACT. However, CONTRACTOR is, and for all purposes shall be deemed to be, an independent CONTRACTOR and not the agent or servant of NIPPON. NIPPON shall not have any obligation to supervise the personnel of CONTRACTOR GROUP and the WORK shall be under the sole supervision and control of CONTRACTOR.
- 35.2 CONTRACTOR shall have no authority to make any statements, representations, or commitments of any kind or to take any action which shall be binding upon NIPPON except as provided for herein or as may be authorized by NIPPON.

ARTICLE 36 – SURVIVAL OF OBLIGATION

Any provision of the CONTRACT pertaining to any promise by one party to indemnify the others, or to limitation of liability, shall survive the expiry, termination, repudiation or other cancellation of the CONTRACT.

ARTICLE 37 – LIMITATION OF LIABILITY

Neither NIPPON nor CONTRACTOR shall be liable one to the other (including their affiliates, employees, officers, directors and other contractors) in respect of any claims for loss of profit, indirect, special, exemplary or consequential damages or losses including but not limited to loss of product, loss of business opportunity, loss of production, whether actual or anticipated and each Party shall defend, indemnify and hold the other harmless therefrom.

ARTICLE 38 – NOTIFICATION

All instructions, notifications, agreements, authorizations, approvals and acknowledgments shall be in writing (letter, e-mail or facsimile) and sent to the other Party's respective designated representative at the address as per **EXHIBIT 9 – ADMINISTRATIVE PROCEDURES**.

Written notice or instruction shall be deemed to have been received:

- a) At time of delivery if delivered by hand.
- b) At time of confirmed receipt if sent by e-mail or facsimile.
- c) At time of receipt or recorded delivery if sent by registered mail or courier service.

If the time of such deemed receipt is not during customary hours of business, notice shall be deemed to have been received at 10.00 a.m. on the first customary day of business thereafter. Either Party may change the person or address to which notices shall be sent to such Party by giving the other Party written notice of such change.

ARTICLE 39 – TITLE

- 39.1 All materials, raw data, field logs, documents drawings and calculations covered by this CONTRACT in respect of the WORK and each part thereof, and everything intended for incorporation therein, shall, as soon as they are delivered or appropriated to the WORK be sole and unencumbered property of NIPPON.
- 39.2 NIPPON REPRESENTATIVE shall be entitled at all reasonable times to inspect the said raw data, field logs, documents, drawings, calculations and materials or parts thereof at all areas where the WORK is being or has been performed to ensure that this **ARTICLE** has been observed and, if it has not been observed, to clearly mark or identify the equipment and materials at CONTRACTOR's cost.
- 39.3 CONTRACTOR hereby waives any liens or claims which it might have at any time on or to any materials, raw data, field logs and documents, drawings and calculations which is to be incorporated into the WORK.

ARTICLE 40 – SEVERABILITY

In the event that a determination, binding upon NIPPON and CONTRACTOR, is made that one or more provisions of the CONTRACT are void, unenforceable or unlawful, all other provisions of the CONTRACT shall continue in force to the extent not affected thereby provided that as a result of such determination, either the rights and obligations of NIPPON and CONTRACTOR hereunder are not materially adversely affected or NIPPON and CONTRACTOR agree to maintain this CONTRACT in force together with such amendments

as they deemed advisable.

ARTICLE 41 – ELECTRONIC SIGNATURE

Parties acknowledge and agree that this CONTRACT 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.

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