

CONTRACT FORM

Table of Contents

1. DEFINITIONS	2
2. DURATION OF THE CONTRACT	2
3. CONTRACT PRICE	3
4. EXECUTION AND TIMELY COMPLETION OF WORK	3
5. EXAMINATION AND ACCEPTANCE OF WORK.....	3
6. CHANGES	4
7. WARRANTY.....	5
8. HEALTH, SAFETY AND ENVIRONMENT	6
9. CONTRACTOR'S PERSONNEL	6
10. LIABILITIES AND INDEMNITIES	8
11. INSURANCE	9
12. BANK GUARANTEE AND PERFORMANCE GUARANTEE	9
13. CONFIDENTIALITY	10
14. TITLE.....	10
15. PATENTS AND PROPRIETARY RIGHTS	11
16. VENDORS DEVELOPMENT PROGRAMME.....	11
17. FORCE MAJEURE	11
18. SUSPENSION	12
19. TERMINATION.....	12
20. INVOICING AND PAYMENT	13
21. TAXATION	16
22. AUDIT AND INSPECTION	18
23. APPLICABLE LAW.....	18
24. COMPLIANCE WITH LAW AND REGULATIONS	18
25. NON-EXCLUSIVE CONTRACT.....	19
26. CONFLICT OF INTEREST	19
27. WAIVER	20
28. ASSIGNMENT.....	20

1. DEFINITIONS

In this Contract the following words and expressions shall have the meanings assigned to them except where the context otherwise requires.

- ☐ **“CHANGE ORDER”** means 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, adjustments to the Contract Price and the basis on which Contractor will be compensated for the change, if applicable.
- ☐ **“CONTRACT”** means the Form of Agreement, the CONTRACT FORM, Special Terms & Conditions (if any), Exhibits, Appendices, references and documents attached hereto or incorporated by reference and any amendments thereto.
- ☐ **“CONTRACTOR”** means the Party entering into this CONTRACT with NIPPON for the performance of the Work or part thereof as set forth in this CONTRACT.
- ☐ **“CONTRACTOR GROUP”** shall mean the CONTRACTOR, its subcontractors, its and their respective Affiliates, but shall not include any member of the Company Group.
- ☐ **“Extension Period”** means any extension option stipulated in the **Form of Agreement** and exercised by NIPPON pursuant to **Article 2** herein.
- ☐ **“NIPPON”** means JX Nippon Oil & Gas Exploration (Malaysia) Limited.
- ☐ **“NIPPON GROUP”** shall mean NIPPON, its Co-venturers, its and their respective Affiliates, but shall not include any member of the CONTRACTOR Group.
- ☐ **“Option”** or **“Optional Work”** means such part of the Work as set out in **Exhibit 1- Special Provisions and Scope of Work**, if any, to be performed by CONTRACTOR only if requested by NIPPON by means of a CHANGE ORDER in accordance with **Article 6.0** below.
- ☐ **“PETRONAS”** means Petroliaam Nasional Berhad, the National Oil Company of Malaysia established under the Petroleum Development Act 1974.
- ☐ **“Primary Period”** means the period of this CONTRACT as stipulated in the **Form of Agreement**.
- ☐ **“Third Party”** means any party other than NIPPON and CONTRACTOR.
- ☐ **“Work”** means the work and services to be provided by CONTRACTOR and that are more particularly described in **Exhibit 1- Special Provisions and Scope of Work** and all activities that are reasonably inferable from the express description of the Work.
- ☐ **“Worksite”** means 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 this CONTRACT.

2. DURATION OF THE CONTRACT

- 2.1 This CONTRACT shall commence on the Effective Date stipulated in the **Form of Agreement**.
- 2.2 This CONTRACT shall be valid for the Primary Period or until all obligations of the CONTRACTOR hereunder have been fulfilled in accordance with the WORK ORDER issued under the CONTRACT and may be extended as stipulated in the Form of Agreement under the same terms and condition for the Extension

Period(s) by NIPPON giving CONTRACTOR one (1) month prior written notice.

3. CONTRACT PRICE

- 3.1 In consideration for the complete and satisfactory performance of the Work and the fulfillment of all obligations by the CONTRACTOR under this CONTRACT, NIPPON shall compensate the CONTRACTOR in accordance with the particulars set forth **Exhibit 3 - Contract Price Schedule**.
- 3.2 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 FORM OF AGREEMENT and shall not be subjected to change for any reason whatsoever including but not limited to cost escalation or currency fluctuations.
- 3.3 Except where it is expressly provided that NIPPON shall carry out an obligation under this CONTRACT at its own cost, all equipment and services required to be supplied or performed by the CONTRACTOR under this CONTRACT shall be at the CONTRACTOR's cost and deemed to be included in the CONTRACT Price.
- 3.4 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, or similar taxes which, if applicable, will be separately itemised on each invoice.

4. EXECUTION AND TIMELY COMPLETION OF WORK

- 4.1 CONTRACTOR shall:
 - a) carry out and complete the Work expeditiously in a professional manner in accordance with good and sound offshore engineering and industry practices and in full compliance with this CONTRACT;
 - b) ensure compliance with all relevant standards, codes, laws and regulations;
 - c) perform the Work in such a manner as will always safeguard and protect NIPPON's interest; and
 - d) comply with all instructions issued by NIPPON.
- 4.2 CONTRACTOR shall be responsible at all times for scheduling, progress reporting, forecasting and independently controlling the progress to achieve the timely performance of the Work. CONTRACTOR shall produce a detailed plan of Work, called the Programme, in accordance with the requirements of **Exhibit 1- Special Provisions and Scope of Work** to demonstrate its ability to meet these requirements and shall submit to NIPPON its weekly and monthly reports based upon the progress against the Programme, as applicable.
- 4.3 Time is of the essence in this CONTRACT. If there is any factor which is likely to delay completion of the Work, CONTRACTOR shall immediately notify NIPPON in writing. If CONTRACTOR is responsible for any delay in the execution of the Work, CONTRACTOR shall take all necessary action to eliminate such delay including working overtime and/or providing additional personnel and/or facilities at no additional cost to NIPPON.

5. EXAMINATION AND ACCEPTANCE OF WORK

- 5.1 NIPPON or its representative shall have the right at any time during the term of this CONTRACT to examine the Work and to:
 - a) reject and/or require amendment of any part of the Work which is not performed

in accordance with this CONTRACT; and / or

- b) request CONTRACTOR to expedite progress of the Work;

and CONTRACTOR shall comply immediately with NIPPON's instructions. No such examination, rejection or request shall relieve CONTRACTOR of any of its obligations under this CONTRACT.

- 5.2 Upon completion of the Work in accordance with this Contract, CONTRACTOR shall notify NIPPON in writing of such completion by preparing and submitting a Certificate of Acceptance for NIPPON's signature. NIPPON shall advise CONTRACTOR whether it accepts the Work by signing said **Certificate of Acceptance** or notify in writing that it rejects the Work on the ground that it finds the Work or part thereof not to have been performed or completed in accordance with this CONTRACT.
- 5.3 In the event NIPPON rejects the Work, it shall notify CONTRACTOR of the rejection and list out parts of Work which are incomplete or not performed in accordance with this CONTRACT. Upon receipt of such notice, CONTRACTOR shall at its own cost and expense take immediate action to perform or complete the Work or any such part thereof to NIPPON's satisfaction.
- 5.4 Where any part of the Work is rejected or to be amended resulting from examination as aforesaid, CONTRACTOR shall immediately re-perform any such part of the Work at no additional cost to NIPPON.
- 5.5 Notwithstanding the above, acceptance of the Work or part thereof or approval of CONTRACTOR's activities for the Work or any payments made to the CONTRACTOR shall not relieve CONTRACTOR of any its obligations and/or liabilities under this CONTRACT.

6. CHANGES

- 6.1 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.
- 6.2 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 this CONTRACT shall apply to all changes.
- 6.3 Except as provided in **Article 6.6** below, CONTRACTOR shall not proceed with any change prior to receipt of a CHANGE ORDER, unless otherwise authorised in writing by NIPPON.
- 6.4 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, 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.
- 6.5 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.
- 6.6 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 6.5** above.

- 6.7 CONTRACTOR shall proceed with its obligations under this CONTRACT and Preliminary CHANGE ORDER with all due diligence whether or not parties are able to agree on a firm price without prejudice.

7. WARRANTY

- 7.1 CONTRACTOR warrants that:

- a) 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 this Contract.
- b) it is registered or licensed in accordance with the requirements of any legislation for purposes of or incidental to the performance of this CONTRACT.

- 7.2 CONTRACTOR warrants that it is fully experienced and properly qualified, resourced and equipped to ensure timely performance of the Work in every respect in full compliance with this CONTRACT.

CONTRACTOR warrants that the Work will be performed free from errors and omissions, and that its personnel are appropriately qualified, competent and suitable to carry out the Work.

- 7.3 CONTRACTOR shall, at its own cost, remedy with reasonable promptness any non-conforming Work either at CONTRACTOR's own initiative or upon notice from NIPPON.

- 7.4 CONTRACTOR warrants that all Work shall be free from defect or deficiency for eighteen (18) months from the date of the Certificate of Acceptance. If NIPPON discovers any defect or deficiency during this warranty period, and NIPPON has notified CONTRACTOR of the defect or deficiency either during the warranty period or within a reasonable period of time after the end of this warranty period, CONTRACTOR, shall at NIPPON's option promptly repair or replace the defect or deficiency at its sole expense (including all labour, materials and other incidental work). Any Work performed to correct any defect or deficiency shall be warranted on the same basis as provided in this **Article** for either:

- (i) the balance of the eighteen (18) months warranty period; or
- (ii) twelve (12) months from the date of completion of the repair or replacement, whichever is the later.

- 7.5 NIPPON shall have the right to have the Work performed by other contractor not only in case of CONTRACTOR's failure to diligently and satisfactorily carry out such rework but also in case of emergency or urgency. NIPPON may deduct the costs from any amounts due or which may become due to CONTRACTOR under this CONTRACT or may bill CONTRACTOR for such costs. Such recourse shall in no way relieve CONTRACTOR from its warranty obligations under this CONTRACT, and all costs of such interventions shall be charged to CONTRACTOR.

8. HEALTH, SAFETY AND ENVIRONMENT

- 8.1 CONTRACTOR shall comply at all times with:
- a) all laws and regulations pertaining to safety, health and environment;
 - b) all 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**.
- 8.2 CONTRACTOR shall allow NIPPON Representatives and/or its designated Third Party personnel to have 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, health and environment.
- 8.3 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 any laws or regulations or with NIPPON's rules and regulations.

9. CONTRACTOR'S PERSONNEL

CONTRACTOR's Personnel at the Worksite

- 9.1 CONTRACTOR shall employ only competent and skilled personnel for the Work.
- 9.2 CONTRACTOR shall provide the necessary personnel as specified in **Exhibit 4 – Contractor Personnel**, and shall make the personnel available at the NIPPON's assigned heliport or marine transport for commencement of the Work offshore. CONTRACTOR shall thereafter ensure that such personnel are continuously available throughout the duration of this CONTRACT.
- CONTRACTOR shall furnish at its sole expense any and all visas and work permits or other permits required for its personnel.
- 9.3 Only CONTRACTOR Personnel pre-approved by NIPPON shall be allowed to perform the Work.
- 9.4 All CONTRACTOR Personnel directly involved in the performance of the Work offshore shall have undergone the necessary basic safety training required by NIPPON's approved training center, and shall possess a valid Offshore Safety Passport issued by NIPPON. All related costs with respect to getting such Safety Passport for CONTRACTOR Personnel shall be at CONTRACTOR's own expenses.
- 9.5 Discipline
- In the performance of the Work, CONTRACTOR shall maintain strict discipline and good order among its employees and other contractor's and subcontractor's employees and shall not permit any of them to engage in any activities that might, in NIPPON's opinion, be contrary or detrimental to the performance of the Work or the interests of NIPPON.
- 9.6 Alcohol And Drug Use
- a) CONTRACTOR shall comply with the NIPPON's "Drug and Alcohol Free" Policy.
 - b) CONTRACTOR is responsible to ensure that the personnel of CONTRACTOR GROUP shall not use, be in possession or under the influence of any drug during

the performance of the Work, distribute or engage in the sale of any drugs or cause any drugs to be carried into the Worksite

- c) CONTRACTOR shall also ensure that the personnel of CONTRACTOR GROUP shall not use or be in possession of or under the influence or distribute or engage in the sale of alcohol / alcoholic beverages at Worksite or cause any drugs to be carried into the Worksite
- d) Any of the personnel of CONTRACTOR GROUP who are incapable of performing the Work or duties due to the influence of drug and / or alcohol, will be refused entry into or removed from the Worksite. CONTRACTOR shall replace such person immediately in accordance with the provision herein contained. Any cost incurred shall be for the CONTRACTOR's account.

9.6 Anti-Bribery and Anti-Corruption Policy

- a) CONTRACTOR shall comply with NIPPON's "Anti-Bribery and Anti- Corruption" Policy as stipulated herein and as specified in **Article 26** throughout the Duration of this CONTRACT.
- b) CONTRACTOR is responsible to ensure that the personnel of CONTRACTOR GROUP shall not, directly or indirectly, make, receive, provide or offer gifts, whether of minimal value or otherwise, entertainment, payments, loans or other consideration for the purpose of influencing individuals, directors, employees, agents or representatives of NIPPON GROUP in relation to this CONTRACT.
- c) Any of the personnel of CONTRACTOR Group found to be involved in, directly or indirectly, making, receiving, providing or offering gifts, whether of minimal value or otherwise, entertainment, payments, loans or other consideration for the purpose of influencing individuals, directors, employees, agents or representatives of NIPPON GROUP in relation to this CONTRACT shall be replaced by the CONTRACTOR immediately in accordance with the provision herein contained. Any cost incurred shall be borne by the CONTRACTOR.

9.7 Replacement of CONTRACTOR's Personnel

- a) CONTRACTOR shall ensure that all such personnel continue in the functions and responsibilities to which they are initially assigned for as long as is necessary to achieve proper completion of the Work. CONTRACTOR shall not change CONTRACTOR Personnel assigned to perform the Work without prior approval from NIPPON in writing.
- b) CONTRACTOR shall also take steps to ensure that in the event of a replacement, the replacement personnel shall be competent, skilled and familiar with the Work. Such steps shall include the training of the "would be" new personnel to take-over the Work at no additional cost to NIPPON and shall include an appropriate hand over period for the replacement personnel.
- c) NIPPON shall be entitled to object and require CONTRACTOR to remove and replace any of the CONTRACTOR personnel who, in NIPPON's sole opinion, is incompetent, misconduct himself, is negligent in the performance of his duties, is in violation of NIPPON's "Drug and Alcohol Free" Policy and/or NIPPON's Health, Safety And Environment ("HSE") Policy and Procedures and/or NIPPON's Anti-Bribery and Anti-Corruption Policy or is otherwise considered to be undesirable.

In such event, CONTRACTOR shall forthwith remove such person and at its sole cost provide a suitably qualified and experienced person acceptable to NIPPON.

- d) In the event CONTRACTOR is unable to comply with these obligations,

NIPPON shall have the option to terminate this Contract.

9.8 Language Requirement

CONTRACTOR shall ensure that the personnel provided pursuant to this Contract are competent, efficient and have adequate command of the English and/or Bahasa Malaysia Language.

9.9 Personnel Policies

CONTRACTOR shall not recruit NIPPON's personnel without NIPPON's permission which shall not be unreasonably withheld.

9.10 CONTRACTOR shall maintain good site housekeeping and where applicable, shall furnish safety equipment to its personnel, including but not limited to safety helmets, safety shoes, safety harness and eye and ear protection, as specified in **Exhibit 6 – Health, Safety and Environment**.

9.11 CONTRACTOR shall be responsible for maintaining and enhancing the safety awareness of its personnel and subcontractor's personnel including arranging safety meeting and emergency drills.

9.12 CONTRACTOR shall establish and have its own written policy, safety rules and regulations for its employees and the employees of any of its subcontractor and shall also acquaint NIPPON REPRESENTATIVE with the same.

9.13 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 ensure that all work permits and certificates are obtained prior to initiating any hazardous work.

9.14 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.

9.15 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.

10. LIABILITIES AND INDEMNITIES

10.1 CONTRACTOR shall assume all liability for and shall defend, indemnify and hold NIPPON GROUP harmless from and against any and all liabilities, claims, proceedings, damages, losses, costs and expenses arising in relation to this CONTRACT by reason of: -

- a) Any actual or alleged infringement by CONTRACTOR GROUP of any Third Party patent, copyright, trade secret and proprietary right;
- b) Claims by governmental authorities or by others of any actual or asserted failure of CONTRACTOR GROUP to comply with any law, ordinance, regulation, rule or order of any governmental or judicial body;
- c) Injury to sickness or death of CONTRACTOR GROUP's personnel and/or loss or damage to the property of CONTRACTOR GROUP including rented equipment in each and every case irrespective of any negligence, whether active or

passive, of NIPPON.

- d) Injury or death to Third Party persons and/or loss or damage to Third Party property caused by the act or omission of CONTRACTOR GROUP irrespective of any contributory negligence, whether active or passive, of NIPPON GROUP, unless such injury, death, loss or damage was solely caused by the gross negligence or willful misconduct of NIPPON.

10.2 Notwithstanding anything to the contrary, neither Party shall be liable to the other for any loss of profits, indirect, special, exemplary or consequential damages.

11. INSURANCE

- 11.1 Throughout the duration of this 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.
- 11.2 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.
- 11.3 At NIPPON's request, CONTRACTOR shall produce evidence of the respective insurance policies and payment receipts of current premiums.
- 11.4 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.
- 11.5 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.

12. BANK GUARANTEE AND PERFORMANCE GUARANTEE

- 12.1 If requested by NIPPON, CONTRACTOR shall furnish to NIPPON an irrevocable first call and unconditional Bank Guarantee in the format 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 this CONTRACT or thirty (30) days after submission of the last invoice or the end of the warranty period as specified in **Article 7 – Warranty** or any extension thereto 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..
- 12.2 If the Bank Guarantee furnished pursuant to **Article 12.1** 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 7 – 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 all its other rights under this CONTRACT or the law, invoke the Bank Guarantee referred to in **Article 12.1**.

- 12.3 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.
- 12.4 If the Bank Guarantee to be furnished pursuant to **Articles 12.1, 12.2 And 12.3** is not duly furnished by CONTRACTOR to NIPPON within thirty days of the award of this CONTRACT or is not maintained for the Requisite Validity Period of the Bank Guarantee or cannot be enforced for any reason, 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 the expiry of the Requisite Validity Period of the Bank Guarantee or may 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.
- 12.5 If requested by NIPPON, CONTRACTOR shall furnish NIPPON with a Performance Guarantee duly executed by the parent, principal or associate company of CONTRACTOR in the format set out in **Exhibit 8 – Performance Guarantee Format**.

13. CONFIDENTIALITY

- 13.1 CONTRACTOR may be provided with or may have access to certain proprietary and/or confidential information relating to NIPPON or to the Work, which may include technical, financial, commercial and corporate information (“the Confidential Information”). The CONTRACTOR shall use or permit the use of the Confidential Information and make copies or reproductions of the Confidential Information only to carry out the Work, and not for any other purposes whatsoever.
- 13.2 CONTRACTOR shall treat the Confidential Information as secret and confidential and shall not copy or disclose the Confidential Information to any other person without the prior written consent of NIPPON.
- 13.3 Upon completion of the Work or earlier request by NIPPON, the CONTRACTOR shall return all of the Confidential Information and shall destroy or cause to be destroyed all copies and reproductions (in whatever form, including but not limited to, electronic media) in its possession and in the possession of persons to whom it was disclosed pursuant to this CONTRACT.
- 13.4 The CONTRACTOR shall notify NIPPON immediately upon discovery of any instance where this provision has not been complied.
- 13.5 The obligations of CONTRACTOR stated herein shall continue notwithstanding the termination or expiration of this CONTRACT.

14. TITLE

- 14.1 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.

- 14.2 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.
- 14.3 CONTRACTOR hereby waives and undertakes to release any liens or claims which it or any Third Party 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.

15. PATENTS AND PROPRIETARY RIGHTS

- 15.1 CONTRACTOR shall promptly inform and disclose to NIPPON all inventions, improvements and discoveries (whether patentable or not) conceived or made by CONTRACTOR either alone or jointly with others during execution of the Work. CONTRACTOR and its staff shall assign to NIPPON each and every such invention, improvement and discovery and CONTRACTOR hereby grants and conveys to NIPPON all of CONTRACTOR's rights, titles and interest in any such invention.
- 15.2 CONTRACTOR and its staff shall execute such papers as NIPPON requests in connection with the assignment and patent preparation and application covering each invention, improvement, or discovery where NIPPON decide to pursue any application protecting NIPPON's right to such invention. CONTRACTOR's additional reasonable costs in such activities will be paid by NIPPON.
- 15.3 CONTRACTOR shall indemnify and hold NIPPON harmless from and against all costs arising out of any infringement or alleged infringement of any patent, proprietary or protected right in the performance of the Work.

16. VENDORS DEVELOPMENT PROGRAMME

- 16.1 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.
- 16.2 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.
- 16.3 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.
- 16.4 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.

17. FORCE MAJEURE

- 17.1 "Force Majeure" shall mean 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.
- 17.2 No delay or failure of performance of any obligations under this 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.

- 17.3 If either Party hereunder is prevented from or delayed in performing any of its obligations under this 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.
- 17.4 Following notification of a Force Majeure occurrence in accordance with **Article 17.3**, 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.
- 17.5 No adjustment to Contract Price shall be allowable for Force Majeure occurrences. Save as otherwise expressly provided in this CONTRACT, no payments of whatever nature shall be made in respect of a Force Majeure occurrence.

18. SUSPENSION

- 18.1 NIPPON may, by authorising a CHANGE ORDER, instruct the CONTRACTOR to suspend the Work or any part of the Work. The CONTRACTOR shall cease Work on such part of the Work on the effective date of suspension, but shall continue to perform any unsuspended part of the Work.
- 18.2 No payment shall be made to the CONTRACTOR if such suspension is due to a default, negligence, omission or breach of this CONTRACT by the CONTRACTOR or any subcontractors or any other person.
- 18.3 The Company 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. The CONTRACTOR shall resume the Work on the date fixed in such written notice from the Company to the extent required in the notice.
- 18.4 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.

19. TERMINATION

19.1 Right to Terminate

NIPPON reserves the right to terminate this CONTRACT or any part thereof at any time by giving CONTRACTOR written notice under any of the following circumstances: -

- a) For CONTRACTOR's breach or default.
- b) In the event of force majeure, in accordance with **Article 17** above.
- c) CONTRACTOR becoming bankrupt or insolvent or making a composition or 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.
- d) For NIPPON's convenience.

19.2 CONTRACTOR's obligations following Notice of Termination

NIPPON's notice to terminate shall specify the effective date of termination should it be different from the date of the notice and CONTRACTOR shall cease the Work on that date.

CONTRACTOR shall immediately make every reasonable effort to procure cancellation of all existing orders or contracts which CONTRACTOR shall have made, upon terms satisfactory to NIPPON, and shall thereafter, do only such Work as may be necessary to preserve and protect Work already in progress or in transit.

CONTRACTOR shall provide and turn over to NIPPON all information, documents, materials, records and analyses prepared prior to the date of termination.

19.3 Liability for Payment

In the event of termination, the rights and obligations of the Parties shall be as follows: -

- a) NIPPON shall pay to CONTRACTOR all amounts payable and due in accordance with this CONTRACT for the Work minus any payment that has already been made.
- b) If the amount due is less than the payment already made to CONTRACTOR, then CONTRACTOR shall refund the balance to NIPPON.
- c) Where termination is for convenience, NIPPON shall pay any pre-agreed cancellation charges. In the absence of pre-agreed cancellation charges. Parties shall discuss and agree on the quantum on a just and equitable basis.

20. INVOICING AND PAYMENT

20.1 Invoicing

20.1.1 CONTRACTOR shall submit its invoice upon completion of Work or agreed timeline or milestone together with all supporting documents and NIPPON's signed Certificate of Acceptance (prepared and submitted by CONTRACTOR for NIPPON signature pursuant to **Article 5** above).

20.1.2 All invoice(s) shall be verified and signed by the authorised CONTRACTOR REPRESENTATIVE prior to submission to NIPPON for payment.

20.1.3 Where the Contract price is stated in a currency other than in Ringgit Malaysia, all invoices shall be as per **Appendix 9-2 of Exhibit 9** and shall state:

- a) The amount in a currency other than in Ringgit Malaysia.
- b) 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. The exchange rate to be used to calculate the equivalent amount in Ringgit Malaysia shall be in compliance with the requirements under the GST law, regulations or guidelines issued by the Royal Malaysian Customs.

Actual payment to CONTRACTOR is still based on the amount in the currency other than Ringgit Malaysia and paid in accordance with **Article 20.2** Payments.

20.1.4 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 SITE REPRESENTATIVE.

20.1.5 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 time, the CONTRACTOR is deemed to have immediately waived all outstanding debts owed to the CONTRACTOR. Any extension of time for the submission of invoice must be confirmed in writing. Any request for extension is deemed not to be granted until such time written confirmation is given.

20.1.6 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**.

20.2 Payments

20.2.1 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.

20.2.2 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.

20.2.3 NIPPON shall be entitled to withhold payment if any of CONTRACTOR's invoices do not include the supporting documentation required by NIPPON.

20.2.4 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.

20.2.5 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.

- 20.2.6 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.
- 20.2.7 Payment due to CONTRACTOR may be withheld by NIPPON on account of unsatisfactory performance of this 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.
- 20.2.8 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 this CONTRACT provided always that this provision shall not affect any other remedy to which NIPPON may be entitled for the recovery of such sums.
- 20.2.9 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.

- 20.2.10 CONTRACTOR shall advise NIPPON this CONTRACT payment details to facilitate payment under this **Article**.

21. TAXATION

- 21.1 CONTRACTOR shall be responsible for and pay at its own expense when due and payable all taxes and duties relating to the Work including:

21.1.1 All sales, excise, storage, consumption and use taxes, licenses, permit and registration fees, income, profit, excess profit, franchise and personal property taxes.

21.1.2 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

21.1.3 Materials, tools and equipment necessary for the performance of Work

- 21.2 NIPPON shall reimburse CONTRACTOR for any payment of Customs duties that may be levied on NIPPON's furnished materials and equipment by the relevant authorities 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 .

- 21.3 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.

- 21.4 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 official tax receipt from the appropriate government entity.

- 21.5 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.

- 21.6 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.
- 21.7 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.
- 21.8 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.
- 21.9 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.
- 21.10 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.
- 21.11 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.
- 21.12 CONTRACTOR shall submit a letter to NIPPON from the Malaysian Inland Revenue Board 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.
- 21.13 Sales and Service Tax (SST)
- 21.13.1 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**.
- 21.13.2 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 this 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.

21.13.3 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 this 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.

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

21.13.5 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.

21.14 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.

22. AUDIT AND INSPECTION

NIPPON shall have the right to access CONTRACTOR's premises as well as to audit all CONTRACTOR's documents and records related to this CONTRACT. Neither such inspection nor failure of NIPPON to carry out such inspection shall relieve the CONTRACTOR of any obligation/liability under this CONTRACT.

23. APPLICABLE LAW

This CONTRACT shall be governed by and interpreted in accordance with the laws of Malaysia. NIPPON and CONTRACTOR agree to submit to the jurisdiction of the Malaysian courts.

24. COMPLIANCE WITH LAW AND REGULATIONS

CONTRACTOR shall comply and ensure compliance by its subcontractors with all applicable laws, rules and regulations and shall obtain all necessary approvals, licenses, and permits for the performance of the Work. Notwithstanding anything to the contrary, if CONTRACTOR, its subcontractors or any of their personnel are in breach of any laws, rules or regulations, CONTRACTOR shall indemnify NIPPON GROUP for all claims, suits or proceedings, penalties damages or losses against or suffered by any member of the NIPPON GROUP.

25. NON-EXCLUSIVE CONTRACT

This CONTRACT is non-exclusive and NIPPON reserves the right to engage other contractors to perform similar or identical work. NIPPON includes no representation as to the number, frequency or monetary value of Orders to be issued under this Agreement. CONTRACTOR shall co-operate with and afford such other contractors adequate opportunity to carry out their work.

26. CONFLICT OF INTEREST

- 26.1 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 representatives of NIPPON for the purpose of influencing individuals to act contrary to NIPPON's interests.
- 26.2 The Parties herein agree that the Malaysian Anti-Corruption Commission Act 2009 (Act 694) ("**MACC Act**"), as may be amended from time to time, is applicable and shall be referred to in this 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.
- 26.3 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 10 – Anti- Bribery And Anti-Corruption**.
- 26.4 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.
- 26.5 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.
- 26.6 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.

- 26.7 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.
- 26.8 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.

27. WAIVER

NIPPON's failure to exercise any of its rights or remedies shall not be deemed to be a waiver and shall not operate as to bar NIPPON from exercise its rights or remedies thereafter.

28. ASSIGNMENT

CONTRACTOR shall not assign its right and/or obligations in this CONTRACT or part hereof without the prior written consent of NIPPON.

29. 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.

30. 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