

SECTION 3
GENERAL CONDITIONS OF AGREEMENT

SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

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SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

1. DEFINITIONS

- (1) "AGREEMENT" means the FORM OF AGREEMENT and several documents listed therein.
- (2) "AGREEMENT HOLDER" means the person appointed as such by the COMPANY and named as such in the AGREEMENT, having the authorities set forth in the clause headed REPRESENTATIVES OF THE COMPANY.
- (3) "AGREEMENT MANAGER" means the person appointed as such by the SUPPLIER and named as such in the AGREEMENT, having the authorities set forth in the clause headed REPRESENTATIVES OF THE SUPPLIER.
- (4) "AGREEMENT PRICE" means the sum or sums or unit prices to be ascertained and paid in accordance with the provisions of the AGREEMENT.
- (5) "AFFILIATES" (in respect of COMPANY) means:
 - (a) Royal Dutch Shell plc,
 - (b) any company (other than COMPANY) that is from time to time directly or indirectly controlled by Royal Dutch Shell plc or
 - (c) any company that is managed or operated by a company directly controlled by Royal Dutch Shell plc and/or has a service agreement with COMPANY and/or with another company directly controlled by Royal Dutch Shell plc pursuant to which it pays on cost sharing or recovery basis a proportion of certain costs of COMPANY or such other company.

For this purpose:

- (i) a company is directly controlled by Royal Dutch Shell plc if the latter owns fifty per cent or more of the voting rights attached to the issued share capital of the first mentioned company and
- (ii) a company is indirectly controlled by Royal Dutch Shell plc if a series of companies can be specified, beginning with the latter and ending with the first mentioned company, and so related that each company of the series is directly controlled by one or more of the companies earlier in the series.

Notwithstanding the above, any reference to AFFILIATES shall include Brunei LNG Sendirian Berhad and Brunei Shell Tankers Sendirian Berhad.

- (6) "COMPANY" means BRUNEI SHELL PETROLEUM COMPANY SENDIRIAN BERHAD and its AFFILIATED Companies nominated by COMPANY.
- (7) "COMPANY HSE STANDARDS, PROCEDURES and GUIDELINES" means those documented HSE Standards, Procedures and Guidelines as specified in the AGREEMENT herein.
- (8) "COMPANY REPRESENTATIVE" means the person(s) appointed as such in writing by the AGREEMENT HOLDER having the authorities set forth in the clause headed REPRESENTATIVES OF THE COMPANY.
- (9) "EXPIRY DATE" means date of which the expiry of the AGREEMENT. All the terms and conditions within the AGREEMENT including the rates and prices shall be valid throughout the AGREEMENT period.
- (10) "DDP" means Delivery Duty Paid, the SUPPLIER shall deliver the MATERIAL to the COMPANY, cleared for import, and not unloaded from any arriving means of transport at the COMPANY location as stated herein or in PO (Purchase Order). The SUPPLIER shall bear all the costs and risks involved in bringing the MATERIAL thereto including, where applicable, any "duty" (which term include the responsibility for and the risk of the carrying out of customs formalities and the payment of formalities, custom duties, taxes and other charges) for import in the country of destination (Brunei Darussalam).
- (11) "HSE" means Health, Safety and Environment.
- (12) "HSE STANDARDS" means any safety laws, rules, regulations and any COMPANY HSE STANDARDS, PROCEDURES and GUIDELINES, industry standards, codes of practice and equipment manufacturers specifications applicable to the WORK and any revision thereof.
- (13) "MANUFACTURER" means company, which completes the manufacture of the MATERIAL.

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- (14) "MATERIAL" means goods or products as specified in SECTION 5 – SPECIFICATION AND DRAWINGS.
- (15) "PERSONNEL" means the person or persons provided by the SUPPLIER under the AGREEMENT.
- (16) "VARIATION" means any alteration to the WORK of a type specified in clause headed VARIATION in the AGREEMENT.
- (17) "VEHICLE" means the unit of transportation provided by the SUPPLIER in accordance with the requirements of the AGREEMENT.
- (18) "SUPPLIER" means the MATERIAL's supplier as specifically stated in SECTION 1- FORM OF AGREEMENT.
- (19) "WORK" means the supply of MATERIAL and all services associated with the supply of the MATERIAL and to be performed by the SUPPLIER in accordance with the AGREEMENT.

2. INTERPRETATION OF THE AGREEMENT

- (1) No heading, index, title, subtitle or subheading of the AGREEMENT shall limit, alter or affect the meaning or operation of the AGREEMENT.
- (2) All correspondence, documentation and discussion with respect to the AGREEMENT and the WORK shall be in the English language.
- (3) All instructions, notifications, agreements, authorisations, approvals and acknowledgments shall be in writing, which may be by telex or facsimile transfer. Any facsimile transfer shall be confirmed forthwith by despatch of the original correspondence in letter form.
- (4) No review, approval or acknowledgment by the COMPANY shall relieve the SUPPLIER from any liability or obligation under the AGREEMENT.
- (5) Words importing the singular only also include the plural and vice versa where the context so requires.

3. REPRESENTATIVES OF THE COMPANY

- (1) The AGREEMENT HOLDER shall have the authority to supervise the management and execution of the AGREEMENT by the SUPPLIER to issue instructions, Variations to AGREEMENT and certificates within the terms of the AGREEMENT, to appoint a COMPANY REPRESENTATIVE and to generally represent the COMPANY in respect of the AGREEMENT. All such instructions, decisions and other communications given by the AGREEMENT HOLDER shall bind the COMPANY.
- (2) The AGREEMENT HOLDER shall periodically, and at such other times as the AGREEMENT MANAGER may request, review the management and execution of the AGREEMENT with the AGREEMENT MANAGER.
- (3) The COMPANY shall have the right to replace the AGREEMENT HOLDER and the AGREEMENT HOLDER shall have the right to replace the COMPANY REPRESENTATIVE at any time at their sole discretion and they shall notify the AGREEMENT MANAGER accordingly, in writing.
- (4) The supervision, inspections, acts or omissions of the AGREEMENT HOLDER, or the COMPANY REPRESENTATIVE, shall not in any manner relieve the SUPPLIER from his duties, obligations and liabilities under the AGREEMENT.
- (5) Only the AGREEMENT HOLDER and the COMPANY REPRESENTATIVE are authorised to receive on behalf of the COMPANY, notifications, information and decisions of the SUPPLIER under the AGREEMENT.
- (6) Instructions, information and decisions from anyone other than the AGREEMENT HOLDER, or the COMPANY REPRESENTATIVE acting within the terms of their respective delegated authority shall have no contractual force or validity even if they are written on COMPANY headed note paper.

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4. REPRESENTATIVES OF THE SUPPLIER

- (1) The AGREEMENT MANAGER shall manage the execution of the AGREEMENT and has the authority to commit the SUPPLIER to any course of action within the rights and obligations of the SUPPLIER under the AGREEMENT and to generally represent the SUPPLIER in respect of the AGREEMENT.
- (2) The AGREEMENT MANAGER shall notify the COMPANY of all decisions of the SUPPLIER under the AGREEMENT. All decisions notified by the AGREEMENT MANAGER to the COMPANY shall for the purpose of the AGREEMENT constitute acts of the SUPPLIER and shall bind the SUPPLIER.
- (3) The AGREEMENT MANAGER shall periodically, and at such other times as the AGREEMENT HOLDER may request, review the management and execution of the AGREEMENT with the AGREEMENT HOLDER.
- (4) The AGREEMENT MANAGER may be replaced at COMPANY's sole reasonable discretion and at SUPPLIER's cost.
- (5) The AGREEMENT MANAGER may receive, on behalf of the SUPPLIER, notifications, information and decisions of the COMPANY made under the AGREEMENT and notification to the AGREEMENT MANAGER shall be deemed to be notification to the SUPPLIER.
- (6) The AGREEMENT MANAGER shall have such knowledge of the English, Malay and such other language as may be required for the fulfilment of their duties.

5. THE WORK

- (1) The SUPPLIER shall comply with all instructions with regard to the WORK that the COMPANY in its absolute discretion may from time to time issue. The SUPPLIER shall perform the WORK in accordance with the requirements of the AGREEMENT, in accordance with the best industry standards, in compliance with all relevant laws and regulations, and in such a manner as will always safeguard and protect the COMPANY's interests.
- (2) Non-Exclusivity
 - (a) The AGREEMENT shall not confer on the SUPPLIER an exclusive right to provide any or all of the WORK described in SECTION 4 – SCOPE OF WORK.
 - (b) The COMPANY shall have the right at its sole discretion to appoint other suppliers for the provision of the WORK described in SECTION 4 – SCOPE OF WORK, or to perform the WORK itself.
- (3) Without prejudice to the SUPPLIER's other obligations with respect to MATERIAL under the AGREEMENT, the SUPPLIER shall ensure that all MATERIAL shall, be new and unused, of correct design and workmanship, within the AGREEMENT specifications, fully suitable for the use intended and the SUPPLIER shall obtain the guarantees and warranties, valid for a period which shall at least be compatible with the requirements of Clause headed RESPONSIBILITY FOR THE WORK.

The foregoing does not relieve the SUPPLIER of any of its obligations under Clause headed RESPONSIBILITY FOR THE WORK.
- (4) Save as provided elsewhere in the AGREEMENT, in the event that the rate of progress of the WORK or any part of it is at any time, in the opinion of the COMPANY, too slow to ensure agreed delivery time or as stated in PO (Purchase Order) then (without prejudice to any other rights and remedies of the COMPANY), the COMPANY may require the SUPPLIER, and the SUPPLIER shall take immediate steps at its own cost, to expedite progress of the delivery of the MATERIAL.

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6. THE RESPONSIBILITY OF THE SUPPLIER TO INFORM ITSELF

- (1) The SUPPLIER warrants that it has satisfied itself as to the nature of the MATERIAL and the WORK, including but not limited to the correctness and sufficiency of the rates and prices stated in SECTION 8 – SCHEDULE OF PRICES, general and local conditions i.e. climatic, sea and weather conditions and all other matters which could effect the continuity or performance of the WORK. Any failure by the SUPPLIER to take account of matters which affect the WORK shall not relieve the SUPPLIER from its obligations under the AGREEMENT, nor entitle it to claim against the COMPANY.
- (2) The COMPANY shall not be liable for any inaccuracy or insufficiency in the information available or used by the SUPPLIER which directly affects the performance of the WORK save for any confidential information that is supplied by the COMPANY under the AGREEMENT and it is impracticable for the SUPPLIER to check such information and which the SUPPLIER is not required under SECTION 4 – SCOPE OF WORK to check
- (3) The SUPPLIER assumes all responsibility for WORK performed by the SUPPLIER including WORK based upon data and information not contained in the AGREEMENT.

7. THE RESPONSIBILITY OF THE SUPPLIER TO INFORM THE COMPANY

- (1) The SUPPLIER shall notify the COMPANY as soon as possible of all things in the AGREEMENT, which in the opinion of the SUPPLIER appear to be deficiencies or omissions or contradictions or ambiguities or conflicts with applicable law. The COMPANY shall review and issue instructions, if any, before the SUPPLIER proceeds with any part of the WORK affected.
- (2) The SUPPLIER shall notify the COMPANY immediately whenever accidents, incidents or near miss incidents occur. The SUPPLIER shall also notify the COMPANY of any other incidents arising out of the performance of the AGREEMENT, which may affect the interests or other operations of the COMPANY, its AFFILIATES or third parties.
- (3) The SUPPLIER shall notify the COMPANY immediately of any impending or actual stoppages of WORK, industrial disputes or other matters affecting or likely to affect the performance of the AGREEMENT.
- (4) The SUPPLIER shall keep the COMPANY fully informed of the progress of the WORK and shall comply with the reporting requirements set out in the AGREEMENT.

8. PERSONNEL OF THE SUPPLIER

- (1) The SUPPLIER warrants that it has and shall throughout the AGREEMENT have the experience and capability including sufficient and competent PERSONNEL to efficiently and expeditiously perform the WORK. If in the opinion of the COMPANY there is any inadequacy in the number or competence of persons engaged in performing the WORK, then the SUPPLIER shall on request, at no extra cost to the COMPANY, provide additional or alternative competent persons.
- (2) All supervisory PERSONNEL of the SUPPLIER shall be able to read, write and communicate in English and shall be able to directly communicate fluently in the language of the PERSONNEL they are supervising.
- (3) The SUPPLIER shall comply with all applicable laws, rules and regulations relating to the engagement of PERSONNEL, local or otherwise, for their transport, housing, maintenance, payment of wages, board and lodging.
- (4) The SUPPLIER shall ensure that all PERSONNEL of the SUPPLIER engaged on the AGREEMENT comply with all relevant labour and immigration laws, rules and regulations and where required are in possession of a valid work permit and appropriate vaccination certificates for the duration of the AGREEMENT. Details of such work permits shall, if the COMPANY so requests, be submitted to the COMPANY prior to the person being engaged on the WORK.
- (5) Unprofessional Conduct
 - (a) Notwithstanding any other provisions in the AGREEMENT, SUPPLIER warrants that any personnel employed or engaged otherwise by the SUPPLIER to perform any task in connection with the WORK shall carry out their duties in accordance with good and generally

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acceptable practices and procedures of their trade or profession and in accordance with the professional and ethical standards of that trade or profession.

- (b) In the event that the SUPPLIER or its personnel or any other person engaged by the SUPPLIER to perform tasks in connection with the WORK, in the reasonable opinion of the COMPANY act in contravention of sub-clause (5) herein, such act(s) shall constitute breach of AGREEMENT by the SUPPLIER, and without prejudice to any other remedies which COMPANY may have under the provisions of the AGREEMENT, COMPANY shall be entitled to terminate the AGREEMENT summarily without notice or compensation to SUPPLIER.

9. VARIATION

- (1) The COMPANY shall issue a VARIATION whenever it is required to do so by any other clause in SECTION 3 – GENERAL CONDITIONS OF AGREEMENT.

In addition the COMPANY may by issuing a VARIATION at any time during the period of the AGREEMENT order any change to the description and specification of the MATERIAL or the WORK, which the COMPANY wishes to make.

- (2) The following shall not be VARIATIONS:

Instructions, interpretations or decisions or acts of the COMPANY, which are:

- (a) to achieve compliance with the AGREEMENT by the SUPPLIER, or
 - (b) to require the SUPPLIER to correct errors, omissions, poor engineering, defective workmanship, replacement of defective MATERIAL or WORK or any other failure of the SUPPLIER to comply with the AGREEMENT, or
 - (c) to avoid failure by the SUPPLIER to achieve compliance with the AGREEMENT.
- (3) The AGREEMENT'S EXPIRY DATE shall be subject to adjustment only as a result of a VARIATION.
 - (4) A VARIATION shall in no way affect the rights or obligations of the parties except as expressly provided for in that VARIATION. Any VARIATION shall be governed by all the provisions of the AGREEMENT.
 - (5) If the SUPPLIER considers that an occurrence has taken place that should give rise to a VARIATION or considers that any instruction, interpretation, decision or act of the COMPANY should give rise to a VARIATION, then the SUPPLIER shall request immediately in writing that the COMPANY shall issue a VARIATION in respect of such claim. If the SUPPLIER does not request a VARIATION within 28 (twenty eight) days of the said occurrence, instruction, interpretation, decision or act then the COMPANY shall be released and discharged from all liability arising from or in connection with the said occurrence, instruction, interpretation, decision or act and the claim in question shall be deemed to be time barred. The SUPPLIER shall make such a request at the earliest practicable time before proceeding with any WORK affected. The COMPANY shall then notify the SUPPLIER within 14 (fourteen) days of receipt of such a request whether he thinks the said occurrence, instruction, interpretation, decision or act does or does not justify a VARIATION.
 - (6) The cost of any VARIATION issued by the COMPANY under (1) herein shall be valued at the rates set out in SECTION 8 SCHEDULE OF PRICES; or in accordance with the star rates clause as applicable or in the absence of any applicable rates or star rate clause, at such rates as may be agreed in writing between the COMPANY and the SUPPLIER; or failing such an agreement, at such rates as may be provisionally determined by the COMPANY pending the appointment and decision of a mutually acceptable expert.

10. INSPECTION, TESTING AND QUALITY REQUIREMENTS

- (1) The provisions of this clause are in addition to and without prejudice to any more detailed provisions for inspection and/or testing contained or referred to in the AGREEMENT.
- (2) In order to confirm that the requirements of the AGREEMENT are met the COMPANY shall have the right, but not the obligation, at all times to inspect and test all MATERIAL, WORK or services or documentation relating thereto performed by the SUPPLIER.

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- (3) The SUPPLIER, at its cost, shall carry out such inspection or tests on any equipment and vehicle provided by the SUPPLIER or on any part of the WORK as the COMPANY may from time to time require and the COMPANY shall have the right to witness and verify any such inspection and/or tests. The SUPPLIER shall give the COMPANY such period of prior notice of any such inspections and/or tests as is specified in the AGREEMENT and in the event that no period is specified not less than forty eight (48) hours notice shall be given.
- (4) Factory Test
 - (a) If the AGREEMENT provides that any part of the WORK shall undergo factory tests the SUPPLIER shall give the COMPANY the period of notice specified in the AGREEMENT (or if none is stated not less than fourteen (14) days prior notice) of readiness to test and shall agree with the COMPANY the time and place of the tests. In all cases the SUPPLIER shall give the COMPANY three (3) copies of the full test procedures to be carried out not later than six (6) weeks before the start of the tests in question.
 - (b) The COMPANY shall give reasonable notice of its requirements and the SUPPLIER shall ensure that the said requirements shall be included in all tests to be carried out at places under SUPPLIER's control.
 - (c) The SUPPLIER shall carry out such factory tests in accordance with the test procedures notified to the COMPANY. If the COMPANY does not attend any such test, then the test shall proceed in their absence and the certified copies of the test results shall be deemed to be a correct record thereof. In any event the SUPPLIER shall provide the three (3) certified copies of the test results and all associated test reports.
 - (d) The SUPPLIER shall provide at its own cost all things necessary to carry out the said tests.
 - (e) As and when the part of the WORK in question shall have passed the factory tests referred to in this Clause the COMPANY shall notify the SUPPLIER accordingly. Notification that a part of the WORK has passed factory tests shall not relieve the SUPPLIER from any liability or obligation under the AGREEMENT.
 - (f) If the part of the WORK in question fails the said factory tests then the COMPANY shall so notify the SUPPLIER, and shall state reasons for the failure. The SUPPLIER shall with all speed make good the defect and (unless the COMPANY dispenses with further tests) repeat the tests at its own cost under the same terms and conditions.
 - (g) Unless the COMPANY shall otherwise direct, no part of the WORK that has to undergo factory tests shall be delivered to the COMPANY until it has passed the factory tests in question.
 - (h) Any delays as a result of the said factory tests or re-testing required by the COMPANY shall not be regarded as a waiver by the COMPANY of any of its rights under the AGREEMENT or at law.
- (5) No failure on the part of the COMPANY to inspect, witness or test the MATERIAL or WORK nor failure to discover defects nor failure to reject MATERIAL or WORK performed by the SUPPLIER which is not in accordance with the AGREEMENT shall relieve the SUPPLIER from any liability or obligation under the AGREEMENT.
- (6) The SUPPLIER shall submit a Quality Plan to the COMPANY as and when requested. This Quality Plan shall identify SUPPLIER procedures to be used in documenting the inspection, receipt and storage of MATERIAL.
- (7) The SUPPLIER shall use only suitably trained and experienced PERSONNEL in the inspection of MATERIAL.
- (8) The SUPPLIER shall be responsible for the inspection of MATERIAL and certification to ensure compliance with COMPANY specification.
- (9) The SUPPLIER shall reject and mark (red) MATERIAL which do not comply with COMPANY specification and establish a system to control non conforming MATERIAL and ensure it's segregation from acceptable MATERIAL.
- (10) The SUPPLIER shall provide the COMPANY with Photostatted certification, where required.

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- (11) The COMPANY shall perform random inspection audits on the SUPPLIER's stock to confirm that the integrity of the stock is being maintained. Any MATERIAL found to be without COMPANY specification shall be quarantined by the SUPPLIER. The frequency of random inspection shall at the sole discretion of the COMPANY.
- (12) The COMPANY acceptance of MATERIAL shall not absolve the SUPPLIER of their responsibilities to ensure that all MATERIAL complies with the AGREEMENT.

11. **FORCE MAJEURE**

- (1) Neither party shall be liable for any failure to perform any obligation under the AGREEMENT to the extent to which performance is prevented, hindered or delayed by a force majeure occurrence. A force majeure occurrence shall mean an occurrence beyond the control and without the aid or fault or negligence, or dilatory action, or inaction of the party affected and which by the exercise of reasonable diligence the said party is unable to prevent or provide against, including without limiting the generality of the foregoing, war (declared or undeclared), insurrection, acts of terrorism, acts or orders of governments or governmental bodies (including legislative bodies, Local and Port Authorities) subsequent to the commencement date, maritime disasters, boycotts or strikes other than strikes limited to the workforce of, or provided by, the SUPPLIER.

A force majeure occurrence shall not include the following:

- (a) breakdown of any item of equipment used by the SUPPLIER.
 - (b) contractual commitment made by the SUPPLIER to third parties, which limits the ability of the SUPPLIER to perform the WORK;
 - (c) inclement weather typical of the operating area, excluding extra ordinary bad weather;
 - (d) inability to hire or utilise staff or personnel due to difficulties in obtaining or withdrawal of governmental quotas, licences or permits.
 - (e) acts or orders of governments or governmental bodies (including legislative bodies, local and Port Authorities) prior to the commencement date.
- (2) Should either party be delayed in performing the AGREEMENT by a force majeure occurrence, that party shall give written notice to the other party forthwith giving the full particulars including the date of commencement of such force majeure occurrence, shall use its best efforts to remedy the situation forthwith and shall notify the other party of the steps being taken to remedy the situation.
 - (3) Should the SUPPLIER be delayed in the performance of the WORK by an occurrence which the SUPPLIER considers is a force majeure occurrence and the SUPPLIER is unable to avoid or prevent such delay by any reasonable effort, within 7 (seven) days of such occurrence the SUPPLIER shall request in writing that the COMPANY initiate the procedure for a VARIATION. If the COMPANY at its sole discretion agrees that the occurrence is a force majeure occurrence, then, as soon as practicable the COMPANY shall authorise a VARIATION making any required adjustment to the delivery date stated in the PO (Purchase Order) to allow for the extent to which the delay is due to a force majeure occurrence and cannot be reduced by the SUPPLIER carrying out its obligations to reschedule under the AGREEMENT. No amounts shall be payable by the COMPANY to the SUPPLIER in respect of any such periods of delay.
 - (4) Where the SUPPLIER is delayed in the performance of the WORK by a force majeure occurrence for a period less than 30 (thirty) consecutive days, the COMPANY, when authorising any VARIATION in accordance with sub-clause (3) herein shall make no adjustment to the AGREEMENT PRICE for such delay.
 - (5) Where the SUPPLIER is delayed in the performance of the WORK by a force majeure occurrence for a period of 30 (thirty) or more consecutive days, the COMPANY, when authorising any VARIATION in accordance with sub-clause (3) herein, shall make an adjustment to the AGREEMENT PRICE only for such extra costs as the SUPPLIER unavoidably incurs by reason of such force majeure occurrence to the extent that the SUPPLIER cannot reduce or mitigate them by exercising best endeavours to do so or the COMPANY may terminate the AGREEMENT and the COMPANY shall pay the SUPPLIER any sum due prior to the date of commencement of such force majeure occurrence.

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- (6) If any period of the force majeure occurrence exceeds 90 (ninety) consecutive days either party may request to terminate the AGREEMENT in accordance with the clause headed TERMINATION, DISCONTINUANCE OF THE WORK AND DEFAULT.

12. SUSPENSION

- (1) The COMPANY may, by notice instructs the SUPPLIER to suspend the WORK or any part of the WORK. The SUPPLIER shall cease the supply on such suspended part of the WORK on the date specified in the notice, but shall continue to perform any unsuspended part of the WORK. During the suspension, the SUPPLIER shall properly protect and secure the suspended part of the WORK so far as is necessary in the opinion of the COMPANY.
- (2) The COMPANY shall after withdrawal of the suspension determine the effects of the suspension by making any adjustment to delivery date for such suspension in accordance with the provisions of clause headed VARIATION.
- (3) The COMPANY may, at any time, authorise resumption of the suspended part of the WORK by notifying the SUPPLIER of the part of the WORK to be resumed and the effective date of withdrawal of the suspension. WORK shall be resumed as promptly as possible by the SUPPLIER after receipt of such notification.

13. TERMINATION, DISCONTINUANCE OF THE WORK AND DEFAULT

- (1) In the event that the SUPPLIER does not perform any part of the WORK in a manner that is satisfactory to the COMPANY or in the event that the SUPPLIER does not progress with the WORK in a manner that is satisfactory to the COMPANY or in the event the COMPANY considers that the SUPPLIER has failed, refused or is unable to comply with any of the requirements of the AGREEMENT the COMPANY may;
- (a) terminate the AGREEMENT or
- (b) (i) give notice of discontinuance to the SUPPLIER in respect of part of the WORK and/or
- (ii) give notice to the SUPPLIER specifying the matter considered to be unsatisfactory or otherwise a breach of terms of the AGREEMENT and requiring the SUPPLIER immediately to take such remedial action as shall be required by the COMPANY.

In the event that the SUPPLIER does not forthwith carry out remedial action in accordance with the notice served under (b)(ii) herein in a manner that is satisfactory to the COMPANY or in the event that the SUPPLIER does not make progress with such remedial action that is satisfactory to the COMPANY or the COMPANY considers that the SUPPLIER has failed, refused or is unable to carry out such remedial action in accordance with its requirements then the COMPANY shall have the right to either give notice of discontinuance to the SUPPLIER in respect of part of the WORK or terminate the AGREEMENT.

The rights of the COMPANY under this provision are in addition to any other rights, which the COMPANY may have under the AGREEMENT or at law.

- (2) In the event of Garnishee proceedings being served on the COMPANY in respect of a judgment against the SUPPLIER or the SUPPLIER becoming bankrupt 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) a resolution for voluntary winding up passed or having a provisional Liquidator, Receiver or Manager or Administrator of its business or undertaking appointed, or having possession taken by or on behalf of the holders of any debenture secured by a Floating Charge of any property comprised in or subject to the Floating Charge, the COMPANY shall have the right to terminate the AGREEMENT by giving the SUPPLIER notice of termination.
- (3) In addition to the COMPANY's rights under sub-clauses (1) and (2) herein the COMPANY shall also have the right at any time and at its absolute discretion to either discontinue part of the WORK by giving the SUPPLIER notice of discontinuance or to terminate the AGREEMENT by giving the SUPPLIER notice of termination.
- (4) In the event of the COMPANY giving the SUPPLIER notice of termination of the AGREEMENT or of discontinuance of part of the WORK such notice shall become effective immediately upon delivery

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of the notification to the SUPPLIER or on such later date as specified in the notification, whereupon the SUPPLIER at such date shall immediately:

- (a) discontinue the WORK or part of the WORK specified in the notice;
 - (b) within 30 (thirty) days of the effective date of discontinuance or termination return to the COMPANY all documents, data or other information provided by the COMPANY and all originals, copies and reproductions of all drawings, specifications, requisitions, calculations, programme listings, plans, schedules, documents and all other data in whatever format prepared by the SUPPLIER.
 - (c) take all such further steps as are necessary to enable the COMPANY or its nominee to take over the SUPPLIER's position in the performance of the WORK with the least possible disruption, all in accordance with the COMPANY's instructions.
- (5) If the COMPANY terminates the AGREEMENT or discontinues any part of the WORK under sub-clause (3) herein, then the COMPANY shall pay to the SUPPLIER such sums as are rightly due in accordance with the AGREEMENT for WORK performed in accordance with the AGREEMENT up to the date of termination or discontinuance as the case may be, plus any demobilisation charge that may be specified in SECTION 8 – SCHEDULE OF PRICES, if any.
 - (6) If the COMPANY terminates the AGREEMENT or discontinues any part of the WORK under sub-clauses (1) or (2) herein, then the SUPPLIER shall be entitled to payment only as set out in SECTION 8 – SCHEDULE OF PRICES for the part of the WORK completed in accordance with the AGREEMENT up to the date of termination or discontinuance which payment shall be reduced by any additional costs incurred by the COMPANY as a result of the default.
 - (7) Discontinuance of part of the WORK or termination of the AGREEMENT, shall not relieve the SUPPLIER of any continuing obligations or liabilities under the provisions of the AGREEMENT nor shall it affect any statutory or common-law rights of the COMPANY or the SUPPLIER.
 - (8) Except as provided in this clause, any costs, loss or damage sustained by the SUPPLIER from discontinuance of part of the WORK, or from termination of the AGREEMENT shall be for the account of the SUPPLIER.
 - (9) The COMPANY may, at its sole discretion, terminate the AGREEMENT with immediate effect by giving written notice to the SUPPLIER when the total value of purchases under the AGREEMENT exceeds or is about to exceed the AGREEMENT Value.

14. RESPONSIBILITY FOR THE WORK

- (1) The SUPPLIER shall perform the AGREEMENT with all proper skill and care and shall ensure that the MATERIAL shall be fit for their intended purpose and of good quality, condition and workmanship and free of any defects.
- (2) In addition to the obligations under sub-clause (1) herein, the SUPPLIER shall ensure that the MATERIAL shall all be free from errors, defects, shrinkages and failures for the relevant guarantee periods, which shall expire at the later date of either:
 - (a) the end of the guarantee or warranty period specified for the MATERIAL.
 - (b) in respect of any MATERIAL repaired or replaced by the SUPPLIER under the provisions of sub-clause (4) herein, until the date that the repair or replacement has been completed to the satisfaction of the COMPANY and has been free from errors, defects and failures for the period specified in sub-clause (2)(a) or (b) herein as appropriate.
- (3) The SUPPLIER shall not be liable for any breach of sub-clauses (1) or (2) herein to the extent that:
 - (a) the errors, defects or failures are due to negligent operation by the COMPANY; or
 - (b) the SUPPLIER acted reasonably in relying on the technical, design, fabrication or procedural requirements of the COMPANY specified in the AGREEMENT; or
- (4) In the event of any breach of sub-clauses (1) or (2) herein (other than a breach set out in sub-clause (3) herein) the SUPPLIER shall be responsible at its cost for:

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- (a) the repair or correction, or at the option of the COMPANY, the replacement of any defective MATERIAL.
 - (b) any other resulting loss or damage incurred by the COMPANY that is not allocated as the responsibility or liability of the SUPPLIER or the COMPANY.
- (5) In the event of a breach of sub-clause (2) herein (other than a breach as set out in sub-clause (3) herein) the COMPANY shall notify the SUPPLIER of the breach. Upon receipt of such notification from the COMPANY the SUPPLIER shall immediately carry out the SUPPLIER's obligations under sub-clause (4) herein. Alternatively the COMPANY may undertake at its option any of the SUPPLIER's obligations under this clause in which case the COMPANY shall notify the SUPPLIER of its intention and shall be entitled to recover from the SUPPLIER all costs incurred by the COMPANY in carrying out such obligations.
- (6) The rights and remedies of the COMPANY provided in sub-clause (5) herein are in addition to those available in respect of sub-clause (1) herein and without prejudice to the COMPANY's other remedies at law. The provisions of this clause shall not affect the obligations of the COMPANY or the SUPPLIER under the clauses headed TERMS OF PAYMENT.

15. AGREEMENT PRICE

- (1) For the performance and completion of the WORK, the COMPANY shall pay or cause to be paid to the SUPPLIER, at the times and in the manner specified in the AGREEMENT.
- (2) Except where it is expressly provided that the COMPANY shall carry out an obligation under the AGREEMENT at its own cost, all things required to be supplied or performed by the SUPPLIER under the AGREEMENT shall be at the SUPPLIER's cost and deemed to be included in the AGREEMENT PRICE
- (3) Prices shall be fixed and firm and not subject to change for the duration of this AGREEMENT. The prices ruling at that time of order will be maintained through the delivery.

16. TAXES

- (1) The SUPPLIER shall assume full and exclusive liability for payment of all taxes, duties, levies, charges and contributions of any nature whatsoever that are from time to time imposed by either:
 - (a) the Government of Negara Brunei Darussalam; or
 - (b) any other country in which the WORK is being performed; or
 - (c) any other fiscal or other authority whatsoever,in respect of:
 - (i) employees or agents of the SUPPLIER (whether or not such taxes, duties, levies, charges and contributions are measured by wages, salaries and/or other remuneration); and
 - (ii) the gains of the SUPPLIER arising directly or indirectly out of the performance of the WORK.
- (2) The SUPPLIER shall report and pay all such taxes, duties, levies, charges and contributions directly to the appropriate authorities and otherwise comply with any applicable laws and regulations.
- (3) The SUPPLIER hereby covenants and undertakes to defend, indemnify and hold harmless the COMPANY from any and all claims, suits, costs, liabilities, judgments, fines, penalties, demands, loss or damage including any and all expenses, disbursements, costs, legal fees, sums and amounts which the COMPANY suffers, incurs or is put to resulting from, or in any way connected with, any assessment or imposition, for which by the terms of this Clause the SUPPLIER is liable.

17. TERMS OF PAYMENT

(1) Invoices

In order to ensure that invoices are processed and paid within the agreed term, the SUPPLIER shall observe the following procedures: -

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- (a) Only original invoices with original signatures are accepted for payment. If the original invoice is lost in transit or mislaid, a "certified true copy" of such invoice, with an original signature by an authorised signatory of the SUPPLIER, shall be submitted.
- (b) Invoices shall be prepared only on the SUPPLIER's official invoice form under the name of the SUPPLIER as stated in the AGREEMENT.
- (c) All invoices (for BSP) shall be addressed to:
Brunei Shell Petroleum Company Sendirian Berhad,
FAC/212,
Seria KB3534,
NEGARA BRUNEI DARUSSALAM.
- (d) Invoices must have the following information:
- Invoice or summary Invoice No. (Nos. shall not be duplicated);
 - Date;
 - Agreement Number;
 - Agreement Title;
 - Purchase Order Number;
 - Name of BSP Department which serves as your contact point;
 - Payment Amount to be clearly specified in figures and words;
 - Payment instructions, including the name and address of the Bank and Account No., shown on the face of the SUPPLIER's invoice;
 - Country of Origin of the MATERIAL (please specify name of country not EEC or Conglomerate);
- Invoices, which fail to contain any of the above information, will be returned to the SUPPLIER unpaid.
- (e) All invoices shall be supported by the relevant documents.
- (f) Any alterations shall be effected neatly and the correct figures shall be written or typed above with the authorised signatory's initials. Eraser or white ink shall not be used for alteration and invoices amended in this way will be rejected.

(2) Payment

- (a) Payment will be made within 30 (thirty) days after the receipt of the SUPPLIER's invoices and MATERIAL, to the SUPPLIER's nominated bank in Negara Brunei Darussalam.
- (b) In the event that the COMPANY disputes any item of any invoice submitted by the SUPPLIER, the COMPANY shall within 30 (thirty) days notify to the SUPPLIER the item in dispute. Payment in respect of such item in dispute will be withheld until settlement of the dispute, but all undisputed items of such invoice shall be paid in accordance with sub-clause (2)(a) herein.

18. AUDIT RIGHTS OF THE COMPANY

- (1) The COMPANY or its duly authorised representative shall at any time up to a limit of 6 (six) years after the completion or termination of or final payment under this AGREEMENT, whichever is the latest, have the right to carry out audits of all the records and related documents, procedures and controls of the SUPPLIER insofar as they relate to this AGREEMENT. The SUPPLIER shall grant COMPANY access to any or all of the SUPPLIER's premises to enable the COMPANY to exercise its rights herein.
- (2) The SUPPLIER shall maintain or cause to have maintained its books and records, insofar as they relate to this AGREEMENT, in accordance with generally accepted accounting principles and practices and shall preserve or cause to have preserved these books and records and all documents related thereto for a period of 6 (six) years following the completion or termination of or final payment under this AGREEMENT, whichever is the latest. The COMPANY or its authorised representative shall have the right to reproduce any of the aforementioned records and documents.

SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

- (3) In the event that the SUPPLIER's books, records and documents are in the control of or held by a third party, SUPPLIER shall forthwith obtain the release of such books, records and documents for the use of the COMPANY.

19. LIENS

- (1) The SUPPLIER agrees that it shall not claim any lien, attachment or charge on the WORK or any property of the COMPANY in the possession of the SUPPLIER
- (2) The SUPPLIER shall indemnify the COMPANY against all costs and expenses of any nature whatsoever that the COMPANY suffers, incurs or is put to by virtue of a breach of sub-clause (1) herein.
- (3) For the purpose of this clause reference to the COMPANY shall include its AFFILIATES.

20. PERMITS, LAWS AND REGULATIONS

- (1) The SUPPLIER shall abide by and comply with all applicable law, rules and regulations of any governmental or regulatory body having jurisdiction over the WORK.
- (2) The SUPPLIER shall obtain all licences and permits to conduct business and employ persons in the country or countries and any political subdivisions thereof wherein any part of the WORK is performed and shall obtain all permits, authorisations and labour quotas required by any applicable law, rules and regulations.
- (3) The SUPPLIER shall ensure that any of its PERSONNEL involved in performing the WORK and any of their respective accompanying dependents hold and maintain valid travel documents and all other documents necessary to entitle them lawfully to be in Negara Brunei Darussalam or other location to which they are assigned.
- (4) All costs of complying with all applicable laws, rules and regulations and obtaining authorities, approvals, licences, permits, for performance of the WORK shall be for the account of the SUPPLIER.
- (5) All operations necessary for the performance of the AGREEMENT shall be conducted so as not to interfere unnecessarily or improperly with the convenience of the public or the access to, use and occupation of, navigable and other waters, waterways, channels, harbours or harbour works, fisheries, natural harbours and anchorages and other places of shelter, by sea or land, public or private roads and footpaths to or of properties whether in the possession of the COMPANY or the SUPPLIER. The SUPPLIER hereby indemnifies the COMPANY against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising in relation to any of the aforesaid matters in so far as the SUPPLIER is responsible for such interference.

21. RESPONSIBILITIES AND INDEMNITIES

- (1) General

For the purpose of Clauses headed RESPONSIBILITIES AND INDEMNITIES and INSURANCE herein,

- (a) The benefit of any indemnity given in favour of COMPANY or SUPPLIER herein shall include their respective indemnitees and visitors;
- (b) Company Indemnitees shall mean the COMPANY's AFFILIATES, its co-Venturers, its agents and all of their respective personnel;
- (c) Supplier Indemnitees shall mean the SUPPLIER's agents, its sub-contractors and all of their respective personnel;
- (d) Co-Venturers shall mean the COMPANY's or its AFFILIATES' commercial partners in any venture and all of their respective personnel.

SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

(e) In entering into the agreement contained in this Clause and solely for that purpose only the COMPANY and the SUPPLIER contract both on their own behalf and as agent and/or trustee on behalf of and/or for the benefit of their respective indemnitees.

(2) Property and Personnel of SUPPLIER

(a) The SUPPLIER shall be liable for and shall hold harmless, defend and indemnify the COMPANY against any and all:

- (i) loss or damage to the property of, and/or
- (ii) personal injury, including fatal injury and disease to, and/or
- (iii) consequential loss or damage including but not limited to indirect losses and loss of revenue, profit or anticipated profits of the SUPPLIER, however caused that arises out of or in connection with the AGREEMENT. This indemnity shall apply in full even though the cause of the injuries (including death), loss or damage was the negligence of the COMPANY and the SUPPLIER shall not seek contribution from such person or persons for such reason SAVE THAT the indemnity granted herein for personal injury including fatal injury and disease to SUPPLIER shall be limited only to all such periods when the SUPPLIER is performing the WORK under the AGREEMENT.

(3) Property and Personnel of COMPANY

(a) The COMPANY shall be liable for and shall hold harmless, defend and indemnify the SUPPLIER against any and all:

- (i) loss or damage to the property of, and/or
- (ii) personal injury, including fatal injury and disease to
- (iii) consequential loss or damage including but not limited to indirect losses and loss of revenue, profit or anticipated profits of

the COMPANY, however caused that arises out of or in connection with the SUPPLIER performing the WORK under the AGREEMENT. This indemnity shall apply in full even though the cause of the injuries (including death), loss or damage was the negligence of the SUPPLIER and the COMPANY shall not seek contribution from such person or persons for such reason SAVE THAT the indemnity granted herein for personal injury including fatal injury and disease to COMPANY shall be limited only to all such periods when the SUPPLIER is working for the COMPANY.

(4) Third Party Liabilities

The SUPPLIER shall indemnify and hold harmless the COMPANY against all claims, demands, loss, costs (including costs as between attorney or solicitor and own client) damages, liabilities and expenses which they or any of them suffer, incur or are put to resulting from:-

- (a) personal injury, including fatal injury and or disease to and/or
- (b) loss or damage to property of

third parties arising out of or in connection with the performance of the AGREEMENT, whether or not the negligence or breach of duty of the COMPANY caused or contributed to such personal injury, loss or damage, and the SUPPLIER shall not seek contribution from such person or persons for such reason.

The indemnity and hold harmless in this sub-clause (4) shall be limited to B\$1,500,000 or equivalent and in excess of such level liability shall be governed by applicable law.

(5) Consequential Losses

Subject to any express provisions in this AGREEMENT, COMPANY and SUPPLIER agree that they shall in no event be liable one to the other for their respective consequential damage not limited to but including indirect losses and loss of revenue, profit or anticipated profits whether or not due in whole or in part to the negligence of either party except to the extent of any liquidated damages provided for in the AGREEMENT.

SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

22. INSURANCE

- (1) Without limitation of its obligations and responsibilities the SUPPLIER shall at its own cost take out and maintain for the duration of the AGREEMENT, such insurances as are required by law and to meet the indemnity provisions given in Clause 21 - RESPONSIBILITIES AND INDEMNITIES, including but not limited to Employers Liability and/or Workmen's Compensation, Third Party Liability and Motor Vehicle insurances. Such insurances shall name the COMPANY as joint insured and be endorsed with waiver of underwriters' rights of recourse including subrogation against the COMPANY and where appropriate with a cross liability clause.
- (2) Any additional insurance policies the SUPPLIER feels desirable to have in connection with the AGREEMENT shall name the COMPANY as co-insured and shall contain a waiver of underwriters' rights of recourse including subrogation against the COMPANY.
- (3) Any reference to "avoidance of certain terms and right of recovery" or similar clauses in the SUPPLIER's insurance policies shall be endorsed to the effect that such clauses are not applicable to the COMPANY by virtue of being included as joint or co-insured.
- (4) The COMPANY shall have the right to inspect all policies of insurance provided for in the AGREEMENT and the receipts for the current premium at any time during the duration of the AGREEMENT.
- (5) The SUPPLIER's liability under the AGREEMENT shall not be restricted, limited or altered by any stipulation or arrangements in the AGREEMENT with regard to insurance policies.
- (6) Any deductibles applicable under the insurance policies arranged by the SUPPLIER shall be for the account of the SUPPLIER.
- (7) Should the SUPPLIER fail to procure or maintain any of the aforesaid insurance for which it is responsible or by any act or omission validate or invalidate any of the aforesaid insurances, the SUPPLIER shall indemnify the COMPANY and the other beneficiaries of the said insurance to the extent they or any of them suffer loss or damage liability or expense in consequence of such failure, act or omission.
- (8) Without prejudice to sub-clause (5) herein, if the SUPPLIER fails to effect or keep in force the insurances provided for in this Clause or any other insurance which it may be required to effect under the terms of the AGREEMENT then the COMPANY may effect and keep in force any said insurance and pay the premium as may be necessary for that purpose and from time to time deduct the amount so paid by the COMPANY as aforesaid from any monies due or which may become due to the SUPPLIER.
- (9) The SUPPLIER shall notify the COMPANY of any occurrence likely to give rise to a claim under any insurance policy as soon as possible. In handling any insurance claim the SUPPLIER shall act in the best interests of all the parties concerned in the AGREEMENT including the COMPANY.

23. HEALTH, SAFETY AND ENVIRONMENT

- (1) The SUPPLIER is required to meet the COMPANY's requirements on all Health, Safety and Environment matters as specified in the AGREEMENT or as notified to the SUPPLIER by the COMPANY from time to time.
- (2) The SUPPLIER shall perform the WORK with all proper care and diligence in accordance with the HSE STANDARDS and as stated in the AGREEMENT. In the event of conflict between any of the HSE STANDARDS the most demanding standard shall apply.
- (3) Protection of the Environment
 - (a) The SUPPLIER shall comply with national legislation of Negara Brunei Darussalam in so far as it applies to environmental protection. In addition, the SUPPLIER shall comply with any international conventions or legislation relating to environmental protection which has been signed or, ratified by Negara Brunei Darussalam or which has been specified in the AGREEMENT.

SECTION 3 – GENERAL CONDITIONS OF AGREEMENT

- (b) The SUPPLIER shall comply with the COMPANY's policy on protection of the environment.
- (c) The SUPPLIER shall only use products, which shall not cause any impact on the environment when used in accordance with the instructions of the supplier. Products shall be stored in a manner, which shall cause minimum undue impact on the environment.

24. PUBLIC AND INDUSTRIAL RELATIONS AND PUBLICITY

- (1) The SUPPLIER shall maintain good relations at all times among the various regulatory bodies and with the general public. The COMPANY shall act as prime initiator in contacts with any Brunei Government departments or agencies on any matters relating to the AGREEMENT except for those covered under clause headed PERMITS, LAWS AND REGULATIONS.
- (2) The SUPPLIER shall maintain good industrial relations, and shall consult the COMPANY when requested to do so on all matters relating to industrial relations, including but not limited to, minimum rates of payments, allowances, amenities and overtime so that the interests of the COMPANY shall not be prejudiced.
- (3) The SUPPLIER shall make no publicity releases or announcements concerning the activities of the SUPPLIER or participation with respect to the AGREEMENT without the prior agreement of the COMPANY.

25. BUSINESS ETHICS

- (1) SUPPLIER confirms having received a copy of the Statement of General Business Principles (SGBP) and the Code of Conduct (CODE) (a copy can be obtained from the COMPANY). SUPPLIER fully accepts that observance by SUPPLIER of the Statement of General Business Principles when doing business with the COMPANY, is a condition for the COMPANY, and commits therefore not to violate any of the Statement of General Business Principles when performing work in connection with this contract. In the event that the SUPPLIER supplies Personnel who work on behalf of the COMPANY or represent the COMPANY, Contractor also commits that such personnel will behave in a manner that is consistent with the Code of Conduct.
- (2) The COMPANY shall be entitled to terminate the AGREEMENT and to recover from the SUPPLIER the amount of any loss arising from such termination if:
 - (a) the SUPPLIER offers, gives or agrees to give, or receives or agrees to receive, at any time, to or from any person, any gift or favour or releases or agrees to release any obligation to or from any person as an inducement or reward for:
 - (i) doing or forbearing to do (or for having done or forborne to do) any act which relates to the obtaining or execution of the AGREEMENT, or
 - (ii) showing or forbearing to show favour to any person in relation to any contract with the COMPANY, or
 - (b) the gifts or favours referred to in sub-clause (a) above have been offered by any person or persons employed by the SUPPLIER or acting on their behalf (whether with or without their knowledge), or
 - (c) the SUPPLIER or any person employed by either of them or acting on their behalf has, in relation to any contract with the COMPANY,
 - (i) committed, abetted or attempted to commit any offence, or
 - (ii) given any fee or reward the receipt of which is an offence

under the Brunei Penal Code or Prevention of Corruption Act 1982 including any amendment or re-enactment (or any similar law or enactment in force at either the SUPPLIER 's place of business or the place for performance of any part of the WORK outside Brunei Darussalam).

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26. GENERAL LEGAL PROVISIONS

(1) Assignment of the AGREEMENT.

The SUPPLIER shall not assign either the AGREEMENT or any part of it or any benefit or interest in or under it (except for an assignment of payments to the SUPPLIER's bank) without the COMPANY's prior written consent. The COMPANY shall be entitled to assign the AGREEMENT or any part of it or any benefit or interest under it to any of its AFFILIATES.

(2) Waiver

Any failure or forbearance or delay or omission on the part of the COMPANY 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 AGREEMENT or of any breach arising under this AGREEMENT shall not constitute a waiver of such terms or conditions or breaches and/or affect or impair such terms or conditions in any way or the right of the COMPANY at any time to avail itself of such remedies as it may have for each and every breach of such terms or conditions.

(3) Independence of the SUPPLIER

The SUPPLIER shall act as an independent supplier with respect to the AGREEMENT.

(4) Proper Law

The validity, construction and performance of this AGREEMENT shall be governed by English law.

(5) Legislation

Unless specified in the AGREEMENT, reference to any legislation of Brunei Darussalam shall be construed as reference to that legislation as respectively amended or re-enacted at the commencement of the AGREEMENT.

(6) Any dispute between the parties, which is not resolved amicably, shall be submitted to the jurisdiction of the Courts of Brunei Darussalam.

27. SUBSTANCE ABUSE

(1) Before commencement of the WORK, the SUPPLIER shall have established a drugs, alcohol and substance abuse policy written in any language which may be appropriate. The SUPPLIER shall ensure that this policy is understood and observed by all personnel and agents engaged on the WORK.

(2) The SUPPLIER's drugs, alcohol and substance abuse policy shall as a minimum provide that:

(a) all PERSONNEL and agents while performing the WORK or at any warehouse or on any COMPANY premises shall be free from the influence of any alcohol or illegal drugs or other prohibited substances;

(b) no PERSONNEL and agents shall use legal drugs illicitly nor shall they use, possess, distribute, buy or sell alcohol or illegal drugs while performing the WORK or at any warehouse or on any COMPANY premises;

(c) any PERSONNEL or agents who are suspected of having consumed alcohol or illegal drugs or other prohibited substances while performing the WORK shall be required to undergo tests to detect such;

(d) any PERSONNEL and agents who are in breach of the provisions of sub-clauses 2(a) or 2(b) above or refuse to be tested in accordance with the provisions of sub-clause 2(c) above or who have been tested positive shall be subject to disciplinary action which may include instant dismissal without compensation of any kind.

(3) The SUPPLIER shall undertake not to provide to the COMPANY any personnel and agents who have violated any of the provisions of sub-clause (2).

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- (4) The SUPPLIER shall use its best endeavours to ensure that any PERSONNEL it recruits would pass a drug test.
- (5) Notwithstanding the sub-clause (2) herein, the COMPANY have the right to conduct random testing on any of the PERSONNEL provided by the SUPPLIER in the execution of the AGREEMENT. Any PERSONNEL tested positive for substance abuse shall be removed immediately from the COMPANY's Worksite(s) and shall be subject to the SUPPLIER's disciplinary actions.

28. CUSTOMS CLEARANCE/DUTIES

- (1) The SUPPLIER shall be responsible for the importation and re-exportation of MATERIAL and/or equipment required for the proper performance of the WORK and for all costs related thereto including shipping, customs duties, and transportation.
- (2) The SUPPLIER shall make its own arrangements for shipping, Customs clearance and transportation of the MATERIAL to its warehouse and to COMPANY's location(s).

29. INTELLECTUAL PROPERTY RIGHTS

- (1) The SUPPLIER agrees to indemnify the COMPANY and hold it harmless from and against all loss, damage and expense arising from any claim for infringement of any Intellectual Property rights covering the MATERIAL, equipment, methods or processes furnished by SUPPLIER or which SUPPLIER is licensed to use.

Intellectual Property includes, without prejudice to its generality, patents, designs, trade-marks, know how and copyrights.

- (2) The COMPANY agrees to indemnify the SUPPLIER and hold it harmless from and against all loss, damage and expense arising from any claim for infringement of any Intellectual Property rights covering any MATERIAL, equipment, methods or processes that the COMPANY may furnish under the AGREEMENT.

30. INFORMATION SECURITY

- (1) Where SUPPLIER is required in the performance of the AGREEMENT access to COMPANY's Information Assets in the form of electronically stored information, information systems and communication systems, and computing equipment and facilities the SUPPLIER shall comply with Information Security Procedure of the COMPANY.
- (2) The SUPPLIER shall ensure that its Personnel have the appropriate access authority approved by the COMPANY prior to carrying out the WORK. Access authorisation granted by the COMPANY shall be to individual SUPPLIER's Personnel only and may not be transferred to or shared with any person.