



GENERAL TERMS AND CONDITIONS - Doc. N° SPC-APP-001

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6	26.11.2018	General Revision	F. Comandini	F. Laghi F. Arpe	L. Giorgini

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ART. 1 – DEFINITIONS

The following definitions shall be used for the purpose of interpreting the CONTRACT (as the term is defined below.)

“**AFFILIATE**” shall mean, as applied to COMPANY, CONTRACTOR, OTHER CONTRACTOR or SUBCONTRACTOR, a PERSON:

- that directly or indirectly controls it; or
- that is directly or indirectly controlled by it; or
- that is under common control with it.

“*Control*”, for the purposes of this definition, shall mean with respect to any PERSON, the right to exercise or cause the exercise of at least fifty per cent (50%) or more of the voting rights in respect of such PERSON.

“**APPROVAL**” or “**APPROVED**” shall mean approval or approved by an authorised representative of COMPANY in writing.

“**AUTHORITY**” shall mean all governmental agencies, quasi-government agencies, departments or subdivisions and all state, national, regional, municipal, local authorities with jurisdiction over the SERVICE.

“**CLAIM**” shall mean any and all (a) claims and losses of any kind and description including, without limitation, claims and losses in respect of liabilities, privileges, liens and other encumbrances, obligations, interest, costs, or expenses; (b) awards, judgments, causes of action and damages of all kinds and descriptions, whether created by law, contract, tort, arbitration, voluntary settlement or otherwise.

“**CLIENT**” shall mean the client which awarded a contract for the PROJECT to the company as specified in the ORDER.

“**COMPANY**” shall mean Fores Engineering s.r.l., company incorporated and existing under the laws of Italy, with registered office in Forlì (Italy) via Secondo Casadei 12.

“**COMPANY GROUP**” shall mean COMPANY for which the work is being performed, its and their respective AFFILIATES, and its and their respective officers, employees (including agency personnel) and agents.

“**COMPANY ITEM(S)**” shall mean any and all itemized and non-itemized items and facilities expressly specified as being supplied to CONTRACTOR by COMPANY.

“**COMPLETION DATE**” shall mean the date upon which all SERVICES must be completed, tested, verified and/or performed in accordance with the CONTRACT as specified in the ORDER and/or in any relevant CONTRACT DOCUMENT.

“**CONSEQUENTIAL LOSS**” shall mean:-

- consequential loss; and/or
- loss of production, loss of product, loss of use, loss of business and business interruption and loss of revenue, profit or anticipated profit whether direct or indirect;

connected with the performance of the SERVICE and whether or not such losses were foreseeable at the time of entering into the CONTRACT, except to the extent such loss or damages are part of a THIRD PARTY CLAIM/LOSS for which a PARTY is seeking contribution or INDEMNIFICATION pursuant to the CONTRACT.

“**CONTRACT**” shall mean the agreement between COMPANY and CONTRACTOR as regards the SERVICE, with the meaning ascribed thereto in Article 3.1 (The Contract).

“**CONTRACT DOCUMENTS**” shall mean all documents referenced in the ORDER.

“**GENERAL TERMS AND CONDITIONS**”: shall mean these general terms and conditions.

“**CONTRACT PRICE**” shall mean the aggregate amount of all orders issued at any time by COMPANY to CONTRACTOR and concerning the same PROJECT.

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“**CONTRACTOR**” shall mean the company entrusted by COMPANY with the SERVICE, pursuant to the terms set out in the CONTRACT.

“**CONTRACTOR GROUP**” shall mean CONTRACTOR, SUBCONTRACTORS, its and their respective AFFILIATES and its and their respective officers, employees (including agency personnel) and agents, including all PERSONNEL.

“**CUSTOMS DUTIES**” shall mean any and all existing or future duties, payments, fees, charges, levies, taxes, or contributions payable to or imposed by any AUTHORITY as a result of import or export, whether permanent or temporary of any PERSONNEL, SERVICE or goods.

“**DAYS**” shall mean calendar days.

“**DEFECT**” shall mean any negligence or failure of the SERVICE or any part thereof to comply with the CONTRACT including, without limitation, any delay, error, omission, deficiency, in the SERVICE.

“**EFFECTIVE DATE**” shall mean the date on which the CONTRACT becomes effective as specified in the ORDER.

“**FORCE MAJEURE**” has the meaning ascribed thereto in Article 25 (Force Majeure).

“**GROSS NEGLIGENCE**” shall mean, *inter alia*, a serious negligence amounting to reckless disregard, without any necessary implication of the consciousness of the high degree of risk or the likely consequences of the conduct on the part of the PERSON acting or omitting to act.

“**INDEMNIFY**” shall mean "release, protect, defend, indemnify and hold harmless" and "*indemnity*", "*indemnifying*" and "*indemnification*" shall be construed accordingly.

“**INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS**” shall mean patents, utility models, registered designs and models, trademarks, service marks, applications for any of the foregoing and the rights to apply for any of the foregoing, design rights, ownership of inventions, proprietary information and/or technical know-how, copyright, authorship, whether patentable or not, and any similar rights.

“**KEY DATE(S)**” shall mean any date upon which the specific SERVICES or part thereof must be completed and the relevant result of SERVICE delivered in accordance with the CONTRACT as specified in the ORDER and/or in any relevant CONTRACT DOCUMENT.

“**MATERIAL DEFAULT**” shall mean a breach or series of breaches by CONTRACTOR under the CONTRACT, including a DEFECT, which is not or cannot be remedied by CONTRACTOR within the COMPLETION DATE, OR the impact of which (or in the case of a series of breaches, the cumulative impact of which) is substantial and adverse to COMPANY'S interests.

“**OTHER CONTRACTOR**” shall mean any contractor, other than members of CONTRACTOR GROUP, who has entered into a contract with COMPANY or CLIENT (a) to provide goods or services or perform work at the CONTRACTOR'S, CLIENT'S or COMPANY'S SITE or WORKSITE related to or in connection with the PROJECT; or (b) to provide goods or services or perform work in connection with the SERVICE.

“**OTHER CONTRACTOR GROUP**” shall mean any OTHER CONTRACTOR, its subcontractors of any tier, its and their AFFILIATES and its and their respective directors, officers and employees (including agency personnel) and agents, but shall not include any member of COMPANY GROUP or CONTRACTOR GROUP.

“**PARTY**” shall mean COMPANY or CONTRACTOR and “**PARTIES**” shall be construed accordingly.

“**PERSON**” shall mean any natural person as well as any legal entity, including without limitation, either PARTY or any member of COMPANY GROUP, CONTRACTOR GROUP or OTHER CONTRACTOR GROUP.

“**PERSONNEL**” shall mean any personnel to be provided by or on behalf of CONTRACTOR GROUP for the purposes of performing the SERVICE.

“**PROJECT**” shall mean the project in the ORDER.

“**ORDER**” shall mean the order which incorporates these terms and conditions, duly signed and accepted by the PARTIES.

“**SERVICE(S)**” shall mean any and all services to be provided by CONTRACTOR pursuant to the CONTRACT including the performance of relevant works including the delivery of goods (if any) as specified in the ORDER.

“**SITE**” shall mean the off/on-shore site of the CLIENT where the plant concerning the PROJECT, is to be installed, commissioned and operated.

“**SUBCONTRACT**” shall mean any contract between the CONTRACTOR and a third party for the performance or supply of any part of the SERVICES or in any manner related to the scope of the CONTRACT.

“**SUBCONTRACTOR**” shall mean any party (other than CONTRACTOR) to a SUBCONTRACT (of any tier) including its employees and agents.

“**TAX**” and “**TAXES**” shall mean, all existing or future taxes, corporate income tax or gross revenue taxes, personal income tax, employment taxes and social charges, national insurance, sales taxes, property taxes, impost, duties, CUSTOMS DUTIES, levies, withholdings taxes and fees, stamp duties, charge and other assessments in the nature of taxes, including any fines, penalties or interest, assessed or levied by the appropriate AUTHORITY.

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“**THIRD PARTY/PARTIES**” shall mean any PERSON not included in COMPANY GROUP (to the exclusion of the CLIENT) or CONTRACTOR GROUP.

“**VARIATION**” shall mean a modification or alteration of, amendment or addition to, or deletion from the SERVICE.

“**WARRANTY PERIOD**” shall mean forty eight months (48) months as of the COMPLETION DATE or the other term indicated in the ORDER.

“**WILFUL MISCONDUCT**” shall mean an intentional, conscious or reckless disregard of good and prudent oil and gas field practice or of any of the terms of the CONTRACT in utter disregard of avoidable and harmful consequences but shall not include any act, omission or error of judgement or mistake made in the exercise in good faith of any function, authority or discretion vested in or exercisable by any member of CONTRACTOR GROUP or COMPANY GROUP, as the case may be and which in the exercise in good faith of such function, authority or discretion is justifiable by special circumstances, including safeguarding of life, property or the environment and other emergencies.

“**WORK TIME SCHEDULE**”: shall mean the time schedule for the CONTRACT attached to or set out in the ORDER, as may be modified by VARIATIONS.

“**WORKSITE**” shall mean the facilities and/or the construction yard of COMPANY.

ART. 2 – INTERPRETATION

2.1 The headings in the CONTRACT are for ease of reference and shall not be deemed to be part of or be taken into consideration in the interpretation or construction of the CONTRACT. Unless specifically stated to the contrary, all references herein to Articles are references to article numbers in this GENERAL TERMS AND CONDITIONS and not to those in any other document forming part of the CONTRACT.

2.2 The CONTRACT shall be interpreted and construed according to the English language. All instructions, notifications, agreements, authorisations and acknowledgements shall be in writing. All written communications between COMPANY and CONTRACTOR related to the CONTRACT shall be in the English or Italian language

ART. 3 – THE CONTRACT

3.1 The CONTRACT shall comprise the following documents:-
1) the ORDER; and
2) these GENERAL TERMS AND CONDITIONS; and
3) any other document that is expressly incorporated as part of the CONTRACT in the ORDER (i.e. the CONTRACT DOCUMENTS).

These documents shall be read and construed as one sole document the contents of which, in the event of any ambiguity or contradiction, shall be given priority and construed in light of the order indicated above and in the ORDER.

3.2 Respecting the activities concerning a specific PROJECT, for accountancy and/or administrative purposes, COMPANY may issue different ORDER to CONTRACTOR. Each ORDER sent by COMPANY to CONTRACTOR, in so far it concerns the same specific PROJECT, shall be deemed to constitute part of one agreement. All ORDERS shall be subject to the CONTRACT and these terms and conditions unless otherwise expressly specified in writing by COMPANY. Save as expressly provided in the ORDER, these terms and conditions are the only conditions upon which COMPANY shall contract with CONTRACTOR and they shall govern the CONTRACT to the entire exclusion of all other terms or conditions.

3.3 No terms or conditions endorsed upon, delivered with or contained in CONTRACTOR'S quotation, acknowledgment, acceptance of the ORDER, invoice, specification or similar document shall form part of the CONTRACT or apply to its subject matter (i.e. performance of the SERVICES) and CONTRACTOR waives any right which it otherwise might have to rely on such terms and conditions. There shall be no VARIATION to the CONTRACT unless expressly agreed in writing by COMPANY.

ART. 4 – REPRESENTATION AND WARRANTIES PRICES

4.1 CONTRACTOR acknowledges and agrees that quality requirements are essential to the performance of the CONTRACT. CONTRACTOR shall perform all the contractual obligation in accordance with the CONTRACT; in particular, without limiting the foregoing:

(i) The CONTRACTOR shall perform the SERVICES: (a) in accordance with the CONTRACT, (b) in accordance with good practice for the profession or practice relevant to the performance of those obligations and (c) exercising that degree of skill, care, diligence, prudence, foresight and operating practice which would reasonably and ordinarily be expected from a skilled, prudent and experienced PERSON engaged in a similar type of undertaking as that of the CONTRACTOR under the same or similar circumstances, to the reasonable satisfaction of COMPANY and in compliance with all relevant laws.

(ii) CONTRACTOR shall complete the SERVICES on or before the COMPLETION DATE in accordance with the ORDER.

4.2 Without prejudice to any other right or remedy which COMPANY may have, if any SERVICE is not performed in accordance with any of the terms of the CONTRACT, COMPANY shall be entitled (whether or not any part of the SERVICES have been accepted by COMPANY) to terminate the CONTRACT and/or to reject the SERVICES (in whole or in part).

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ART. 5 – CONTRACTOR'S GENERAL OBLIGATIONS

- 5.1 CONTRACTOR warrants and represents that it has satisfied itself, before entering into the CONTRACT, as to the extent and nature of the SERVICE, the correctness and sufficiency of all CONTRACT DOCUMENTS and all sums, rates and prices entered in the ORDER, general and local conditions, and all other matters which could affect progress or performance of the SERVICE as a part of the PROJECT reference frame.
- 5.2 In particular but without limiting the foregoing, the CONTRACTOR has checked and verified the completeness of technical documentation design provided by COMPANY, indicated in the CONTRACT DOCUMENTS vis a vis the purposes indicated in the CONTRACT and represents that it does not contain any errors, omissions, deficiencies, inaccuracies, contradictions, ambiguities and/or discrepancies. All technical documentation for the SERVICE prepared by or on behalf of the CONTRACTOR for the purposes of the CONTRACT are, or as the case may be, shall be in all respects adequate, accurate for the SERVICE and shall be fit for their purpose. Any failure by the CONTRACTOR to take account of matters which affect the SERVICE shall not relieve CONTRACTOR from its obligations under the CONTRACT.
- 5.3 It is understood that, the SERVICES and the CONTRACT PRICE further include the provision of such necessary or incidental goods or activities, supplies, consumables, utilities, tools, labour, facilities, equipment, services and works which are necessary for the contractual performance in accordance with good standards and practice unless expressly excluded in the CONTRACT.
- 5.4 CONTRACTOR acknowledges that for the performance of the PROJECT, COMPANY needs contractor and the SERVICES to be integrated in the relevant supply chain; COMPANY reserves the right to let other contracts associated with the SERVICE as required by the PROJECT. At no additional cost, CONTRACTOR shall afford OTHER CONTRACTORS reasonable access and opportunity for the performance of their respective work or contracts and shall cooperate fully with such PERSONS. The constraints and obligations resulting from such general cooperation obligation shall be deemed to be included in the WORK TIME SCHEDULE and the CONTRACT PRICE.
- 5.5 The CONTRACTOR shall perform the SERVICES in conformity with the quality assurance and quality management requirements, stated in the CONTRACT DOCUMENTS and in accordance with the applicable laws. On completion of the SERVICE or any part thereof, CONTRACTOR shall without delay clear and remove all equipment and materials provided by CONTRACTOR GROUP including, without limitation, debris from the property of COMPANY or CLIENT.
- 5.6 CONTRACTOR shall provide sufficient PERSONNEL at all times to ensure performance of the SERVICE in accordance with the provisions of the CONTRACT. All PERSONNEL employed by CONTRACTOR on the SERVICE shall be competent, properly qualified, skilled and experienced

as appropriate to their respective roles. COMPANY shall be at liberty to object to and require CONTRACTOR to remove or have removed forthwith from the SERVICE, and/or SITE and/or WORKSITE, any PERSON, directly or indirectly employed for the performance of the SERVICE by CONTRACTOR or any SUBCONTRACTOR, whose behavior has been reprehensible or uncooperative, or who is lacking competence or whose presence is otherwise considered undesirable by COMPANY. CONTRACTOR shall immediately have such PERSON replaced by a competent substitute at no extra cost to COMPANY.

In the event that COMPANY considers the PERSONNEL to be insufficient and the CONTRACTOR fails to increase the work-force appropriately, COMPANY reserves the right, at its own discretion, to assign additional personnel, and the costs incurred shall be subtracted from the CONTRACT PRICE of the SERVICE awarded.

5.7 Standards of equipment

- (i) CONTRACTOR shall provide all equipment necessary for the performance of the SERVICE. Such equipment shall be fit for the use it is intended for and maintained at all times in good operating condition with appropriate and uninterrupted valid certification in accordance with applicable laws and CONTRACT requirements.
- (ii) CONTRACTOR shall not use any equipment outside the limits of the manufacturer specification and/or as accepted by a recognized Certification Agency.
- (iii) CONTRACTOR shall mobilize and maintain any equipment in such a condition with the qualified PERSONNEL, the necessary consumables and maintenance parts for the proper and safe operation and maintenance thereof that it shall always be ready for immediate use.
- (iv) CONTRACTOR shall ensure that any equipment, during its use under the CONTRACT, shall not need any repair, replacement or overhaul. CONTRACTOR shall assume responsibility for all and any delays to maintain and to immediately replace or repair any defective equipment and to supply necessary spare parts and/or consumable therefor.

ART. 6 – EXAMINATION

- 6.1 At any time prior to completion of the SERVICE or any part thereof by CONTRACTOR, COMPANY or its appointed representative(s), including the CLIENT, shall have the right (but not the obligation) to gain access to test and inspect the SERVICE including the goods (if any) and all documentation relating thereto. CONTRACTOR shall ensure that COMPANY, CLIENT, their employees or agents shall have reasonable access to the CONTRACTOR'S and SUBCONTRACTOR'S facilities. CONTRACTOR shall be entitled to require such persons to comply with any rules and regulations in force at the CONTRACTOR'S facilities at the time of the visit and shall be entitled to reject or to refuse entry to any person failing so to comply. During this visit, CONTRACTOR shall liaise, co-operate with and afford all reasonable facilities and assistance to COMPANY, client,

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- OTHER CONTRACTORS, and its and their employees and agents.
- 6.2 If the results of such inspection or testing cause COMPANY to be of the opinion that there is a DEFECT in the performance of SERVICES, any part thereof, COMPANY shall inform CONTRACTOR and CONTRACTOR shall immediately take all necessary action as required by COMPANY to rectify the DEFECT at no cost to COMPANY. In addition, COMPANY shall have the right to require and witness further testing and inspection and rework.
- 6.3 Notwithstanding any such inspection or testing, CONTRACTOR shall remain fully responsible for the SERVICE, and any such inspection or testing shall not diminish or otherwise affect CONTRACTOR'S obligations under the CONTRACT.

ART. 7 - WARRANTY

- 7.1 COMPANY, at any time throughout the WARRANTY PERIOD, may give notice in writing to CONTRACTOR within thirty (30) days as of discovery date, that:
- (a) the SERVICES provided was defective and/or fail to meet the requirements or the performance indicated in the CONTRACT; or
- (b) a damage has occurred as a result of the acts and/or omissions of CONTRACTOR GROUP.
- Without prejudice to the right of the COMPANY to any compensation for damages, CONTRACTOR shall forthwith upon receipt of such notice, and at its own risk and cost, reperform the SERVICE and/or repair or replace the goods (if any) as required by COMPANY.
- 7.1.1 Such rework shall be performed having regard to the urgency of the case and in such a manner as to cause a minimum of interruption and a minimum of disruption to COMPANY'S/CLIENT'S operations. Such rework shall include all necessary operations, as APPROVED, at CONTRACTOR'S sole cost, expense and risk, including investigation, redesign, search, rework, dismantling, re-installation and re-testing. If CONTRACTOR re-performs the SERVICE, the provisions of this Article shall apply to the re-performed SERVICES or to such portion for a period equal to the WARRANTY PERIOD from the COMPLETION DATE of the SERVICE unless otherwise indicated in the ORDER.
- 7.1.2 If, at any time during the WARRANTY PERIOD, reperformance is made under the obligations of this Article on any part of the SERVICE, if similar SERVICES have been performed for the Project, CONTRACTOR shall upon CLIENT'S/COMPANY'S written request, verify the results of all such similar SERVICES. In case any such similar items are found to be deficient or defective, CONTRACTOR shall, re-perform the SERVICE to rectify the non-compliance in accordance with the provisions of this Article..

- 7.2 If CONTRACTOR fails to commence the necessary works required in Article 7.1 immediately, or fails to diligently and satisfactorily carry out the rework within five (5) DAYS, COMPANY shall have the right to carry out directly the necessary works or to have the necessary work performed by others and recover from CONTRACTOR all reasonable costs necessary to remedy such DEFECT, either directly or by deducting such costs from any monies due or which become due to CONTRACTOR. However, the SERVICE to be re-performed may, at the option of COMPANY, be entrusted to another contractor without any compensation to CONTRACTOR but in such a case, CONTRACTOR shall not guarantee that part of the SERVICE so performed. When making good any such damage, or in case of rework, CONTRACTOR shall have care and custody of the part of the work affected by such damage or rework.
- 7.3 CONTRACTOR acknowledges that all the warranties contained herein (including the warranties obtained by contractor from any SUBCONTRACTOR) shall run not only for the benefit of COMPANY, but also for that of CLIENT and, should CLIENT deem necessary, shall be enforceable directly by CLIENT; COMPANY shall have the right to assign or transfer to the CLIENT all warranties in the contract providing written notice to CONTRACTOR.

ART. 8 - DELIVERY

- 8.1 In the event CONTRACTOR fails to complete the SERVICES by the KEY DATES and/or the COMPLETION DATE indicated in the ORDER, without prejudice to any other right which COMPANY may have, COMPANY reserves the right to:
- (i) terminate the CONTRACT (in whole or in part);
 - (ii) reject following deliveries that CONTRACTOR attempts to make;
 - (iii) recover from CONTRACTOR all costs incurred by COMPANY in procuring alternative performance of the SERVICE by a THIRD PARTY;
 - (iv) request the payment of liquidated damages as specified in the ORDER;
 - (v) request damage compensation for further costs, losses or expenses incurred by COMPANY, reasonably attributable to failure to deliver SERVICES on the agreed date;
 - (vi) request the reimbursement further to liquidated damages as specified in the ORDER.

ART. 9 - CONTRACT PAYMENT AND INVOICING

- 9.1 In consideration of the performance and completion of the SERVICE in accordance with the terms of CONTRACT, COMPANY shall pay to CONTRACTOR the CONTRACT PRICE at the times and in the manner specified in the ORDER. The CONTRACT PRICE constitutes CONTRACTOR'S full compensation for any all costs whatsoever for complete performance of the SERVICE and for compliance with all terms and conditions of the CONTRACT.

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9.2 Each invoice shall be issued in two copies ("original for FORES ENGINEERING S.r.l."), and sent to COMPANY in accordance to Article 26.
Each invoice shall contain the reference of the ORDER and the PROJECT, the description of SERVICES performed by CONTRACTOR and the terms of executions of the SERVICES.

In each invoice shall be enclosed the Cost Progress Report of the SERVICE undersigned by COMPANY representative.

No payment will be made by COMPANY at a bank account other than the one indicated in written by CONTRACTOR, without prejudice to the possibility of changing the bank account with written notice not less than 60 (sixty) DAYS before.

9.3 In the event that payments to be made under the CONTRACT attract local or national TAX, the proper amount of such TAX shall be shown as a separate item on the invoice and shall be added to the CONTRACT prices and rates as appropriate.

9.4 If COMPANY disputes any items on any invoice (including whether any TAX is properly charged), in whole or in part, or if the invoice is prepared or submitted incorrectly in any respect, COMPANY shall notify CONTRACTOR of the reasons and request CONTRACTOR to issue a credit note for the disputed amount of the invoice as applicable. Upon receipt of such credit note, COMPANY shall be obliged to pay the undisputed part of a disputed invoice. On settlement of any dispute, CONTRACTOR shall submit an invoice for sums due and COMPANY shall make the appropriate payment in accordance with the provisions of the CONTRACT.

9.5 Neither the presentation nor payment nor non-payment of an individual invoice nor issuance of a credit note shall constitute a settlement of a dispute, an accord and satisfaction, a remedy of account stated, or otherwise waive or affect the rights of the PARTIES hereunder.

9.6 COMPANY shall have the right to offset monies owed to COMPANY by CONTRACTOR against amounts due to CONTRACTOR by COMPANY hereunder. CONTRACTOR shall pay to COMPANY within thirty (30) DAYS of receipt of an invoice any sums outstanding after such right of offset has been applied.

9.7 COMPANY may subordinate any payment to submission by CONTRACTOR of the documentation certifying that CONTRACTOR has effected payments in relation to salaries, social security and social insurance contributions, as well as payment of withholding taxes in respect of its PERSONNEL. In case of subcontracting, CONTRACTOR shall give documentary evidence of such payments in of the personnel of its SUBCONTRACTORS.

any other alterations) the scope of the WORKS, the COMPLETION DATE or any other part of the CONTRACT. Upon receipt of COMPANY's request, CONTRACTOR shall within 7 days, or the other term indicated by COMPANY, prepare at its own cost and expense, and submit to COMPANY for written authorisation, an evaluation and estimate of any and all consequences such modification would have on the PERSONNEL, equipment and materials requirements, CONTRACT PRICE, time impacts and/or COMPLETION DATE, as a direct necessary net consequence, and shall attach to each modification evaluation a detailed back-up dossier.

10.2 VARIATION due to COMPANY's action or omission

The COMPANY may also authorise a VARIATION if the CONTRACTOR can prove that it has suffered material delay and/or incurred material additional cost as a direct result of any substantial default or breach by the COMPANY. In said circumstances the CONTRACTOR, within seven (7) days from the moment the occurrence causing the VARIATION was known, or could reasonably have become known to the CONTRACTOR, shall request in writing that the COMPANY issue a VARIATION providing the relevant details indicated in article 10.1 above.

10.3 Assessment of a VARIATION

To determine any VARIATION, relevant factors will be taken into account such as necessary and unavoidable direct additional time and/or cost which includes any additional overheads, but not profit thereon. Should any parts of the WORK be withdrawn by a VARIATION, CONTRACTOR shall cease performance on such parts of the WORK and shall not be entitled to receive any amount other than reimbursement of unavoidable direct costs (if any). In the event that specific rates and prices are included in the CONTRACT DOCUMENTS, or otherwise have been used to determine the CONTRACT PRICE, then such rates and prices shall be used where appropriate to evaluate any adjustment to the CONTRACT PRICE and, as applicable, shall be deemed to represent the whole of the direct cost to the CONTRACTOR.

10.4 Mandatory requirements for a VARIATION

If the CONTRACTOR fails to submit a requests for VARIATION in accordance with the terms and conditions stated above and/or fails to provide adequate supporting evidence and estimates as provided for in Article 10.1, 10.2 and 10.3, the CONTRACTOR shall forfeit any right to receive any such VARIATIONS and any rights concerning adjustment to the CONTRACT PRICE and/or the COMPLETION DATE.

10.5 Execution of a VARIATION

If COMPANY decides to proceed with a variation and accepts CONTRACTOR's estimate of consequences, it shall issue to CONTRACTOR a written VARIATION with a full description of the modifications. CONTRACTOR shall sign and return such VARIATION to COMPANY as its acceptance to comply with the requested VARIATION. CONTRACTOR shall carry out all modifications (by additions, deletions, substitutions or any other alterations) and shall

ART. 10 – VARIATIONS

10.1 VARIATION requested by COMPANY

At any time, through a VARIATION, COMPANY shall have the right to modify (by additions, deletions, substitutions or

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- 10.6 strictly comply with the schedule, terms and conditions set forth in such VARIATIONS and with all CONTRACT requirements unmodified therein.
- Disagreement on a VARIATION**
Should the PARTIES fail to reach agreement on any VARIATION:
- (i) COMPANY shall have the right to establish such conditions, including means and amount of compensation and the proposed invoicing schedule thereof, and any adjustments to the WORK TIME SCHEDULE it considers, in good faith, fair and appropriate to the circumstances, and CONTRACTOR shall proceed with the modifications to the Scope of WORK, the WORK TIME SCHEDULE or any other part of the CONTRACT and CONTRACTOR agrees to so proceed.
- (ii) COMPANY representative and CONTRACTOR representative shall each continue to make their best efforts in order to reach agreement in respect of the terms and conditions of any and all pending VARIATIONS. In the event of their definite failure to reach such agreement by themselves, the dispute shall be referred to the respective higher management levels of COMPANY and CONTRACTOR, who shall then conduct all negotiations with regard to the subject dispute, with COMPANY representative and CONTRACTOR representative providing assistance. If then the PARTIES fail to reach agreement, the dispute shall be settled in accordance with the provisions set out in Article 29.

ART. 11 – HEALTH, SAFETY, SECURITY AND ENVIRONMENTAL REQUIREMENTS

- 11.1 On all locations where SERVICE is performed, CONTRACTOR shall be responsible for ensuring at its own cost the health, safety and welfare of all personnel involved in the performance and/or inspection of the SERVICE (including personnel of COMPANY or CLIENT and designated third parties), in addition to compliance with environmental standards, in accordance with the requirements of any applicable law or regulations.
- 11.2 Any work to be carried out at the premises of COMPANY and/or of client (including any off-shore site) shall be subject to specific regulation and legal requirements applicable to be complied with by CONTRACTOR as part of the SERVICE. Specific regulation and legal requirements applicable to any SERVICE to be carried out at WORKSITE and SITE are indicated in the ORDER. No SERVICE shall be commenced or carried out in violation or defiance of the foregoing covenants; any breach thereof shall constitute a MATERIAL DEFAULT. In addition to the observance of the laws, to which it is autonomously held within the scope of its responsibilities, the CONTRACTOR shall comply with any provisions communicated by the "HSE Service" of the COMPANY and take into account all the necessary precautions to avoid accidents of any kind or damage to people or things.

- 11.3 Technical and professional qualification of the CONTRACTOR is verified by the COMPANY through the acquisition of the documentation required by Article 26 of Legislative Decree 81/08, and any further documentation requested by the COMPANY.
- 11.4 If the CONTRACTOR needs to subcontract a part of the SERVICES to a SUB-CONTRACTOR, the CONTRACTOR must send the SUBCONTRACT authorization request to the COMPANY, who, as a result of appropriate checks, may approve the SUB-CONTRACT. The admission of the SUB-CONTRACTOR to the WORKSITE or SITE is subject to the acquisition and APPROVAL by the COMPANY of the documentation referred to in Article 11.3.
- 11.5 CONTRACTOR assumes full responsibility for what may be needed in terms of job security and accident prevention in relation to the SERVICE.

ART. 12 – RISK

- 12.1 CONTRACTOR shall be responsible for the care of the goods affected by the performance of the SERVICE as a bailor so that at the COMPLETION DATE the goods shall be in good order and condition and in conformity in every respect with the requirements of the CONTRACT.

ART. 13 – TITLE

- 13.1 Title to any tangible or intangible item concerning the SERVICE or any part thereof, shall vest in COMPANY absolutely as soon as prepared or used in the performance of the SERVICE, delivered to the COMPANY or paid for by COMPANY (whichever occurs first). All SERVICES shall be clearly identified as being owned by, and held on behalf of, COMPANY.

ART. 14 – TAXES AND DUTIES

- 14.1 CONTRACTOR shall be solely responsible for and shall bear and pay all TAXES connected with the SERVICE assessed or imposed on CONTRACTOR (including, without limiting the foregoing, TAXES connected with PERSONNEL) and shall fulfil all administrative and registration and de-registration requirements, maintain proper accounting records and properly file all necessary documents. CONTRACTOR shall procure that each SUBCONTRACTOR shall bear and pay all TAXES connected with the SERVICE assessed or imposed upon such SUBCONTRACTOR (including, without limiting the foregoing, TAXES connected with PERSONNEL) and that such SUBCONTRACTOR shall fulfil all administrative and registration and de-registration requirements, maintain proper accounting records and properly file all necessary documents.
- As a consequence, CONTRACTOR declares that, unless expressly otherwise specified in the ORDER, the CONTRACT PRICE established on the basis of the lump sum prices, unit and time rates and fees set out in the ORDER, includes all TAXES, fees, levies, imposts, duties, charges

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and the like, (with all direct and indirect expenses to discharge same and any and all penalties and fines pertaining to any of the above) for which it is liable with no exception whatsoever.

- 14.2 CONTRACTOR hereby INDEMNIFIES and undertakes to keep COMPANY GROUP and CLIENT indemnified from and against all CLAIMS/LOSSES whatsoever *connected with* any assessment or imposition made in respect of all or any TAXES upon CONTRACTOR or any SUBCONTRACTOR *connected with* the SERVICE together with any costs of compliance. COMPANY may offset any amounts due from CONTRACTOR under this indemnity from any payments COMPANY is due to make to CONTRACTOR under this CONTRACT.
- 14.3 CONTRACTOR shall be responsible for obtaining all the necessary customs clearances, or other governmental authorizations required for moving PERSONNEL and/or goods (if any) into and out of any jurisdiction including SITE's. COMPANY will, if so requested by CONTRACTOR, assist CONTRACTOR to the extent reasonably necessary with regard to the obtaining of import assistance, or other governmental authorizations required for moving PERSONNEL and goods/equipment into and out of any jurisdiction.
- 14.4 As applicable, CONTRACTOR shall bear at its sole cost, risk and liability, any CUSTOMS DUTIES, import taxes and other charges whatsoever relating to the importation and exportation/re-exportation of: material, equipment, consumables, spare parts, and in general anything necessary to effect rework, repairs and/or retest under warranties and guarantees or due to any act, omission or default of CONTRACTOR and any SUBCONTRACTORS during the WARRANTY PERIOD.

ART. 15 – ASSIGNMENT

- 15.1 CONTRACTOR shall not assign, novate or transfer its rights or obligations under the CONTRACT or any part thereof or any benefit or interest therein without prior written APPROVAL of COMPANY.
- 15.2 COMPANY may at any time, prior written notice to CONTRACTOR, assign, novate or transfer its rights or obligations under the CONTRACT, in whole or in part, to the CLIENT or an AFFILIATE of COMPANY without CONTRACTOR'S consent.
- 15.3 COMPANY may at any time assign, novate or transfer its rights or obligations under the CONTRACT in whole, or in part, to any other THIRD PARTY, provided that the prior written consent of CONTRACTOR is obtained. Such consent shall not be unreasonably withheld or delayed.
- 15.4 The PARTIES agree that, in the event of an assignment, novation or transfer as described herein, they shall execute without delay a formal agreement, specifying the date of the assignment, novation or transfer of interest, to be effective on the written assumption by the assignee of all obligations of the assignor under the CONTRACT. In case of

assignment of the CONTRACT by COMPANY, CONTRACTOR shall reissue Bank Guarantee (if any), for the benefit of the assignee.

ART. 16 – SUBCONTRACTING

- 16.1 CONTRACTOR shall not subcontract the whole of the SERVICE. CONTRACTOR shall not subcontract any part of the SERVICE without prior APPROVAL otherwise Article 21.2 shall apply. Notwithstanding any prior APPROVAL, CONTRACTOR shall be responsible for the acts or omissions of any SUBCONTRACTOR.
- 16.2 COMPANY shall have the right to approve the form of each SUBCONTRACT. CONTRACTOR shall not change any of the SUBCONTRACTORS, or materially vary their SUBCONTRACTS, without prior APPROVAL.
- 16.3 CONTRACTOR shall ensure that each SUBCONTRACT provides:
- (a) that COMPANY is entitled to require the SUBCONTRACT to be assigned to it or to the CLIENT;
 - (b) that it is subject to the existence and validity of the CONTRACT and that CONTRACTOR is entitled to terminate it in terms consistent with Article 21.2 (Termination), including for immediate termination of the SUBCONTRACT in the event of termination of all or a relevant part of the SERVICE in consequence of termination of the PROJECT in whole or in part;
 - (c) for insurance to be procured by the SUBCONTRACTOR in terms consistent with the provisions of Article 20 (Insurance – as may be modified in the ORDER);
 - (d) for rights of audit in terms consistent with the provisions of Article 17 (Audit Rights) which shall be exercisable by COMPANY, CLIENT and their authorised representatives;
 - (e) for obligations equivalent to those in Articles 6 (Examination), 7 (Warranty), 11 (Health, Safety, Security And Environmental Requirements), 18 (Industrial/Intellectual Property Rights), 22 (Confidential Information), 23 (Publicity), 27 (Code Of Conduct), and 28 (Anti-Corruption Undertakings);
 - (f) CONTRACTOR shall manage, control and supervise the performance of the SERVICE by any SUBCONTRACTORS and shall verify and enforce that any and all SUBCONTRACTS shall be performed and supplied in full compliance with the CONTRACT requirements. The exercise by COMPANY and/or CLIENT of its rights under the CONTRACT to inspect and financially and technically audit any SUBCONTRACTORS shall not relieve CONTRACTOR of its obligations and liabilities in this respect.
- 16.4 COMPANY may notify CONTRACTOR in writing that it requires the CONTRACTOR to assign or novate any or all SUBCONTRACTS to COMPANY or CLIENT. Following receipt of such notice, CONTRACTOR shall assign or novate such SUBCONTRACTS to COMPANY or CLIENT forthwith.
- 16.5 If, during the execution of the CONTRACT, the COMPANY, in its own opinion, considers the SUBCONTRACTOR not to be qualified to carry out the subcontracted SERVICE, the CONTRACTOR, shall terminate the SUBCONTRACT,

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without any right to be indemnified, be compensated for damages or change the WORK TIME SCHEDULE.

ART. 17 – AUDIT RIGHTS

- 17.1 COMPANY, and/or its authorised representatives including CLIENT for the purpose hereof, shall have the right at their own expenses to inspect and audit any of CONTRACTOR'S records, as may be necessary to verify that the requirements of the CONTRACT are being met and shall have access to any and all information relating to the relevant ORDERS, with exclusion of any sensitive commercial information and/or any piece of information not related to the SERVICE.
- 17.2 Such inspections and audits may be carried out at any time from the EFFECTIVE DATE until expiry of ten (10) years from the end of the calendar year in which the CONTRACT is completed or terminated. COMPANY and/or CLIENT shall use all reasonable endeavours to conduct any such inspections and audits in a manner which shall result in a minimum of inconvenience to CONTRACTOR.

ART. 18 – INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS

- 18.1 In the event the SERVICES concern engineering and design activities, any and all INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS shall vest in COMPANY.
- 18.2 Rights of COMPANY with respect to CONTRACTOR-Owned INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS
CONTRACTOR shall grant, or have granted, to COMPANY and CLIENT, its/their, successors and assignees, an irrevocable world-wide royalty-free non-exclusive licence to use, or have used, any INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS in CONTRACTOR's possession upon EFFECTIVE DATE as well as any CONTRACTOR owned INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS developed, acquired or obtained in the performance of the SERVICES. CONTRACTOR shall obtain from its AFFILIATES and SUBCONTRACTORS, the same undertaking.
- 18.3 CONTRACTOR agrees to indemnify and hold harmless COMPANY and/or CLIENT against any CLAIM which may be brought against COMPANY and/or CLIENT at any time from any source of infringement of any INDUSTRIAL/INTELLECTUAL PROPERTY RIGHT allegedly relating to the SERVICE.
- 18.4 Patent Infringement Indemnification
CONTRACTOR agrees to indemnify and hold harmless COMPANY and CLIENT against any action, suit, claim or demand which may be brought against COMPANY and/or CLIENT at any time from any source of infringement of any patents allegedly relating to:
- (i) the use, design, composition, mode of fabrication, or other particulars of any one or more of the elements of the SERVICE, or any combination thereof, or any part thereof, furnished by CONTRACTOR and/or SUBCONTRACTORS,

- (ii) and/or, as applicable, the use of any raw materials, composition of matter, heat treatment or other things entering into the performance of the SERVICE, or any part thereof furnished or used by CONTRACTOR and/or SUBCONTRACTORS;
- (iii) and/or the use of any tools, machines, or devices used by CONTRACTOR and/or SUBCONTRACTORS in the performance of the SERVICE.
- 18.5 CONTRACTOR's Defense of COMPANY and CLIENT
Unless otherwise instructed by COMPANY, CONTRACTOR agrees to defend COMPANY and/or CLIENT against such action, suit, claim or demand, on COMPANY's/CLIENT's behalf.
In the event that such defense is conducted by CONTRACTOR, COMPANY and/or CLIENT shall have the right to be represented by a counsel of its own choice and shall cooperate fully in the defense of any such action, suit, claim or demand, and shall provide all evidence in its control. Whether such defense is conducted by COMPANY/CLIENT or CONTRACTOR, CONTRACTOR shall pay all costs and expenses, including those of experts and/or counsels, and CONTRACTOR shall also hold COMPANY and/or CLIENT free and harmless from all expenses incurred, or damages or other sums awarded or assessed against COMPANY/CLIENT in any such action, suit, claim or demand.
- 18.6 Elimination of Source of Infringement
In connection with any action, suit, claim or demand referred to above CONTRACTOR shall be entitled at its own cost and expense to:
- (i) acquire immunity from any patent infringement action, suit, claim or demand;
- (ii) and/or acquire license under the patents on which such action, suit, claim or demand is based, for the design, operation, maintenance or use by COMPANY and the CLIENT;
- (iii) and/or make such alterations as may be required to eliminate the alleged infringement, subject to prior APPROVAL; it being agreed that any refusal made by COMPANY or CLIENT shall not impair or affect in any way their rights under Articles 18.8 and 18.9 under and that any APPROVAL shall not imply acceptance by COMPANY and/or CLIENT of alterations that could themselves prove to be infringements at any time.
- 18.7 Notice of Potential Infringement Suits
If CONTRACTOR has, or acquires, knowledge of any patent under which a suit for infringement could reasonably be brought because of the use by COMPANY of any COMPANY ITEMS and/or processes provided, designed or expressly specified by COMPANY to be incorporated by CONTRACTOR in the SERVICE (if any), CONTRACTOR shall promptly give notice to COMPANY of such knowledge. CONTRACTOR shall take all necessary appropriate steps to ensure that its employees, agents, representatives, AFFILIATES and SUBCONTRACTORS adhere to and comply with the provisions of the present Article.
- 18.8 Title on COMPANY – supplied Documents and COMPANY ITEMS
(a) Property Rights on COMPANY - supplied

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Documents

All COMPANY - supplied documents may be COMPANY's or CLIENT's shall remain the property of COMPANY or CONTRACTOR and shall be returned to COMPANY by CONTRACTOR as soon as they are no longer necessary for the performance of the SERVICE and at the latest, at the time of delivery of the final documentation. However, CONTRACTOR may keep a copy for record purposes only.

- (b) **Property Rights on COMPANY ITEMS**
COMPANY ITEMS shall remain at all times the property of COMPANY and shall be delivered back to COMPANY immediately upon request, regardless of whether COMPANY has paid or not for related SERVICE performed by CONTRACTOR, it being understood that COMPANY shall have the obligation to pay sums remaining due to CONTRACTOR in accordance with the provisions of the CONTRACT.

18.9 Title on CONTRACTOR DOCUMENTS

- a) All CONTRACTOR DOCUMENTS which are specific to CONTRACTOR's normal operations and have not been specially developed in connection with the SERVICE, shall remain the property of CONTRACTOR.
- b) All CONTRACTOR DOCUMENTS, with the exception of the CONTRACTOR DOCUMENTS described in paragraph a) hereinabove, shall, as of commencement of the SERVICE thereon, become COMPANY property, and consequently a CLIENT property, and shall be delivered to COMPANY immediately upon request. However, CONTRACTOR shall retain record copies of such documents until the expiry of all of its obligations under the CONTRACT subject to provisions of this Article as applicable, and Article 22 herein under concerning respectively INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS, and CONFIDENTIAL INFORMATION.
- c) The above provisions shall apply mutatis mutandis to the CONTRACTOR DOCUMENTS issued by SUBCONTRACTORS.

ART. 19 – CONSEQUENTIAL LOSS

19.1 Except to the extent of any liability deriving from GROSS NEGLIGENCE or WILFUL MISCONDUCT and/or any agreed contractual remedies which are expressly provided for in the CONTRACT, but notwithstanding anything else to the contrary in the CONTRACT:

- (a) COMPANY shall INDEMNIFY CONTRACTOR GROUP from COMPANY GROUP'S own CONSEQUENTIAL LOSS even if caused by the negligence/fault of CONTRACTOR GROUP or any other PERSON; and
- (b) CONTRACTOR shall INDEMNIFY COMPANY GROUP from CONTRACTOR GROUP'S own CONSEQUENTIAL LOSS even if caused by the negligence/fault of COMPANY GROUP and CLIENT or any other PERSON.

ART. 20 - INSURANCE

20.1 CONTRACTOR, at its own cost and expense, shall obtain and maintain and cause its SUBCONTRACTORS to obtain

and maintain in full force and effect throughout the duration of the CONTRACT and any extensions thereof, including any WARRANTY PERIOD the insurances specified in the ORDER, for specified amounts or their equivalent in another currency acceptable to COMPANY, it being understood that the risk may be covered by insurance policies in a different way from those indicated below provided that all such risks are properly covered. The insurance amounts indicated here below are minimum requirements and not limits of liability, and they are not to be construed as COMPANY's consent to substitute its financial liability in excess of the amounts set forth except as otherwise agreed in the CONTRACT.

At the EFFECTIVE DATE, CONTRACTOR shall stipulate and maintain the insurances specified in the CONTRACT throughout the duration of the CONTRACT, with insurance companies with a minimum financial solidity rating not lower than "BBB", quoted by Standard And Poor's (S & P) or other equivalent rating agency, .

20.2 CONTRACTOR shall effect and maintain the insurances specified below:

(i) Workmen's Compensation to comply fully with all applicable laws and agreements made with employees.

(ii) Employer's Liability Insurance with a limit no lower than the amount set forth in the ORDER per occurrence and person or, if higher, the limit required by applicable laws. This limit shall include cover for legal expenses anywhere in the world, or one of the other ways provided by applicable laws whereby an employer shall secure compensation to its employees to the extent required by law and agreement with employees. Such insurance shall be endorsed to the effect that claims formulated by CONTRACTOR's PERSONNEL against COMPANY or CLIENT shall be treated as claims against CONTRACTOR and compensated by such insurance. This policy shall also be valid to cover Contractor PERSONNEL when travelling on COMPANY vehicles.

(iii) Comprehensive General THIRD PARTY Liability including Professional Liability Insurance in all circumstances, with a limit not lower than the amount set forth in the ORDER combined single limit any one occurrence. This insurance coverage shall have territorial validity that does not conflict with the execution of the SERVICES and shall include coverage for legal expenses.

All the deductibles applicable to the foregoing insurances shall be for the sole account of CONTRACTOR. In addition to the foregoing, CONTRACTOR shall be required to effect and maintain any additional insurance required by any AUTHORITY having jurisdiction in respect of any part of the SERVICE.

20.3 All such insurances shall be primary and shall include COMPANY GROUP and CLIENT as additional assureds.

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- CONTRACTOR shall obtain from its insurers a waiver of all rights of recourse, including in particular and without limitation, subrogation against COMPANY GROUP, CLIENT and OTHER CONTRACTOR GROUP
- 20.4 Before commencing relevant operations under the CONTRACT, CONTRACTOR shall furnish COMPANY with certificates of insurance specified in the CONTRACT and thereafter renewals thereof. CONTRACTOR shall list all its insurances pertaining to this CONTRACT under the ORDER and represents and warrants that they comply with the relevant provisions of this CONTRACT. Should CONTRACTOR at any time neglect or refuse to provide any of the insurances described in this Article herein above or should such insurance be cancelled or terminated or substantially reduced, COMPANY and/or CLIENT shall have the right, but not the obligation to procure the same and the cost thereof shall be deducted from any sums due or thereafter becoming due to CONTRACTOR. Any additional cost involved for COMPANY and/or CLIENT in procuring such insurance or loss due to the fact that CONTRACTOR neglected or refused to provide the insurance or that the insurance is cancelled or terminated or substantially reduced, shall be for CONTRACTOR's account.
- 20.5 Insofar as CONTRACTOR'S insurance does not protect any member of CONTRACTOR GROUP, CONTRACTOR shall, at no additional expense to COMPANY, ensure that the members of CONTRACTOR GROUP effect and maintain the requisite insurance and, on COMPANY request, provide certificates to evidence that the required insurance is in effect.
- 20.6 Failure to secure the required insurance coverage or to comply fully with any of the insurance provisions of the CONTRACT, or to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of the CONTRACT shall in no way act to relieve CONTRACTOR from its obligations under the CONTRACT nor shall it in any way limit the obligations of CONTRACTOR to INDEMNIFY COMPANY GROUP and CLIENT as set out in the CONTRACT.
- Moreover, in case of failure to stipulate or maintain, on the part of the CONTRACTOR, the insurance coverage required by the CONTRACT, without prejudice to all responsibilities to the same in accordance with the law and the CONTRACT, the COMPANY reserves the right to terminate the CONTRACT, as indicated in Article 21 "Suspension, Resolution".
- 20.7 Notwithstanding any other provision in the CONTRACT, any insurance mentioned in the CONTRACT shall by no means be construed as a limitation of any CONTRACTOR's liabilities and shall always be in excess of any limitation of liability in the CONTRACT.
- to the extent detailed in the notice, for any of the following reasons:
- (a) in the event of some default on the part of the CONTRACTOR; or
- (b) in the event that suspension is necessary for the proper execution or safety of the SERVICE, or persons; or
- (c) to suit the convenience of the COMPANY;
- (d) in the event the upstream contract for the PROJECT with the CLIENT is suspended.
- (i) Upon receipt of any such notice, the CONTRACTOR shall, unless instructed otherwise: (a) discontinue the SERVICE or the part of the SERVICE detailed in the notice, on the date and to the extent specified; (b) take all reasonable measures to minimize the costs and losses of the COMPANY and the CONTRACTOR, including placing no further orders and making no further SUBCONTRACTS with respect to the suspended portion of the SERVICE other than as specified in the notice; (c) promptly make every reasonable effort to obtain suspension upon terms satisfactory to the COMPANY of all outstanding orders and SUBCONTRACTS to the extent they relate to the execution of the portion of the SERVICE suspended; (d) and continue to perform all unsuspended parts of the CONTRACT.
- (ii) In the event of default on the part of the CONTRACTOR and before the issue by the COMPANY of a notice to suspend the SERVICE or any part thereof the COMPANY shall give notice of default to the CONTRACTOR giving details of such default. If the CONTRACTOR, upon receipt of such notice, does not commence immediately, or within the period stated in the COMPANY'S notice, and thereafter continuously proceed with action satisfactory to the COMPANY to remedy such default, the COMPANY may issue a notice of suspension in accordance with the provisions of Article 21.1.
- (iii) Unless the suspension arises as a result of default on the part of the CONTRACTOR, the CONTRACT PRICE and programme shall be adjusted in accordance with Article 10 – VARIATIONS, it being understood that any storage activity shall be at no cost for COMPANY.
- (iv) If suspension results from default on the part of the CONTRACTOR, any additional costs reasonably incurred by the COMPANY as a result shall be recoverable by the COMPANY from the CONTRACTOR.
- (v) In the event of any suspension, the COMPANY and the CONTRACTOR shall meet with a view to agreeing a mutually acceptable course of action during the suspension. The COMPANY may, by further notice, instruct the CONTRACTOR to resume the SERVICE to the extent specified.
- (vi) If the period of any suspension not arising as a result of default on the part of the CONTRACTOR exceeds 120 DAYS the CONTRACTOR may serve a notice on the COMPANY requiring permission within fourteen (14) days from the receipt of such notice to proceed with the SERVICE or that part thereof subject to suspension. If within the said fourteen (14) days the COMPANY does not grant such permission the CONTRACTOR, by a further notice, may (but is not obligated to) elect to treat the suspension as either:

ART. 21 – SUSPENSION - TERMINATION

21.1 Suspension

The COMPANY shall have the right, by notice to the CONTRACTOR, to suspend the SERVICE or any part thereof

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- (a) where it affects part only of the SERVICE, a deletion of such part under Article 10 - VARIATIONS; or (b) where it affects the whole of the SERVICE, termination in accordance with the following provision.
- 21.2 Termination
COMPANY may terminate the CONTRACT, in the following circumstances:-
- (a) Termination for default:
- (i) In the case of CONTRACTOR'S default which can be remedied, COMPANY shall give notice of such DEFAULT to CONTRACTOR and if, upon receipt of such notice, CONTRACTOR does not commence and thereafter continuously proceed with action satisfactory to COMPANY to remedy such DEFAULT within ten (10) days, COMPANY may terminate the CONTRACT at any time thereafter by written notice to CONTRACTOR.
 - (ii) In the case of a MATERIAL DEFAULT, COMPANY may terminate the CONTRACT forthwith by written notice to CONTRACTOR.
 - (iii) If CONTRACTOR becomes bankrupt or insolvent, is unable to pay its debts as they fall due, goes into liquidation, has a receiving or administration order made against it or a petition or application made for same, makes an arrangement with its creditors, or carries on business under a receiver, trustee, administrator or supervisor for the benefit of its creditors, or if any act is done or event occurs which (under applicable laws) has a similar effect to any of these acts or events COMPANY may terminate the CONTRACT at any time by written notice to CONTRACTOR.
 - (iv) Termination shall take effect from the date specified in such written notice ("Effective Date of Termination"). In said event CONTRACTOR shall not be entitled to any further remuneration for SERVICE performed prior to termination until such time as the SERVICE (as the case may be) is completed to the satisfaction of COMPANY and COMPANY has finally ascertained all costs. Except in respect of remuneration for SERVICE satisfactorily performed (if any) prior to termination, CONTRACTOR shall not be entitled to any compensation following the Effective Date of Termination.
 - (v) In the event of termination in accordance with Article 21.2(a), COMPANY shall be entitled to recover from CONTRACTOR all costs incurred by COMPANY in procuring alternative performance of the SERVICE by a THIRD PARTY in excess of those costs that COMPANY would have incurred had the CONTRACT not been terminated. CONTRACTOR'S financial shall be limited to a sum equivalent to the incremental Costs actually incurred by COMPANY and in any event to a sum not greater than one hundred percent (100%) of the CONTRACT PRICE plus all reasonable and documented THIRD PARTY mobilization (and re-mobilisation and de-mobilization, as applicable) costs necessary to perform the part of the SERVICE in question.
- (b) Termination for convenience
COMPANY shall have the right to terminate the CONTRACT:
- (i) at any time without cause giving CONTRACTOR written notification specifying the date of termination. On the effective date of such termination, CONTRACTOR shall discontinue performance of the SERVICES and shall comply with COMPANY'S instructions regarding such termination. COMPANY shall pay CONTRACTOR, in respect of the SERVICES satisfactorily performed up to the date of termination, in accordance with the terms of the CONTRACT, together with any reasonable associated direct costs necessarily incurred by CONTRACTOR in complying with COMPANY'S instructions in regard to such termination, including all reasonable cost of cancelling/terminating any SUBCONTRACTS placed or committed to for the WORK. Any such costs shall be subject to audit to the satisfaction of COMPANY. The foregoing shall constitute the sole compensation due to CONTRACTOR and the sole liability of COMPANY to CONTRACTOR in the event of termination for convenience.
 - (ii) As a partial exception to the above, if so provided for in the ORDER, within the term expressly indicated therein, COMPANY shall have the right to terminate the CONTRACT forthwith providing CONTRACTOR with a termination notice; it being understood that in said circumstances COMPANY shall pay to CONTRACTOR the termination fee expressly indicated in the ORDER therefor. Said amount shall constitute the sole compensation due to CONTRACTOR and the sole liability of COMPANY to CONTRACTOR in the event of termination for convenience occurring within the term in question.
- (c) In the event of termination of the CONTRACT for any reason, CONTRACTOR shall:
- (a) discontinue performance of the SERVICE and its obligations under the CONTRACT and shall comply with COMPANY'S instructions regarding such termination endeavouring at all times to mitigate the relevant costs;
 - (b) promptly deliver to COMPANY all documents, all in native format, prepared or obtained by CONTRACTOR in connection with the SERVICE under the terminated CONTRACT;
 - (c) carry out COMPANY'S instructions concerning any cancellation or assignment of SUBCONTRACTS and any other matters arising out of the CONTRACT that has been terminated which COMPANY decides are necessary or expedient;

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- (d) allow COMPANY or its nominees full right of access to the CONTRACTOR'S facilities so as to remove and/or take over the SERVICE under the CONTRACT, or the relevant part of the SERVICE, and to remove and/or take over possession of all materials and equipment purchased for the SERVICE; and
- (e) assign to COMPANY or its nominee the rights relating to the SERVICE which CONTRACTOR may have acquired, if requested by COMPANY.

After the termination of the CONTRACT, the CONTRACTOR shall leave in the work area all its own equipment, machinery, etc. that the COMPANY wants to use to complete the work; COMPANY, to utilise the aforementioned equipment and machinery, shall pay the CONTRACTOR a fair lease amount. Except as expressly provided for elsewhere, in no event shall CONTRACTOR be entitled to any prospective profits, reimbursement of costs or any damages because of termination under this Article 21.2.

- (iv) otherwise entitled to do so, and who did not receive the same in any way from COMPANY or CLIENT, or COMPANY has given its prior written consent.
- 22.3 CONTRACTOR undertakes to limit access to such information and data to those of its employees reasonably requiring the same for the performance of the SERVICE and CONTRACT and not to use any of such data and information in anyway other than for the purpose aforesaid.
- 22.4 If disclosure or availability of such information and data is required for the performance of the CONTRACT and COMPANY consents in writing to such disclosure, CONTRACTOR undertakes to ensure that the recipients of such information and data sign an undertaking identical to that contained in the present provisions.
- 22.5 Confidentiality of CONTRACTOR Information
All of the provisions of Article 22 above in respect of CONTRACTOR's obligations regarding COMPANY and CLIENT confidential information and data shall apply mutatis mutandis to COMPANY respecting CONTRACTOR'S information identified expressly in writing as confidential information.

ART. 22 – CONFIDENTIAL INFORMATION

- 22.1 Any information supplied or communicated by COMPANY GROUP to CONTRACTOR or otherwise acquired by CONTRACTOR in connection with the CONTRACT, including any information concerning the CLIENT, shall be treated by CONTRACTOR as confidential, even when not expressly qualified as such, and shall not, without prior APPROVAL, be published or disclosed, or made use of, reproduced or copied by CONTRACTOR except to the extent necessary for the purpose of implementing the CONTRACT. CONTRACTOR shall ensure that the provisions of this Article 22 are incorporated in any SUBCONTRACT and that the AFFILIATES, officers, employees and agents of CONTRACTOR and SUBCONTRACTORS comply with the same. All of the provisions of Article 22 above in respect of CONTRACTOR's obligations regarding COMPANY and CLIENT shall survive the termination for any reason of the CONTRACT for a subsequent period of 5 (five) years.
- 22.2 Unless it obtains COMPANY's prior written consent, CONTRACTOR shall neither before nor after the completion of the SERVICE nor termination of CONTRACT, disclose or make available to any THIRD PARTY or use directly or indirectly any information and data obtained from COMPANY, CLIENT or otherwise by CONTRACTOR in connection with the performance of the SERVICE, the PROJECT, and/or which is stamped by COMPANY and/or CLIENT to this effect. CONTRACTOR shall be liable for disclosure of information and data to any THIRD PARTY unless it can provide written evidence that:
- (i) such information and data was in the public domain prior to disclosure to CONTRACTOR,
 - (ii) or such information and data has become part of the public domain through no fault of CONTRACTOR,
 - (iii) or such information and data was given without restriction to CONTRACTOR by a THIRD PARTY duly authorized or

ART. 23 – PUBLICITY

- 23.1. No films, photographs or other images of any of COMPANY'S or CLIENT'S equipment, installations, or property shall be made or taken without prior written APPROVAL by the COMPANY. CONTRACTOR shall not use COMPANY'S and/or CLIENT'S names in connection with the CONTRACT or disclose the existence of the CONTRACT in any publicity material or other similar communication to THIRD PARTIES without prior APPROVAL. This prohibition specifically includes, but is not limited to, any public release (either through print, world wide web ("www"), or broadcast news media), any article prepared for internal or external publication, technical papers and discussions with journalists.

ART. 24 – BANK GUARANTEES

- 24.1 To guarantee the due performance of obligations under the CONTRACT, CONTRACTOR shall provide such bank guarantees (if any) and/or any renewal thereof as specified in the ORDER in accordance with the form appended thereto. Failure to provide any bank guarantees in accordance with the forms provided in the ORDER, including any extension thereof as required by COMPANY, shall constitute a MATERIAL DEFAULT, and in addition to any other right or remedy at law or under the CONTRACT, COMPANY shall have the right to withhold any payment until such date in which the relevant bank guarantees are issued in accordance with the CONTRACT.

ART. 25 – FORCE MAJEURE

- 25.1 If either PARTY is prevented from, or delayed in, performing any of its obligations under the CONTRACT by FORCE

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- MAJEURE, whether in whole or in part, it must promptly notify the other PARTY of the circumstances constituting the FORCE MAJEURE and of the obligations the performance of which is thereby delayed or prevented and in the event of a delay, the likely duration of such delay.
- 25.2 For the purposes of the CONTRACT, "FORCE MAJEURE" occurrence shall mean any unforeseeable event which is unforeseeable and beyond the control of the PARTY claiming to be affected thereby, and which by the exercise of reasonable care and diligence that PARTY is unable to prevent, including but not limited to, the following to the extent only that they satisfy the above criteria:-
- (a) riot, war, insurrection, rebellion or sabotage, invasion, act of foreign enemies, hostilities, acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power (whether war be declared or not), confiscation or expropriation on orders of any AUTHORITY;
 - (b) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - (c) earthquake, flood, and/or other natural physical disaster;
 - (d) storms named by any official international weather forecasting service; or
 - (e) strikes at a national level or industrial disputes at a national level.
- 25.3 In the event that a FORCE MAJEURE occurrence exists and is preventing or delaying performance of any obligation under the CONTRACT, the PARTY giving notice shall be excused from the performance, or the timely performance, as the case may be, of such obligation for so long as the circumstances giving rise to such prevention or delay may continue. Notwithstanding the foregoing, no PARTY shall be released from its obligations hereunder as a result of any event contributed to by the negligence/fault on the part of the PARTY claiming FORCE MAJEURE nor shall a PARTY be released from its obligations hereunder due to the effects of a FORCE MAJEURE occurrence that could have been avoided or mitigated by the exercise of reasonable care and diligence on the part of the PARTY claiming relief. Inability of a PARTY to secure funds shall not be regarded as FORCE MAJEURE.
- 25.4 In the event of an occurrence of FORCE MAJEURE, COMPANY and CONTRACTOR shall promptly meet and jointly agree on a course of action and such course of action shall be implemented immediately after the meeting. Neither PARTY shall be liable for failure to perform their obligations which arises as a direct consequence of a FORCE MAJEURE occurrence and both parties shall bear their own respective costs arising from and attributable to FORCE MAJEURE.
- 25.5 Should the FORCE MAJEURE last for more than four (4) consecutive weeks and/or, in any case, for more than one hundred and twenty (120) day in the aggregate, company shall be entitled to forthwith terminate the CONTRACT by means of written notice to the other PARTY.

- 25.6 In such a case, CONTRACTOR shall discontinue performance of the SERVICE and shall comply with COMPANY'S instructions regarding such termination. COMPANY shall pay CONTRACTOR, in respect of the SERVICE satisfactorily performed up to the date of termination, in accordance with the terms of the CONTRACT, together with any reasonable associated direct costs necessarily incurred by CONTRACTOR in complying with COMPANY'S instructions in regard to such termination, including but not limited to all reasonable and unavoidable cost of cancelling/terminating any SUBCONTRACTS placed or committed to for the SERVICE, provided that they are authorized. Any such costs shall be subject to audit to the satisfaction of COMPANY. In no event shall CONTRACTOR be entitled to any prospective profits, reimbursement of costs or any damages because of termination under this Article 25.

ART. 26 – NOTICES

- 26.1 Any notice or other communication given under or in connection with the matters contemplated by the CONTRACT is to be in writing and delivered personally or transmitted by registered letter with advise of delivery or transmitted by electronic mail, to the address and for the attention of the subject specified in the ORDER.

ART. 27 – CODE OF CONDUCT

- 27.1 In connection with CONTRACTOR'S performance of the CONTRACT, CONTRACTOR undertakes that it has carefully reviewed, and undertakes and agrees to act consistently with, the Code of Conduct available at the <http://www.fores.it/about/vendor-area> website or, if so required in the ORDER, to the code of conduct of the CLIENT, and to adhere to the principles of said document in connection with performance of the CONTRACT. Failure to comply with this provision may constitute a MATERIAL DEFAULT giving rise to termination pursuant to Article 21.2 (Termination).

ART. 28 – ANTI-CORRUPTION UNDERTAKINGS

- 28.1 CONTRACTOR agrees and undertakes that in connection with the CONTRACT and the transactions contemplated by the CONTRACT, it shall comply with all applicable laws, rules, regulations, decrees and/or official governmental orders of any country in which the SERVICE is performed relating to anti-corruption and anti-money laundering.
- 28.2 As a matter of corporate policy, COMPANY expressly prohibits payment of bribes and also payment of any so-called "facilitation" or "grease" payments in connection with COMPANY'S business operations by any contractor or agent engaged to provide goods or services to COMPANY. CONTRACTOR agrees, undertakes and confirms that it, and each of its AFFILIATES, and its SUBCONTRACTORS, and its and their respective owners, directors, officers, employees, agents and representatives, has not made, offered,

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promised to make or authorized the making of, and shall not make, offer, or promise to make, or authorize the making of, any payment or other transfer of anything of value, including without limitation the provision of any funds, services, gifts or entertainment, directly or indirectly to:-

- (i) any government official;
- (ii) any director, officer or employee of COMPANY or COMPANY'S AFFILIATES or CLIENT;
- (iii) any political party, official of a political party, or candidate for public office;
- (iv) any agent or intermediary for payment to any of the foregoing; or
- (v) any other PERSON,

for the purpose of obtaining or influencing the award of the CONTRACT or for any improper advantage or improper purpose in connection with the performance of the CONTRACT and the transactions contemplated hereunder or in connection with any other business transactions involving the COMPANY, if and to the extent that to do so is or would be in violation of or inconsistent with the principles or requirements of any anti-bribery or anti-money laundering laws applicable to COMPANY or to CONTRACTOR, or to their respective parent companies, including, without limitation, Italian legislative Decree No. 231/2001, the UK Bribery Act 2010, the UK Anti-Terrorism, Crime and Security Act 2001, the U.S. Foreign Corrupt Practices Act and successor legislation, legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or the United Nations Convention Against Corruption, and/or the anti-corruption or anti-money laundering laws of any country in which SERVICE is performed. Notwithstanding the foregoing undertakings, CONTRACTOR agrees to notify COMPANY promptly upon discovery of any instance where CONTRACTOR has failed to comply with any provisions of this Article.

ART. 29 – SETTLEMENT OF DISPUTES

- 29.1 Any dispute arising out of or in connection with the CONTRACT, including any question regarding its existence, validity or termination or any interpretation thereof which cannot be resolved by agreement between the PARTIES shall be exclusively settled by the Court of Milan (Italy). Whilst any matter or matters are in dispute, CONTRACTOR shall proceed with the performance and completion of the SERVICE and shall comply with all the provisions of the CONTRACT.
- 29.2 As an exception to clause 29.1 above, any dispute which includes the CLIENT and CONTRACTOR shall be finally resolved in accordance with the relevant terms indicated in the contract between the COMPANY and the CLIENT as specified in the ORDER.

ART. 30 – GOVERNING LAW

- 30.1 The CONTRACT shall be construed, governed and take effect in accordance with the Laws of Italy, with the exclusion of the part of the law which would subject/direct the interpretation of the CONTRACT to the laws of another jurisdiction.

ART. 31 – CONTINUING OBLIGATIONS

- 31.1 Save as otherwise expressly provided herein, completion of the SERVICE or termination or expiration of the CONTRACT shall not affect the continuing rights and obligations of COMPANY and CONTRACTOR under the following provisions of these GENERAL TERMS AND CONDITIONS: 14, 17, 18, 19, 22, 23, 26, 29, 30, 31, 32.

ART. 32 – GENERAL LEGAL PROVISIONS

- 32.1 Severability
If any provision of the CONTRACT or its application will be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of all other applications of that provision, and of all other provisions and applications hereof will not be affected or impaired. If any arbitration panel or court shall determine that any provision of this CONTRACT is in any way unenforceable, that provision shall be reduced to the extent necessary to make the provision enforceable and the Parties shall seek an arrangement having a valid legal and economic effect which will be as similar as possible to the ineffective provision and will cover the scope of any missing provision in a manner reasonably direct to the purpose of this Agreement.
- 32.2 Entire Agreement
The CONTRACT shall comprise the entire agreement and understanding between the PARTIES. No prior understandings, whether oral or written, shall be taken into consideration in construing the CONTRACT. Any amendment to the CONTRACT shall be made in writing.
- 32.3 No Partnership
Nothing in the CONTRACT is intended to or shall operate to create a partnership, joint venture, association or trust between the parties, or to authorise either PARTY to act as agent for the other, and neither PARTY shall have authority to act in the name of or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power). Nothing in the CONTRACT is meant or shall be otherwise construed as to create any contractual relationship whatsoever between CLIENT and CONTRACTOR.
- 32.4 Waiver
No failure on the part of COMPANY or CONTRACTOR at any time to enforce or to require the performance of any of the terms and conditions of the CONTRACT shall constitute a waiver of such terms and conditions and/or affect or impair such terms or conditions in any way or the right of COMPANY or CONTRACTOR at any time to avail itself of



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such remedies as it may have for each and every breach of such terms and conditions.

32.5 Non-Reliance

Each of the PARTIES acknowledges and agrees that in entering into the CONTRACT it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking of any person (whether a PARTY to the CONTRACT or not) other than as expressly set out in the CONTRACT. Provided, however, that this Ar-

ticle shall not restrict any rights of either PARTY with respect to any statement, representation or warranty which is made fraudulently.

32.6 "Protection of personal data" - notice

Pursuant to Article 13 of the EU regulation 2016/679 (General Data Protection Regulation "GDPR"), COMPANY, as the data controller, provides information on the protection and safety of personal data through "Privacy Policy for Business Partners_Fores" available at the <http://www.fores.it/about/vendor-area> web-site.

FOR COMPANY

FOR CONTRACTOR

CONTRACTOR declares that the CONTRACT has been entirely reviewed and it has been subject to negotiation between the parties. In so far as it is necessary or required by the applicable law, CONTRACTOR hereby declares that it has thoroughly reviewed, read and well understood these **GENERAL TERMS AND CONDITIONS** and approves expressly and specifically the following Articles: Art. 9 - CONTRACT PAYMENT AND INVOICING; Art. 10 – VARIATIONS; Art. 15 – ASSIGNMENT; Art. 18 – INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS Art. 21 - SUSPENSION – TERMINATION; Art. 29 - SETTLEMENT OF DISPUTE; Art. 30 - GOVERNING LAW.

FOR COMPANY

FOR CONTRACTOR