

Swire Pacific Offshore Group – Terms and Conditions of Purchase

1. DEFINITIONS

1.1. GENERAL

“**AFFILIATE**” shall mean any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company. For the purpose of this definition, “subsidiary” and “holding company” shall have the meaning assigned to them under Section 736, Companies Act, 1985, as amended by Section 144, Companies Act 1989.

“**CO-VENTURER**” shall mean any other entity with whom the PURCHASER is or may be from time to time a party to a joint venture or similar agreement relating to the Vessel or operations for which the GOODS are being provided, and the successors in interest of such CO-VENTURER or the assignees of any interest of such CO-VENTURER.

“**PURCHASER**” shall mean the Purchaser named in the PURCHASE ORDER, which expression shall include the Purchaser’s legal representatives, successors and assigns.

“**PURCHASER GROUP**” shall mean the PURCHASER and any of its AFFILIATES and/or branch offices and/or related companies, and its and their respective directors, officers and employees (including agency personnel), but shall not include any member of the VENDOR GROUP.

“**VENDOR**” shall mean the Vendor named in the PURCHASE ORDER to supply GOODS hereinafter defined and shall include the VENDOR’s legal personal representatives, successors and assigns.

“**VENDOR GROUP**” shall mean the VENDOR, its sub-contractors, its and their AFFILIATES, its and their respective directors, officers and employees (including agency personnel), but shall not include any member of the PURCHASER GROUP.

“**DELIVERY DATE**” shall mean the date(s) upon which the GOODS shall be delivered as specified in the PURCHASE ORDER.

“**GOODS**” shall mean the goods, equipment and/or services to be provided in accordance with this PURCHASE ORDER.

“**PURCHASE ORDER**” shall mean the Purchase Order (including any attachments thereto) issued by the PURCHASER and accepted by the VENDOR, which shall automatically incorporate these Terms and Conditions (subject to any specific amendments in the PURCHASE ORDER).

1.2. Interpretation

All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing. All such documentation together with all correspondence and other documents shall be in the English language.

Any reference to statute, statutory provision or statutory instrument shall include any re-enactment or amendment thereof for the time being in force.

Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine and neuter genders, and vice versa.

Time is of the essence for all times, dates and periods specified in the PURCHASE ORDER.

1.3. Invalidity and Severability

If any provision of this PURCHASE ORDER shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of this PURCHASE ORDER and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The PURCHASER and the VENDOR agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

1.4. Entire Agreement

The PURCHASE ORDER constitutes the entire agreement between the PURCHASER and the VENDOR, which supersedes all previous written or oral understandings between them. Any amendment(s) to or variation(s) to any PURCHASE ORDER shall be invalid unless made in writing and signed either by a duly authorised representative of the PURCHASER; or (if applicable) by the Master or Chief Engineer of the Vessel described in the PURCHASE ORDER.

1.5. Exclusion of Conflicting Terms

Unless separately accepted by the PURCHASER in writing, nothing in the VENDOR’s acceptance of the PURCHASE ORDER or in the VENDOR’s own terms and conditions (even if attached to the VENDOR’s acceptance) shall change, vary or nullify the terms of the PURCHASE ORDER and this PURCHASE ORDER shall prevail in the event of any conflict or inconsistency with the VENDOR’s acceptance or the VENDOR’s own terms and conditions.

2. THE VENDOR’S COMMITMENT TO THE PURCHASER

2.1. Terms

The VENDOR will sell the GOODS to the PURCHASER on the terms set out in the PURCHASE ORDER. Unless otherwise stated in the PURCHASE ORDER, the GOODS shall be sold and delivered on “DAP” terms (as defined in Incoterms 2010).

2.2. Delivery

The VENDOR will deliver or make the GOODS available to the PURCHASER at the place specified in the PURCHASE ORDER, on the DELIVERY DATE.

In the event that the VENDOR is unable to deliver the GOODS on the DELIVERY DATE the VENDOR shall notify the PURCHASER at the earliest possible opportunity. In the event that the PURCHASER and the VENDOR cannot agree on a mutually acceptable revised DELIVERY DATE, the PURCHASER shall have the right to terminate the PURCHASE ORDER and recover from the VENDOR any advance payments made plus any direct losses sustained as a result of the delay up to an amount not to exceed the value of the PURCHASE ORDER.

2.3. Inclusive Price

The full price which the PURCHASER has agreed to pay for the GOODS is set out in the PURCHASE ORDER and (unless otherwise stipulated in the PURCHASE ORDER) includes the following:

- (a) All applicable taxes, duties or other charges, including but not limited to general sales tax, service tax, withholding tax, etc.;
- (b) The costs of testing and certification in relation to the GOODS (whether described in the PURCHASE ORDER or generally required by custom, practice or usage); and
- (c) The costs of delivering (and rendering fit for delivery) the GOODS to the place of delivery stated in the PURCHASE ORDER, including but not limited to the costs of preparing, packing, loading, stowing, securing or transporting/freighting the GOODS.

2.4. Access

The VENDOR will allow the PURCHASER to inspect and test the GOODS during manufacture at the VENDOR's premises on reasonable prior notice. Any inspection or testing or any failure to do so shall in no way relieve the VENDOR of its obligations as specified in the PURCHASE ORDER.

2.5. Specifications

The VENDOR will ensure that the GOODS will meet the PURCHASER's requirements with regard to any quality, fitness for purpose, quantity or specifications, which are set out in the PURCHASE ORDER.

2.6. Defects Correction

The VENDOR will repair, replace or rectify any of the GOODS (or any replacement) which are defective. The cost of transporting the defective and repaired/replaced GOODS to and from the VENDOR's premises shall be for the VENDOR's account.

The VENDOR's obligation shall apply only when the GOODS are used in accordance with the VENDOR's specification or if no such specification exists, used in accordance with their ordinary purpose. The VENDOR's obligation shall cease twelve (12) months from delivery or installation, whichever is the latter.

Title and risk in the GOODS or any part thereof which do not comply with the requirements of the PURCHASE ORDER and which are rejected by the PURCHASER, shall re-vest in the VENDOR on return to the VENDOR.

2.7. Packing

The VENDOR will ensure that the GOODS are properly packed, secured and labelled in accordance with accepted good industry practice and to meet the PURCHASER's requirement as specified in the PURCHASE ORDER.

2.8. Documentation

The VENDOR will provide at no additional cost to the PURCHASER by the due date(s), all drawings, certificates or other documentation in the specified format and quantities as detailed in the PURCHASE ORDER.

2.9. Hazardous Materials

The VENDOR will ensure that the GOODS will comply with the requirements of the International Maritime Organisation Inventory of Hazardous Material ("IMO IHM") register, all applicable law and, to the extent that they contain toxic, corrosive or hazardous materials, the VENDOR will ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions.

Vendor will ensure that GOODS supplied have Zero Asbestos content.

GOODS supplied under the PURCHASE ORDER, which are contaminated beyond use, at the time of delivery, shall be regenerated or disposed of by the VENDOR. The title and risk of the contaminated GOODS will remain with the VENDOR, who will bear all expenses for the said processes.

In the event that PURCHASER contaminates the GOODS, the PURCHASER will liable for the processes of regeneration or disposal.

2.10. Title and Risk

The VENDOR warrants good title to the GOODS, free and clear of any encumbrances and liens.

Title and Risk in the GOODS will pass from the VENDOR to the PURCHASER at delivery in accordance with the PURCHASER's requirements under the PURCHASE ORDER.

2.11. Patent Indemnity

The VENDOR shall save, indemnify, defend and hold harmless the PURCHASER GROUP from all claims, losses, damages, costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the VENDOR under the PURCHASE ORDER except where such infringement necessarily arises from the PURCHASER's specific instructions. This is provided that the VENDOR shall use its reasonable endeavours to identify any infringement in the PURCHASER's instructions of any patent or proprietary or protected right. Should the VENDOR become aware of such infringement or possible infringement then the VENDOR shall inform the PURCHASER immediately.

2.12. Obsolescence Management

The VENDOR shall give sufficient notice to the PURCHASER of its intention to cease supply of GOODS, component parts, spares or replacements, to enable the PURCHASER to purchase such GOODS, component parts or replacements.

3. THE PURCHASER'S COMMITMENT TO THE VENDOR

3.1. Terms

The PURCHASER will buy the GOODS from the VENDOR on the terms set out in this PURCHASE ORDER.

3.2. Acceptance

Acceptance shall be from the time when a duly authorised employee or representative of the PURCHASER accepts the GOODS, delivered or collected, and where such GOODS are not defective or damaged in any way and comply with the PURCHASE ORDER. In the event that a defect in or damage to the GOODS or any breach of the PURCHASE ORDER is identified by the PURCHASER, it shall be deemed not to have accepted the GOODS until such time as such defect, damage or breach is remedied by the VENDOR.

Such acceptance shall be within a reasonable time of delivery or collection, but shall be without prejudice to the VENDOR's liability for any defect in or damage to the GOODS or any breach of the PURCHASE ORDER which is not identified by such duly authorised employee or representative of the PURCHASER at the time of acceptance.

3.3. Use

The VENDOR will not be liable for any loss or damage resulting from the failure of the PURCHASER to use the GOODS in accordance with any specific operating conditions set out in the PURCHASE ORDER.

3.4. Risk

The PURCHASER will be responsible for risk of loss or damage to the GOODS with effect from the DELIVERY DATE.

3.5. Price Payment

The PURCHASER will pay for the GOODS against the VENDOR's invoice in the amounts specified in the PURCHASE ORDER within forty-five (45) days of receipt of the VENDOR's correctly issued invoice (including all necessary supporting documents), the receipt not being earlier than the delivery unless otherwise stated in the PURCHASE ORDER. Each invoice shall be issued in strict accordance with the requirements stated in the PURCHASE ORDER, failing which PURCHASER may reject the invoice and require the VENDOR to re-issue a corrected invoice.

If the PURCHASER disputes any items on any invoice in whole or in part or if the invoice is prepared or submitted incorrectly in any respect, the PURCHASER shall notify the VENDOR of the reasons and request the VENDOR to issue a credit note for the unaccepted part or whole of the invoice as applicable. Upon receipt of such credit note the PURCHASER shall be obliged to pay the undisputed part of a disputed invoice but may withhold the disputed part until the dispute has been finally resolved.

On settlement of any dispute, the VENDOR shall submit an invoice for sums due and the PURCHASER shall make the appropriate payment in accordance herewith.

The VENDOR shall not terminate the PURCHASE ORDER for non-payment or late payment without first giving the PURCHASER prior written notice allowing the PURCHASER ten (10) business days in which to remedy any failure to make payment.

3.6. Patent/Design Rights

All designs, drawings and other technical information relating to the GOODS or services, including any software provided solely by the VENDOR under the PURCHASE ORDER, and the intellectual property rights therein made or acquired solely by the VENDOR prior to or during the preparation of the proposal or tender or in the course of work on the PURCHASE ORDER shall be and remain the VENDOR's property unless otherwise set out in the PURCHASE ORDER.

3.7. Termination for Convenience

The PURCHASER may at any time give written notice to the VENDOR to terminate the PURCHASE ORDER forthwith and in such event the PURCHASER shall pay, and the VENDOR shall accept in settlement of all claims under the PURCHASE ORDER, such sums as shall reasonably compensate it for all work done and obligations assumed by it in performance of the PURCHASE ORDER prior to its termination and for all work reasonably done by the VENDOR in giving effect to such termination. The value of any material, payment for which has been made by the PURCHASER but which is left with, and can

be put to use by, the VENDOR, shall be taken into account when calculating such losses but such sum shall in no event exceed the price set out in the PURCHASE ORDER unless otherwise previously agreed.

3.8. Status of PURCHASER

The PURCHASER enters into the PURCHASE ORDER for itself and as agent for and on behalf of its CO-VENTURERS. Without prejudice to the provisions of Clause 4.12 and notwithstanding the above:

- (a) the VENDOR agrees to look only to the PURCHASER for the due performance of the PURCHASE ORDER and nothing contained in the PURCHASE ORDER will impose any liability upon, or entitle the VENDOR to commence any proceedings against any CO-VENTURER other than the PURCHASER; and
- (b) the PURCHASER is entitled to enforce the PURCHASE ORDER on behalf of all CO-VENTURERS as well as for itself. For that purpose, the PURCHASER may commence proceedings in its own name to enforce all obligations and liabilities of the VENDOR and to make any claim which any CO-VENTURER may have against the VENDOR.

4. THE PARTIES' COMMITMENTS TO EACH OTHER

4.1. Indemnity Arrangements

4.1.1. The VENDOR shall be responsible for and shall save, indemnify, defend and hold harmless the PURCHASER GROUP from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of the VENDOR GROUP whether owned, hired, leased or otherwise provided by the VENDOR GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
- (b) personal injury including death or disease to any person employed by the VENDOR GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
- (c) subject to any other express provisions of the PURCHASE ORDER, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the VENDOR GROUP. For the purposes of this sub-clause, "third party" shall mean any party, which is not a member of the PURCHASER GROUP or the VENDOR GROUP.

4.1.2. The PURCHASER shall be responsible for and shall save, indemnify, defend and hold harmless the VENDOR GROUP from and against all claims, losses, damages,

costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of the PURCHASER GROUP (excluding the GOODS prior to delivery) relating to the performance or non-performance of the PURCHASE ORDER; and
- (b) personal injury including death or disease to any person employed by the PURCHASER GROUP arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER; and
- (c) subject to any other express provisions of the PURCHASE ORDER, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the PURCHASER GROUP. For the purposes of this Clause 4.1.2 (c) "third party" shall mean any party which is not a member of the VENDOR GROUP or the PURCHASER GROUP.

4.1.3. All exclusions and indemnities given under this Clause 4.1 (save for those under Clauses 4.1.1(c), 4.1.2(c)) and Clause 4.2 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.

4.1.4. If either party becomes aware of any incident likely to give rise to a claim under the above indemnities it shall promptly notify the other and both parties shall cooperate fully in investigating the incident.

4.2. Consequential Loss

For the purposes of this Clause the expression "Consequential Loss" shall mean:

- (a) consequential or indirect loss under English law; and
- (b) loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (a), and whether or not foreseeable at the date of the PURCHASE ORDER.

Notwithstanding any provision to the contrary elsewhere in the PURCHASE ORDER and except to the extent of any agreed liquidated damages (including without limitation any predetermined termination fees) provided for in the PURCHASE ORDER, the PURCHASER shall save, indemnify, defend and hold harmless the VENDOR GROUP from the PURCHASER GROUP's own Consequential Loss and the VENDOR shall save, indemnify, defend and hold harmless the PURCHASER GROUP from the VENDOR GROUP's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the PURCHASE ORDER.

4.3. Insurance

The PURCHASER and the VENDOR shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the PURCHASE ORDER and at law.

Without prejudice to the generality of the foregoing, at a minimum the VENDOR (and its permitted sub-contractors, if any) shall procure and maintain the following insurances with reputable and substantial insurers, to the extent that such insurances are relevant to the performance of the PURCHASE ORDER:

- (a) Workmen's Compensation and/or Employer's Liability Insurance for Employees, covering any persons for whom the VENDOR is liable as employer for statutory benefits pursuant to any applicable law, to the minimum value required by any applicable law (including extended cover for working offshore, if applicable);
- (b) General Third-Party Liability insurance for any incident or series of incidents, covering the operations of the VENDOR in the performance of the CONTRACT, in an amount not less than USD five million (US\$5,000,000) per occurrence (or such higher limit as may be specified in the PURCHASE ORDER);
- (c) Third Party and Passenger Liability insurance and other motor insurance as required by applicable law; and
- (d) Such other insurances (if any) as may be specified in the PURCHASE ORDER.

Upon request, the VENDOR shall provide the PURCHASER with reasonable evidence of its compliance with the foregoing insurance requirements.

4.4. Confidentiality

- (a) The PURCHASER and the VENDOR each undertake that it shall not (at any time up to three years after the completion or termination of the PURCHASE ORDER) disclose to any person, any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except with the other party's prior written consent or except as permitted hereunder. No party shall use the other party's confidential information for any purpose other than in relation to the PURCHASE ORDER.
- (b) Each party may disclose the other party's confidential information:
 - i. to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this PURCHASE ORDER (provided that each party shall procure the compliance of its employees, officers, representatives or advisers, with all the confidentiality obligations herein); or

- ii. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

4.5. Variations

With reasonable prior notice, the PURCHASER and the VENDOR shall discuss variations to the PURCHASE ORDER and agree with each other resulting changes to any of the details shown in the PURCHASE ORDER.

4.6. Force Majeure

Neither the PURCHASER nor the VENDOR shall be responsible for any failure to fulfil any term or condition of the PURCHASE ORDER if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence, as hereunder defined, which has been notified in accordance with this Clause 4.6 and which is beyond the control and without the fault or negligence of the party affected and which, by the exercise of reasonable diligence, the said party is unable to provide against.

For the purposes of this PURCHASE ORDER only the following occurrences shall be force majeure:

- (a) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
- (b) Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- (d) Earthquake, flood, fire, explosion and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;
- (e) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected party its sub-contractors or its suppliers and which affect a substantial or essential portion of the GOODS;
- (f) Maritime or aviation disasters; or
- (g) Changes to any general or local Statute, Ordinance, Decree, or other Law, or any regulation or by-law of any local or other duly constituted authority or the introduction of any such Statute, Ordinance, Decree, Law, regulation or by-law.

4.7. Assignment, transfer and sub-contracting of PURCHASE ORDER

The VENDOR shall not at any time assign, transfer or sub-contract any part of its rights or obligations under the PURCHASE ORDER to any other person, except with the PURCHASER's prior written consent.

4.8. Dispute Resolution

If either party is dissatisfied with the performance of the other in relation to the GOODS or this PURCHASE ORDER, the parties shall meet as soon as possible in good faith with each other to try to resolve the matter in an amicable way.

If no agreement is reached, either party may at its option propose to attempt to settle the dispute by a form of Alternative Dispute Resolution to be agreed between the parties.

Any disputes arising out of or in connection with the PURCHASE ORDER (including any question regarding its existence, validity or termination) which is not amicably resolved within 30 days after the parties have commenced discussions (or after the commencement of Alternative Dispute Resolution, as the case may be), shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration ("SCMA Rules") for the time being in force at the commencement of the arbitration, which rules are deemed to be incorporated by reference in this Clause.

4.9. Termination

The VENDOR or the PURCHASER may terminate the PURCHASE ORDER upon the occurrence of any of the following events:

- (a) the other party is in breach of its obligations under the PURCHASE ORDER and fails to remedy such breach within 7 calendar days after receiving written notice to do so (subject to Clause 3.5); or
- (b) the other party becoming bankrupt or making a composition or arrangement with its creditors or a winding-up order being made or (except for the purposes of amalgamation or reconstruction) a resolution for its voluntary winding-up being passed or a provisional Liquidator, Receiver, Administrator or Manager of its business or undertaking being appointed or presenting a petition or having a petition presented applying for an administration order to be made pursuant to Section 9 Insolvency Act 1986, or possession being 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, or any equivalent act or thing being done or suffered under any applicable law.

In such an event, the PURCHASER's only remaining obligation will be to pay for GOODS already delivered by the VENDOR in accordance with the PURCHASE ORDER but not yet paid for. Any advance payments made but not

earned at the date of termination, shall be refunded by the VENDOR to the PURCHASER together with interest thereon at six percent (6%) per annum pro rata, calculated from the date on which the VENDOR received the advance payment up to the date on which the PURCHASER receives the refund in full.

4.10. Governing Law and Language

The PURCHASE ORDER shall be construed and take effect in accordance with English Law excluding those conflict of law rules and choice of law principles which would deem otherwise.

The ruling language of the PURCHASE ORDER shall be the English Language.

4.11. Special Terms

The VENDOR and the PURCHASER agree that any special conditions set out in the PURCHASE ORDER will take precedence over the general terms and conditions set out herein.

4.12. Contracts (Rights of Third Parties) Act

- 4.12.1.** Subject to Clause 4.12.3, the parties intend that no provision of the PURCHASE ORDER shall, by virtue of the Contracts (Rights of Third Parties) Act 1999 ("the Act") confer any benefit on, nor be enforceable by any person who is not a party to the PURCHASE ORDER.
- 4.12.2.** For the purposes of this Clause 4.12, "Third Party" shall mean any member of the PURCHASER GROUP (other than the PURCHASER) or VENDOR GROUP (other than the VENDOR).
- 4.12.3.** Subject to the remaining provisions of the PURCHASE ORDER, Clauses 2.11, 4.1, 4.2 and 4.3 are intended to be enforceable by a Third Party by virtue of the Act.
- 4.12.4.** Notwithstanding Clause 4.12.3, the PURCHASE ORDER may be rescinded, amended or varied by the parties to the PURCHASE ORDER without notice to or the consent of any Third Party even if, as a result, that Third Party's right to enforce a term of this PURCHASE ORDER may be varied or extinguished.
- 4.12.5.** The rights of any Third Party under Clause 4.12.3 shall be subject to the following:

- (a) any claim, or reliance on any term of the PURCHASE ORDER by a Third Party shall be notified in writing in accordance with the requirements of Clause 4.1.4 by such Third Party as soon as such Third Party becomes aware that an event is likely to give rise to such a claim and such notification shall contain the following information as a minimum:

- i. details of the occurrence giving rise to the claim; and
 - ii. the right relied upon by the Third Party under the PURCHASE ORDER,
- (b) the provisions of Clause 4.8 shall apply in respect of any claim by a Third Party in that the relevant parties agree to resolve any dispute between them in a prompt and amicable manner by adopting the provisions of Clause 4.8,
- (c) the Third Party's written agreement to submit irrevocably to the jurisdiction of the English Courts in respect of all matters relating to such rights.

4.12.6 In enforcing any right to which it is entitled by virtue of the Act and the provisions of this PURCHASE ORDER, the remedies of a Third Party shall be limited to damages.

4.12.7 A Third Party shall not be entitled to assign any benefit or right conferred on it under this PURCHASE ORDER by virtue of the Act.

5. COMPLIANCE WITH RELEVANT REQUIREMENTS AND POLICIES

5.1. The VENDOR shall (and shall ensure that the VENDOR GROUP and all persons associated with it or other persons who are performing services or providing GOODS in connection with the PURCHASE ORDER shall):

- (a) Comply with all applicable laws, statutes, regulations, and codes ("**RELEVANT REQUIREMENTS**") including those relating to anti-bribery and anti-corruption (which shall be deemed to include the UK Bribery Act 2010);
- (b) Not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) Comply with the PURCHASER's Code of Conduct and other guidelines ("**RELEVANT POLICIES**"), as may be amended and updated from time to time and published on the PURCHASER's website at <http://www.swirespo.com>, including but not limited to the following:
 - i. SPO Corporate Code of Conduct;
 - ii. Supply Chain Sustainability Code of Conduct;
 - iii. SPO Sustainable Development Policy;
 - iv. Swire Group Green Guidelines;
 - v. Policy Statement on Modern Slavery and Human Trafficking;
 - vi. SPO Safety Policy;
 - vii. SPO Confidential Whistleblowing Hotline.

- (d) not do, or omit to do, any act that will cause or lead the PURCHASER to be in breach of any of the RELEVANT REQUIREMENTS or RELEVANT POLICIES;
- (e) Promptly report to the PURCHASER any request or demand for any undue financial or other advantage of any kind received by the VENDOR in connection with the performance of the PURCHASE ORDER;
- (f) Have and maintain its own policies and procedures, including but not limited to adequate procedures under the UK Bribery Act 2010, to ensure compliance with the RELEVANT REQUIREMENTS and the RELEVANT POLICIES, and will enforce them where appropriate;
- (g) Upon request, provide written certification (signed by an officer of the VENDOR) that the VENDOR GROUP and all persons associated with it or other persons who are performing services or supplying GOODS in connection with the PURCHASE ORDER, have complied with the requirements hereunder. The VENDOR shall provide such supporting evidence of compliance as the PURCHASER may reasonably request;
- (h) The VENDOR shall indemnify the PURCHASER against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the PURCHASER as a result of any breach of this Clause by the VENDOR.

5.2. Additional audit and record keeping

The VENDOR shall permit the PURCHASER and its representatives, on reasonable notice during normal business hours to access and take copies of the VENDOR's records and any other information held at the VENDOR's premises and to meet with the VENDOR's personnel for the purpose of auditing the VENDOR's compliance with its obligations under this Clause. The VENDOR shall give all necessary assistance to the conduct of such audits. Such audit rights shall continue for three years after completion or termination of the PURCHASE ORDER.

5.3. Warranties

The VENDOR warrants and represents that:

- (a) Its responses to the PURCHASER's due diligence questionnaire (if applicable) are complete and accurate;
- (b) Neither the VENDOR, its AFFILIATES nor any of their respective officers, employees or other persons associated with them:
 - i. has been convicted of any offence involving bribery or corruption, fraud or dishonesty;
 - ii. having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any

governmental, administrative or regulatory body regarding any offence or alleged offence under the RELEVANT REQUIREMENTS; or

- iii. has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts.
- (c) None of the officers or employees of the VENDOR or any person associated with it or any other person who is performing services or providing GOODS in connection with the PURCHASE ORDER is a foreign public official; and
- (d) No foreign public official owns a direct or indirect interest in the VENDOR or any person associated with it and no public official has any legal or beneficial interest in any payments made by the PURCHASER under the PURCHASE ORDER.

5.4. The VENDOR shall promptly notify the PURCHASER if, at any time, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out above at the relevant time.

5.5. Breach of any requirement in this Clause shall be deemed a repudiatory breach of the PURCHASE ORDER. The PURCHASER may terminate any PURCHASE ORDER with immediate effect by giving written notice to the VENDOR if the VENDOR commits a breach of any of the foregoing provisions.

If the PURCHASER terminates the PURCHASE ORDER for breach of this Clause, the VENDOR shall not be entitled to claim compensation or any further remuneration, regardless of any activities or agreements with additional third parties entered into before termination.

5.6. The VENDOR shall indemnify the PURCHASER against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by or awarded against the PURCHASER as a result of any breach of the RELEVANT REQUIREMENTS, RELEVANT POLICIES, or any of the foregoing provisions.

5.7. Regardless of any other provision herein, the PURCHASER shall not be obliged to do, or omit to do, any act which would, in its reasonable opinion, put it in breach of any of the RELEVANT REQUIREMENTS or RELEVANT POLICIES.

5.8. For the purposes of this clause, the meaning of 'adequate procedures' and 'foreign public official' and whether a person is associated with another person, shall be determined in accordance with section 7(2) of the UK Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act, and section 8 of that Act respectively. A person associated with the VENDOR includes any of its suppliers or sub-contractors

involved in providing GOODS, equipment or services relating to the PURCHASE ORDER.

6. DATA PROTECTION

6.1. In this clause:

- (a) **"Data Controller"** has the meaning set out in the Data Protection Legislation;
- (b) **"Data Processor"** has the meaning set out in the Data Protection Legislation;
- (c) **"Data Protection Legislation"** means all privacy laws applicable to any Personal Data processed under or in connection with this PURCHASE ORDER, including, without limitation, the Data Protection Directive 95/46/EC (as the same may be superseded by the General Data Protection Regulation 2016/679 (the "GDPR")), the Privacy and Electronic Communications Directive 2002/58/EC and all national legislation implementing or supplementing the foregoing and all associated codes of practice and other guidance issued by any applicable data protection authority, all as amended, re-enacted and/or replaced and in force from time to time;
- (d) **"Personal Data"** has the meaning set out in the Data Protection Legislation; and
- (e) **"process"** and other derivations such as **"processed"** and **"processing"** means any use of or processing applied to any Personal Data and includes "processing" as defined in the Data Protection Legislation.
- (f) **"Services"** means the services provided or to be provided hereunder, including (as the context may require) the provision of goods and/or materials.

6.2. The parties agree that the performance of the Services will involve the processing of Personal Data as follows:

- (a) Categories of Personal Data processed: business contact information of the Parties or their representatives such as title, first name, last name, address, date of birth, and any other information required in order to perform the Services under this PURCHASE ORDER;
- (b) Duration of Processing: the Personal Data shall be processed until the earliest of (i) expiry/termination of this PURCHASE ORDER in accordance with its terms or (ii) the date upon which processing is no longer necessary for the purposes of either party performing its obligations under this PURCHASE ORDER;
- (c) Nature and purpose of the processing: the Personal Data will only be processed and be disclosed to such of a party's representatives or sub-processors as is necessary in order for performance of the Services and/or a party's obligations under this PURCHASE ORDER.

- 6.3. The VENDOR warrants that it has complied with, and undertakes to continue to comply with the Data Protection Legislation at all times.
- 6.4. The parties hereby acknowledge and agree that:
- (a) With respect to Personal Data provided by or through the PURCHASER or in respect of its personnel, the PURCHASER is the Data Controller and the VENDOR is the Data Processor.
- (b) With respect to Personal Data provided by or through the VENDOR or in respect of its personnel, the VENDOR is the Data Controller and the PURCHASER is the Data Processor.
- 6.5. In respect of Personal Data provided by or through the PURCHASER or in respect of its personnel, the VENDOR warrants that it shall:
- (a) only process such Personal Data in order to provide the Services and shall act only in accordance with this PURCHASE ORDER and the PURCHASER's written instructions issued from time to time;
- (b) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by the processing, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed pursuant to this PURCHASE ORDER;
- (c) take reasonable steps to ensure the reliability of any of its staff who will have access to such Personal Data and ensure that anyone who accesses it shall respect and maintain all due confidentiality;
- (d) not engage any sub-processors in the performance of the Services without the prior written consent of the PURCHASER and then only on the basis of a written contract which imposes on such person terms equivalent to those imposed on the VENDOR in this Clause ("**Relevant Terms**"). The VENDOR shall procure the performance by such person of the Relevant Terms and shall be directly liable to the PURCHASER for any breach by such person of any of the Relevant Terms;
- (e) not cause or permit any Personal Data to be transferred or processed outside where the VENDOR is based, including the European Economic Area (EEA), without first seeking the instructions of the PURCHASER, which may, where Personal Data is transferred outside of the EEA, include the requirement to execute the Standard Contractual Clauses for transfers from Data Controllers to Data Processors approved by the Commission pursuant to Decision 2010/87/EU, as amended from time to time including by Commission Implementing Decision (EU) 2016/2297;
- (f) immediately notify the PURCHASER of any actual or alleged incident of unauthorised or accidental disclosure of or access to any Personal Data or other breach of this PURCHASE ORDER by any of its staff, sub-processors or any other identified or unidentified third party;
- (g) where applicable in respect of any Personal Data processed pursuant to this PURCHASE ORDER, provide full cooperation and assistance to the PURCHASER in ensuring compliance with:
- i. the PURCHASER's obligations to respond to requests from any data subject(s) seeking to exercise its/their rights under the Data Protection Legislation, including but not limited to Chapter III of the GDPR, including by notifying the PURCHASER of any written subject access requests the VENDOR receives relating to the PURCHASER's obligations under the Data Protection Legislation; and
- ii. the PURCHASER's obligations set out under the Data Protection Legislation, including Articles 32–36 of the GDPR, to:
- ensure the security of the processing;
 - notify the relevant supervisory authority, and any data subject(s), where relevant, of any breaches relating to Personal Data;
 - carry out any data protection impact assessments ("**DPIA**") of the impact of the processing on the protection of Personal Data; and
 - consult the relevant supervisory authority prior to any processing where a DPIA indicates that the processing would result in a high risk in the absence of measures taken to mitigate the risk.
- (h) make available to the PURCHASER all information necessary to demonstrate compliance with the obligations set out in this Clause and allow for and contribute to any audits, including inspections, conducted by the PURCHASER or its appointed auditor; and
- delete or return to the PURCHASER upon request, all Personal Data processed pursuant to this PURCHASE ORDER upon the expiry or earlier termination of this PURCHASE ORDER.
- 6.6. Without prejudice to any other rights or remedies of the PURCHASER, the VENDOR agrees to indemnify and keep indemnified and defend at its own expense the PURCHASER against all costs, claims, damages or expenses incurred by the PURCHASER or for which the PURCHASER may become liable due to any failure by the VENDOR, its subprocessors and/or their respective employees or agents to comply with any obligations under this Clause.

7. ANTI-SLAVERY

In this clause, "Anti-slavery Policy" means the PURCHASER's Policy Statement on Modern Slavery and Human Trafficking, as revised, reissued, amended or updated from time to time.

7.1. In performing its obligations, the VENDOR shall (and shall procure that the VENDOR GROUP and all persons associated with it or other persons who are performing services or providing GOODS in connection with the PURCHASE ORDER shall):

- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the UK Modern Slavery Act 2015;
- (b) comply with the Anti-slavery policy;
- (c) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the UK Modern Slavery Act 2015.

7.2. The VENDOR represents and warrants that:

- (a) its responses to the PURCHASER's due diligence questionnaire (if applicable) are complete and accurate; and
- (b) neither the VENDOR nor any of its officers, employees or other persons associated with it:
 - i. has been convicted of any offence involving slavery and human trafficking; and
 - ii. has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

7.3. The VENDOR shall implement reasonable due diligence procedures to ensure that there is no slavery or human trafficking taking place in its supply chains

7.4. The VENDOR shall not subcontract its obligations under the PURCHASE ORDER without the prior written consent of the PURCHASER.

7.5. In order to help the PURCHASER reach a decision on a proposed subcontract, the VENDOR shall provide the PURCHASER with any information that the PURCHASER may reasonably require about the proposed subcontractor.

7.6. The VENDOR shall notify the PURCHASER as soon as it becomes aware of:

- (a) any breach, or potential breach, of the Anti-slavery Policy or of the foregoing provisions; or

- (b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with any PURCHASE ORDER.

7.7. The VENDOR shall prepare and deliver to the PURCHASER, within 21 days after receiving the PURCHASER's request, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

7.8. The VENDOR shall:

- (a) maintain a complete set of records to trace the supply chain of all Goods and services provided to the PURCHASER in connection with any PURCHASE ORDER;
- (b) permit the PURCHASER and its third-party representatives, on reasonable notice during normal business hours but without notice in case of any reasonably suspected breach of this clause, to have access to and take copies of the VENDOR's records and any other information and to meet with the VENDOR's personnel to audit the VENDOR's compliance with its obligations this clause.

7.9. The VENDOR represents warrants and undertakes that it conducts its business in a manner that is consistent with the Anti-slavery Policy.

7.10. The VENDOR shall indemnify the PURCHASER against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by or awarded against the PURCHASER as a result of any breach by VENDOR of the Anti-slavery Policy or any of the foregoing provisions.

7.11. The PURCHASER may terminate any PURCHASE ORDER with immediate effect by giving written notice to the VENDOR if the VENDOR commits a breach of the Anti-slavery Policy or any of the foregoing provisions.

8. SANCTIONS

8.1. The provisions of this clause shall apply in relation to any sanction, prohibition or restriction (each a "Sanction") imposed on any persons, entities, vessels, bodies, industries or sectors pursuant to resolutions, decisions, laws and/or regulations issued by any government or government authority, including, without limitation, the European Union, the United Kingdom, the United Nations, the United States of America, or Singapore.

8.2. If at any time (i) PURCHASER becomes aware of any Sanction which would prohibit or render unlawful any performance or payment contemplated under this PURCHASE ORDER or which would expose PURCHASER (or its direct or indirect parent entities) to Sanctions as a consequence of any PURCHASE ORDER or (ii) any payment made or to be made as contemplated by the transactions described in any PURCHASE ORDER

cannot be made or received as intended due to or because of any Sanction, including because monies or accounts have been frozen as a result of any such Sanction, or (iii) VENDOR becomes, or becomes owned or controlled by, a party or government that is subject to any Sanction, PURCHASER may in its sole option terminate the PURCHASE ORDER forthwith by written notice without cost, penalty or liability to PURCHASER and without prejudice to any rights accrued to PURCHASER at the date of termination.

- 8.3.** If, in compliance with the provisions of this Clause, anything is done or is not done by PURCHASER GROUP such shall not be deemed a breach or deviation but shall be considered due fulfilment of its obligations under the PURCHASE ORDER.
- 8.4.** Notwithstanding anything in this Clause to the contrary, neither VENDOR nor PURCHASER shall be required to do anything which constitutes a violation of any SANCTIONS or the laws and regulations of any country or state to which it (or its direct or indirect parent entities) is or are subject.

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