

SCHEDULE 2: GENERAL TERMS AND CONDITIONS

Table of Contents

1	DEFINITIONS AND INTERPRETATION	2
2	SCOPE OF THE CONTRACT.....	7
3	VARIATIONS	7
4	MILESTONES AND LIQUIDATED DAMAGES.....	8
5	OBLIGATIONS OF THE CONTRACTOR	9
6	CONTRACTOR'S REPRESENTATIONS AND WARRANTY	12
7	PAYMENT TERMS	13
8	LIABILITY AND INDEMNITY	14
9	SUSPENSION.....	15
10	TERMINATION	16
11	FORCE MAJEURE	17
12	NOTICE GARNISHMENT.....	18
13	IP RIGHTS.....	18
14	CONFIDENTIALITY.....	20
15	GOVERNING LAW AND DISPUTE RESOLUTION	21
16	ANTI-BRIBERY, ANTI-COMPETITION, CONFLICTS OF INTEREST	21
17	IT SECURITY	22
18	AUDIT RIGHTS	24
19	MISCELLANEOUS TERMS.....	24

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised words and expressions used in the Contract shall have the following meanings unless the context otherwise requires or it is specifically provided otherwise:

Affiliate	means (a) when used in relation to any person (other than a natural person and other than the Company), any other person which shall be at that time, directly or indirectly in Control of, Controlled by, or under common Control with such person; (b) in the case of any person that is a natural person, shall mean any other person who is a “ Relative ” of such person; and (c) when used in relation to the Company, any other person which shall be at that time, directly or indirectly Controlled by and/or under common Control or any person nominated by the Company in writing;
Agreement Document	means the document titled the ‘Agreement Document’ (without its schedules) executed between the Parties;
Anti-bribery Laws	has the meaning ascribed to it at clause 16 of this Schedule 2;
Applicable Laws	means all national, federal, central, state, provincial or county-level legislations, statutes, acts, decrees, ordinances, orders, judicial pronouncements, policies, circulars, rules, regulations, notifications and by-laws applicable to a Party;
Authority	means any applicable government, governmental, regulatory or administrative body, department, commission, agency or entity and judicial bodies, tribunals and courts, with central, state or local jurisdiction over the Company and the Contractor;
Background IP	means as to a Party, any IP Right created by that Party prior to the commencement, or independently, of the Contract;
Claims	means suits, sanctions, legal proceedings, claims, actions, assessments, judgements, penalties, demands or fines brought or enforced against a Party and “ Claim ” means any one of them;
Company	has the meaning ascribed to it in the Agreement Document, and includes its legal successors in title and assignees;
Company Parties	means the Company and each of its officers, employees, Affiliates, agents, representatives and their respective officers and employees;
Company Premises	means any property owned or operated by the Company or its Affiliates and includes the Company Terminals;
Company Property	means any property owned or under the care and custody of the Company or its Affiliates;
Company Terminals	means the terminal in the Country which is operated by the Company for itself or its Affiliates;
Confidential Information	means all technical, commercial, photographic or other information, and all documents and other tangible items that record information, whether on paper, in machine readable format, by sound or video, by way of

	samples or otherwise, disclosed to, obtained by or developed by the Contractor or the Contractor Parties relating to the Company's business or this Contract, including the Personal Data and details of the Deliverable(s), the terms, negotiations, proprietary software and IP Rights;
Confirmation Order	means a written order issued by the Company to the Contractor to purchase the Optional Deliverable(s);
Consent	means: (a) permit, permission, license, approval, authorisation, consent, clearance, waiver, exemption, no objection certificate or other authorisation of whatsoever nature and by whatever name called from an Authority; and (b) a registration, declaration, lodgement, notice or filing with any Authority in each case as required under any Applicable Laws;
Contract	has the meaning ascribed to it in clause 2 of the Agreement Document;
Contract Documents	has the meaning ascribed to it in clause 2 of the Agreement Document;
Contract Price	means the sum total payable by the Company to the Contractor under the Contract;
Contractor	has the meaning ascribed to it in the Agreement Document and includes its legal personal representatives and any person to whom the rights or liabilities of the Contractor have been assigned or transferred with agreement in writing of the Company;
Contractor Equipment and Tools	means, including but not limited to, all equipment, plant, tools, machinery, generators, personal protective equipment, mobile cranes, safety cages, cutting sets, welding sets, air compressor, welding electrodes and electric hand tools and goods deployed by the Contractor or Contractor Parties in the performance of the Deliverables;
Contractor Group	means the Contractor and its Affiliates;
Contractor Parties	means the Contractor and each of its officers, employees, Affiliates, agents, representatives, Subcontractors and their respective officers and employees and " Contractor Party " means any one of them;
Control	means: (i) in relation to a person which is a body corporate, the right to exercise, or control the exercise of, whether directly or indirectly, acting alone or together with another person, more than 50% (fifty percent) of the total voting rights at a general meeting of that body corporate, or the right or power to direct, whether directly or indirectly, acting alone or together with another person, the policy decisions or management of that body corporate, whether through ownership of securities, partnership interests, units or other equity interests, by agreement or otherwise, or the right or power to nominate, whether directly or indirectly, acting alone or together with another person, more than 50% (fifty percent) of the directors or other individuals exercising authority or the ability to make decisions on behalf of such person: and (ii) in relation to any person which is not a body corporate or an individual, the right or power to direct, whether directly or indirectly, acting alone or together with another person, the policy decisions or management of that person, and the terms " Controlled by ", " Controlling " and " under common Control with " shall be construed accordingly;

Country	means Kingdom of Thailand
Cyber Incident(s)	has the meaning ascribed to it in clause 17.2 of this Schedule 2;
Deliverable(s)	means the deliverables in the form of either: (i) Goods to be delivered; (ii) Services to be executed; or (iii) Goods to be delivered and Services to be executed by the Contractor in accordance with the terms of the Contract and all other activities and obligations to be executed by the Contractor under the Contract;
Deliverable(s) Specifications	means the description of the Deliverable(s), as set out in Schedule 1, as amended by any Variations or approved in writing by the Company from time to time;
Drawings	include plans, sketches, diagrams, 2D/3D models and schematics;
Force Majeure Event	means any event or circumstance which: (a) is not within the reasonable control of the affected Party; (b) is not a direct or indirect result of a breach of its obligations under the Contract; (c) the Party affected is unable to prevent, overcome and avoid notwithstanding the exercise of reasonable foresight, diligence and care on its part; and (d) prevents or delays such Party's execution or observance of its obligations under this Contract, but in any case, excludes any strike, lockout or labour difficulties with respect to a Party's personnel;
Foreground IP	means all and any existing or future IP Rights whatsoever and howsoever arising from, created and/or developed in connection with or pursuant to the Contract;
Goods	means the goods, materials, products and/or equipment to be supplied by the Contractor to the Company under the Contract;
Governing Law	has the meaning ascribed to it at clause 15.1 of this Schedule 2;
HSSE	means health, safety, security and environment;
Intellectual Property Rights OR IP Rights	means all inventions, innovations, improvements, developments, methods, patents, rights to inventions, technology, copyright and related rights, moral rights, trademarks, trade names and domain names, rights in industrial designs, computer software, source code, object code, database rights, rights in Confidential Information (including know-how, business secrets and trade secrets) and any other intellectual property rights, in each case whether registrable, registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
Insolvency Event	means, with respect to a Party, if that Party: a) is unable to pay its debts as they fall due; b) commits an act of bankruptcy; c) enters into a composition, scheme or arrangement with its creditors or calls a meeting of creditors with the view to entering into a composition, scheme or arrangement;

	d) has any order made against it which has the effect of restricting free dealing in its assets or freezing or seizing such assets, or has execution levied against it by creditors, debenture holders or trustees under a floating charge; e) takes or has taken or instituted against it any actions or proceedings, whether voluntary or compulsory, which has the object of or which may result in the winding up of that Party (except for the purposes of reconstruction); f) has a winding up order made against it or (except for the purposes of reconstruction) passes a resolution for winding up; and/or g) is a party to the appointment of or has a receiver, receiver/manager, provisional liquidator, liquidator, controller or administrator appointed to the whole or part of its property or undertaking;
Loss	means any damage, loss, liability, cost, charge or expense that any Party pays, suffers or incurs or is liable for, including all interest and other amounts payable to third parties and all legal fees (on a full indemnity basis) and other expenses incurred in connection with obtaining legal advice on, investigating or defending any Claim;
Milestones	means the timelines for the Deliverable(s) set out in Schedule 6;
Operational Areas	has the meaning ascribed to it at clause 5.2(f) of this Schedule 2;
Optional Deliverable(s)	means, where applicable, the Optional Deliverable(s) set out in Part B of Schedule 1 which will be executed by the Contractor at the sole option of the Company;
Other Incident(s)	has the meaning ascribed to it in clause 17.2 of this Schedule 2;
Parties	means the Company and the Contractor and “ Party ” means either one of them;
Purchase Order	means a written order issued by the Company to the Contractor to purchase the Deliverable(s);
Relative	means the father, mother, brother, sister, husband/wife, children and their respective spouses;
Relevant Rules	means any rules, policies and procedures notified by the Company relating to HSSE, traffic, privacy, sustainability, human rights, IT policies or any other applicable matter;
Schedule of Quotations	means the quotations set out in Schedule 4;
Scope of Deliverable(s)	means the deliverables in the form of either: (i) Goods to be delivered; (ii) Services to be executed; or (iii) Goods to be delivered and Services to be executed by the Contractor in accordance with the terms of the Contract and all other activities and obligations to be executed by the Contractor under the Contract;
Services	means all or any portion of the works to be executed for the Company, in accordance with the Contract and unless otherwise stated shall include all material, fittings, apparatus, Contractor’s Equipment and Tools required for the Contractor’s execution of its obligations under the Contract;

Site	means the seabed, land, foreshore and offshore areas and other places on under in or through which the Deliverable(s) are to be executed including the Contractor's working areas and any other working area as defined in the Deliverables Specifications and which are approved by the Company;
Subcontractors	means the contractors, consultants, suppliers and vendors engaged by the Contractor to execute any part of the Deliverable(s) or supply any items;
Required Deliverable(s)	means, where applicable, all such Required Deliverable(s) set out in Part A of Schedule 1 which the Contractor must execute under the Contract;
Tax(es)	means all taxes, duties, levies, import, export, customs, stamp or excise duties (including clearing and brokerage charges), charges, surcharges, withholdings, deductions, cess or contributions that are imposed or assessed by any Authority;
Term	where applicable, has the meaning ascribed to it at clause 9.1 of the Agreement Document;
Term /Rate Basis	has the meaning given at clause 2.2 of this Schedule 2;
The Code	has the meaning ascribed to it in clause 7 of the Agreement Document;
Variation	means a modification or alteration of, addition to, or deletion of, all or any part of the Deliverable(s);
Variation Assessment	means a proposal prepared by the Contractor in respect of a Variation in which it provides full detail of the following: (a) the impact of the proposed Variation on the Deliverable(s); (b) a detailed schedule for the execution of adjusted Deliverable(s); (c) the effect on the Contract Price (if any), determined in accordance with the Contract; and (d) any other information the Company concludes is necessary for its evaluation;
Variation Order	means a written order for a Variation authorised by the Company.

1.2 Interpretations

- (a) The headings in the Contract are for ease of reference only and shall not be taken into account in the construction or interpretation of any provision to which they refer.
- (b) References to any law or regulation shall be construed as those as amended, modified, re-enacted or replaced from time to time.
- (c) Words indicating the singular include the plural and vice versa.
- (d) Other parts of speech and grammatical forms of a word or phrase defined in the Contract have a corresponding meaning.
- (e) An expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Authority.
- (f) A reference to a document (including the Contract) includes all amendments or supplements to, or replacements or novation of, that document.
- (g) A reference to time is to local time in the Country.
- (h) The Parties have had the opportunity to take legal advice on the Contract and no provision of the Contract will be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of the Contract or that provision.

- (i) The use of the words “includes” or “including” when introducing an item or list of items does not limit the meaning of the words which follow to that item or those items or to items of a similar kind.

2 SCOPE OF THE CONTRACT

- 2.1 Subject to the terms of this clause 2, the scope of the Contract are the Deliverable(s) set out in the Deliverable(s) Specifications.
- 2.2 Where the Contract is procured on a term contract and rate-only basis (“**Term/Rate Basis**”)¹:
 - (i) the Deliverable(s) will be executed by the Contractor upon issuance of a Purchase Order (either electronically or hard copies) by the Company;
 - (ii) the scope of the Contract consists of the Deliverable(s) required by the Company to be executed under any Purchase Order(s) issued; and
 - (iii) each Purchase Order will be a stand-alone contract incorporating the terms of the Contract and no terms of the Contractor in the Contractor’s quotation, acknowledgment, confirmation specification or similar document will be incorporated as a term of the Contract or will constitute a Contract Document.
- 2.3 If the Contract is not on Term/Rate Basis, the Deliverable(s) will be executed by the Contractor in accordance with the Milestones (in the case of Required Deliverables) and upon issuance of a Confirmation Order (in the case of Optional Deliverables) by the Company.
- 2.4 The Company may in its absolute discretion exercise an option for execution of any or all of the Optional Deliverable(s) separately at any time and in any quantity provided that such option shall be exercised within twenty-four (24) months from the date of the Contract. In the event the Company exercises the option for an Optional Deliverable, the Company shall issue a confirmation order (“**Confirmation Order**”) to the Contractor and the Contractor shall execute the Optional Deliverables in accordance with the terms of the Contract.
- 2.5 Notwithstanding any provisions to the contrary, the Company shall be at a liberty to, without a Variation Order, purchase less than the estimated quantities indicated in the Schedule of Quotations or delete any items during the term of the Contract and the Contractor shall have no claims whatsoever against the Company for such reduction or deletion.
- 2.6 The Company shall have the right, in its sole discretion, to not proceed with the Optional Deliverable(s) or to award the Optional Deliverable(s) to another contractor without any liabilities for any Loss to the Contractor.

3 VARIATIONS

- 3.1 Initiating Variation
 - (a) The Company may initiate Variation by: (i) requesting the Contractor to provide a Variation Assessment; or (ii) issuing a Variation Order for reasons of emergency, safety or other reasonable necessity.

- (b) The Contractor may propose Variation by providing a Variation Assessment to the Company provided that the Contractor is not entitled to request a Variation for matters that are within the scope of the Deliverable(s) or matters that the Contractor has agreed to execute or take into account in connection with the Contract.
- (c) The Contractor shall not execute a Variation that is initiated by the Contractor unless the Company has issued a Variation Order.

3.2 Variation Assessment Procedure

- (a) The Contractor will submit a Variation Assessment within fourteen (14) days from receipt of the Company's request or any other timeline approved in writing by the Company.
- (b) In preparing the Variation Assessment, the Contractor shall use best endeavours to: (i) minimise any necessary increase of the Contract Price; (ii) minimise the additional time required for execution of the Deliverable(s); and (iii) maximise discounts, savings, rebates, credits or other similar benefits by procuring services, works or procured items which are required to implement a Variation on a bulk or economies of scale basis.
- (c) The cost of any Variation and any adjustment to the Schedule of Quotation or Contract Price shall be ascertained as follows:
 - (i) to the extent that the Parties have agreed the amount of the Variation, then the amount so agreed;
 - (ii) to the extent that the Contract provides for the amount of the Variation, then that amount; or
 - (iii) to the extent that clauses 3.2(c)(i) or 3.2(c)(ii) of this Schedule 2 do not apply, by arriving at a reasonable and fair amount, having regard to any increase or savings in the costs that have been or will be incurred by the Contractor.

3.3 Result of Variation Assessment

Within a reasonable period after receipt of a Variation Assessment, the Company will either:

- (a) accept the Variation Assessment by issuing a Variation Order;
- (b) reject the Variation Assessment and notify the Contractor of the rejection; or
- (c) request the Contractor to amend the Variation Assessment.

4 MILESTONES AND LIQUIDATED DAMAGES

- 4.1 The Contractor shall ensure that the Deliverable(s) shall be completed to the satisfaction of the Company, in accordance with the Deliverable(s) Specifications and within the Milestones.
- 4.2 The Contractor acknowledges that time is of the essence and the Milestones shall be strictly adhered to.
- 4.3 If the Contractor fails to complete the execution of the Deliverable(s) within the specified Milestones, the Company shall deduct from the Contract Price:
 - (a) where applicable, liquidated damages at the rates set out in Schedule 3 or Schedule 6 (as the case may be); or

(b) where liquidated damages are not applicable or invalid and unenforceable, the Company's Losses for the Contractor's delays, provided that any such deductions shall not exonerate the Contractor of their obligations under the Contract and where clause 4.3(b) applies, the quantum of the Company's Losses which may be recovered from the Contractor shall not be limited to the liquidated damages which would have been payable had such provisions been applicable, valid or enforceable.

4.4 Parties agree that the liquidated damages are a genuine pre-estimate of the Losses that may be sustained due to failure of execution, represent the legitimate interest(s) of the Company, and are not a penalty.

5 OBLIGATIONS OF THE CONTRACTOR

5.1 Standard

The Contractor shall (and shall procure the Contractor Parties to) execute the Deliverable(s):

- (a) in accordance with all Applicable Laws and the Relevant Rules;
- (b) with the skill, care, efficiency and diligence and in compliance with the standards and practices expected of an experienced and highly competent contractor providing similar deliverables;
- (c) in compliance with any reasonable instruction of the Company; and
- (d) using resources who are competent, duly qualified, properly permitted, trained, skilled and experienced in carrying out the Deliverable(s).

5.2 General Welfare, Safety and Health Requirement for Contractors

- (a) The Contractor shall conform, and shall be entirely responsible for the sufficiency and efficiency of the measures taken to conform, with the Relevant Rules and Applicable Laws relating to HSSE and welfare of the Contractor Parties and as related to any Deliverable, act or operation executed or about to be executed by them.
- (b) The Contractor shall fully and expeditiously render such assistance and co-operation as may be required by the Company to enable the Company to comply with the Applicable Laws and HSSE requirements.
- (c) Without prejudice to clause 5.2(a) of this Schedule 2, where the Contractor assesses any ambiguity in its role or responsibility with respect to the compliance with any Applicable Laws or HSSE requirements, it shall be the Contractor's responsibility to consult the Company and the Company shall decide in good faith the Contractor's role or responsibility.
- (d) Without limiting or prejudice to clause 5.1 of this Schedule 2, the Contractor shall (and shall procure the Contractor Parties to):
 - (i) adhere to and act in accordance with the generally accepted principles of sound and safe practice expected of a competent contractor; and
 - (ii) exercise all necessary precautions to protect the health and safety of and limit damage to all properties and nuisance to all persons at the Company Premises, including the Company Parties and members of the public, who may be affected by any act or omission of the Contractor Parties or any

pollution, noise or other results or effects of the execution of the Deliverable(s).

- (e) In the event the Company is of the view that the Contractor has failed to observe the Relevant Rules or Applicable Laws or exhibits poor standards of Deliverable(s), the Company has the right to stop the Contractor from further execution of the Deliverable(s) until proper and acceptable measures are taken to the satisfaction of the Company and any delay resulting from such an event and any related costs and consequences shall be for the account of the Contractor.
- (f) The following shall apply if the Deliverable(s) are carried out in the Company's Premises where the conveyance, loading, unloading, handling or storage of goods takes place and includes wharves, wharf aprons, warehouses, godowns, alleyways, the eaves of warehouses and godowns, roadways, hardstandings, container yards, chassis yards, interchange areas and any place on board vessels ("**Operational Areas**"):
 - (i) The Contractor shall provide adequate supervisory staff and competent personnel at all times to ensure that their obligations are carried out smoothly and that the Contractor Parties give a good and sufficient standard of execution and to guide and direct the Contractor Parties on all aspects of safety.
 - (ii) The Contractor shall undertake to arrange for the Contractor Parties to assist in investigations into accidents and or infringements of the rules on safety standards, if so required by the Company.
 - (iii) The Contractor shall ensure that Contractor Parties are informed of the Applicable Laws and Relevant Rules in respect of HSSE and the same is followed and strictly adhered to.
 - (iv) The Contractor shall provide the Contractor Parties with the appropriate personal protective gears, safety helmets, reflective vests, safety shoes and hand gloves and ensure that all such Contractor Parties use such protective gears while at work.
 - (v) The Contractor shall obtain approval from the Company to work in the Operational Areas.
 - (vi) The Contractor shall obtain the Company's prior approval before commencing work, where necessary.
- (g) Notwithstanding any provision to the contrary and the Company's right and authority to supervise operations generally within the Company Premises, if required (including the right to direct or instruct the Contractor Parties where necessary in the interests of safety and security), the Contractor Parties shall not be deemed to be the Company's servants or agents and the Contractor shall indemnify and save the Company harmless in respect of injuries (fatal or otherwise) and all Losses suffered by them or caused by them in the execution of the Deliverable(s). For the avoidance of doubt, the presence of and assistance provided by the Company Parties at the Site of the Deliverable(s) shall not be taken as supervision of the Deliverable(s).
- (h) The Contractor is deemed to have included all costs for compliance with the Applicable Laws and HSSE requirements in the Contract Price.

- (i) In executing the Deliverable(s), the Contractor will ensure timely payments to the Contractor Parties. If the Contractor fails to make timely payments to the Contractor Parties, then the Company may make the payments directly to the Contractor Parties and set off these payments against amounts owed to the Contractor or charge the Contractor for the payments.
- (j) The Contractor shall not and procure that the Contractor Parties shall not employ any forced labour, illegal labour, child labour and slave labour.

5.3 Consents

- (a) The Contractor shall be wholly responsible for obtaining all Consents, making all necessary arrangements and coordinating with the relevant Authorities and other persons to ensure the timely and satisfactory execution of the Deliverable(s) and its obligations under the Contract. Where consents are listed or indicated elsewhere in the Contract, such list is not exhaustive and should not be taken to encompass all of the Contractor's obligations. Contractor is responsible for verifying what he needs to comply with.
- (b) All costs and time arising out of maintaining and obtaining such Consents shall be borne by the Contractor. The Contractor shall not be entitled to any additional costs or time from the Company if there are any delays arising out of maintaining and obtaining the Consents.
- (c) The Company shall not be obliged to assist the Contractor with respect to obtaining and maintaining the Consents.

5.4 Personnel

- (a) The Contractor shall provide sufficient number of resources necessary to execute the Deliverable(s) in accordance with the Contract.
- (b) The Company may direct the Contractor to remove from the Company Premises any personnel engaged by the Contractor who the Company considers has misconducted themselves or who are incompetent or negligent in the execution of their duties or who the Company considers are undesirable to execute the Deliverable(s). The Contractor shall promptly comply with such instructions.
- (c) The key personnel engaged in the performance of the Contract as identified and approved by the Company will not be removed or replaced without the consent of Company which consent will not be unreasonably withheld.
- (d) The Contractor shall employ and keep constantly at the Site a competent and experienced manager/foreman who must be capable of receiving verbal instructions in English. Any directions, instructions or explanations given to the manager/foreman shall be deemed to have been given to the Contractor.

5.5 Updates

- (a) The Contractor shall provide regular updates on the progress of the Deliverable(s) to the Company.
- (b) The Contractor shall immediately notify the Company of:
 - (i) any death, personal injury or accident (whether or not resulting in any injury) that occurs at the Company Premises; and

- (ii) any emergency or other event that may materially and adversely affect the Contractor's ability to meet the Milestones or to procure the execution of the Deliverable(s) in accordance with the Contract.
- (c) The Contractor shall promptly after such notification provide the Company with a report detailing the cause of such accident, emergency or event to the best of the Contractor's knowledge and the steps proposed to be taken by the Contractor to mitigate the effects and prevent the recurrence thereof.

5.6 Subcontracting

- (a) The Contractor may not subcontract all or any part of its obligations under the Contract except as agreed in writing by the Company.
- (b) Any subcontracting by the Contractor shall not relieve it of any of its obligations and liabilities under the Contract and the Contractor shall be fully responsible for or in respect of any Deliverable(s) carried out by any of its Subcontractors as if such subcontracted Deliverable(s) had been executed by the Contractor itself.
- (c) The Contractor shall not bind the Company in any subcontract.

5.7 Equipment and Tools

- (a) The Contractor shall provide all the necessary Contractor's Equipment and Tools for the execution of the Deliverable(s).
- (b) The Contractor shall obtain at its own cost, all necessary Consents for the provision and use of the Contractor's Equipment and Tools for the execution of the Deliverable(s).
- (c) The Contractor shall ensure that all Contractor's Equipment and Tools shall be properly maintained and in good working condition to ensure safe execution of the Deliverable(s).
- (d) Where the Company makes available any equipment and tools for use by the Contractor for purposes of execution of the Deliverable(s), the Contractor undertakes to ensure the proper use and proper care of such equipment and tools. In the event of any damage, loss or misuse of such equipment or tools, the Company reserves the right to take all necessary actions to recover from the Contractor the cost of repairs or replacements of any such equipment and tools.

6 CONTRACTOR'S REPRESENTATIONS AND WARRANTY

- 6.1 The Contractor has represented to the Company and hereby warrants to the Company that it is an expert, properly skilled and experienced in works of the nature of the Deliverable(s) and has the capacity including all Consents to execute the Deliverable(s). The Contractor acknowledges that the Company entered into the Contract in reliance on such representation and that the Company is relying and will continue to rely on such representation and warranty.
- 6.2 The Contractor hereby warrants that:
 - (a) the Deliverable(s) shall be fit in all respects for the purpose(s) intended by the Company and free of defects;

- (b) the Company shall acquire good and clear title to any parts supplied in the provision of Deliverable(s), free and clear of all liens and encumbrances (including retention of title);
- (c) its supply of the Deliverable(s) (including without limitation any parts supplied in the provision of Deliverable(s)) shall not infringe any third party's IP Right or rights of publicity or privacy and do not violate any laws and will not cause the Company to violate any laws;
- (d) it has full corporate power and authority to enter into, execute and observe its obligations under the Contract;
- (e) the execution, delivery and performance of the Contract has been duly and validity authorised by all necessary corporate actions; and
- (f) the Contract constitutes legal, valid and binding obligations and, subject to any necessary stamping and registration, is enforceable in accordance with its terms.

6.3 If the Deliverable(s) are found to be not in the state as warranted in the Contract, the Contractor shall, at its own cost, forthwith rectify, replace or repair the defective Deliverable(s) or part thereof or where rectification, replacements or repairs cannot be effected, provide an abatement of the price.

7 PAYMENT TERMS

7.1 Payment

- (a) In consideration of the Contractor's proper execution of the Deliverable(s), the Company will pay to the Contractor the Contract Price in the manner set out in Schedule 5.
- (b) The Contractor shall not charge as payment for the Deliverable(s) any rates, fees or charges greater in amount than the Contract Price specified in the Contract unless as otherwise agreed in writing.
- (c) The Contract Price shall be deemed to be inclusive of all costs, expenses, disbursements, overheads, profits and include standby, shifting and idling of Contractor's Equipment and Tools due to whatsoever causes for the proper execution and satisfactory completion of the Deliverable(s).
- (d) The Contract Price shall be in the Thailand Baht (THB). No adjustments shall be allowed for fluctuations in exchange rates or variations in cost of materials, labour or any other factors affecting such price.
- (e) All Taxes imposed by any Authority of any country relating to the Contract shall be borne by the Contractor and shall be included in the Contract Price.
- (f) The Company shall, at the time any payment is due to the Contractor, withhold the necessary Taxes at such rate as is required by the Applicable Laws, unless and to the extent that the Contractor shall produce to the Company any certificate issued by a Authority (having authority to issue such certificate) entitling the Contractor to receive the payments under the Contract for a prescribed period without deduction of any Tax or deduction at a lower rate. The Contractor shall provide the necessary documentation as required by Applicable Laws to determine the taxability of the payments to be made to the Contractor.

- (g) The Contractor shall not be eligible for any adjustment for change in Applicable Laws, unless otherwise approved by the Company in writing.
- (h) Where the Company is entitled under the Contract, at law or otherwise to recover any Losses from the Contractor or is required to deduct or withhold any sum or account of Taxes, such sum may be, where applicable claimed from any performance bonds or securities provided to the Company, deducted, withheld, retained or set off from any sum then or subsequently due from the Company to the Contractor under the Contract or may be recovered from the Contractor as a debt, as the Company may choose, without prejudice to any Claims or rights which the Company may have against the Contractor and without constituting any admission by the Company as to the performance of the Contractor's obligations nor relieve the Contractor from its obligations and liabilities under the Contract.
- (i) All bank charges shall be borne by the Contractor.

7.2 Invoice

- (a) The Contractor shall submit to the Company an invoice for the Contract Price in accordance with the timeline set out in Schedule 5 provided that such invoice shall not be issued prior to the completion of the Deliverable(s) to the Company's satisfaction and acceptance in accordance with the Contract.
- (b) The invoice should be correct and be accompanied by information and documentary evidence sufficient to allow the Company to verify the amount(s) claimed in each invoice.
- (c) Unless disputed by the Company, the Company shall pay the amount invoiced by the Contractor within forty-five (45) days of submission of the correct and sufficiently supported invoice to the Company.
- (d) If the Company disputes any amount included in an invoice, the Company shall pay the amount, if any, not in dispute.
- (e) Any payment by the Company to the Contractor of the invoiced value is payment on account only and shall not: (i) prejudice the rights and remedies of the Company under the Contract or at law; and (ii) relieve the Contractor from responsibility or reduce any liability of the Contractor under the Contract or at law.

8 LIABILITY AND INDEMNITY

- 8.1 The Company shall not be responsible for any Claims or Losses caused by or in any way connected with the Contractor's execution of their obligations under the Contract.
- 8.2 The Contractor shall fully indemnify the Company Parties from and against all Claims and Losses as may be incurred or suffered by any of the Company Parties (including any Claim made by a third party against the Company Parties and/or any Losses resulting from damage to or loss or destruction of any property of the Company Parties or on the Site or personal injury, illness or death of any person) arising out of or in connection with any breach by the Contractor of any provisions of the Contract or any default, negligence, recklessness, act or omission of any of the Contractor Parties.

- 8.3 The Contractor and the Contractor Parties, and the properties belonging to them, enter and will be on the Company Premises at the own risks. The Company shall not be liable to the Contractor or any Contractor Party for any Claims or Losses, whether or not arising directly or indirectly from the acts, omissions, defaults, negligence of the Company or any Company Party, and the Contractor shall indemnify, defend and save the Company and the Company Parties harmless from and against all such Claims and Losses.
- 8.4 The Contractor shall fully indemnify the Company Parties from and against all Claims and Losses as may be incurred or suffered by any of the Company Parties (including any Claim made by a third party against the Company Parties) as a result of a cyber-attack attributable to or affecting any Contractor Party and breach by any Contractor Party of clause 17 of this Schedule 2.
- 8.5 No Party shall be liable to the other Party for special, consequential, or punitive damages or indirect losses, costs or expenses or loss of actual or anticipated profits (whether direct or indirect), lost opportunities (including opportunities to enter into or complete arrangements with third parties), a failure to realise anticipated savings or loss of reputation, howsoever caused (including by negligence).
- 8.6 The exclusions and limitations set out in clause 8.5 of this Schedule 2 shall not apply to the Contractor's liabilities in respect of:
- (a) the Contractor's obligations or liabilities that are insured or are required to be insured by the terms of the Contract, up to the amount of the required insurance and deductibles;
 - (b) liability for Claims and Losses caused by the fraud, gross negligence, deliberate default, or wilful misconduct of the Contractor Parties under this Contract;
 - (c) liability for any non-compliance or violation of Applicable Laws and/or any Consents;
 - (d) liability for failure to pay Taxes or payment of any Taxes by the Company Parties on behalf of the Contractor to the relevant Authority pursuant to the Contractor's obligations under this Contract;
 - (e) liability for bodily injury, sickness, disease, death or personal injury;
 - (f) any statutory fines or penalties; and
 - (g) liability for failure to meet the Milestones, breach of confidentiality, IP Rights and personal data protection.
- 8.7 Neither Party excludes or limits its liabilities to the extent they may not be excluded under the Governing Law.

9 SUSPENSION

The Company may suspend the Contract or any part of the Deliverable(s) for cause, without any compensation or relief for the suspension to the Contractor, by written notice with immediate effect:

- (a) due to the Contractor's omissions, defective workmanship, non-compliance with Relevant Rules or other breaches under the Contract; or
- (b) pending the Company's decision on termination of the Contract where the Company concludes it has grounds to terminate the Contract for cause.

10 TERMINATION

10.1 Immediate Termination

The Company may terminate the Contract or any part of the Deliverable(s) by written notice with immediate effect if:

- (a) the Contractor Group is in violation of any Anti-bribery laws in connection with the execution of the Contract;
- (b) the Contractor or the entity guaranteeing the Deliverable(s) suffers an Insolvency Event;
- (c) the Contractor fails to provide or maintain the guarantees under the Contract; or
- (d) if applicable, the cap on Liquidated Damages for delay has been reached.

10.2 Termination for Breach

- (a) The Company may terminate the Contract or any part of the Deliverable(s) where the Contractor, suspends the execution of all or any part of the Deliverable(s) without reasonable cause or commits a material breach of any of its obligations under the Contract, by sending the Contractor a written notice specifying the default and giving the defaulting party fourteen (14) days from the date of the notice to rectify the default.
- (b) If the Contractor fails to rectify the default within the period of time specified in clause 10.2(a) of this Schedule 2 then the Company may, without prejudice to any other rights or remedies available to it under the Contract or at law, by written notice to the Contractor terminate the Contract.
- (c) Notwithstanding the foregoing, if the Company determines that the breach is not capable of being remedied then the Company may terminate the Contract or any part of the Deliverable(s) immediately.

10.3 Consequences of Termination

- (a) Upon termination of the Contract for any reason, without prejudice to any other rights and remedies available to the Company under the Contract or at law and subject to the Contractor's compliance with clause 10.3(b) and clause 10.4 of this Schedule 2, the Company shall pay to the Contractor any balance of the Contract Price not yet paid to the Contractor for proper execution of the Deliverable(s) as of the date of termination, less any sums payable by the Contractor under the Contract.
- (b) Upon termination of the Contract for any reason, the Contractor shall:
 - (i) remove the Contractor Parties from and vacate the Company Premises;
 - (ii) cease execution of the Contract or part of the Deliverable(s) specified in the notice;
 - (iii) at the Company's option, transfer to the Company the Deliverable(s) (whether or not completed) and where the Company rejects the Deliverable(s) to remove such Deliverable(s) from the Company's Premises;
 - (iv) where applicable and at the Company's option, provide the Company access to inspect the Deliverable(s);

- (v) turn over to the Company all the Company's tools and equipment and remove from the Company Premises all Contractor's Equipment and Tools within the period specified by the Company in writing; and
- (vi) return any amounts the Company has paid, including any pre-payments, that are greater than the amount the Contractor is entitled to on termination.
- (c) Without prejudice to any other rights and remedies available to the Company under the Contract or at law, upon termination of the Contract for breach of the Contract by the Contractor:
 - (i) the Company may appoint any contractor(s) to complete the outstanding Deliverable(s) and the Contractor shall be liable to pay the difference between the costs incurred by the Company to complete the Deliverable(s) and the Contract Price which would otherwise have been payable by the Company to the Contractor had the Contractor completed the Deliverable(s) in accordance with the Contract; and
 - (ii) with respect to any Contractor's Equipment and Tools, plant, temporary works, temporary structures, tools, goods and unfixed materials of the Contractor Parties left at the Company Premises, the Company shall:
 - A. be entitled to use them at no charge to the Company for purposes of completing the outstanding Deliverable(s); and
 - B. have a lien over and may sell any of the Contractor's Equipment and Tools and apply the proceeds of sale in or towards the satisfaction of any sums due or becoming due to the Company from the Contractor under the Contract.

10.4 Co-operation upon Termination

Following termination of the Deliverable(s) under the Contract for any reason whatsoever, the Contractor shall:

- (a) immediately upon the Company's request provide such assistance as is reasonably necessary to the Company for an orderly assumption of the Deliverable(s) by a third party;
- (b) to the extent requested by the Company, novate or assign all or any of the rights, benefits and obligations of the Contractor under any subcontracts (including any subcontracts for the Deliverables); and
- (c) deliver to the Company all materials, documents, reports and any other Deliverable(s) prepared or received by or on behalf of the Contractor for or in relation to the Deliverable(s) or the Contract.

11 FORCE MAJEURE

- 11.1 No Party will be liable for any default or delay in the execution of its obligations under the Contract to the extent that such default or delay is caused by a Force Majeure Event.
- 11.2 The affected Party shall promptly notify the other Party in writing and describe in a reasonable level of detail the Force Majeure Event and the effect of the Force Majeure Event on the execution of its obligations under the Contract. Where the

Contractor relies on this clause, any extension of the Milestones shall require the written consent of the Company.

- 11.3 The affected Party agrees to take all reasonable steps to minimise the impact of a Force Majeure Event.
- 11.4 After cessation of the Force Majeure Event, the Contractor will promptly resume execution of its obligations under the Contract.
- 11.5 The Company may terminate the Contract or part of the Deliverable(s) if any Force Majeure Event results in a delay that exceeds 90 consecutive or 180 cumulative days.
- 11.6 In case of termination, the Company will pay the Contractor the amount for Deliverable(s) properly executed prior to termination, or where a part of Deliverable(s) executed in accordance with the Contract did not have a segregated contracted price, then an amount based on the Company's fair valuation.

12 NOTICE GARNISHMENT

The Contractor shall not cause permit or suffer to be issued in satisfaction of any decree, judgement or other order given or to be given against the Contractor any notice of garnishment binding any property of the Contractor which is on the Company Premises or in the possession of the Company.

13 IP RIGHTS

Background IP

- 13.1 Unless expressly provided, each Party shall remain the sole owner of its Background IP and nothing in the Contract or otherwise shall imply any assignment or transfer in ownership of a Party's Background IP, provided that, the Contractor shall, at the Company's request, prove to the Company's satisfaction that IP Rights purported to be owned by the Contractor (or a third party) were in existence at the commencement of the Contract and duly owned by the Contractor (or such third party).
- 13.2 The Contractor hereby acknowledges and agrees that the title and copyright of IP Rights in and to all designs, documents, Drawings, plans, articles, processes, inventions, calculations, information, data or any other thing issued or supplied by the Company to the Contractor constitutes the Company's Background IP and shall at all times, be and remain vested in the Company.
- 13.3 Notwithstanding clause 13.1 of this Schedule 2, to the extent that the Deliverable(s) to be supplied to the Company under the Contract incorporates or is wholly or partially based on any Background IP not belonging to the Company, or cannot be used by the Company without infringing the Contractor's or any third party's Background IP, the Contractor shall grant to or procure for the Company (as the case may require), a perpetual, irrevocable, non-exclusive, sub-licensable, transferable and license fee / royalty-free right and license to use, access and apply such Background IP (together with any derivatives, modifications, improvements and developments thereof) in the operation of the Deliverable(s) to allow the Company to enjoy the full benefit of the Deliverable(s) as envisaged under the Contract. For the purposes of this clause 13.3 of this Schedule 2, "**operation**" includes use, repair,

- maintain, service, refurbish, reproduce, modify, adapt, integrate, develop and to do anything necessary or incidental for those purposes.
- 13.4 The Company reserves its IP Rights in respect of such documents, Drawings, plans, calculations, information, data and the use to which it is put in whole or in part pursuant to this Contract.
- Foreground IP
- 13.5 All rights in and to the Foreground IP and designs, documents, Drawings, plans, articles, processes, inventions, calculations, information, data and any part thereof developed or created by the Contractor, either by itself or jointly with the Company or other third parties, arising from, created and/or developed in connection with or pursuant to the Contract, shall vest in the Company.
- 13.6 If and to the extent that, for whatever reason, the rights in respect of the Foreground IP and designs, documents, Drawings, plans, articles, processes, inventions, calculations, information, data and any part thereof contemplated under clause 13.5 of this Schedule 2 cannot be vested in the Company despite the Contractor's best endeavours to ensure and procure the same, the Contractor shall grant to the Company a perpetual, irrevocable, non-exclusive, sub-licensable, transferable and license fee / royalty-free right and license to use such Foreground IP for any purposes whatsoever without any obligation of attribution or consent. For the purposes of this clause 13.6 of this Schedule 2, "use" includes marketing, modifying, sub-licensing and performing all acts and things entitled of an owner.
- 13.7 The Contractor shall carry out all acts and things necessary or desirable or as otherwise requested by the Company, at no additional charge or cost, to protect the IP Rights in the Foreground IP throughout the world, including without limitation, performing acts necessary for obtaining, maintaining and enforcing patents or other applicable registrations and vesting the Company with full title.
- 13.8 The Contractor agrees to refrain from doing anything which may jeopardise or otherwise prejudice the right of the Company to obtain trademarks, patents, design rights and any other relevant IP Rights registrations covering the Foreground IP vesting in or licensed to the Company, including, but not limited to, refraining from disclosing information on such Foreground IP in whatever matter and whatever format so as to impair the patentability required for patent registrations without the prior written approval from the Company.
- 13.9 The Contractor warrants and represents that (a) all information, goods or services provided and all things done by the Contractor under the Contract; (b) the grant of the license of the Background IP to the Company pursuant to clause 13.3 of this Schedule 2 and use of the Background IP licensed under clause 13.3 of this Schedule 2 by the Company; and (c) the Foreground IP and use of the Foreground IP by the Company, do not and will not infringe any IP Rights of any third party, and that the Contractor owns or has all necessary rights to grant the rights contemplated under this clause 13 of this Schedule 2. The Contractor shall fully indemnify and save the Company harmless against all Claims and Losses of whatsoever nature arising out of or in connection with any breach of the warranty in this clause 13.9 of this Schedule 2.

13.10 The Contractor shall:

- (a) promptly and fully notify the Company of any actual threatened or suspected infringement or third party claim on any IP Rights belonging to or granted to or used by the Company (including without limitation the Foreground IP) which comes to the Contractor's notice;
- (b) at its expense and at the request of the Company do all such things as may be reasonably required to assist the Company in taking or resisting any proceedings in relation to any infringement or claim;
- (c) not cause or permit anything which may damage or endanger any IP Rights of the Company or the Company's title to it or to assist or allow others to do so;
- (d) not remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, in any information, document or other material provided by the Company to the Contractor and to incorporate such proprietary markings in any copies of such information, document or other material; and
- (e) not register, directly or indirectly, any patent, trademark, service mark, trade name, Company name, internet domain name or other proprietary or commercial right that is identical or confusingly similar to the IP Rights of the Company or that constitute translations thereof into another language.

13.11 The Contractor shall indemnify, defend, and save the Company harmless from and against all claims, proceedings, damages, costs and expenses which may be brought or made against the Company by reason of any breach by the Contractor of any part of this clause 13 of this Schedule 2, or any infringement or alleged infringement of the IP Rights of the Company or any other third party, caused directly or indirectly by the Contractor in connection with its execution of the Contract.

13.12 All royalties and fees claimable by or payable to any person, firm, corporation, the government, or any other party, for use of or in connection with any copyright, invention, patent, registered design or other IP Rights necessary for or ancillary to the purposes of the Contract, and whether or not already paid by the Contractor, shall be deemed to have been included in the Contract Price.

14 CONFIDENTIALITY

14.1 The Contractor shall not, and ensure that the Contractor Parties shall not, disclose or permit a disclosure to a third party of the Company Parties' Confidential Information and will use the Company Parties' Confidential Information only in connection with the execution of the Contract.

14.2 The Contractor may disclose the Company Parties' Confidential Information, without the Company's prior written approval to the Contract Group and its agents, servants or Subcontractors, on a need to know basis, provided that such party has signed a confidentiality undertaking in the form set out in Exhibit A of this Schedule 2.

14.3 The Contractor may disclose the Company Parties' Confidential Information if such disclosure is required by any Authority under the Applicable Laws provided that the Contractor shall:

- (a) where permitted by the Applicable Laws, give immediate notice to the Company so that the Company may oppose the requirement or seek a protective order or other confidential treatment; and
 - (b) where it may do so, withhold disclosure, or ensure that the Contractor Parties withholds disclosure, until the Company has had a reasonable opportunity to obtain a protective order or notify the Contractor of its decision not to do so; and
 - (c) only provide that part of Confidential Information that is legally required to be furnished and will use reasonable endeavours to ensure confidential treatment is accorded to that which is furnished.
- 14.4 The provisions of this clause shall remain in full force and effect notwithstanding the termination or expiry of the Contract for whatever reason.

15 GOVERNING LAW AND DISPUTE RESOLUTION²

- 15.1 The Contract shall be interpreted, construed and governed by the laws of Kingdom of Thailand ("**Governing Law**").
- 15.2 Any dispute arising between the Parties out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be finally settled by a binding arbitration administered by the Singapore International Arbitration Centre ("SIAC") under the Arbitration Rules of Singapore International Arbitration Centre ("SIAC Rules")][under the Rules of Arbitration of the International Chamber of Commerce for the time being in force, which rules are deemed to be incorporated by reference in this clause.
- 15.3 The arbitral tribunal shall consist of (1) one arbitrator.
- 15.4 The seat and venue of the arbitration shall be Singapore . The language of the arbitration shall be English.

16 ANTI-BRIBERY, ANTI-COMPETITION, CONFLICTS OF INTEREST

- 16.1 **Anti-Bribery**
- (a) The Contractor shall, and shall procure that its Affiliates will, and shall procure that the employees, directors and agents of the Contractor and of the Contractor's Affiliates will, comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption in any jurisdiction in which any of the Company Parties operate or conduct business, including but not limited to, the Singapore's statute on Prevention of Corruption Act 2012, the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act (collectively, the "**Anti-bribery Laws**").
 - (b) The Contractor shall not, and shall procure that its Affiliates will not, and shall procure that the employees, directors and agents of the Contractor and of the Contractor's Affiliates will not, directly or indirectly, engage in any activity, practice or conduct which would be, or would potentially be, or would reasonably be perceived to be, an offence under the Anti-bribery Laws.

² Drafting Note: please amend per the requirement of the jurisdiction. Legal advice on amendments to this clause is a must.

- (c) The Contractor shall inform the Company immediately if any of the Company Parties were to engage them in any activity which would be, or would potentially be, or would reasonably be perceived to be, in contravention of the Anti-bribery Laws.
- (d) The Contractor represents that none of the members of the Contractor Group has, prior to the date of the Contract, engaged in any activity in breach of the Anti-bribery Laws in connection with the tender, negotiation, award and execution of the Contract.
- (e) The Contractor shall indemnify the Company against any Losses suffered by any of the Company Parties as a result of any breach of this clause.

16.2 **Anti-Competition**

- (a) The Contractor shall not, and shall procure that its Affiliates will not, and shall procure that the employees, directors and agents of the Contractor and of the Contractor's Affiliates will not, engage in any activity which would, or would potentially be, or would reasonably be perceived to be, an offence or infringement under any competition law in any jurisdiction in which any of the Company Parties operate or conduct business.
- (b) The Contractor represents that none of the members of the Contractor Group is the subject of any investigation, inquiry or proceedings by any Authority with any actual or alleged infringement of the prohibitions of competition law of any jurisdiction in which any of the Company Parties operate or conduct business.
- (c) The Contractor represents that none of the members of the Contractor Group has, prior to the date of the Contract, engaged in any activity in breach of any competition law in connection with the tender, negotiation, award and execution of the Contract.
- (d) The Contractor shall indemnify the Company for any Losses suffered by the Company Parties as a result of any breach of this clause.

16.3 **Conflicts Of Interest**

- (a) The Contractor shall not, and shall procure that its Affiliates will not, and shall procure that the employees, directors and agents of the Contractor and of the Contractor's Affiliates will not, whether directly or indirectly, engage with any of the Company Parties that would, or would potentially result in or would reasonably be perceived to result in, any conflict of interest with any of the Company Parties.
- (b) The Contractor shall disclose promptly to the Company sufficient information relating to any of the Company Parties engaged with, whether directly or indirectly, by any member of the Contractor Group, in order to enable the Company to determine if there is any conflict of interest.
- (c) The Contractor shall indemnify the Company for any Losses suffered by the Company Parties as a result of any breach of this clause.

17 **IT SECURITY**

- 17.1 The Contractor undertakes to the Company that:
 - a) it will take all measures that a reasonable and prudent person would take to ensure that all data of the Company ("**Company Data**") within the Contractor's custody or control or is accessible through the Contractor's information

technology (“IT”) systems is protected at all times from unauthorised access, collection, use, disclosure, copying and disposal by a third party or misuse, damage or destruction by any person;

- b) it has in place firewalls, anti-virus, filtering, and/or such other reasonable security measures to defend against third-party interference or malicious attacks on its IT systems, in accordance with best practices applicable, and regularly updates (including installation of patches) software and hardware on which the Company Data is stored or which may be accessible;
- c) it complies with all applicable data security and cybersecurity laws and regulations, and that the Contractor shall not do anything and not omit to do anything that will cause the Company to be in breach of any provision or requirement of any applicable data protection laws and cybersecurity laws, whether now or in the future; and
- d) without limiting clauses 17.1(a), 17.1(b) and 17.1(c) above, it will comply with all security regulations, procedures and directions given by the Company from time to time regarding any aspect of security of, or access to, the Company’s Data, material or Company Premises.

17.2 If the Contractor becomes aware of any actual or suspected:

- a) action taken through the use of computer networks that results in an actual or may potentially result in an adverse effect on the Contractor’s information system and/or Company Data residing on that system (a “**Cyber Incident**”); or
- b) any other unauthorised access or use by a third party or misuse, damage or destruction by any person (an “**Other Incident**”),
the Contractor must:
 - (i) notify the Company in writing immediately (and no longer than 12 hours after becoming aware of the Cyber Incident or Other Incident); and
 - (ii) comply with any reasonable directions issued by the Company in connection with the Cyber Incident or Other Incident, including in relation to:
 - A. obtaining evidence about how, when and by whom the information system and/or the Company Data has or may have been compromised, providing it to the Company on request, and preserving and protecting that evidence for a period or up to 12 months;
 - B. implementing any mitigation strategies to reduce the impact of the Cyber Incident or Other Incident or the likelihood or impact of any future similar incident; and
 - C. preserving and protecting Company Data (including as necessary reverting to any backup or alternative site or taking other action to recover Company Data).

17.3 The Contractor undertakes that if any loss/damage is caused to the Company due to a Cyber Incident, Other Incident, cyber-attack or other similar IT incident(s) and such incident(s) relates to the Contract, then the Contractor will provide all such assistance required by the Company to recover the losses and undertake investigations to determine the underlying cause resulting in the incident(s), at no additional cost, expenses and/or charges.

- 17.4 The Contractor must ensure that all Contractor Parties and other supply chain arrangements, which may allow or cause access to the Company's Data, contain no provisions that is inconsistent with this clause and ensure that Contractor Parties who have access to Company Data comply with this clause.

18 AUDIT RIGHTS

- 18.1 The Company shall have the right, not more than once per year (unless circumstances warrant additional audits as described below), to audit the Contractor's compliance with Relevant Rules, Contractor's policies, procedures and records that relate to execution of the Deliverables to ensure compliance with the Contract upon at least fourteen (14) days' written notice.
- 18.2 Notwithstanding clause 18.1, the Parties agree that the Company may conduct an audit at any time, in the event of (i) audits required by an Authority, (ii) investigations of claims of misappropriation, fraud, or business irregularities of a potentially criminal nature, or (iii) the Company reasonably believes that an audit is necessary to address a material operational problem or issue that poses a threat to the Company's business.
- 18.3 In respect of clause 17.1(d), the Contractor undertakes to fully co-operate with the Company and its internal or external auditors for the purpose of verifying the Contractor's systems and/or devices are compliant or to provide the Company, upon written request, independent audit reports from one of the accredited auditors confirming that its systems and/or devices are compliant.
- 18.4 The Contractor will procure that the Contractor Parties shall provide internationally accredited certificates of compliance in respect of, including but limited to, as follows:
- (a) Relevant Rules;
 - (b) Environment, Social and Governance (ESG);
 - (c) Cybersecurity; and
 - (d) any other matter in relation to the deliverables.

19 MISCELLANEOUS TERMS

- 19.1 Notices
- (a) Any notice in writing to be given by one Party under any term of the Contract shall be deemed to be sufficiently served on the other Party if sent by registered post or email or delivered by hand to the respective addresses as stated in the Contract or at such other address as such Party shall designate by notice in writing to the Party giving such notice and a notice so sent by email shall be deemed to be served at the time of its dispatch (provided no error message is received by the sender within 24 hours of dispatch, indicating delivery failure) and notice sent by post shall be deemed to be served at the time when it would in the ordinary course of post be delivered.

- (b) Any notice served pursuant to clause 19.1(a) of this Schedule 2 above shall be delivered to the addressees stated in clause 6 of the Agreement Document.

19.2 Language

All notices and communications in connection with the Contract shall be written in the English language.

19.3 Cumulative Rights

All rights and remedies granted to either of the Parties shall be cumulative and no exercise by either of the Parties of any right or remedy under the Contract shall restrict or prejudice the exercise of any other right or remedy granted by the Contract or otherwise available to it.

19.4 Waiver

- (a) A Party shall not be deemed to have waived any right, power or entitlement under the Contract unless such waiver is in writing duly signed by the other Party.
- (b) The waiver by a Party of any breach of the Contract by the other Party shall not be held to be a waiver of any subsequent breach of that provision or any other provision of the Contract.

19.5 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

19.6 Legal Relationship

- (a) Nothing contained herein shall be constructed as establishing or creating a relationship of master and servant, or constitute a partnership between the Parties hereto.
- (b) The Contractor is an independent contractor of the Company and shall not represent itself to be and shall not be construed to be an employee, partner or agent of the Company, or being otherwise able to bind the Company.

19.7 Entire Contract

The Contract constitutes the entire agreement between the Parties in relation to the subject herein contained and supersedes all prior agreements, representations, statements and other standings relating thereto.

19.8 Third Party Rights

Other than the Company, the Company Parties will be entitled to enforce clauses 8.2, 8.3, 8.4, 8.5 and 8.6 of this Schedule 2 in accordance with the terms of the Contract

and except for the Company Parties, any person who is not a party to the Contract shall have no right to enforce any terms of the Contract.

19.9 Assignment

- (a) The Contractor shall not assign the Contract or any part thereof without the prior written consent of the Company.
- (b) The Company shall be entitled to assign, novate or transfer any or all of its rights, obligations and/or liabilities under the Contract at any time to any Authority or any of its Affiliates without the prior written consent of the Contractor. The Contractor shall at its own costs execute such documents and do such things as may be required by the Company to give effect to the assignment, novation or transfer as contemplated in this clause 19.9(b) of this Schedule 2.

19.10 Change Of Control

- (a) If the Contractor is a company, the Contractor shall inform the Company if it or its equity-holders conduct, engage in, effect or does or causes to be effected or done any of the following:
 - (i) sell, assign, grant, exchange, allot or otherwise transfer any shares of the Contractor;
 - (ii) reconstruct or restructure the company, howsoever brought about, including and without limitation to any form of amalgamation or merger with or takeover by another legal entity;
 - (iii) remove replace substitute or in any way change the chief executive officer, the chief operating officer, the chief financial officer, the general manager and/or the managing director;
 - (iv) effect a change in principal business activities of the company;
 - (v) to sell divest transfer or liquidate or to wind down or cease operation of a material portion of the company's business assets or properties; or
 - (vi) convert the company into a business or any other legal entity.
- (b) If the Contractor is not a company, the Contractor shall inform the Company if it conducts, engages in, effects or does or causes to be effected or done any of the following:
 - (i) reconstruct or restructure itself, howsoever brought about, including and without limitation to any form of amalgamation or merger with or takeover by another legal entity;
 - (ii) change its partner(s) or proprietor(s) to add, remove replace or substitute any partner or proprietor(s);
 - (iii) remove replace substitute or in any way change the chief executive officer, the chief operating officer, the chief financial officer, the general manager and/or the managing director;
 - (iv) effect a change in its principal business activities;
 - (v) to sell divest transfer or liquidate or to wind down or cease operation of a material portion of its business assets or properties; or
 - (vi) convert the firm into a company or any other legal entity.

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- (c) In the event of any change, whether actual or pending or threatened, in relation to any of the Contractor's incorporation or partnership (as the case may be), regulatory licences or concessions, human resources, business, assets, liabilities, borrowings cashflow or financial indebtedness or undertakings etc. which may in the Company's opinion, adversely affects, whether directly or indirectly, the Contractor's ability to provide the Deliverable(s) according to the Contract or otherwise execute the Contract.

EXHIBIT A: FORM OF UNDERTAKING BY EACH CONTRACTOR PARTY

Confidentiality and Intellectual Property Assignment Undertaking In Favour Of Eastern Sea Laem Chabang Terminal Co., Ltd ("Undertaking")

1. I, _____ ID No./ Passport No: _____), understand that _____ (the "**Contractor**") has entered into a contract with **Eastern Sea Laem Chabang Terminal Co., Ltd ("Company")** for the procurement of Deliverables (the "**Contract**").
2. I am an employee of the Contractor /a third party who has been engaged by the Contractor as a sub-contractor under the Contract. * (**Delete where appropriate.*)

Confidentiality Undertaking

3. I understand that, as an employee or sub-contractor of the Contractor, I may be provided with or have access to information that is the confidential information the Company and its affiliates (the "**Confidential Information**").
4. I undertake that I shall:
 - 4.1. keep the Confidential Information in absolute confidence
 - 4.2. not disclose the Confidential Information to any third party; and
 - 4.3. use the Confidential Information only for the purpose of the Contract and any other purpose as may be agreed between the Company and the Contractor from time to time, and not for any other purpose.
5. My duty to hold in confidence the Confidential Information provided to or accessed by me shall remain in effect indefinitely.

Assignment of Intellectual Property Rights

6. I irrevocably assign, and upon creation automatically assign, and transfer to the Contractor, without further consideration, my entire right, title and interest, in and to Intellectual Property Rights arising from and/or developed in connection with or pursuant to the Contract. Such assignment and transfer to the Contractor shall apply to any and all Intellectual Property Rights that may be created or developed by me

during the entire duration of my engagement as of the relevant time of development of each Intellectual Property Right. Such Intellectual Property Right shall be the property of the Contractor, whether or not trademarkable, copyrightable or patentable or in a commercial stage of development.

7. If, by operation of law, I am unable to assign the rights, titles and interests in and to any of the Intellectual Property Rights, I will grant an exclusive (even as to myself), irrevocable, perpetual, worldwide, transferable, sub-licensable and royalty-free/license-fee free license for the Intellectual Property Rights, to the Contractor.
8. I understand and agree that all Intellectual Property Rights will automatically vest solely and exclusively in the Company pursuant to the Contract.
9. To the extent allowed by law, this assignment of the Intellectual Property Rights includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights,” “artist’s rights”, “droit moral” or the like (collectively “**Moral Rights**”). To the extent that I retain any such Moral Rights under applicable law, I hereby ratify and consent to any action that may be taken with respect to such Moral Rights by or authorised by the Contractor or the Company and agree not to assert any Moral Rights . Without limiting the foregoing, I agree that the Contractor, the Company, their assignees and their licensees are not required to designate me as the author of the Intellectual Property Rights.
10. I agree to assist the Company in every way deemed necessary or desirable by the Company to protect the Intellectual Property Rights throughout the world.
11. I hereby warrant that all Intellectual Property Rights created by me pursuant to the Contract shall not infringe the Intellectual Property Rights or any other rights of any third party.

General

12. This Undertaking will be governed by, construed and enforced in accordance with the laws of Kingdom of Thailand.
13. The Company and I hereby agree to submit to the exclusive jurisdiction of the Thailand courts. Nothing in this clause, however, shall prevent the Company from seeking injunctive relief before a court of competent jurisdiction.

14. Capitalised terms used in this Undertaking shall have the same meaning as set forth in the Contract, unless otherwise stated.

I have read and understood the terms of this Undertaking.

Signed: _____

Dated: _____