GENERAL TERMS AND CONDITIONS

(MID VALUE DOMESTIC SUPPLY)

Revision 1 dated March 15, 2021

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1. Definitions

1.1 Unless the context otherwise requires, the terms capitalized and used herein or in any other document which is part of the PO Documents and the defined terms set forth in this Clause 1, together with their respective grammatical variations and cognate expressions, shall have the meanings specified herein:

Acceptable Bank	shall mean a 'scheduled bank' in India (as set forth in the Second Schedule to the Reserve Bank of India Act, 1934), excluding any co-operative or gramin (rural) bank.
Advance Payment Bank Guarantee	shall mean unconditional and irrevocable first demand bank guarantee(s) provided by the Seller to the Buyer in terms of Clause 7, to secure the advance payment(s) made by the Buyer to the Seller.
Affiliate	shall mean, with respect to any Party, any Person which directly or indirectly, Controls, is Controlled by or is under common Control with it.
Basic Price	shall mean the amounts payable by the Buyer to the Seller for performance of the Scope of Work determined in accordance with Clause 4, which shall be inclusive of applicable Taxes (except GST), packing, forwarding, freight and insurance charges, costs in respect of materials, consumables, tools and tackles, manufacturing, margin, overheads, charges for bank guarantees, charges for supervisory activities and all other costs associated with performance of the Scope of Work and other obligations under the PO Documents, unless otherwise specified in the Purchase Order.
Buyer	shall mean the company issuing the Purchase Order, including its legal successors and assigns.
CGST Act	shall mean the Central Goods and Services Act, 2017.
CGST Rules	shall mean the Central Goods and Services Tax Rules, 2017.
Change in Law	shall mean the occurrence of any of the following after the Effective Date: (a) enactment, modification or repeal of any new applicable law in India; (b) any change in the interpretation or enforcement of any applicable law by a decision rendered by the Supreme Court of India; or (c) increase or decrease in the relevant rates of applicable GST in India, provided that "Change in Law" shall not include any: (i) change in the interpretation or application of any applicable law except as provided in (b) above; (ii) enactment, modification, repeal, interpretation or application of any applicable law of India which increases market prices of Goods, commodities, raw materials, labour and services in general; (iii) such event of Change in Law listed in points (a), (b) and (c) above, which occurs during the time period of delay in the performance of the Seller's obligations, for reasons not attributable to the Buyer; and (iv) implication on the PO Price arising out of currency fluctuations.
Codes and Standards	shall mean the latest applicable international and Indian codes and standards that would be applicable for goods of a similar type and specification as the Goods.
Commissioning	shall mean the successful operation of the Goods at full load (or as may be applicable) in accordance with the terms of the PO Documents and the achievement of the parameters specified in the Specifications.

Commissioning Spares	shall mean all such spares which are essential for Commissioning that are to be provided by the Seller to the Buyer as part of the Goods to be supplied under the PO Documents.
Confidential Information	shall have the meaning ascribed to the term in Clause 35.1.
Contract Performance Bank Guarantee	shall mean a single, unconditional, irrevocable first demand bank guarantee provided by the Seller to the Buyer in terms of Clause 7, to secure the performance by the Seller of the Scope of Work, for a time period as specified in the Purchase Order.
Contract Performance cum Performance Bank Guarantee	shall mean a single, unconditional, irrevocable first demand bank guarantee provided by the Seller to the Buyer in terms of Clause 7, to secure the performance by the Seller for the entire Scope of Work, including the Seller's obligations during the Defect Liability Period, as specified in the Purchase Order.
Control	shall mean, with reference to a Person, the possession, directly or indirectly, of the power or authority to direct or cause the direction of the day to day affairs, management or policies of such Person, whether through the ownership of voting securities, by any agreement with respect to voting of securities, by any other agreement conferring control over management or policy decisions, by virtue of the power to control the composition of the board of directors or managers of such Person, or otherwise.
Defect Liability Period	shall mean the period more specifically set out in the Purchase Order, during which the Seller shall remain liable, at its own cost, and expense for all repairs or replacement of any Defects.
Defect(s)	shall mean any defect or damage to the Goods (including any portion supplied or executed by any Sub-Contractor) on account of: (i) non-conformance of the Goods with the Specifications; or (ii) any faulty design, engineering or workmanship, which affects the ability of the Goods to comply with the Specifications on a consistent and reliable basis.
Delay Liquidated Damages	ave the meaning ascribed to the term in Clause 17.1.
Delivery	shall mean the loading, transport, delivery and such other ancillary or related services required to be performed by the Seller or its representatives for the safe and undamaged delivery of the Goods (or any part thereof) including all spares, accessories and tools and tackles (as may be applicable) to the Buyer at the Delivery Point, in accordance with the Delivery Term and other terms in the PO Documents.
Delivery Point	shall mean the location at which the Seller shall Deliver the Goods, as specified in the Purchase Order.
Delivery Schedule	shall mean the time specified in the Purchase Order (as extended in accordance with the terms herein), within which the Delivery as a whole (or of a part of the Goods where a separate time for completion of delivery of such part has been prescribed) is to be completed in accordance with the terms of the PO Documents.
Delivery Term	ean the delivery term, including any applicable Incoterm, on the basis of which the Seller shall complete the Delivery.
Disclosing Party	shall have the meaning ascribed to the term in Clause 35.1.
Drawings	shall mean all drawings referred to in the PO Documents, along with any modification of such drawings (as approved in writing by the Buyer) and shall include: (i) drawings furnished by the Buyer or the Buyer's consultant to the

	Seller; and (ii) engineering data and drawings submitted by the Seller during the progress of the Scope of Work.
Effective Date	shall mean the date of issuance of the Purchase Order by the Buyer to the Seller, unless otherwise specified in the Purchase Order.
ESG	shall have the meaning ascribed to the term in Clause 19.1.
Force Majeure	shall have the meaning ascribed to the term in Clause 29.1.
Good Industry Practice	shall mean standards, methods, techniques and procedures that are employed by leading, reasonable and prudent suppliers in India engaged in supply of goods which are similar to the Goods.
Goods	shall mean the plant, equipment, machinery, materials, apparatus and things of all kinds to be supplied (including spare parts and tools and tackles, as applicable) by the Seller as per the Scope of Work and Specifications set out under the PO Documents.
GST	shall mean the applicable goods and services tax and/or any compensation or cess payable in terms of the CGST Act, the State Goods and Services Tax Acts passed by the States in the Republic of India, Integrated Goods and Services Tax Act, 2017, the Union Territory Goods and Services Tax, 2017, the Goods and Service Tax (Compensation to States) Act 2017, or any other statute or ordinance issued as a part of the regime applicable to goods and services and the rules, notifications and circulars under each of the foregoing for the time being in effect, as applicable to the Scope of Work performed under the PO Documents.
GTC	shall mean these general terms and conditions.
Incoterms	shall mean the delivery terms as published and defined by the International Chamber of Commerce, in INCOTERMS, 2020 (ICC Publication 723).
Intellectual Property Rights	shall mean all patent, trademark, copyright, design rights, trade secret, mark or any other intellectual property rights (whether registered or not) applicable to or utilised in the Goods licensed, granted or assigned by the Seller or any Seller's Affiliate to, or otherwise vested in the Buyer pursuant to the terms of the PO Documents.
Latent Defect(s)	shall mean inherent Defects in design, workmanship or material which have surfaced after the Defect Liability Period and which could not be determined during routine inspection and which may hinder or endanger the normal operation of the Goods.
Latent Defect Liability Period	shall mean the period of five (5) years commencing from the date of expiry of the Defect Liability Period, during which the Seller shall remain liable at its own cost and expense for all repairs or replacement of any Latent Defect.
Mandatory Spares	shall mean the spare parts which have to be mandatorily provided by the Seller, as may be listed in an annexure to the Purchase Order or as may be specified by the Buyer.
MDCC	shall mean the material dispatch clearance certificate, issued by the Buyer to the Seller, permitting dispatch of the Goods.
Party	shall mean the Buyer or the Seller, as applicable.
Performance Bank Guarantee	shall mean a single, unconditional, irrevocable first demand bank guarantee provided by the Seller to the Buyer in terms of Clause 7, to secure performance of the Seller's obligations during the Defect Liability Period.
Performance Guarantee	shall mean the guaranteed standards and parameters of operation and/or performance of the Goods as set out in the Specifications.

Performance Guarantee Tests	shall mean the test(s) that may be conducted by the Buyer with regard to the Goods to ascertain whether the installed Goods, or the specified parts thereof, are able to achieve the Performance Guarantee.
Person	shall mean individuals, firms, companies, corporations, trusts, government entities, joint ventures and other bodies, whether incorporated or not.
PO Documents	shall mean and include the Purchase Order and the GTC along with any annexures, schedules and documents that are referred in or attached to the Purchase Order.
PO Price	shall mean the Basic Price plus applicable GST.
Price Schedule	shall mean the schedule annexed to the Purchase Order, setting out the prices payable in respect of the Goods.
Purchase Order	shall mean the purchase order issued by the Buyer.
Receiving Party	shall have the meaning ascribed to the term in Clause 35.1.
Scope of Work	shall mean the Goods to be supplied by the Seller and such other activities required to be performed by the Seller under the PO Documents, as specifically set out in Clause 3.
Seller	shall mean the successful bidder who is awarded the PO Documents and which is a company duly incorporated and validity existing as per the provisions of Companies Act, 2013; or a proprietor in case the bidder is a sole proprietorship; or a partnership firm registered under the applicable law.
Shortfall Liquidated Damages	shall have the meaning ascribed to the term in Clause 17.2.
Site	shall mean a location designated by the Buyer and specified in the Purchase Order.
Specifications	shall mean all Drawings, referred standards, various technical guidelines, quality standards, technical documents, specifications, provisions and requirements which pertain to the method and manner of performing the Scope of Work and to the quantities and qualities of the Goods and the materials to be furnished under the PO Documents, as set out in the annexure which may be identified as 'Price Schedule' or 'Specifications' and attached to the Purchase Order, as may be amended or modified from time to time.
Sub-Contractor	shall mean (i) any Person to whom any part of the Scope of Work has been subcontracted by the Seller, or (ii) any supplier from whom the Seller purchases any item(s) required for the performance of the Scope of Work, and shall include the successors and permitted assigns of such entities.
Taxes	shall mean and include taxes, duties, levies, cess, GST and other similar imposts by whatever name called, whether in the nature of indirect tax or direct tax and whether or not imposed at the federal, state, municipal or any other level.
TCS	shall have the meaning ascribed to the term in Clause 6.2.
TPIA	shall mean the third party inspection agency appointed and/or authorized by the Buyer for carrying out inspection of Goods.

2. Interpretation of PO Documents

2.1 Subject to the order of precedence as set out below, all documents forming part of the PO Documents are intended to be correlative, complementary and mutually explanatory. The PO Documents shall be read and construed together as a single document and where these documents are at variance with each other, for the purpose of interpretation, the priority of the documents shall be in the following sequence:

(a) The Purchase Order.

(b) The Specifications, including all Schedules, Drawings and any other documents.

(c) The GTC.

(d) Any other Schedules and Annexures forming part of the PO Documents.

2.2 In the event of any inconsistency:

(a) between the text of the Clauses, the Annexures and the Specifications hereto, the text of the Clauses shall prevail;

(b) between the text of the Specifications and the Annexures hereto, the text of the Specifications shall prevail; and

(c) between the provisions and particulars of one Annexure and those of any other Annexure, the provisions and particulars of the Annexure more specific to the provision which is inconsistent shall prevail.

2.3 Notwithstanding the sub-division of the PO Documents into sections, every part of each document shall be deemed to be supplementary to and complementary of each other.

2.4 All headings and marginal notes to the items of the GTC, the Purchase Order, the Specifications or to any other document forming part of the PO Documents are solely for the purpose of giving a concise indication of the general subject matter thereof and not a summary of the contents. Such headings and marginal notes shall not be deemed to be part of or be used in the interpretation or construction of the said document.

2.5 Words incorporating the singular only shall also include the plural and vice-versa where the context requires. Words of any gender are deemed to include the other gender(s).

2.6 The term 'Clause', 'Schedule' or 'Annexure' refers to a specified clause, schedule or annexure of the GTC, unless otherwise expressly specified.

2.7 Reference to the words 'include', 'including' and 'included' shall be construed without limitation.

2.8 For the purposes of the PO Documents, the words and abbreviations that have well-known technical or trade meanings used but not defined in the PO Documents, shall be construed in accordance with such recognized technical or trade meanings.

2.9 Reference to any legislation, law, regulation or to any provision thereof shall include references to any such law as it may be amended, supplemented or re-enacted from time to time (whether before or after the date of the PO Documents) and any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.

2.10 The PO Documents are a joint draft product of the Parties, and any rule of statutory interpretation interpreting agreements against a party primarily responsible for drafting the agreement shall not be applicable to the PO Documents.

2.11 All approvals provided by a Party under the PO Documents shall be in writing and, for the purposes of the PO Documents, 'in writing' shall mean and include printing, electronic mail and letters.

2.12 Any reference to the PO Documents shall include all amendments, changes and modifications made to the PO Documents in accordance with the provisions hereof.

3. Scope of Work

3.1 The detailed Scope of Work shall be as specified in the Purchase Order and Specifications. The Seller shall be bound to ensure that materials, designs and workmanship that are used in the Goods are compliant with the Specifications and Codes and Standards, as set out in the PO Documents.

3.2 The Seller shall, unless specifically excluded in the PO Documents, perform all such incidental work and activities with respect to such items not specifically mentioned in the PO Documents but can be reasonably inferred as required or necessary to complete the Scope of Work, as if such work, activities and/or items were expressly mentioned in the PO Documents. Except as otherwise expressly provided in the PO Documents, the Seller agrees and acknowledges that the Seller shall perform all of its obligations and responsibilities under the PO Documents at its own risk, cost and expense.

3.3 The Goods shall be complete in every respect with all mountings, fittings, fixtures and standard accessories normally supplied with such Goods, even though not specifically detailed in the Specifications, unless specifically included in the list of excluded items. The Seller shall ensure that the Goods as Delivered shall be fit and suitable for the intended purposes as evidenced by or inferred from the PO Documents, and shall comply with the terms of the PO Documents. The Seller shall not be eligible for any extra payment in respect of such mountings, fittings, fixtures and standard accessories etc., which are needed for the safe operation of the Goods as required under applicable Codes and Standards and the PO Documents, though they may not have been included specifically in the PO Documents.

3.4 In addition to supply of all spare parts, tools and tackles included in the PO Documents, the Seller agrees to supply at the Delivery Point, all materials, equipment, consumables, accessories and construction supplies as may be required up to completion of the Scope of Work (as applicable), at its own cost and expense. The Seller shall provide Mandatory Spares pertaining to the Goods in accordance with the terms of the PO Documents, within such time period as may be agreed upon by the Parties in the kick-off meeting and in consultation with the Buyer. The Seller shall also be responsible for providing all Commissioning Spares at no additional cost to the Buyer. The Seller shall ensure that the Commissioning Spares are provided to the Buyer within the Delivery Schedule, and in any case no later than at least fifteen (15) days prior to the scheduled date of Commissioning.

4. Basic Price

The Basic Price shall be as specified in the Purchase Order. Unless otherwise provided for in the Purchase Order or agreed otherwise by the Buyer, the Basic Price shall remain firm and no escalation to the Basic Price shall be allowed during the term of the PO Documents, including any extensions thereto. The Seller shall be deemed to have satisfied itself as to the correctness and sufficiency of the Basic Price, which shall, except as otherwise provided for in the PO Documents, cover all its obligations under the PO Documents. Unless otherwise provided for in the Purchase Order, the Basic Price shall be inclusive of all applicable Taxes (except GST), costs in respect of materials, consumables, tools and tackles, manufacturing, packing, forwarding and freight charges, insurance charges, margin, overheads, charges for bank guarantees, charges for supervisory activities and all other costs associated with performance of the Scope of Work and other obligations under the PO Documents.

5. Payment Terms

5.1 The PO Price shall be payable as per the terms specified in the Purchase Order. Unless otherwise specified in the Purchase Order, the Seller shall raise all invoices in an electronic format and comply with the applicable laws in this respect, including the relevant procedure pertaining to e-invoicing. Any invoice issued by the Seller, in any manner other than the manner prescribed under the PO Documents shall be deemed to be an incorrect invoice and shall not be eligible for any payments under the Purchase Order. The Seller shall ensure that all invoices raised under the PO Documents are correct and complete. Unless otherwise specified in the Purchase Order, the mode of payment through which the Buyer shall make payments under the PO Documents shall be wire transfer. Any bank charges incurred with respect to such payments shall be to the respective accounts of the Parties. No payment made by the Buyer herein shall be deemed to constitute acceptance by the Buyer of the Goods or any part(s) thereof. All payments payable by the Buyer to the Seller under the PO Documents shall be made subject to any deductions or withholdings required under applicable laws and the Buyer shall provide the Seller with the relevant documents or certificates required under applicable laws in connection with such deductions or withholdings.

5.2 In the event the Buyer finds any discrepancy, within a reasonable time period, in any invoice raised by the Seller, the Buyer shall give a notice regarding discrepant amount to the Seller and withhold such part of the invoice value which is discrepant till such time the discrepancy is resolved between the Parties. If the Seller intends to dispute the discrepant amount, the Seller shall provide documentary evidence to the Buyer within fifteen (15) days of receipt of notice regarding discrepant amount. If the Seller's documentary evidence is accepted by the Buyer, the Buyer shall pay the amount as mentioned in the invoice originally raised by the Seller as per the payment terms specified in the Purchase Order, from the date of submission of Seller's documentary evidence. In the event that the Parties are unable to resolve any issue in relation to discrepant amount within thirty (30) days of issue of the notice by the Buyer in relation to the discrepant amount, such dispute shall be resolved in accordance with Clause 33.

5.3 Notwithstanding anything to the contrary in the PO Documents, the payment of any invoice by the Buyer shall not prejudice, at any point of time, any rights of the Buyer under the PO Documents, including the right of the Buyer to notify any discrepancy in respect of any amounts therein, as may be identified by way of any audit or inspection, that may have been conducted subsequent to the payment of such invoice. In the event any such discrepancy is identified in relation to any invoice that has already been paid by the Buyer, the Buyer shall have the right to adjust any amount that may be due and payable by the Seller, in accordance with Clause 36.

6. Taxes

6.1 Except GST, all applicable Taxes shall be solely payable by the Seller, unless otherwise specified in the Purchase Order. The Buyer shall pay the applicable GST to the Seller at actuals, as per the rates specified in the Price Schedule. The Seller shall deposit the applicable GST with the relevant government authority and file returns and such other analogous statutory filings with respect to GST, in accordance with the manner and timelines stipulated under applicable laws (including all rules and regulations in respect thereof). The Seller shall, within three (3) days from such deposit and/or filings (as the case may be), submit to the Buyer all relevant documentation evidencing such compliance and deposit of GST. If the Seller fails to comply with its obligations under this Clause 6, the Buyer shall be entitled to: (i) withhold payments due to the Seller under the PO Documents; and/or (ii) invoke the bank guarantee(s) (as applicable) provided by the Seller in accordance with Clause 7, to the extent of the amount of GST that has not been deposited by the Seller with the government authorities, along with any interest, fine and/or penalty, as may be levied under applicable laws. In the event the Seller is in breach of its obligations under this Clause 6.1, the Buyer shall also be entitled to blacklist the Seller and thereby restrict the Seller from participating in future projects of the Buyer.

6.2 In the event the Seller is required to collect from the Buyer, tax collected at source ("**TCS**") as per the applicable law, then the Seller shall forthwith inform the Buyer and shall ensure that all invoices raised under the PO Documents (including pro-forma invoices for release of advance payments), clearly specify the correct amount of applicable TCS on the total invoice amount (including GST). The Seller shall, if required by the Buyer, furnish all other details and documentary evidence pertaining to such applicable TCS. The Seller shall comply with the requirements of the applicable law with respect to TCS and shall be solely responsible for any incorrect declaration in this regard.

6.3 *Compliances for the Seller*

(a) The Seller shall specify the correct HSN/IEC codes, or such other relevant classification of the Goods, as may be applicable, in the Seller's invoices. The Seller shall be responsible for any consequences of incorrect codes or declarations with respect to the Goods as may be required in terms of applicable law, including any losses suffered by the Buyer, and shall defend, indemnify and hold harmless the Buyer in this regard.

(b) The Seller shall, in respect of the deposit of Taxes (as may be applicable), comply with all applicable laws (including all rules and regulations in respect thereof) and shall ensure that all requirements, as stipulated under applicable laws in relation to the deposit of Taxes, are complied with. The Seller shall ensure timely deposit of all Taxes, including applicable fees, assessments and other analogous charges, as may be required in connection therewith, with the government authorities. The Seller shall be solely liable for any consequences arising out of non-compliance with such applicable laws and any expenses suffered by the Buyer on account of such non-compliance by the Seller, shall be to the Seller's account.

(c) The Seller hereby agrees and acknowledges that in case any tax benefits/rebates, duty drawbacks, GST refunds or such other applicable tax concessions and/or exemptions are available with respect to the Goods, the Seller shall avail of such concessions and/or exemptions or benefits and pass on such exemptions or benefits to the Buyer, or shall assist the Buyer in availing such exemptions or benefits. In order to enable the Buyer to satisfy its obligations under this Clause, the Seller shall duly execute all such further instruments and documents and do or procure to be done all such acts or things, as may be required to ensure that the terms of the PO Documents are complied with.

6.4 If there is a delay in Delivery and a statutory increase occurs in the applicable GST or implication of any new Taxes during the period of such delay, for reasons not attributable to the Buyer, the same shall be to the account of the Seller.

7. Bank Guarantees

7.1 The Seller shall provide the Buyer with an Advance Payment Bank Guarantee, Contract Performance Bank Guarantee, Performance Bank Guarantee and/or Contract Performance cum Performance Bank Guarantee, as the case may be, issued by an Acceptable Bank, at the times and in the amount, manner and form as more particularly specified in the Purchase Order. The Seller shall also procure a confirmation from the bank issuing such Advance Payment Bank Guarantee, Contract Performance Bank Guarantee, Performance Bank Guarantee and/or Contract Performance cum Performance Bank Guarantee, as the case may be, of the valid issue of such guarantees and provide such confirmation to the Buyer, within ten (10) days of the submission of such bank guarantees to the Buyer. The Seller shall ensure that the Advance Payment Bank Guarantee, Contract Performance Bank Guarantee, Performance Bank Guarantee and/or Contract Performance cum Performance Bank Guarantee, as the case may be, that is submitted by the Seller and the rights and interests therein are assignable by the Buyer in favour of its lenders or security trustees. In the event that the bank issuing such Advance Payment Bank Guarantee, Contract Performance Bank Guarantee, Performance Bank Guarantee and/or Contract Performance cum Performance Bank Guarantee, as the case may be, no longer meets the requirement of an Acceptable Bank at any time during the subsistence of such bank guarantee, the Seller shall replace such bank guarantee with another bank guarantee from an Acceptable Bank within fifteen (15) days of the Buyer's demand.

7.2 The Buyer shall have an unqualified option under the Advance Payment Bank Guarantee, Contract Performance Bank Guarantee, Performance Bank Guarantee and/or Contract Performance cum Performance Bank Guarantee, as the case may be, to invoke such guarantee(s) and claim the amounts thereunder in the event of the Seller's failure to honour its obligations, responsibilities or commitments under the PO Documents for which such relevant security has been provided and/or in respect of any amounts due from the Seller to the Buyer.

7.3 In the event the Buyer draws on the Contract Performance Bank Guarantee, the Performance Bank Guarantee or Contract Performance cum Performance Bank Guarantee, as the case may be, in part or in full, the Seller shall immediately restore the value of such bank guarantee to such value which existed prior to drawal of such bank guarantee. If the Seller fails to restore such bank guarantee, the Seller shall not be entitled for any further payments under the PO Documents.

7.4 In the event that:

(a) the Delivery of the Goods is delayed beyond the Delivery Schedule on account of which the advance amount remains unadjusted, the validity of the Advance Payment Bank Guarantee shall be extended till the revised Delivery Schedule or until recovery or refund of the full amount of the advance payment;

(b) the Delivery of the Goods has been delayed beyond the Delivery Schedule or the Commissioning has not occurred, as the case may be, thirty (30) days prior to the scheduled expiry of the Contract Performance Bank Guarantee, the validity of the Contract Performance Bank Guarantee shall be extended till the revised Delivery Schedule or time for Commissioning, as the case may be; and

(c) the Defect Liability Period is extended, the validity of the Performance Bank Guarantee or the Contract Performance cum Performance Bank Guarantee, as the case may be, shall be extended till the expiry of such extended Defect Liability Period.

7.5 The Parties agree that all costs relating to the bank guarantees provided by the Seller in accordance with the terms of this Clause, including any costs in respect of the opening, renewal, maintenance and invocation of such bank guarantees (as applicable), shall be borne by the Seller.

8. Term of the Purchase Order and Delivery Schedule

8.1 Unless otherwise terminated in accordance with the provisions of the PO Documents, the term of the PO Documents shall be deemed to have been completed on the expiry of the Latent Defect Liability Period. Provided however that if Latent Defect Liability Period is not applicable for the Goods, then the term of the PO Documents shall be deemed to have been completed on expiry of the Defect Liability Period.

8.2 The Delivery Schedule shall be as specified in the Purchase Order. The Delivery Schedule shall be deemed to be of essence with respect to the PO Documents and any extension of time in this respect shall also

be considered to be of essence of the PO Documents. If the Seller fails to Deliver the Goods or any part thereof within the specified period, the Buyer shall be entitled, at its option, to:

(a) recover Delay Liquidated Damages from the Seller; and/or

(b) terminate the PO Documents or part thereof and source goods or equipment similar to the Goods after giving due notice to the Seller from a third party, at the risk and cost of the Seller.

8.3 Any cost or expense resulting from delay in Delivery shall be solely to the Seller's account. The adjustments with respect to the amount recoverable, if any, in terms of Clause 8.2 above, shall be made from the bank guarantee(s) provided by the Seller in terms of Clause 7, as may be available, or in any other manner as may be deemed appropriate by the Buyer.

9. Variation

The Buyer shall have the right, by written notice to the Seller, to: (i) revise or modify the terms of the PO Documents including Drawings, Specifications, the time, method or place of Delivery, the method of shipment or packaging of the Goods; or (ii) suspend Delivery. Upon receipt of such notice, the Seller shall promptly proceed to make such changes as may be required by the Buyer. If any such change results in an impact on the cost of the Goods or the Delivery Schedule, the Seller shall provide a notice to the Buyer to this effect and the Parties shall mutually agree upon an equitable adjustment to the PO Price and/or the Delivery Schedule, which shall be effective only upon a written amendment to the PO Documents.

10. Programme of Performance

Unless otherwise required by the Buyer, the Seller shall, within fifteen (15) days from the Effective Date, submit to the Buyer a detailed programme of performance of the Scope of Work by the Seller, presenting the sequence in which the Seller proposes to schedule, program and achieve completion of all obligations of the Seller under the PO Documents. The programme so submitted by the Seller shall be in accordance with the Delivery Schedule and other dates and periods specified in the Purchase Order. The Seller shall update and revise the programme as and when appropriate or when required by the Buyer and shall submit all such revisions to the Buyer. The Seller shall monitor progress of all the activities specified in the programme referred to in this Clause and submit a progress report to the Buyer on a daily, weekly and/or monthly basis, as may be required by the Buyer.

11. Drawings

11.1 Unless otherwise required by the Buyer, the Seller shall submit copies of the Drawings to the Buyer for approval within fourteen (14) days of the Effective Date (or within such other time period as may be specified by the Buyer). The Buyer shall, within fourteen (14) days of receipt of such Drawings, either return one copy thereof to the Seller along with its approval or notify the Seller in writing of its disapproval and provide comments. If the Buyer disapproves the Drawings, the Seller shall modify the Drawings as per the Buyer's comments and resubmit them for approval.

11.2 The Seller shall not deviate from any Drawings submitted in accordance with Clause 11.1, without the Buyer's approval in writing. In the event of any inconsistency, inaccuracy or ambiguity in the Drawings, or if, in the opinion of the Seller, any detail thereof requires modification, the Seller shall immediately obtain the Buyer's approval and further instructions in writing before proceeding with the modification in the Drawings, which the Seller shall perform in compliance with such instructions issued by the Buyer. Notwithstanding any consent or approval of the Buyer, the Seller shall be responsible for, and shall promptly correct, any discrepancies, errors or omissions in the Drawings, documents and other particulars supplied by the Seller. If the Seller neglects or refuses to make the required corrections, the Buyer may, without prejudice to any of its other rights under the PO Documents, and after giving notice to the Seller, proceed to make the correction by itself or through a third party, and shall be entitled to recover the cost thereof from the Seller.

12. Inspection

12.1 Unless otherwise required by the Buyer, the Seller shall carry out, at the place of manufacture, all such tests or inspections of the Goods or any part thereof as are required under the Specifications. These tests shall be performed at the Seller's expense and the Buyer shall be entitled to attend such tests or inspections. The Buyer may appoint a TPIA or authorize a representative to perform such inspection of the Goods and shall bear the charges payable to such TPIA. The Seller shall always allow such personnel

deputed by the Buyer to visit its or its Sub-Contractor's plant for inspection during the manufacturing process and at the time of dispatch during normal working hours. The Seller shall give fifteen (15) days' advance notice of the conduct of any test or inspection and of the place and time thereof to the Buyer. If the Goods or any part of the Goods fails to pass any test or inspection as may be specified in the Specifications, the Seller shall either rectify or replace such Goods or part thereof and shall repeat the test or inspection upon giving a notice to the Buyer, in accordance with this Clause. The cost of such re-inspection, including charges to be paid to the TPIA, shall be borne by the Seller and any delays in Delivery of Goods due to the same shall be to the Seller's account.

12.2 When all tests in respect of the Goods under the terms of the PO Documents have been successfully carried out and test reports have been approved by the Buyer, the Buyer shall issue the MDCC to the Seller. The Seller shall dispatch the Goods only after issuance of the MDCC by the Buyer. Any permission for dispatch of the Goods approved by the Buyer or the TPIA (as the case may be), including the issuance of MDCC, shall not relieve the Seller from its obligations and responsibilities under the PO Documents. For the avoidance of doubt, if tests are conducted in accordance with Clause 12.1, the Buyer may, pursuant to successful conduct of such tests, require the Seller to directly dispatch the Goods, thereby waiving the requirement of issuance of MDCC by the Buyer in accordance with this Clause 12.2.

12.3 The Seller shall submit 'Manufacturer's Test Certificates' and the MDCC along with the dispatch of respective Goods. The Seller shall also provide a scanned copy of the same to the Buyer by e-mail, for reference.

13. Packing, Forwarding and Transportation

13.1 The Seller shall, after proper painting of the Goods (as per the Specifications, if applicable), pack and crate such Goods in a manner suitable for air, water, rail or road transportation (as applicable) to a tropical, hot climatic region in accordance with internationally accepted logistics practices and in a manner that protects the Goods from damage and deterioration during such transportation and during storage at the Site till the time of erection.

13.2 All packing cases shall be non-returnable, unless specified otherwise in the Purchase Order. Additional markings such as 'Handle with Care', 'This Side Up' (to be indicated by arrow), 'Fragile' or any other additional indications for protection and safe handling of the Goods shall be appropriately made, depending on the type of Goods. If the Goods are packed in multiple cases, the Seller shall indicate progressive serial numbers for each such case.

13.3 The Seller shall prepare a detailed packing list of all packages, containers, bundles and materials forming each and every consignment dispatched to the Delivery Point. The Seller shall further be responsible for making all necessary arrangements for handling and transportation of the Goods up to the Delivery Point.

13.4 Unless otherwise specified in the Purchase Order the: (i) charges with respect to packing, forwarding and transportation of Goods are included in the Basic Price; and (ii) Goods shall be dispatched to the Delivery Point through a carrier or transporter acceptable to the Buyer as per the agreed Delivery Term. The Seller shall be liable for all losses or damages to the Goods due to breakage, damage or pilferage with respect to the Goods in transit or due to improper painting, packing or crating, and the same shall be borne by the Seller.

13.5 The Seller shall notify the Buyer of the date of each shipment from the port of embarkation or dispatch site and the expected date of arrival of such shipment at the Delivery Point. Unloading of Goods at the Site shall be arranged by the Buyer, unless otherwise mentioned in the Purchase Order. The Seller shall not arrange part-shipments and/or transhipment without the Buyer's approval in writing. The Seller shall be liable for all consequences (including financial loss) that the Buyer may incur due to the Seller's violation of such instructions.

13.6 The Seller shall be responsible for complying with the CGST Act and the CGST Rules and for generation of the applicable e-way bill in accordance with the provisions thereof, as well as any extension, amendment and cancellation thereof. The Buyer shall cooperate with the Seller with respect to provision of necessary information or documents, as requested by the Seller in this regard. The Seller shall ensure that the Buyer generates the e-way bill or furnishes the necessary information required for generating the e-way bill at any time prior to dispatch of the Goods, and shall further ensure that a copy of such bill is handed over to the Person responsible for dispatch and transportation of the Goods along with all relevant dispatch documents for submission at the Delivery Point along with the Goods. Any fine or

penalty incurred by the Buyer due to non-compliance of the CGST Act or the CGST Rules shall be borne by the Seller. In the event the Buyer is required to pay such fine or penalty, the same shall be recovered from the Seller at actuals.

13.7 The Seller shall take all precautions for Delivery of Goods that comprise of hazardous materials and chemicals, including: (a) complying with all applicable laws with respect to Delivery of such hazardous materials; (b) specifying the nature of hazard and recommended nature of handling such hazard on the 'Packing and Materials Safety Data Sheet', which shall be sent along with each consignment of Goods; and (c) ensuring that the transporter: (i) is aware of the hazardous properties of the chemicals; (ii) has undergone proper training to handle such materials; and (iii) possesses the relevant 'Transport Emergency Card'.

13.8 The Seller shall, if applicable to the Goods, weigh the Goods at the time of dispatch and indicate such weight of the Goods in the invoice issued by the Seller to the Buyer. Upon Delivery, the Buyer shall have the right to require weighment of such Goods on a per vehicle basis, at a weighbridge designated by the Buyer. If the weight of the Goods, as measured by the Buyer for each vehicle, is less than the weight notified by the Seller to the Buyer for such vehicle by a margin that is in excess of the tolerance limit of zero point five percent (0.5%) of the weight notified by the Seller for such Goods, the Seller shall issue a credit note in favour of the Buyer for an amount equivalent to the PO Price attributable to the difference in the weight of the Goods in excess of the permitted tolerance levels. For the avoidance of doubt, the Seller shall not be liable to provide credit notes if the margin in the weight between the weight of the Goods as notified by the Seller and the weight noted at the Buyer's weighbridge is within the allowed tolerance limit specified above.

14. Insurance

Unless otherwise specified in the Purchase Order, the Seller shall, at its own cost, arrange, secure and maintain a comprehensive transit insurance policy for transportation of the Goods, including spares, tools and tackles, for all risks including loading, handling, transportation up to and unloading at the Delivery Point for a value equivalent to one hundred and ten percent (110%) of the PO Price. The Seller shall (where required by the Buyer) designate the Buyer's lenders as the 'loss payees', in all the insurance policies procured by the Seller under the PO Documents. Unless otherwise specified in the Purchase Order, the Basic Price is inclusive of all charges pertaining to such insurance. The Seller shall be responsible for any damage or loss to the Goods, including spares, tools and tackles during loading, handling, transportation and unloading at the Delivery Point. In case of losses or damages, irrespective of whether the insurance claim is settled or not, the Seller shall promptly replace the lost or damaged Goods free of cost, and Deliver the same to the Delivery Point as per the Delivery Term.

15. Acceptance and Rejection

15.1 The Buyer shall be entitled to reject the Goods, which in its opinion, do not comply with the Specifications and/or fail to satisfy the Performance Guarantee(s). If the Buyer decides to reject the Goods in accordance with Clause 16.2(b), the Buyer's decision about such rejections shall be final and binding and the Seller shall not have the right to object to such rejection in any manner whatsoever. The Buyer shall have the right to return to the Seller any rejected Goods, at the Seller's cost and risk, and no payment shall be made by the Buyer for such rejected Goods. All packing, freight, Taxes, holding costs or any other cost of such rejected Goods shall be borne solely by the Seller. The Buyer reserves the right to reject the Goods if further Defects are noticed during assembly or processing, even if the Goods have been accepted and paid for by the Buyer in the first instance.

15.2 All rejected Goods shall be retrieved by the Seller within twenty (20) days of intimation of such rejection by the Buyer. If the Seller does not retrieve the Goods within forty five (45) days from the date of intimation of rejection by the Buyer to the Seller, the Buyer shall be entitled to dispose the rejected Goods.

15.3 The Seller shall deliver replacements to the rejected Goods at the Site within a time period mutually agreed between the Parties. Such replacement Goods shall be as per the terms of the PO Documents (including Specifications) and approved by the Buyer in writing.

16. Supervision by the Seller

16.1 The Seller shall, in addition to Delivery of the Goods, perform the activities set out in this Clause 16.1, as may be specified in the Purchase Order. The Seller hereby acknowledges that the erection, installation, mechanical completion, Commissioning and Performance Guarantee Tests (as may be applicable) of the Goods shall be carried out by the other contractors engaged by the Buyer. The Seller shall, if required by the Buyer, provide to the Buyer the procedures for conduct of such activities in respect of the Goods and shall further supervise, facilitate, co-ordinate and co-operate with the other contractors for ensuring that the erection, installation and mechanical completion of the Goods is correct, complete and in conformance with the technical requirements. The Seller shall, if required by the Buyer, attend, supervise and facilitate the conduct of the Commissioning and/or the Performance Guarantee Tests (as may be applicable).

16.2 *Performance Guarantee*

(a) The Seller guarantees that during Commissioning and/or the Performance Guarantee Tests (as may be applicable), the Goods and all parts thereof shall achieve the Performance Guarantee. If, the Performance Guarantee is not achieved (either in whole or in part) during Commissioning and/or the Performance Guarantee Tests (as may be applicable), the Seller shall, at the Buyer's option, either (i) make such changes, modifications and/or additions to the Goods (or any part thereof) that are necessary to achieve the Performance Guarantee at its cost and expense within a mutually agreed time, and repeat the Performance Guarantee Tests, if required by the Buyer; or (ii) pay Shortfall Liquidated Damages to the Buyer in respect of the failure to meet the minimum Performance Guarantee in accordance with Clause 17.2. Provided however that, in cases where separate Performance Guarantee Tests are being performed, the Shortfall Liquidated Damages shall be payable in accordance with the provisions of Clause 17.2.

(b) If, for any reason not attributable to the Buyer, even the minimum level of Performance Guarantee is not achieved, the Buyer has the right to reject such Goods without any liability whatsoever, in accordance with Clause 15. However, without prejudice to the Buyer's right to reject such Goods, the Buyer may, at its sole discretion, choose to accept Delivery of such Goods upon payment of Shortfall Liquidated Damages.

17. Liquidated Damages

17.1 If the Seller fails to complete Delivery as per the Delivery Schedule, the Buyer shall have the right to levy liquidated damages for such delay, in accordance with the terms specified in the PO Documents ("**Delay Liquidated Damages**").

17.2 If the Goods fail to achieve successful Commissioning or pass Performance Guarantee Tests (as may be applicable), the Buyer shall have the right to levy liquidated damages for such shortfall in performance, in accordance with the terms specified in the PO Documents ("**Shortfall Liquidated Damages**"). Unless otherwise specified in the Purchase Order, it is hereby clarified that in the event Performance Guarantee Tests are applicable for the Goods, the Shortfall Liquidated Damages shall be levied upon the Goods failing to successfully achieve such Performance Guarantee Tests, and not upon any instance of unsuccessful Commissioning of the Goods.

17.3 The combined maximum ceiling for the Delay Liquidated Damages and the Shortfall Liquidated Damages shall be as specified in the Purchase Order.

17.4 The Parties agree that the liquidated damages set out in the PO Documents are a genuine pre-estimate of the losses/damages that shall be suffered by the Buyer on account of any delay in completion of the Scope of Work and/or failure to achieve Commissioning and/or breach of the Performance Guarantee. The Parties further irrevocably agree that the liquidated damages prescribed herein: (i) shall be payable on demand without requiring any proof of actual loss/ damages caused by the Seller's breaches; and (ii) have been mutually determined after joint discussions and calculations.

17.5 The Parties agree that the GST applicable on liquidated damages payable by the Seller under this Clause 17 shall be to the Seller's account. The total amount of liquidated damages payable by the Seller in terms of the PO Documents shall be grossed up to take into account such liability of GST and the Buyer shall be entitled to raise invoice(s) upon the Seller in respect of the same. The Buyer may recover such liquidated damages (as grossed up) by: (i) deducting such liquidated damages from any amounts due or which may become due to the Seller; (ii) directing the Seller to pay such liquidated damages to the Buyer as a debt due and payable; or (iii) claiming such liquidated damages from available bank guarantees.

17.6 The payment of liquidated damages shall not relieve the Seller from its obligation to complete Delivery, nor from any other obligations and liabilities under the PO Documents, and shall not prejudice any other remedy that the Buyer may have in relation to the Seller's non-compliance with the PO Documents. Any correspondence or minutes of meetings and/or acceptance of delayed performance of the Scope of Work shall not be construed as a waiver of liquidated damages payable under the PO Documents.

18. Compliance with Applicable Laws and Site Regulations

18.1 The Seller shall, and ensure that its Sub-Contractors and their respective personnel shall, abide by all Applicable Laws relating to the manufacture, procurement and Delivery of Goods and performance of all obligations under the PO Documents. If the Seller is required to access the Site for the performance of its obligations under the PO Documents, the Seller shall comply with the specific rules and regulations (including safety regulations) as provided by the Buyer and to be observed during performance of the PO Documents at the Site. The Seller shall ensure that its Sub-Contractors, labourers and personnel also comply with the said rules and regulations. Such rules and regulations shall include rules in respect of security, safety of the Goods and people at the Site, gate control, sanitation, medical care and fire prevention. The Seller shall also strictly comply with standard safety norms, rules and regulations prevalent in the industry and the 'code of conduct' published on the Buyer's website while performing its obligations under the PO Documents.

18.2 The Seller shall be liable for any damage or injury to Persons or property of the Buyer or third parties caused as a result of acts or omissions of the Seller in the course of performing the Scope of Work and all other obligations under the PO Documents.

19. Compliance with Environmental, Social and Governance Requirements

19.1 The Seller shall, as a part of performing its obligations under the PO Documents, ensure responsible business management pertaining to environmental, social and governance ("**ESG**") related matters. In this regard, the Seller shall, and ensure that its Sub-Contractors and their respective personnel shall: (i) comply with policies, codes and guidelines, as may be notified by the Buyer to the Seller, pertaining to the ESG requirements and as may be required in terms of applicable laws; (ii) employ management systems for ESG risks and opportunities, and commit to continuous improvements thereof; (iii) ensure fair terms and conditions of employment for its Sub-Contractors, employees and personnel; (iv) take all necessary care of the personnel engaged in the Delivery of the Goods and undertake activities for their skill enhancement and welfare; (v) assess and mitigate the health, safety and environmental risks which may arise due to the performance of the Scope of Work; and (vi) focus on corporate responsibility and long term sustainability.

19.2 The Seller shall, and ensure that its Sub-Contractors and their respective personnel shall, abide by all environmental laws. The Seller shall take all necessary care that the Scope of Work is performed with the minimum possible impact on the environment and local community, and shall further take all precautions to avoid pollution or contamination of air, land or water arising out of the performance of the Scope of Work. The Seller shall ensure efficient management and disposal of hazardous materials and toxic emissions, in compliance with the Applicable Laws. The Seller shall preserve and protect all existing vegetation such as trees. Further, the Seller shall not remove or destroy such vegetation, unless such vegetation creates any hindrance with respect to the Delivery of the Goods.

19.3 Further, the Seller shall, and ensure that its Sub-Contractors shall, as part of its corporate responsibility, undertake to focus on: (i) the promotion of diversity, prosperity and sustainable development; (ii) enhancement of skills, empowerment of women, protection of human rights and development of local community; (iii) reduction of pollution, preservation of biodiversity and water resources, conservation of natural resources and energy and supporting efforts to combat climate change; (iv) develop and use environmental friendly technology and reduce negative impact on the environment; (v) creation and implementation of sustainable water use strategies; (vi) avoiding the usage of plastic (including any single use plastic items or non-biodegradable materials) and innovating new products to reduce carbon footprint; and (vii) establishing strong risk management and corporate governance mechanisms and build healthy stakeholder relationships.

19.4 In furtherance to the objectives and requirements stipulated in this Clause 19, the Seller represents, warrants and covenants that:

(a) equal employment opportunities and a work environment conducive to the growth and development are provided to the Seller's personnel;

(b) all personnel are employed on their own free will;

(c) the Seller's workforce does not comprise of any form of prohibited labour, including forced or bonded labour and child labour;

(d) the Seller's personnel are not subjected to any form of discrimination or harassment;

(e) there is no incidence of slavery and human trafficking of any form in any transactions entered into by the Seller;

(f) the Seller's personnel do not and shall not indulge in any activity which is prohibited under the applicable laws;

(g) regular meetings are conducted with the Seller's personnel by the supervisor of such personnel such that the personnel are provided with a fair and transparent forum to freely raise their problems and grievances;

(h) a formal grievance redressal mechanism is established by the Seller such that its personnel have free and fair access to the Seller's representative, for the personnel to raise their grievances, without any kind of prejudice or retaliation on account of raising such grievances; and

(i) the Buyer's whistle blower policy is complied with and if any of the Seller's personnel becomes aware of any wrongdoing or unethical activity being performed by the Buyer's personnel or other contractors, then such activity is promptly reported to the Buyer in accordance with such policy.

20. Title and Risk of Loss

20.1 Except as otherwise provided herein, all Goods furnished by the Seller hereunder shall become the property of the Buyer, on the earlier of the following:

(a) Goods or any part thereof are Delivered to the Buyer; or

(b) PO Price payable for the Goods is paid by the Buyer to the Seller.

20.2 Notwithstanding the foregoing, the Seller shall be responsible for and shall bear any and all risk of loss or damage to the Goods until Delivery thereof in accordance with the provisions of the PO Documents. Upon Delivery, risk of loss or damage shall pass to the Buyer, provided that any loss or damage to the Goods caused due to reasons attributable to the Seller shall be borne by the Seller.

20.3 For the avoidance of doubt, in the case of partial or staggered Delivery, title and risk in the Goods shall pass from the Seller to the Buyer in accordance with Clause 20.1 and 20.2 above in respect of such Goods which have been Delivered or paid for.

21. Defect Liability

21.1 The Seller warrants that the Goods or any part thereof shall be free from any Defects and Latent Defects. If any Defects are found in the Goods during the Defect Liability Period, the Seller shall, at its cost and expense and in consultation and agreement with the Buyer regarding appropriate remedying of the Defects, promptly repair, replace or otherwise make good such Defects, deficiencies or damages as may be notified by the Buyer on or before the expiry date of the Defect Liability Period for the Goods or any part thereof, including any other damage to the Goods caused by such Defects. The Seller shall complete the pending or punch list items (if any) in consultation with the Buyer, as the case may be, within thirty (30) days of the date of the Delivery or such other time period as may be specified by the Buyer. For the avoidance of the doubt, it is clarified that the determination of a Defect shall be at the sole discretion of the Buyer and the decision of the Buyer in this regard should be final and binding on the Seller. The Buyer's acceptance of the Goods, spares, tools and tackles shall in no way relieve the Seller of its obligations under this Clause.

21.2 The Buyer shall provide the Seller with necessary access to the Goods at the Site as required for performance of the Seller's obligations under this Clause. The Seller may, with the consent of the Buyer, remove from the Site the Goods or any part thereof that is Defective and/or damaged, if such repairs cannot be expeditiously carried out at the Site.

21.3 If the Seller fails to promptly commence remediation of such Defect(s), the Buyer may, following notice to the Seller, proceed to remedy the Defect(s), and any costs incurred by the Buyer in connection therewith shall be: (i) reimbursed by the Seller; (ii) deducted by the Buyer from any amounts due to the Seller; or (iii) claimed by the Buyer under the applicable bank guarantee(s).

21.4 If the repair, replacement or making good of any Goods that are Defective is of such a character that it may affect the efficiency of the Goods or any part thereof, the Buyer may require the Seller to immediately perform tests on the repaired or replaced part of such Goods, upon completion of such remedial work. If such repaired or replaced part fails the tests, the Seller shall carry out further repair, replacement or making good (as the case may be) until that part of the Goods passes such tests. The tests shall be mutually agreed upon by the Parties.

21.5 If the Goods or any part thereof cannot be used by reason of such Defect and/or making good of such Defect, the Defect Liability Period of the Goods or such part, as applicable, shall be extended by a period equal to the period during which the Goods or such part could be used by the Buyer because of any of the aforesaid reasons. In the event any Sub-Contractor provides a longer guarantee with respect to the Goods or any part thereof, the Seller shall extend the benefit of such longer guarantee to the Buyer.

21.6 At the end of the Defect Liability Period, the Seller's liability for Defects with respect to the Goods ceases, except in case of Latent Defects. The Seller shall make good such Latent Defects until the expiry of the Latent Defect Liability Period, in accordance with this Clause 21.

22. Fitment, Interchangeability Guarantee and Shelf-Life

22.1 All spares, components or parts procured under the PO Documents and which are required to be interchangeable with certain other parts or components, shall strictly conform to the Specifications and be identical to its corresponding main part or component and be fully interchangeable (in respect of dimensions and/or functionality, as applicable). The Seller shall, on Delivery, submit to the Buyer a certificate guaranteeing the fitment-cum-interchangeability of such spares, components or parts.

22.2 The Seller warrants that the minimum residual shelf-life of all Goods, spares, components or parts supplied under the PO Documents shall, at the time of Delivery, be at least seventy five percent (75 %) of the standard shelf-life of such Goods.

23. Representations and Warranties

23.1 The Seller hereby represents and warrants to the Buyer that:

(a) it is duly organized, validly existing, and in good standing under the laws of the country or state in which it is organized or incorporated;

(b) it is duly qualified to do business in all jurisdictions and owns or possesses all applicable permits that are necessary to operate its business as is currently being conducted, perform its obligations under the PO Documents and that the copies of such applicable permits have been delivered to the Buyer;

(c) the execution, delivery and performance of the PO Documents by the Seller and the consummation of the transactions contemplated thereby do not and shall not contravene the certificate of incorporation or by-laws of the Seller and do not and shall not conflict with or result in: (i) a breach of or default under any indenture, agreement, judgment, decree, order or ruling of any court, government authority or regulatory body to which the Seller is a party or by which any of its assets are bound that would have a material adverse effect on the Seller's ability to perform its obligations under the PO Documents; or (ii) a breach of any applicable laws;

(d) the PO Documents constitute legal, valid and binding obligations of the Seller, which are enforceable against it in accordance with the terms of the PO Documents;

(e) it is the owner, valid licensee or authorized user of all Intellectual Property Rights and any other tools or equipment which shall be used for or is incident to the design, manufacture, Delivery and the performance of the Scope of Work and that the Buyer's proposed use (as contemplated by the PO Documents) of the Goods and all other property provided by the Seller under the PO Documents, do not and shall not infringe or misappropriate the Intellectual Property Rights of any Person;

(f) the Scope of Work shall be performed with professionalism, promptness, diligence, in a skilled and workmanlike manner, in accordance with Good Industry Practice and the terms of the PO Documents;

(g) there are no legal, arbitration proceedings or any other proceedings by or before any government authority, now pending or threatened against it, its Affiliate or any Sub-Contractor which, if adversely determined, could be expected to have adverse effects on the financial conditions, options, prospects or business of the Seller or the Seller's ability to perform its obligations under the PO Documents;

(h) it has the requisite expertise, skill, knowledge, experience, manpower and adequate infrastructure (with capacity and ability to augment all of these as may be necessary) to successfully perform the Scope of Work in accordance with the terms of the PO Documents;

(i) it has examined all aspects of the PO Documents (including other terms and conditions of the PO Documents) and the Scope of Work and has satisfied itself fully as to the sufficiency of consideration for performance and completion of all of its obligations under the PO Documents;

(j) all Goods shall be free of Defects and deficiencies (including Latent Defects);

(k) it is fully aware of and shall comply with all applicable laws during the performance of the Scope of Work;

(l) the Scope of Work performed hereunder shall be executed in a timely manner with due care and diligence and the Goods shall be fit for the purposes and uses intended and capable of operation in the manner contemplated hereby and in accordance with the PO Documents;

(m) the Goods shall be free and clear of any and all claims and encumbrances;

(n) the Sub-Contractor of the Seller does not have any right of seller's lien against the Goods supplied by the Seller;

(o) neither the Seller nor any of its Affiliates or Sub-Contractors, and to the best of its knowledge, none of its or its Affiliates' or Sub-Contractors' respective employees, officers, directors, representatives, or agents, has made, offered to make or agreed to make any loan, gift, donation, commission, kick-back, bribe or other payment or facility, directly or indirectly, whether in cash or in kind, to or for: (i) any government official, employee, representative or agent; (ii) any employee, officer, director, representative or agent of the Buyer or its Affiliates; or (iii) any other Person, with respect to the negotiation, execution or performance of the PO Documents; and

(p) no representation or warranty made by it, as contained herein or in any other document furnished by it to the Buyer or to any government authority in relation to applicable permits in relation to the PO Documents, contains or shall contain any untrue statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading.

23.2 The Buyer represents and warrants to the Seller that:

(a) it is a corporation duly organized, validly existing, and in good standing under the laws of India;

(b) it has full corporate power and authority to execute, deliver and to perform its obligations under the PO Documents, and that the execution, delivery and performance of the PO Documents by the Buyer have been duly authorized by all necessary corporate action on the part of the Buyer; and

(c) the execution, delivery and performance of the PO Documents by it and the consummation of the transactions contemplated thereby do not and shall not: (i) contravene the Buyer's certificate of incorporation, its constituent documents or by-laws; (ii) conflict with or result in a breach of or default under any license, indenture or agreement to which the Buyer is a party that would materially and adversely affect the Buyer's ability to perform its obligations under the PO Documents; or (iii) breach any applicable laws, judgment, decree, order or ruling of any court, government authority, regulatory body to which the Buyer is a party or by which any of its assets are bound.

24. Seller's Liability for Failure to Perform

In the event the Seller is in breach of its obligations under the PO Documents, which results in delay in the Delivery Schedule or hindrance in performance of the Scope of Work, the Buyer shall, without

prejudice to any of its other rights under applicable law or the PO Documents, be entitled to procure goods similar to the Goods from any other seller, and the Seller shall, in addition to the payment of liquidated damages, be liable to reimburse to the Buyer any additional costs, including any overheads, incurred for the procurement of such goods.

25. Intellectual Property Rights

25.1 In performing the Scope of Work, the Seller shall not incorporate into the Goods or any part of the Scope of Work or use in connection with the provision of the Goods, any materials, components, designs and Drawings, methods, processes or systems that involve the use of any Confidential Information, or Intellectual Property Rights that the Seller does not have the right to use or incorporate or which may result in claims or suits against the Buyer, the Seller or any Sub-Contractor, arising out of claims of infringement of any proprietary rights, Intellectual Property Rights of a third party or any licensing agreements thereof.

25.2 The title to all the designs, Drawings, documentation, inventions and discoveries made by the Seller in the course of performing its obligations under the PO Documents shall, at all times, reside with the Buyer. Notwithstanding any proprietary legends or copyright notices to the contrary, the Buyer shall be entitled to copy or reproduce documents and information furnished by the Seller with respect to the PO Documents and distribute such copies or reproductions to others for the purposes of the Goods and/or the PO Documents. The Seller shall be responsible for obtaining necessary permissions and releases from any third parties placing proprietary rights or copyrights on such documents or information.

25.3 The Seller shall defend, indemnify and hold harmless the Buyer, the Buyer's representatives, employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of whatsoever nature, which the Buyer or its representatives, employees and officers may suffer as a result of any infringement or alleged infringement of Intellectual Property Rights, which the Seller is not licensed to use, or any claims, suits or proceedings by a third party, whether rightful or otherwise, alleging that a proprietary right or copyright has been infringed by any use, copying, reproduction or distribution by the Buyer.

26. Indemnity

26.1 The Seller shall defend, indemnify and hold the Buyer harmless from and against any and all losses arising directly or indirectly from or incurred by reason of:

(a) the acts or omissions of the Seller, its Affiliates, Sub-Contractors or any of their respective personnel during the performance of the Seller's obligations under the PO Documents, including any such losses arising from injury to or death of any Person or damage to or loss of property;

(b) hazardous materials introduced to the Site or any other location by the Seller, its Affiliates, Sub-Contractors or their respective personnel in the performance of the Scope of Work;

(c) non-compliance with applicable laws by the Seller, its Affiliates, Sub-Contractors or their respective personnel; and

(d) any breach of representations or warranties given by the Seller, its Affiliates, Sub-Contractors or their respective personnel under or in relation to the PO Documents.

26.2 The obligation to indemnify stipulated in this Clause is a continuing, separate and independent obligation of the Seller and shall not be limited or reduced by any insurance, except to the extent that the proceeds of any such insurance are capable of being applied towards reduction of claims made against the Buyer.

27. Limitation of Liability

27.1 The aggregate liability of either Party, arising out of or in connection with the Scope of Work or the PO Documents, shall not exceed one hundred percent (100%) of the PO Price, provided that no such limit shall apply in respect of the Seller's liability for:

(a) losses resulting from any fraud, wilful misconduct or illegal or unlawful acts or omissions of the Seller or any Sub-Contractor or any of their respective personnel;

(b) liquidated damages payable by the Seller under the PO Documents;

(c) costs and expenses incurred with respect to rectification of any Defect or Latent Defect; and

(d) liability pursuant to the breach of the Seller's indemnity obligations under the PO Documents.

27.2 Neither Party shall be liable to the other Party for any loss of use, loss of production or loss of profits or any other indirect or consequential damage, whether foreseeable or not, that may be suffered by the other Party.

28. Change in Law

28.1 The Seller shall, on or following the occurrence of a Change in Law, give notice of such Change in Law to the Buyer in accordance with the provisions of this Clause as soon as may be reasonably practicable. The notice served pursuant to this Clause shall provide, *inter alia*, details of the Change in Law and the effect thereof on the PO Documents. If the Buyer accepts the Change in Law proposed by the Seller, the PO Price shall be correspondingly increased or decreased, and/or the Delivery Schedule shall be adjusted to the extent that the Seller has been affected in the performance of any of its obligations under the PO Documents.

28.2 If due to such Change in Law, the Seller is entitled for any additional amounts, the same shall be paid to the Seller only against a claim supported by documentary evidence, to the satisfaction of the Buyer. If due to such Change in Law, the Buyer is entitled to recover any amount, the same shall be recovered from the Seller as a debt due and payable by the Seller to the Buyer.

29. Force Majeure

29.1 "**Force Majeure**" shall mean any event or circumstance or combination of events or circumstances in India which: (i) is beyond the reasonable control of the affected Party; (ii) the affected Party could not reasonably have anticipated or provided for before entering into the PO Documents; (iii) could not have been prevented by Good Industry Practice; (iv) is not suffered by a Sub-Contractor; (v) is unavoidable notwithstanding the reasonable care of the Party affected; and (vi) has not resulted from the negligence of the affected Party or the failure of such Party to perform its obligations under the PO Documents and which, or any consequence of which, has a direct, material and adverse effect upon the performance by the affected Party of its relevant obligations under the PO Documents and shall be restricted to the following events:

(a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, terrorism and civil war; or

(b) earthquake, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or nuclear or other natural disaster, epidemic, pandemic or lock downs imposed by government authorities.

29.2 Notwithstanding the foregoing, an event of Force Majeure shall not include:

(a) any Site condition or event arising therefrom;

(b) the occurrence of any manpower, material or equipment shortage;

(c) inability to procure funding by the Seller;

(d) any increase in cost, prices, rates, wages, commissions, fees, duties or other levies;

(e) any hindrance created by any third party in respect of any access right or right of use in respect of the Site;

(f) inability of a Party to pay any amounts due pursuant to the PO Documents;

(g) conditions caused by the negligence or wrongful acts of the affected Party;

(h) a breach of any provision of the PO Documents or any default or failure by a third party in any agreement entered into by the affected Party with such third party;

(i) any delay, default or failure (direct or indirect) in obtaining materials, equipment or performing services by any Sub-Contractor, any workers or agents thereof, performing the Scope of Work or any part thereof; or

(j) disruption of access to the Site due to road conditions.

29.3 If either Party is prevented, hindered or delayed from or in performing any of its obligations under the PO Documents by an event of Force Majeure, then it shall notify the other in writing of the occurrence of

such event and the circumstances thereof immediately following the date of commencement of any event of Force Majeure and in any event within seven (7) days of the occurrence of such event. Such notice shall be a pre-condition to an affected Party claiming relief for an event of Force Majeure and, if such notice has not been provided, the affected Party shall be precluded from claiming any loss pursuant to an event of Force Majeure.

29.4 The Party giving such notice shall be excused from the performance of its obligations under the PO Documents for so long as the relevant event of Force Majeure continues, and to the extent that such Party's performance is prevented, hindered or delayed. The Delivery Schedule shall be extended for the time period during which such event of Force Majeure exists and in such case both Parties shall mutually discuss and arrive at the further course of action for the performance of their respective obligations. The Party invoking such event of Force Majeure as a cause for such delay shall promptly submit to the other Party proof of the nature of such delay and its effect upon the time for performance of its obligations.

29.5 Delay or non-performance by either Party hereto caused by the occurrence of any event of Force Majeure shall not constitute a default or breach of the PO Documents or give rise to any claim for damages or additional cost or expense. However, the affected Party shall mitigate the effect thereof upon its performance of the PO Documents and to fulfil its obligations under the PO Documents, including recourse to alternate acceptable sources of the Goods and other equipment, but without prejudice to either Party's right to terminate the PO Documents under Clause 31.

29.6 If the performance of the PO Documents is substantially prevented, hindered or delayed for either a period of more than one hundred and twenty (120) consecutive days or an aggregate period of more than fifty percent (50%) of the total Delivery Schedule, on account of one or more events of Force Majeure during the currency of the PO Documents, the Parties shall attempt to develop a mutually satisfactory solution, failing which the Buyer may terminate the PO Documents by giving a notice to the Seller. In the event of termination pursuant to this Clause, the rights and obligations of the Buyer and the Seller shall be as set out in Clause 31.2.

30. Suspension

30.1 The Buyer may, by issuing a notice to the Seller, order the Seller to suspend performance of any or all of its obligations under the PO Documents. Such notice shall specify the obligation of which performance is to be suspended, the date of suspension and the reasons thereof. The Seller shall forthwith:

(a) suspend performance of such obligation (except those obligations necessary for the care or preservation of the Goods), until ordered in writing to resume such performance by the Buyer;

(b) place no further subcontracts or orders for goods, supplies, services, work or facilities in respect of the Scope of Work, except to the extent expressly requested by the Buyer; and

(c) unless otherwise directed by the Buyer, use all endeavours to suspend on the most favourable terms available to the Seller all orders, contracts, subcontracts and agreements to the extent affected by such suspension and otherwise minimise any additional costs associated with such suspension.

30.2 The Buyer shall issue orders for suspension or reinstatement of the PO Documents to the Seller in writing, as may be required. In the event of any suspension, the Delivery Schedule shall be extended suitably by the Buyer, which in any case shall not be more than for a period equal to the duration of suspension.

30.3 During a suspension, the Seller shall not be entitled to payment of the PO Price which would have otherwise been ordinarily payable during the relevant period of such suspension, except for such part of the Scope of Work which has been completed prior to the date of suspension specified in the notice of suspension. Upon resumption by the Seller of all activities affected by a suspension, the Buyer shall resume payments of the PO Price with the payment dates adjusted to reflect the period during which scheduled payments were not made.

30.4 The Buyer shall reimburse the Seller any necessary, reasonable, proper, verified and demonstrable costs incurred as a direct result of such suspension of the Scope of Work, provided such costs are substantiated to the Buyer's satisfaction. The Buyer shall not be responsible for any costs and liabilities, if suspension or delay is due to default by the Seller or its Sub-Contractors.

31. Termination

31.1 *Termination for the Seller's Default*

(a) The Buyer may, without prejudice to any other rights or remedies it may possess, terminate the PO Documents forthwith and with no compensation, by giving a notice of termination, if the Seller:

(i) becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Seller is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Seller takes or suffers any other analogous action in consequence of debt;

(ii) assigns or transfers the PO Documents or any right or interest therein, except as provided under the PO Documents;

(iii) in the judgment of the Buyer, has engaged in corrupt or fraudulent practices in competing for or in execution of the PO Documents; or

(iv) delays performance of any obligation under the PO Documents, resulting in the maximum ceiling of the liquidated damages as stipulated in the PO Documents being reached.

(b) The Buyer may, without prejudice to any other rights or remedies it may possess, terminate the PO Documents by giving the Seller a termination notice of fifteen (15) days, with no compensation to the Seller, if the Seller:

(i) abandons or repudiates the PO Documents;

(ii) fails to commence work on the Scope of Work promptly or has suspended the progress of performance of its obligations under the PO Documents for more than thirty (30) days after receiving a written instruction from the Buyer to proceed;

(iii) fails to execute the PO Documents in accordance with the terms and conditions therein, or neglects to carry out its obligations under the PO Documents; or

(iv) refuses or is unable to provide sufficient materials, services or labour to execute and complete the manufacture and supply of the Goods in a manner specified in the programme furnished under Clause 10 at such rates of progress that give assurance to the Buyer that the Seller can complete Delivery in accordance with the Delivery Schedule,

and the Seller fails to remedy, or to take steps to remedy, such default within fourteen (14) days of its receipt of a notice from the Buyer requiring the Seller to cure such default.

(c) *Termination for Cross Default*

The Seller agrees and acknowledges that the Seller and/or its Affiliates have been awarded separate purchase orders and/or service orders in addition to this Purchase Order. The division of the scope of work under the respective orders that are awarded to the Seller and/or its Affiliates, shall not be construed to limit their respective liabilities or responsibilities thereunder. The Seller further agrees that, in the event of any breach or default by the Seller and/or its Affiliates under any such order awarded to it, which would either result in a termination of or give rise to a termination right under such order, such breach or default shall be construed to be a breach or default under the PO Documents and the Buyer shall, without prejudice to any other rights or remedies as it may possess, have the right to terminate all the orders in accordance with the provisions of termination contained under such other orders, at the risk and cost of the Seller, by giving a notice of termination to the Seller.

(d) Upon receipt of the notice of termination under Clause 31.1(a), Clause 31.1(b) or Clause 31.1(c), as the case may be, the Seller shall, either immediately or upon such date as is specified in the notice of termination:

(i) cease all further work, except for such work as the Buyer may specify in the notice of termination for the sole purpose of protecting that part of the manufacture and supply of the Goods already executed;

(ii) Deliver to the Buyer the Goods (or parts thereof) manufactured by the Seller up to the date of termination;

(iii) terminate all sub-contracts, except those to be assigned to the Buyer;

(iv) to the extent legally possible, assign to the Buyer all rights, titles and benefits of the Seller to the Goods as on the date of termination and, as may be required by the Buyer, in any sub-contracts concluded between the Seller and its Sub-Contractors; and

(v) deliver to the Buyer all Drawings, Specifications and all documents prepared in connection with the Scope of Work by the Seller or its Sub-Contractor, as on the date of termination.

(e) Upon such termination in terms of Clause 31.1, the Buyer may complete the Scope of Work for the manufacture and supply of Goods by itself or by employing any third parties.

(f) Subject to Clause 31.1(g) below, the Seller shall be paid the PO Price attributable to the Goods (or part thereof) as executed by the Seller and accepted by the Buyer, as on the date of termination. If the Buyer instructs the Seller to provide for safekeeping of any Goods, any reasonable costs incurred by the Seller with respect to protection of the Goods shall be paid by the Buyer to the Seller. Any sums due to the Buyer from the Seller and accruing prior to the date of termination shall be deducted from any amounts to be paid to the Seller under the PO Documents.

(g) Pursuant to termination of the PO Documents in accordance with Clause 31.1, if the Buyer completes the Scope of Work (or any part thereof) under the PO Documents, the cost of completing such Scope of Work by the Buyer shall be determined, as under:

(i) if the sum that the Seller is to be paid, pursuant to Clause 31.1(f), plus the reasonable costs incurred by the Buyer in completing the manufacture and supply of the Goods, exceeds the PO Price, the Seller shall be liable to pay to the Buyer such excess amounts incurred by the Buyer;

(ii) if such excess is greater than the sums due to the Seller under Clause 31.1(f), the Seller shall pay the balance to the Buyer; and

(iii) for termination due to the defaults by the Seller, the Buyer reserves the right to get the balance work done by other agencies at the risk and cost of the Seller.

31.2 *Termination for the Buyer's Convenience*

(a) The Buyer may, at any time, terminate the PO Documents for any reason whatsoever, by giving the Seller a ten (10) days' notice of termination.

(b) Upon receipt of the notice of termination under Clause 31.2(a), the Seller shall take all measures as specified in Clause 31.1(d).

(c) In the event of termination of the PO Documents under Clause 31.2(a), the Buyer shall pay the following amounts to the Seller:

(i) the PO Price, properly attributable to the manufacture and supply of the Goods executed by the Seller and accepted by the Buyer, as on the date of termination; and

(ii) the reasonable cost of termination of sub-contracts between the Seller and its Sub-Contractors, subject to the Seller submitting documentary evidence of such termination to the Buyer's satisfaction.

31.3 In this Clause 31, in calculating any amounts due from the Buyer to the Seller, any sum previously paid by the Buyer to the Seller under the PO Documents, including any advance payment paid pursuant to the terms of payment under the PO Documents shall be taken into account.

32. Governing Laws

The PO Documents shall be governed by and interpreted in accordance with the laws of the Republic of India.

33. Settlement of Disputes

33.1 If any dispute whatsoever arises between the Buyer and the Seller in connection with or arising out of the PO Documents, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, termination or the execution of the Scope of Work, whether during the progress of the Scope of Work or after Delivery of the Goods and whether before or after the termination, abandonment or breach of the PO Documents, the Parties shall seek to resolve any such dispute by referring the matter to an authorized representative of the Buyer. Such representative shall provide his

decisions within thirty (30) days of the referral of such dispute. Either Party, if not in agreement with such representative's decision, may proceed to resolve such dispute in accordance with Clause 33.2, within thirty (30) days of such decision.

33.2 All disputes arising hereunder and remaining unresolved in terms of Clause 33.1, shall be referred to the courts at Ahmedabad, Gujarat, India and such courts shall have exclusive jurisdiction on all matters arising out of or relating to the PO Documents.

33.3 Notwithstanding reference of any dispute to the Buyer's representative or to the courts, the Parties shall continue to perform their respective obligations under the PO Documents, unless otherwise agreed by the Parties in writing. Further, each Party agrees to pay to the other Party, all such undisputed amounts due under the PO Documents, provided that such amounts due are not a subject matter of such dispute.

33.4 Notwithstanding anything to the contrary contained herein but subject to Clause 33.2, the Seller acknowledges that damages may not be an adequate remedy for a breach of the PO Documents and that the Buyer shall have a right to seek injunctive relief or specific performance, as a remedy for any actual or threatened breach. The Seller agrees to the Buyer seeking grant of injunctive relief to restrain any conduct or threatened conduct which is or shall be in breach of the PO Documents or specific performance to compel the Seller to perform its obligations under the PO Documents, as a remedy for any actual or threatened breach which shall be in addition to any other remedies available to the Buyer.

34. Assignment

34.1 The Buyer shall be entitled to assign the whole or any part of the PO Documents or any benefit or interest herein without the Seller's consent. The Seller particularly consents to the grant and creation by the Buyer of a security interest in and assignment of the PO Documents and any and all of the Buyer's rights, titles and interests in and under the PO Documents in favour of any lender, security agent or trustee. In furtherance of and to give effect to such security interest and assignment, the Seller agrees to enter into such contracts, direct agreements, consents and deliver such legal opinions as are reasonably customary and as may be required by any of the lenders or their representatives.

34.2 The Seller shall not be entitled to assign or subcontract any part of the PO Documents or any benefit or interest in or under the PO Documents, without the prior written approval of the Buyer.

34.3 The Seller shall be responsible for all acts, omissions and defaults of any Sub-Contractor, as if such acts, omissions and defaults were committed by the Seller and any assignment or subcontracting shall not relieve the Seller of any of its responsibilities under the PO Documents or at law.

35. Confidentiality

35.1 All information including, without limitation, oral and written information, disclosed by the Buyer, the Buyer's representative (including any experts appointed by the Buyer) or Buyer's personnel ("**Disclosing Party**") to the Seller or any Person acting for and on behalf of the Seller ("**Receiving Party**") is deemed to be confidential, restricted and proprietary to the Disclosing Party ("**Confidential Information**").

35.2 Except as specified in the PO Documents, the Confidential Information supplied is not to be reproduced in any form except as required to accomplish the intent of, and in accordance with the terms and conditions of the PO Documents. The Receiving Party shall provide the same care as it provides to protect its own similar proprietary confidential information to avoid disclosure or unauthorized use of the Confidential Information. All Confidential Information shall be retained by the Receiving Party in a secure place with access limited to only such of the Receiving Party's personnel, employees or agents who need to know such Confidential Information for the purposes of completing the Scope of Work, performance of obligations under the PO Documents and to such third parties as the Disclosing Party has consented to by prior written approval. Unless otherwise specified in writing, all Confidential Information, including all copies thereof: (a) remains the property of the Disclosing Party; (b) shall be used by the Receiving Party only for the purpose for which it was intended; and (c) shall be returned to the Disclosing Party or destroyed after the Receiving Party's need for it has expired or upon request of the Disclosing Party, and, in any event, upon expiration or termination of the PO Documents. At the request of the Disclosing Party, the Receiving Party shall furnish a certificate certifying that any Confidential Information not returned to Disclosing Party has been destroyed. For the purposes hereof, Confidential Information does not include information that:

(a) is already published or otherwise available in public domain before it was communicated to the Receiving Party without any fault or negligence of the Receiving Party;

(b) prior to disclosure, was already in the Receiving Party's legitimate possession without having been obtained directly or indirectly from the Disclosing Party;

(c) is lawfully obtained from an independent source that had neither direct nor indirect obligation of confidentiality towards the Disclosing Party;

(d) is independently developed by the Receiving Party, by itself or through parties who have not had, either directly or indirectly, access to or knowledge of such information; or

(e) is obligated to be produced under order of a court of competent jurisdiction or other similar requirement of a government authority, provided that the Receiving Party provides the Disclosing Party with prior notice of such order or requirement for disclosure of such information.

35.3 The Seller shall, and ensure that its personnel shall, comply with the applicable laws prohibiting insider trading and shall not, at any point in time, use the Confidential Information for the purposes of trading in the securities market, either by itself or through others.

35.4 Any document other than the PO Documents itself that contains Confidential Information, shall remain the Buyer's property and all copies thereof shall be returned to the Buyer upon completion of the Scope of Work.

36. Adjustments

36.1 The Seller agrees that the Buyer shall have a right to set-off payments due and payable to the Seller against payments due and receivable from the Seller in terms of the PO Documents. If the Buyer is unable to adjust or set-off any payments due and receivable from the Seller, the Buyer shall have the right to raise a credit note on the Seller to claim any reimbursements that may be due from the Seller.

36.2 It is agreed between the Parties that all payments by the Seller in respect of any payment obligations of the Seller in terms of the PO Documents shall be made without any deductions or set-off. If the Seller is prevented by applicable law or otherwise from making, or causing to be made, such payments without deduction, the Seller shall gross-up such payments by such amounts as may be necessary for the Buyer to receive the full payments it would be entitled to receive, had such payments been made without such deduction.

37. Anti-Bribery and Anti-Corruption

The Seller covenants that neither the Seller nor any of its Affiliates, Sub-Contractors, employees, agents or representatives shall make, offer or agree to give any bribe, commission, gift or inducement to: (i) any government official; (ii) any officer, employee, agent or representative of the Buyer or its Affiliates; or (iii) any other Person, in relation to the obtaining or execution of the PO Documents or performance of obligations hereunder. Such an act by the Seller or any of its Affiliates, Sub-Contractors, employees or representatives shall, in addition to any criminal liability which the Seller may be subject to under applicable law, provide a right to the Buyer to terminate: (i) the PO Documents in accordance with Clause 31.1(a); and/or (ii) any other contract that may have been entered into between the Parties. The Seller shall also be liable for payment of any loss or damages suffered by the Buyer due to any such termination, which the Buyer may, at its option, deduct and/or set off from the amounts otherwise due to the Seller under the PO Documents or any other contract or recover from the Seller as a debt due and payable. Any dispute as to the breach by the Seller of its obligations under this Clause shall be determined by the Buyer in such manner and on such evidence or information as available to the Buyer, and the Buyer's decision in this regard shall be final and conclusive.

38. Amendment

No modification of the terms of the PO Documents shall be effective unless it is in writing, is dated, expressly refers to the PO Documents and is agreed to and signed by duly authorised representatives of the Parties.

39. Constitution

The Seller shall not alter, modify or change its constitution, without the Buyer's prior written approval.

40. Language of Communication

All documents, writing and notices pertaining to and submitted in terms of the PO Documents and provided by one Party to the other shall be in the English language. If any writing or document, including any document issued or certified by any Person, is not in English, then it shall be translated into English and notarised, by the Party in possession of such writing and the English version of such writing shall govern and prevail.

41. Severability

If any provision or condition of the PO Documents is prohibited, rendered invalid or becomes unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the PO Documents.

42. Independent Contractor

The Parties acknowledge and accept that the Seller shall act and perform its obligations under the PO Documents as an independent contractor and that the Seller shall not be regarded as an employee, agent or partner of the Buyer. The Seller shall not have any power or authority to enter into any contract, agreement or arrangement for or on behalf of the Buyer.

43. Waiver

Any waiver of a Party's rights, powers or remedies under the PO Documents shall be in writing, dated and signed by such Party or its authorized representative granting such waiver. A Party granting such waiver shall specify the right and the extent to which it is being waived.

44. Survival

Notwithstanding anything to the contrary in the PO Documents, the termination, cancellation or expiration of the PO Documents for any reason shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party, prior to the effectiveness of such termination, cancellation or expiration, as the case may be. The provisions of Clause 14 (*Insurance*), Clause 17 (*Liquidated Damages*), Clause 21 (*Defect Liability*), Clause 23 (*Representations and Warranties*), Clause 25 (*Intellectual Property Rights*), Clause 26 (*Indemnity*), Clause 27 (*Limitation of Liability*), Clause 31 (*Termination*), Clause 32 (*Governing Laws*), Clause 33 (*Settlement of Disputes*), Clause 35 (*Confidentiality*) and Clause 44 (*Survival*) shall survive termination, cancellation or expiration of the PO Documents, in addition to any other provisions that by their content are intended to survive the performance, termination, expiration or cancellation of the PO Documents.

45. Entire Agreement

The PO Documents constitute the entire agreement between the Parties with respect to the Scope of Work set out thereunder and supersedes all prior agreements, understandings, negotiations, letters of intent/award and correspondence, whether oral or written, between the Parties, with respect to the Scope of Work.