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1. DEFINITIONS: As used in these terms and conditions:


- a) 'Order' means the Purchase Order and all attachments, exhibits and documents referenced therein and all terms and conditions thereof, together with any subsequent modifications thereto.
- b) 'Materials' means any materials, machinery, equipment, article, Item, services or work provided for in the Order.
- c) 'Vendor' means the person, firm, company or corporation to whom the Order is issued.
- d) 'Purchaser' means the Client for whom the Material is purchased.
- e) 'Force majeure' means war, (whether declared or not), invasion by foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot, fire, flood or any other operation of the forces of nature as reasonable foresight and ability by the party affected could not foresee or reasonably provide against, if and to the extent the performance of the Order is affected hereby.

2. ACCEPTANCE OF PURCHASE ORDERS:

The Order is conditioned on Vendor's acceptance of all terms and conditions thereof, Vendor shall be deemed to have accepted and be bound by the Order when he commences work on and/or delivers any of the Materials ordered or performs any of the services referred to therein or receives any payment there under or within one week from the date of the Order whichever is earlier. The Vendor agrees that these Standard Terms and Conditions apply and govern to the exclusion of all others. In the event of any contradiction within the Order documents, the Purchase Order shall prevail. Instruction and variations to the Order must be confirmed in writing by the Purchaser's authorized representative without which payment may be withheld.

3. MODIFICATIONS, REVIEW AND INSPECTION:


Purchaser shall have the right to modify the Order. No such modification shall affect any of the provisions of the Order unless Vendor notifies the Purchaser in writing of any proposed change within two (2) weeks of the insurance of such modification. No agreement or understanding to modify the Order shall be binding on the Purchaser

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unless confirmed in writing and signed by the Purchaser. Unless specifically stated in writing by an authorized representative of Purchaser. Purchaser's review and comments to Vendor's drawings or specifications, inspection of the materials during or after manufacture or at the time of delivery, approval or acceptance, or failure to so act, or payment for the materials shall in no way constitute a waiver or release by Purchaser of Vendor's guarantees and liabilities set out elsewhere herein.

4 DELIVERY PERIOD:

- 4.1 The time(s) of delivery specified in the Order is (are) of the essence of the Order. If at any time it appears that the Materials will not be delivered in accordance with the specified times of delivery as given in the Order, the Vendor shall forthwith notify the Purchaser in writing indicating the cause of delay, best delivery date(s) possible, and plan of action to correct the situation. The Purchaser may, in such case if it deems necessary and without prejudice to any other rights which it may have, cancel the Order and make such other arrangements as the Purchaser may consider necessary or desirable in the circumstances.
- 4.2 Exception may be made if late delivery is an immediate result of Force Majeure. (provided that such circumstance has been communicated by Vendor to Purchaser and Purchaser's Engineer by written advice within 5 days of the event) or as a result of delays caused by the Purchaser and/or Purchaser's Engineer and acknowledged as such by these parties. In order for a Force Majeure situation to be considered by Purchaser, any such advice must be accompanied by supporting documentation acceptable to Purchaser. In the event that delay is due to Force Majeure, then the parties shall agree upon an appropriate course of action, including, where the Order is canceled pursuant to the Purchaser's option as aforesaid, an equitable payment to the Vendor for work performed prior to the date of cancellation.
- 4.3 In the event the delay in delivery is not due to force Majeure, then the Purchaser will be entitled to deduct liquidated damages @ 1% per week of delay up to a maximum, of 10% of the order value. This, of course, does not preclude, the other rights of the Purchaser under the order.

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4.4 In the event the Purchaser has deducted the maximum amount of liquidated damages, then the Purchaser will have the right to cancel the order and procure the undelivered portion of the Order from any other party and in such an event the Purchaser Incurs any loss, the same will be borne by the Vendor. This also, of course, does not preclude, the other rights of the Purchaser under the order. The supplier shall have to furnish Bank Guarantee for the 10% order value within 10 days from issue of the purchase order as Performance Bond for the delivery.

5. TERMINATION AND WAIVER:

5.1 If the Vendor commits any breach of these terms and conditions or becomes subject to bankruptcy, insolvency or receivership proceedings, or, where applicable, has received a judicial declaration of suspension of payments or shall pass a resolution for winding up (other than for the purposes of amalgamation or reconstruction) or a Court shall make an order to that effect against it or shall enter into any composition or arrangement with its creditors, the Purchaser may without prejudice to its other rights and remedies or any part thereof terminate the Order forthwith.

5.2 The Purchaser may at any time terminate the Order in whole or in part by written notice to the Vendor without prejudice to any other rights Purchaser may have as a result thereof. If such termination occurs under circumstances not covered under condition 5.1 above, Purchaser may make payment to the Vendor for reasonable cancellation costs. In the event of termination of the Order, Vendor's right to any payments under the Order whether due on or after such case of termination shall also terminate.

5.3 A waiver on the part of the Purchaser or Vendor of any breach of any term, provision or condition of the Order shall not constitute a precedent nor bind either party hereto to a waiver of any succeeding or other breach of the same or any other term, provision or condition of the Order, or any other order between Purchaser or Vendor.

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6. INSPECTION AND TESTING:


All inspection and tests shall be carried out as necessary and also as required by the Order specifications issued by the Purchaser. All Materials shall be subject to inspection, at the option of Purchaser, by representatives of the Purchaser, at all reasonable times and places before, during and/or after manufacture. Vendor shall inform the Purchaser in writing by letter, facsimile, cable or telex as the circumstances warrant, fourteen days in advance of final tests and/or inspection or any other tests that may be pre specified. Before dispatching the Materials, the Vendor shall carefully inspect and test them for compliance with the requirements of the Order. Inspection and approval at Works shall not absolve the Vendor of their obligations to the quality and quantity of the Materials ordered.

7. REJECTION:

If, as a result of the inspection, examination or testing referred to in Condition 7, the Purchaser's Engineer decides that the Materials, or any part thereof, is defective or otherwise not in accordance with the Order, he may reject such Materials and shall notify the Vendor thereof. The Vendor shall then with all speed make good the defect or ensure that the Materials comply with the order. if the Purchaser's Engineer requires such Materials to be re-tested, the tests shall be repeated under the same terms and conditions. All costs incurred by the Purchaser and Purchaser's Engineer by the repetition of the tests shall be deducted from the Order Price.


8. PACKING AND TRANSPORTATION:

The Materials shall be carefully packed and protected to ensure adequate protection, taking into account any special requirements contained in the Order. The cost of all packing, boxing and/or crating, carriage, etc., is included in the price specified on the face of the Order, unless otherwise specifically agreed to in the Order. The protection and packaging are deemed to be non-returnable unless otherwise agreed in writing by the Purchaser. Materials delivered in error or in excess of the quantity called for, may, at Purchaser's option, be returned to Vendor at Vendor's expense.

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9. VENDOR GUARANTEES:

- 9.1 All Materials furnished by the Vendor (irrespective of whether engineering design, data or information has approved by the Purchaser) are guaranteed by the Vendor to be new, of the best quality and workmanship of their respective kinds unless otherwise authorized in writing by Purchaser, shall be free from faulty design (to the extent such design is not furnished by Purchaser), shall be of sufficient size and capacity and of proper material so as to fulfill in all respects such operating conditions.
- 9.2 If any, as may be specified by the Purchase. If any trouble or defects originating with the design (other than design made, furnished or specified by the Purchaser for which the Vendor has in writing disclaimed responsibility at, or prior to, Order placement), material, workmanship or operating characteristics of any Materials arises at any time up to one (1) year from the date when the facilities in which the Materials are incorporated are started-up, or Eighteen (18) months from the date of shipment (whichever period expires earlier) and the Vendor is notified thereof subject as hereinafter provided, the Vendor shall at his own expense and as quickly as possible, make such alterations, repairs and replacements as may be necessary to permit the Materials to function in accordance with the specifications and to comply with the above guarantee and shall reimburse the Purchaser for any costs and expenses incurred by the Purchaser in connection with such trouble or defect.
- 9.3 In the event that the Purchaser decides that the consequences of any such trouble or defect cannot adequately be remedied as aforesaid, then the Purchaser, may, at its option elect either to accept the defective Materials with an adjustment to the purchase price ;or to direct that the defective Materials be removed at the Vendor's expense as quickly as possible. In which latter event the Vendor shall at the Purchaser's option, but without cost to the Purchaser, either immediately furnish proper Materials (including, where appropriate, the removal of the defective Materials and the installation of such proper Materials), or refund to the Purchaser such portion of the purchase price as shall have been paid.

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9.4 In the event of any rectification work as aforesaid, the above guarantee shall apply to such rectification work for a period of 12 months from its completion or until expiry of the above mentioned guarantee period, whichever period expires later. The foregoing guarantees shall be without prejudice to any other rights which the Purchaser have against the Vendor in respect of any breach of the terms and conditions of this Order.

10. **CONFIDENTIAL INFORMATION;**


All drawings, blueprints, designs, sketches and technical data (Technical information) provided by Purchaser and/or Purchaser's Engineer to the Vendor are to be maintained in strict confidence and used solely for purposes of the Order. Any disclosures of Technical information to Third Parties shall be made in confidence and with similar limitation on use. Technical information provided by purchaser and/or Purchaser's Engineer hereunder shall remain the property of the same and Vendor shall return all Technical information upon demand. This obligation does not apply to information, which at the time of disclosure is in the public domain or is in the Vendor's lawful possession without restriction on disclosure. Ownership and copyright in all drawings and designs of the Materials or any part thereof and in all specifications and data relating thereto prepared by the Vendor, its employees, agents or sub contractors for the express purpose; of fulfilling this Order shall vest in and belong to the Purchaser. No cancellation or termination of the Order for whatever reason shall affect the validity of the provisions of this condition.

11. **PUBLICITY:**

The Vendor shall not publish or make public or make public any reference to the Purchaser, the Purchaser's Engineer or to any company affiliated to the Purchaser, or Purchase's Engineer in connection with the Materials, without the prior written permission of the Purchaser.

12. **CONSEQUENTIAL DAMAGES:**

Except to the extent explicate stated, Vendor shall in no event be liable to Purchaser for consequential or special damages in connection with the Order.

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13. CLAIMS:

In consideration of the issuance of the Order. Vendor hereby waves and releases any and all claims against the Purchaser's Engineer arising out of or in any way connected with any action or claim made or brought against Vendor by Purchaser in connection with the materials furnished under this Order.


14. LIENS:

Vendor shall not claim any liens, attachments or other similar claims in connection with the Materials and shall defend and indemnify the Purchaser against any and all liens, attachments or other similar claims

15. PATENT INDEMNITY:


Vendor hereby warrants that the use or sale of the Materials delivered hereunder will not infringe any patent rights related to such Materials and Vendor shall indemnify the Purchaser and the Purchaser's Engineer, their successors, assignees, Venders, and users of the Materials, against any action, claim or demand, costs and expensed, arising from or incurred by reason of any infringement or aliened infringement of any letters patent, registered design, (to the extent that the design for such Materials is not furnished by the Purchaser), trademark or name, copyright or any other protected rights in respect of any materials supplied, or any arrangement system or method of using, fixing or working used by the Vendor.

In the event of any claim or demand being made or action brought against the Purchaser or the Purchaser's Engineer or any of their successors, assignees, vendors, and users in respect of any of the aforesaid matters, the Vendor shall be notified thereof immediately and the Vendor shall, at the request of the Purchaser and/or Purchaser's Engineer, conduct at its own expense all negotiations for the settlement of the same and/or litigation which may arise there from. If the Purchaser or Purchaser's Engineer decides to conduct such negotiations or litigation itself, Vendor shall, at its own expense, render all required assistance. Vendor shall in such event have the right to be represented by an advisor counsel of its own selection.

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16. LIABILITY AGREEMENT:

- 16.1 The Vendor shall defend and hold the Purchaser and the Purchasers Engineer or either of them (including their successors, assignees, vendees and users of the Materials) harmless from all claims and liability for injuries to, and/or death of, any and all persons and for loss of and/or damage to property caused in whole or in part by the negligence or willful acts of Vendor in connection with materials furnished hereunder, including without limitation, the installation, erection, repair, adjustment or operation thereof.
- 16.2 Notwithstanding the foregoing the Vendor shall if he elects to utilize materials, tools, equipment or facilities made available to Vendor by purchaser or, for use by the Vendor and not to be incorporated in the work, as additional consideration therefore, defend and save Purchaser (including their successors, assignees, vendors and users of the Materials) harmless from all claims and liability for injuries to, and/or death of any and all persons, and for loss of and/or damage to property resulting from or by reason of the Vendor's utilization thereof, whether or not caused partially or totally by the negligence of Purchaser, their employees, subcontractors, agents or representatives. In any case where it is necessary for employees, subcontractors, agents or representative of the Vendor to go upon the premises of the Purchaser, the Vendor agrees to assume full responsibility for the proper conduct of such employees, subcontractors, agents or representatives while on said premises and also to comply with all applicable Workmen's compensation laws, with all relevant requirements of any applicable government regulation or ordinance or generally binding instrument, and with all site rules and regulation, particularly.
- 16.3 In regard to safety precautions, fire hazard and work permit system. If the Order requires the Vendor to furnish Labour in connection with erection or installation of the Materials at the site, the Vendor shall furnish the Purchaser with a certificate, or other evidence satisfactory to the Purchaser, indicating that such Labour is adequately covered by Workmen's Compensation Insurance and Employer's Liability insurance or comparable types of Insurance with limits acceptable to the Purchaser.

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17. **STATUTORY REQUIREMENTS:**

The Vendor warrants that the design, instruction and quality of the Materials shall comply in all respects with all relevant requirements of any applicable government regulation or ordinance, or other generally binding instruments which apply to the manufacture and, where appropriate, the subsequent operation of the Materials, including all applicable regulations, rulings, orders and standards in regard to health or safety.

18. **FREE ISSUE MATERIAL:**


Any materials being supplied as free issue by the Purchaser to the Vendor for incorporation into or work in connection with the Order are to be protected and insured for the full replacement value by the Vendor while in the Vendor's possession. Ownership of such materials remains with the Purchaser at all times. The Purchaser shall have access to such materials at all times and Vendor is responsible for ensuring that clear identification of such materials is property carried out.

19. **OWNERSHIP AND RISK:**

- 19.1 Ownership of the Materials to be supplied by the Vendor hereunder shall pass to the Purchaser on delivery at Fujairah Port, without prejudice to the Purchaser's right of rejection, when such Materials have been allocated to the Order.
- 19.1 Notwithstanding the above, unless anything to the contrary is provided for herein, the Materials shall be at the Vendor's risk until delivered as specified in the Order.
- 19.2 In the event of termination of the order the Purchaser shall have the right to enter upon the Vendor's premises to take possession of Materials allocated under Condition 19.1 above, without prejudice to any other claims which the Purchaser may have under the Order or under any letters of credit, bank guarantees or other forms of security.

20. **ASSIGNMENT AND SUBCONTRACTING:**

Vendors shall not assign or subcontract the order or any part thereof or any amounts due there under without the written consent of the Purchaser. Any such permitted

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assignment or subcontracting shall not relieve the Vendor of any of its obligations under the Order.

21 TAXES, UNEMPLOYMENT BENEFITS. ETC.:

Vendor hereby accepts exclusive liability for and agrees to indemnify Purchaser and/or Purchaser's Engineer against liability for the payment of any and all contributions or taxes for unemployment Insurance, social security payments, old age pensions or annuities or other purposes now or hereafter imposed by any applicable government regulation or ordinance or other binding Instrument which are in whole or part measured by and/or based upon the wages, salaries, or other remuneration paid to persons employed or used by Vendor or work in connection with this order.

22 PRICE AND PAYMENT:

The price stated on the Order for delivery of Materials shall be fixed and firm unless otherwise agreed in writing. Purchaser shall pay to vendor for Materials satisfactorily delivered, and any services satisfactorily performed, 90% of the invoiced amounts property due hereunder within 30 days of receipt and acceptance of Material at Fujairah and balance 10% within 30 days after successful Testing and Commissioning with supporting documentation accepted by the Purchaser as correct. All payments shall be made by cheque, Under no circumstances shall the Vendor request the Purchaser to provide any Letter of Credit.

23 GOVERNING CONDITIONS AND LAW:

This order shall be governed as follows-

Applicable law and Procedural law: Dubai, United Arab Emirates

Arbitration: Rules of Commercial Conciliation and Arbitration of Dubai

Chamber of Commerce and Industry.

Language and Place of Arbitration: English, Dubai; U.A.E

For Vopak Horizon Fujairah Ltd