

## 1. DEFINITIONS

**Acceptance Test** means the tests (if any) that has specified in the Quotation, and if no such test is specified, as otherwise reasonably determine by the Supplier.

**Agreement** means the terms set out in this document together with its Quotation(s) as issued by Supplier, and the Purchase Order(s) as issued by the Client.

**Approval** means an applicable licence, permit or other form of governmental or regulatory approval.

**Client** means the person or business specified as the Client in the Quotation.

**Client's Representative** means the person specified to be the Client Representative in the Quotation or such other person the Client notifies Supplier in writing.

**Client Plant and Equipment** means the items of plant and equipment that the Client owns (or leases) and provides to the Supplier free of charge for use in the supply of services under this Agreement on the Site(s).

**Commencement Date** means the Commencement Date specified in the Quotation, Purchase Order and/or as confirmed by Client's Representative.

**Completion Date** means the Completion Date specified in the Quotation, Purchase Order and/or as confirmed by Client's Representative.

**Confidential Information** means:

- (a) the Services and the design, structure or any other detail regarding the Services;
- (b) the terms of this Agreement (including the prices and charges); and
- (c) any other information exchanged between the Parties which is identified as being confidential.

**Demobilization** means the transfer of Supplier's Plant & Equipment and/or Personnel from Client's Site to Supplier's Nominated Base.

**Force Majeure Event** means any event or cause beyond the reasonable control of the relevant Party including:

- (a) any act of God, lightning strike, earthquake, explosion, flood, drought, storm, mud slide or meteor;
- (b) the existence, implementation, alteration or repeal of any regulation, law, order or decree (including a Trade Sanction) of any government or competent statutory authority (or any change in the interpretation of such regulation, law, order or decree, including a Trade Sanction) or the withdrawal, alteration or cancellation of any Approval;
- (c) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any government or government authority;
- (d) a blockage of port, civil commotion, war (declared or undeclared), invasion, outbreak of hostilities, military usurped power; governmental prohibition on export, or like state of emergency;
- (e) act of public enemy, sabotage, malicious damage, terrorism or civil unrest or security conditions;
- (f) labour disturbances, work stoppage, lockout, blockade or strike (Supplier not having any obligation to settle such dispute);
- (g) inability to source or transport the equipment or goods by normal means.

**Mobilization** means the transfer of Supplier's Plant & Equipment and/or Personnel from Supplier's Nominated Base to Client's Site.

**Party** means either the Client or the Supplier, and **Parties** means the Client and the Supplier.

**Purchase Order** means a Purchase Order in the form agreed between the Parties.

**Quotation** means the final proposal issued by the Supplier setting out the Services.

**Services** means the scope of works specified in the Quotation.

**Site(s)** means the Site(s) specified in the Quotation.

**Supplier** means Asia Waterjet Equipment Trading LLC, or any Related Company as specified in the Quotation.

**Supplier Nominated Base** means the Supplier usual business address.

**Supplier Personnel** means the person(s) employed by Supplier and assigned to the supply of Services under this Agreement on the Site(s).

**Supplier Plant and Equipment** means the items of plant and equipment that Supplier owns (or leases) and uses in the supply of Services under this Agreement on the Site(s).

**Supplier's Representative** means the person specified to be Supplier's Representative in the Quotation or such other person Supplier notifies the Client in writing.

## 2. DURATION OF AGREEMENT

This Agreement commences on the Commencement Date and continues until the Completion Date (unless it is terminated earlier under clause 17).

## 3. SUPPLY OF SERVICES

### 3.1. Services

Supplier agrees to supply the Services to the Client at the Site(s).

### 3.2. Responsibilities

The Parties agree to perform the responsibilities allocated to them in the Quotation(s) and/or Purchase Orders. If there is any change or variation to the Services and/or responsibilities allocated to the Supplier, the Supplier may, upon written notice to the Client, adjust the prices and charges at Supplier's discretion.

## 4. ORDERS FOR SERVICES

### 4.1. Purchase Orders

Orders for Services will be placed by the Client submitting a Purchase Order to Supplier in a form agreed by the Parties. Each Purchase Order, upon receipt and written acceptance by Supplier, constitutes a separate binding contract between the Client and Supplier for the supply of Services on the terms of this Agreement.

### 4.2. Order Lead Times

The Client must submit a Purchase Order to Supplier as stated in the Quotation and if none stated, then at least 7 days prior to the date on which the Client requires the Service. If the Client requires any Services to be supplied in a shorter period than the relevant order lead time, Supplier will endeavor to meet the Client's requirements but is not obligated to do so.

## 5. PRICE AND PAYMENT

### 5.1. Prices

The Client agrees to pay Supplier the prices and charges specified in Quotation(s) and/or Purchase Order(s), as varied from time to time in accordance with this Agreement, for the Services ordered by the Client.

### 5.2. Duties & Taxes

Unless otherwise specified in Quotation(s) and/or Purchase Order(s), all prices and charges for the Services are exclusive of any custom duties, excise duties, value added taxes, sales taxes, withholding taxes and any other taxes, all of which shall be borne by the Client.

### 5.3. Invoices

Unless otherwise specified in the Quotation, the Supplier will invoice the Client at least monthly for Services supplied.

### 5.4. Payment

Invoices submitted by Supplier to the Client must be paid by the Client within 30 days of the date of invoice except where Client disputes an Invoice, in which case:

- (a) the Client shall pay the undisputed part of the relevant Invoice (if any) and dispute the balance; and
- (b) if the resolution of the dispute determines that the Client is to pay an amount to Supplier, the Client will pay that amount as soon as practicable but no later than 5 days after resolution of that dispute.

### 5.5. Late payment

- (a) Subject to clause 5.3, Supplier may suspend supply of Services to the Client for any period in which payment for an invoice submitted by Supplier to the Client is overdue, or if the supply would result in the Client exceeding its agreed credit limit.

## 6. WARRANTIES AND ACCEPTANCE

- 6.1. Supplier makes no express warranties in respect of the Services

and excludes all implied warranties, terms or conditions (including those implied by statute) from this Agreement.

**6.2. Acceptance Test**

If the Quotation states that an Acceptance Test will apply, before the start of the Services or at any other time agreed between the Parties in writing, the Client and Supplier shall carry out such Acceptance Test. The Acceptance Test shall be documented in writing and will be binding between the Parties.

6.3. Unless otherwise agreed, all costs and fees incurred by the Supplier in connection with an Acceptance Test will be the responsibility of the Client.

**7. SUPPLIER PLANT AND EQUIPMENT**

**7.1. Ownership of Supplier Plant and Equipment**

The Client acknowledges and agrees that all items of the Supplier Plant and Equipment (including Plant and Equipment installed or affixed to the Site(s)) remains the property of Supplier and will be removed by Supplier on termination of this Agreement.

**7.2. Care of Supplier Plant and Equipment**

- (a) The Client may not make any alteration or addition to, nor attach anything to, any of the Supplier Plant and Equipment.
- (b) The Client shall only operate Supplier Plant and Equipment as per Client's written recommendations/user manual.
- (c) The Client shall at all times, and at its own costs, keep Supplier's Plant and Equipment in good order of operation, including, but not limited to, daily checking of engine lubricants & cooling fluids.
- (d) The Client shall only use fluids (engine lubricants, cooling fluids and the like), spare parts or consumables expressly approved by Supplier.
- (e) The Client shall perform such other scheduled maintenance(s) as instructed by Supplier.

**7.3. Damage(s) to Supplier Plant and Equipment**

- (a) The Client shall reimburse Supplier for the cost of any part that needs replacement during the supply of the Services.
- (b) Parts that need replacement within the normal wear and tear shall be replaced by the Supplier at no cost to the Client.
- (c) Any Supplier Plant and Equipment or part thereof that is not returned to the Supplier, returned damaged, returned damaged beyond repair or otherwise lost, will be charged to Client at documented landed cost plus 15% handling fees.

**7.4. Rental Charges**

- (a) Rental Charges shall commence on the day the equipment leave Supplier's Nominated Base and shall continue until same is returned to Supplier's nominated base in good order, subject to any special terms or concessions stated in the Quotation.
- (b) Daily Rental Rates shall be charged for full day and/or part thereof.

**7.5. Mobilization Charges**

- (a) Unless otherwise stated in the Quotation, all costs relating to mobilization and demobilization of Supplier Plant and Equipment from Supplier's Nominated Base to and from Client's Site, shall be the responsibility of the Client and if arranged and paid for by Supplier, same costs shall be charged to Client's account at documented cost plus 15%.

**8. SUPPLIER PERSONNEL**

**8.1. Day Rates for Supplier Personnel**

- (a) Personnel Day Rates shall be charged from the day personnel departs SUPPLIER' nominated base and charges shall continue until personnel arrives back at SUPPLIER' nominated base, subject to any special terms or concessions stated in the Quotation.
- (b) Personnel Day Rates shall be charged for full day and/or part thereof.
- (c) Maximum number of hours worked by any Supplier Personnel in any 24-hour period is 12 hours.

**8.2. Mobilization Charges**

- (a) Unless otherwise stated in the Quotation, all costs relating to mobilization and demobilization of Supplier Personnel from Supplier's Nominated Base to and from Client's Site, including but not limited to airport transfers, air fares, transit hotel

accommodation charges, applicable visa costs, meals & accommodation whilst on location for Client, taxi fares, out of pocket expenses, or any other related expenses shall be the responsibility of the Client and if arranged and paid for by Supplier, same costs shall be charged to Client's account at documented cost plus 15%.

**9. ACCESS TO THE SITE(S)**

**9.1. Access for Supplier**

The Client must provide free and safe access to all areas of the Site, reasonably required by Supplier, to enable Supplier to perform its obligations under this Agreement.

**9.2. Supplier secure area**

- (a) Upon request, the Client will set aside a secure part of the Site(s) (in a location proximate to where the Services are to be performed) for the Supplier to take deliveries of materials and to store Supplier's equipment.
- (b) Unless specified otherwise in the Quotation(s) and/or the Purchase order(s), the Client shall, at its own cost, provide continuous access to Supplier to all necessary telecommunications, electrical power, compressed air, light, water, waste disposal amenities, toilet and other services and facilities (as reasonably required by Supplier) to enable the Supplier to perform the Services.

**9.3. Training at the Site(s)**

The Client acknowledges and agrees that Supplier may use the Site(s) to provide its employees with additional training. Supplier will provide full supervision of any employees who attend the Site(s) for training purposes and will notify the Client prior to these persons attending the Site(s).

**10. HEALTH, SAFETY AND ENVIRONMENT**

**10.1. Health, Safety & Environment Policies**

Supplier and the Client must perform their obligations under this Agreement in accordance with all agreed, legislative and regulatory health, safety and environment requirements. To enable Supplier to do so, the Client must inform Supplier of any hazards and its safety requirements at the Site(s), provide relevant material data safety sheets, any Site(s) surveillance records and must induct Supplier's employees in all applicable safety procedures (at no cost to Supplier). If required by Supplier, the Client must make its employees available for training in Supplier safety requirements relevant to the performance of the Services.

**10.2. Hierarchy of Responsibilities**

On Sites where there is multiple provision of Services, the Client must establish and advise in writing a clear hierarchy of responsibilities related to health and safety management between all Parties.

**10.3. Suspension**

If at any time Supplier forms the reasonable opinion that it would be unsafe to continue performance of the Services, Supplier may notify the Client of the unsafe condition and Supplier may suspend performance of the Services until Supplier is of the opinion (in its absolute discretion) that it is safe to re-commence supply.

**11. COMPLIANCE WITH LAWS**

**11.1. Compliance**

- (a) The Parties must comply with all legislative and regulatory requirements that apply to the supply of the Services and must ensure that they have, and comply with, all necessary permits and licences that apply to the transportation, storage and use of the goods and performance of the Services.
- (b) Supplier is only required to comply with regulations, permit or licence requirements that are specific to the Site(s) if the Client provides Supplier with written notice of these prior to the Commencement Date. The Client is liable for any costs incurred by Supplier in obtaining a licence or permit required by regulations or laws that apply specifically to the Site(s).

**11.2. Change to laws**

- (a) If any of Supplier's costs for the supply of the Services increase as a result of:
  - (i) Supplier's compliance with the introduction of, or any change



(including a change in interpretation) in, any federal, state, local or other law, regulation, order or decree of any kind or as a result of its compliance with any change in the Client's rules, regulations and policies; or

- (ii) any increase to the prices and charges payable by Supplier to a supplier as a result of a supplier's compliance with the introduction of, or any change (including a change in interpretation) in any federal, state, local or other law, regulation, order or decree of any kind,

then Supplier may identify this cost increase(s) for the Client and increase the prices and charges for the Services payable under this Agreement in the same proportion as the increase in Supplier's costs.

- (b) An increase in the prices and charges under clause 11.2. (a) will take effect immediately on and from the date on which Supplier provides the Client with a written notice specifying the new prices and charges.

**12. INSURANCE**

12.1. The Supplier shall maintain the following insurance policies in connection with the performance of the Services:

- (a) Workers compensation insurance as required by law;
- (b) Third party liability and property damage insurance as required by law; and
- (c) Motor vehicle insurance covering all vehicles owned or leased by the Supplier and used in the performance of the Services.

12.2. The Client shall maintain the following insurance policies in connection with the performance of the Services:

- (a) Workers compensation insurance as required by law;
- (b) Third party liability and property damage insurance as required by law; and

12.3. Motor vehicle insurance covering all vehicles owned or leased by the Client and used in the performance of the Services.

**13. INDEMNITIES AND LIMITATION OF LIABILITY**

13.1. Indemnity from Supplier

Supplier indemnifies the Client against any loss, expense, liability or proceeding resulting from:

- (a) damage to the property of a third party; or
- (b) the injury or death of any person authorised to be on the Site(s), only if, and to the extent that, the loss, expense, liability or proceeding is directly caused by Supplier's breach of this Agreement.

13.2. Supplier's Limitation of Liability

Notwithstanding any other term of this Agreement, Suppliers total liability shall in all cases be limited to the value of the Purchase Order, or to a maximum value of US Dollars 15,000.00 (fifteen thousand), whichever is lower.

13.3. Excluded losses

To the extent the law permits and notwithstanding any other term of this Agreement, each Party excludes all liability whatsoever to the other for indirect or consequential loss or damage of any kind, loss of business revenue, loss of profits, failure to realize expected profits or savings, overhead costs, loss of reputation and goodwill, loss of value in any intellectual property, damages for business interruption, damages or liquidated sums payable pursuant to other agreements or for lost opportunities (including opportunities to enter into or complete arrangements with third parties) and commercial or economic loss of any kind arising in contract, tort (including negligence) under any statute or otherwise arising out of or in any way connected with this Agreement.

13.4. Indemnity by the Client

The Client indemnifies Supplier against any loss, expense, liability or proceeding resulting from:

- (a) damage to the property of Supplier or a third party; or
- (b) the injury or death of any person authorised to be on the Site(s), only if, and to the extent that, the loss, expense, liability or proceeding is directly caused by the Client's negligence or breach of this Agreement.

**14. EMPLOYEES**

14.1. Employees of the other Party

Except where otherwise agreed in writing, each Party agrees that they must not, and must ensure that their employees and related companies do not, during the term of this Agreement and for a period of 3 months after the termination of this Agreement, directly or indirectly:

- (a) employ or engage any employee of the other Party involved in the performance of this Agreement; or
- (b) solicit, induce or encourage any employee of the other Party involved in the performance of this Agreement to leave the employment of the other Party.

14.2. Injunctive Relief

The Parties acknowledge that damages may not be a sufficient remedy for any breach of this clause 14 and agree that each Party is entitled to specific performance or injunctive relief (as appropriate) as a remedy for any such breach or threatened breach in addition to any other remedies available at law or equity.

**15. EXTENSION OF TIME**

15.1. An extension of time will be granted to the Supplier where a delay is caused by any of the following events;

- (a) any act, omission, default or breach by the Client, it's personnel or contractors;
- (b) an order to suspend the Services under clause 15 except where the suspension is caused by or required due to an act, omission, breach or default by the Supplier or its personnel;
- (c) a change in law under clause 11.2; or
- (d) a Force Majeure Event under clause 18.

15.2. The Supplier will, as soon as reasonably practicable, give the Client notice of all incidents, circumstances or events outlined at 15.1 or any other occurrence likely to affect the progress of the Services which might reasonably be expected to result in a delay to the Supplier achieving completion of the Services.

Where the Supplier has been granted an extension of time for a delay under this clause 15 and has necessarily incurred extra costs as a direct consequence of the delay, the Supplier is entitled to recover costs as set out in clause 16.3.

**16. CANCELLATION AND SUSPENSION**

16.1. The Client may cancel or omit any part of the Service by giving the Supplier no less than 14 days written notice.

16.2. If Client cancels, or omits any part of, the Services, the Client shall pay to the Supplier:

- (a) the cost reasonably incurred by the Supplier; and
- (b) 30% of the value of the Services cancelled or omitted.

The Supplier's calculation of the amount payable under (a) and (b) will be final and conclusive.

16.3. If the Client suspends the Services, the Client shall pay the Supplier all reasonable costs incurred during the period of suspension, and the Supplier may increase the prices and charges to take into account any increase in the Supplier's costs as a result of such suspension.

**17. TERMINATION**

17.1. Right to terminate

A Party has the right to terminate this Agreement by notice in writing to the other Party if:

- (a) the other Party is Insolvent;
- (b) the other Party commits any breach of this Agreement and:
  - (i) the breach is material and not capable of being remedied; or
  - (ii) the breach is capable of being remedied and the other Party fails to remedy the breach within 30 days of being notified in writing of the breach by the Party seeking to terminate.

17.2. Notice



A notice given under this clause 16 must specify the event or events in relation to which the notice is given.

**17.3. Survival after termination**

Clauses 13, 14, 20 and 21 survive the termination of this Agreement.

**18. FORCE MAJEURE**

**18.1. Suspension of obligations**

Despite any other provision of this Agreement, if a Party is unable to safely and lawfully perform or is delayed in performing an obligation under this Agreement (other than an obligation to pay money) due to a Force Majeure Event, or if a Force Majeure Event renders such performance more expensive:

- (a) that obligation is suspended but only to the extent and for so long as performance is affected by the Force Majeure Event and the time for performing that obligation is extended by the duration of the Force Majeure Event; and
- (b) the affected Party will not be responsible for any loss or expense suffered or incurred by any other Party as a result of, and to the extent that, the affected Party's performance of its obligations is affected because of the Force Majeure Event.

**18.2. Minimising effects of Force Majeure**

- (a) A Party affected by a Force Majeure Event must take all reasonable steps to avoid, remove or limit the effects of the Force Majeure Event on its performance of the suspended obligations as quickly as possible.
- (b) Clause 18.2. (a) does not require a Party to settle any strike or other labour difficulty on terms contrary to its wishes.

**19. BUSINESS ETHICS**

**19.1. Compliance with Business Ethical Standards**

Each party, its employees, agents, representatives and Subcontractors shall at all times maintain high ethical standards and avoid conflicts of interest in the conduct of its business. In conjunction with its performance of the work, each Party and its employees, officers, agents and representatives shall comply with, and cause its Subcontractors and their respective employees, officers, agents and representatives to comply with, all applicable laws, statutes, regulations and other requirements prohibiting bribery, corruption, kick-backs or similar unethical practices.

**20. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

**20.1. No disclosure of Confidential Information**

During the term of this Agreement and for a period of five (5) years after its termination, Confidential Information received by one Party from the other may not be disclosed by the recipient to any other person except:

- (a) to the recipient's employees, professional advisers and agents solely for the purpose of the performance of this Agreement or to make or defend any claim under this Agreement;
- (b) with the consent of the discloser;
- (c) if required by law or the rules of a recognised stock exchange.

**20.2. Information in the public domain**

The provisions of clause 20.1 do not apply to information which:

- (a) the recipient can show by written evidence was known to it prior to being obtained from the discloser and was not subject to obligations of confidentiality to the discloser or a third party;
- (b) is or becomes public knowledge through no action of the recipient; or
- (c) is disclosed to the recipient by a third party with a legal right to do so.

**20.3. Employee, agents and contractors**

The Parties must inform their employees, agents and contractors of the provisions of clause 20.1 and must ensure that those persons comply with that clause to the same extent that the Parties are required to comply with it.

**20.4. Intellectual Property**

- (a) The Client acknowledges and agrees that Supplier is the sole and exclusive owner of the Intellectual Property in the Services and the

rights attached to that Intellectual Property.

- (b) The Client agrees that it will not disclose any details of, or information relating to, the Intellectual Property at any time during or after the term of this Agreement.
- (c) The Client further agrees that nothing in this Agreement grants to the Client any right, title or interest in or to any of the Intellectual Property in the Services.
- (d) The Client undertakes that it will not claim (whether during the term of this Agreement or thereafter) to have acquired any right, title or interest to the Intellectual Property in the the Services by virtue of the rights granted to the Client by this Agreement.
- (e) The Client must ensure that its employees, agents and contractors comply with clauses 20. (a) to (d) to the same extent that the Client is required to comply with them.

**21. DISPUTE RESOLUTION**

**21.1. Notification**

Either Party may provide written notice to the other of any dispute arising in relation to this Agreement. This notice must contain particulars of the alleged dispute.

**21.2. Negotiations between Representatives**

Within 3 days of receiving a notification of dispute under clause 21.1, the Representatives of the Parties are to meet and use their reasonable endeavors to settle the dispute.

**21.3. Negotiations between Senior Managers**

If after a period of 3 days, the Representatives have been unable to resolve the dispute, the dispute will be referred to a senior manager of each Party who shall use their reasonable endeavors to settle the dispute.

**21.4. Legal proceedings**

If negotiations pursuant to clause 21.3 fail to resolve the dispute within 14 days of negotiations commencing, then each Party is free to commence legal proceedings to resolve the dispute.

**22. NOTICES**

**22.1. Address**

Any notice provided under this Agreement must be in writing and given by facsimile, email or delivered to the address of each Party specified in the Quotation (or such other address notified in writing to the other Party).

**22.2. Delivery**

Any such notice:

- (a) which is posted, shall be deemed to be served three days after posting; or
- (b) which is sent by facsimile, shall be deemed to be served upon generation of a transmission report by the sender's facsimile machine confirming the complete and error-free transmission to the correct facsimile number for the recipient;
- (c) which is sent by email, shall be deemed to be received at the time shown in a delivery confirmation report generated by the sender's email system.

**23. GENERAL**

**23.1. Relationship of the Parties**

The Parties are independent contracting Parties and nothing in this Agreement makes either Party the agent or representative of the other for any purpose whatsoever.

**23.2. Waiver**

The non-exercise of or delay in exercising any power or right of a Party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the Party to be bound by the waiver.

**23.3. Amendment**

This Agreement may only be amended by written agreement signed by authorized representatives of each party.

**23.4. Governing Law**

This Agreement is governed by the law in force in the United Arab Emirates and the Parties submit to the non-exclusive jurisdiction of the courts of the United Arab Emirates.

### 23.5. Severability

If the whole or any part of a provision of this Agreement is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this agreement or is contrary to public policy.

### 23.6. Entire Agreement

This Agreement constitutes the entire agreement of the Parties about its subject matter and supersedes all previous agreements, arrangements, understandings and negotiations on that subject matter. The Client's standard terms and conditions of purchase are excluded.

### 23.7. Subcontracting

Supplier may engage a subcontractor to perform any of the Services.

### 23.8. Assignment

A Party may not assign or otherwise deal with its rights under this Agreement without the consent of the other Party which consent must not be unreasonably withheld.

### 23.9. Back-to-Back

For the purpose of the Quotation and its subsequent Purchase order(s), the Client is considered to be the end user of the services proposed by Supplier. As such all terms stated in the Quotation including but not limited to the payment terms shall prevail. Therefore, unless expressly agreed, in writing, by both Client and Supplier, the quotation AND SUBSEQUENT Purchase Order(s) shall not be construed as being a "back-to-back" Quotation and any terms and conditions that may exist between the Client and its subsequent customer shall have no bearing on the terms of the Quotation.

### 23.10. Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.