

Dated 2nd July, 2021

HUDONG-ZHONGHUA SHIPBUILDING (GROUP) CO., LTD.

(as Seller)

and

FORTUNE MAGNIFICENT SHIPPING LIMITED

(as Buyer)

SHIPBUILDING CONTRACT

for the construction of a 174,000 cbm
liquefied natural gas carrier
(Hull No. H1829A)

Sellers' Initials

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Buyer's Initials

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CONTENTS

Clause	Page
1. Definitions and Interpretation.....	8
1.1 Definitions	8
1.2 Interpretation.....	17
2. Effective Date of Contract.....	17
3. Description and Class	18
3.1 Performance of the Work.....	18
3.2 Dimensions and Characteristics.....	19
3.3 Classification, Class Rules and Regulations.....	20
3.4 Vessel Registration	22
3.5 Governmental Approvals.....	22
4. Contract Price, Currency and Interest.....	23
4.1 Contract Price	23
4.2 Currency	24
4.3 Interest	24
5. Terms of Payment.....	24
5.1 Instalment Payments	24
5.2 Payment Obligation Verification.....	25
5.3 Instalment Payment Dates	26
5.4 Adjustment to the Fourth Instalment; Liquidated Damages.....	27
5.5 Payment Procedures and Payment Location.....	28
5.6 Prompt Payment.....	29
6. Buyer, Charterer and Seller Representatives On Site	29
6.1 Nomination; Authority; Seller Counterpart.....	29
6.2 Seller's Supervisor	30
6.3 Supervisor Interface.....	31
6.4 Facilities; Accommodation; Assistance.....	31
6.5 Seller Reimbursements	32
6.6 Inspections; Tests; Trials	32
6.7 Work Rules	33
6.8 Construction Non-Conformity; Safety Violations.....	33
6.9 Seller's Obligations Undiminished	34
6.10 Liability and Responsibility.....	34
6.11 Replacement of Representatives.....	36
7. Working Drawings, Suppliers, Subcontractors, Spare Parts	36
7.1 Working Drawings.....	36
7.2 Major Suppliers and Subcontractors.....	38
7.3 Spare Parts	43

Sellers' Initials J

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7.4	Work Execution	43
8.	Modifications and Substitutions.....	43
8.1	Modification Restriction.....	43
8.2	Potential Adjustments.....	43
8.3	Buyer Modification.....	44
8.4	Compulsory Modifications	45
8.5	Non-Compulsory Recommendations.....	46
8.6	Seller's Modifications	46
8.7	Substitution of Appurtenances and Materials.....	46
8.8	Change Orders	47
8.9	Reimbursable Costs; Adjustments to Contract Price.....	47
8.10	Miscellaneous	47
9.	Planned Programme, Launching, Berthing	47
9.1	Planned Programme.....	47
9.2	Buyer's Supplies Schedule.....	48
9.3	Schedule for Suppliers.....	48
9.4	Equipment List.....	48
9.5	Progress Reporting.....	48
9.6	Launching and Berthing	49
10.	Property Title, Refund Guarantee	50
10.1	Title.....	50
10.2	Refund Guarantee	50
11.	Seller's Risks And Insurance	51
11.1	Seller's Risks.....	51
11.2	Required Insurance	51
11.3	Evidence of Required Insurance	54
11.4	Seller's Responsibility Undiminished	54
11.5	Timing for Placement of Insurance	55
11.6	Seller Indemnity.....	55
11.7	Termination of Seller's Insurance Obligations	55
12.	Loss or Damage.....	55
12.1	Partial Loss	55
12.2	Total Loss	55
13.	Tests and Trials.....	57
13.1	Test and Trial Programmes.....	57
13.2	Commissioning Programme; Dock Trials	57
13.3	Dry-docking and Painting.....	58
13.4	Sea and Gas Trials	58

13.5	Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials	62
13.6	Effect of Buyer's Technical Acceptance or Rejection	64
14.	Delivery of Vessel.....	64
14.1	Time.....	64
14.2	Place of Delivery	65
14.3	Early Delivery.....	65
14.4	Deferred Delivery by Buyer	65
14.5	Lien	66
14.6	How Effected	67
14.7	Fuels, Lubricants, Consumable Stores and LNG.....	70
14.8	Removal of the Vessel.....	71
14.9	Dry-docking Before Delivery	71
14.10	Additional Vessel Documents; Models of the Vessel	72
15.	Force Majeure.....	72
15.1	Causes of Delay	72
15.2	Notices	74
15.3	Buyer Response; Waiver	75
15.4	Termination for Excessive Accumulated Delay	75
16.	Failure to Deliver by Latest Permitted Delivery Date.....	76
16.1	Contract Price Reduction.....	76
16.2	Contract Termination.....	77
16.3	Buyer's Option to Choose Delivery Date	78
17.	Post-Delivery Defects and Seller's Guarantee.....	79
17.1	Guarantee.....	79
17.2	Applicable Guarantee Periods	79
17.3	Notice of Claim.....	81
17.4	Seller Inspection	81
17.5	Seller Response.....	82
17.6	Remedy of Defects and Post-Delivery Defects	82
17.7	Certificates.....	84
17.8	Replacements.....	85
17.9	Limits on Seller Responsibility	85
17.10	Currency; Interest	86
17.11	Guarantee Extension.....	86
17.12	Guarantee Engineer	87
17.13	Survival.....	88
18.	Performance Criteria	88
18.1	Criteria	88
18.2	Payment Due.....	91
18.3	Buyer Election	91

Sellers' Initials J

Buyer's Initials JB

18.4	Criteria Improvement.....	91
18.5	Effect of Contract Termination.....	91
19.	Default by Buyer.....	91
19.1	Definition of Default.....	91
19.2	Interest and Charges; Expenses	92
19.3	Contract Termination.....	92
19.4	Disposition of Vessel.....	93
19.5	Application of Vessel Sale Proceeds	94
19.6	Limit on Buyer's Liability.....	96
20.	Default by Seller.....	96
20.1	Definition of Default.....	96
20.2	Effect of Default	98
20.3	Limit on Seller's Liability	99
21.	Patents, Trademarks and Copyrights.....	99
21.1	Licence Rights	99
21.2	Identifications	100
21.3	Approvals and Fees.....	101
21.4	Injunction.....	101
21.5	Buyer's Supplies	101
21.6	Buyer Claims	101
21.7	Miscellaneous	102
22.	Business Standards	102
22.1	Representations and Warranties	102
22.2	Seller Controls	103
22.3	Seller Notification.....	104
23.	Accounting and Audit	104
24.	Record Retention	104
25.	Confidentiality	104
25.1	Protection of Confidential Information	104
25.2	Employees, Agents, Suppliers and Subcontractors	105
25.3	Design Data; Drawings.....	105
25.4	Duration of Confidentiality Undertaking	105
26.	Buyer's Supplies.....	106
26.1	Responsibilities of Buyer.....	106
26.2	Responsibilities of Seller	107
26.3	Value of Buyer's Supplies.....	108
26.4	Cost Reimbursement.....	108

27.	Governmental Charges	108
27.1	Governmental Charges	108
27.2	Seller's Responsibilities	108
27.3	Buyer's Responsibilities.....	109
27.4	Withholdings.....	109
27.5	Seller Refunds and Other Payments	109
27.6	Indemnity.....	110
28.	Assignment and Novation	110
28.1	Buyer's Rights to Assign.....	110
28.2	Seller's Rights to Assign	110
28.3	Novation	110
28.4	Costs	110
28.5	Successors and Assigns	110
28.6	Assignment and Novation of Refund Guarantee	110
28.7	Seller's Obligation to Cooperate	111
29.	Rights of Buyer's Lenders.....	111
29.1	Buyer Financing Requirements	111
29.2	Buyer Right of Collateral Assignment	112
30.	Requisition and Export Denial	113
30.1	Contract Termination.....	113
30.2	Seller Reimbursement and Payment.....	113
30.3	Buyer Supplies.....	114
31.	Interpretation and Priority of Documents	114
31.1	Entire Agreement.....	114
31.2	Amendments	114
31.3	Priorities.....	114
31.4	Invalidity.....	115
31.5	Contract Drafting	115
31.6	UN Convention.....	115
31.7	Waiver.....	115
31.8	Laws and Regulations.....	115
31.9	Counterparts and English Language.....	115
31.10	Indemnification.....	116
31.11	Third-Party Beneficiaries.....	116
32.	Language, Notices and Invoices	116
32.1	All Communication	116
32.2	Changes.....	118
32.3	Receipt of Communications	119
32.4	Payment of Invoices	119

33.	Law.....	119
34.	Disputes.....	119
	34.1 Dispute.....	119
	34.2 Resolution by Arbitration	119
	34.3 Caveats.....	120
	34.4 Waiver of Sovereign Immunity	120

Schedules

1. Specifications, General Arrangement, Major Supplier's List and Addendum and Mid-ship section
2. Interim Stage Certificate
3. Final Stage Certificate
4. Change Order Form
5. Planned Programme Outline
6. Progress Report Format
7. Refund Guarantee
8. Form of Protocol of Delivery and Acceptance
9. Guarantee Engineer Letter Agreement Format
10. Boil Off Rate Calculation
11. Pricing Structure

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THIS SHIPBUILDING CONTRACT is dated 2nd July, 2021 and made between:

- (1) HUDONG-ZHONGHUA SHIPBUILDING (GROUP) CO., LTD., a company organized in and existing under the laws of the People's Republic of China, with a registered office at 2851 Pudong Dadao, Shanghai, People's Republic of China (the "**Seller**");
- (2) FORTUNE MAGNIFICENT SHIPPING LIMITED, a company organized in and existing under the laws of Hong Kong, with a registered office at 1802-3, Worldwide House, 19 Des Voeux Road, Central, Hong Kong (the "**Buyer**").

THE PARTIES AGREE that:

In consideration of the mutual covenants contained in this Contract:

- (a) the Seller agrees to design, build, launch, equip and complete at the Shipyard in accordance with Good Shipbuilding Practice, and sell and deliver to the Buyer, the Vessel; and
 - (b) the Buyer agrees to purchase and take delivery of the Vessel from the Seller,
- upon the terms and conditions set out in this Contract.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Contract:

"Adjusted Delivery Date" means the Contractual Delivery Date, as adjusted pursuant to Clause 14.1(b) (*Time*).

"Affiliate" means, with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under the common control of, that Person. For the purposes of this definition, **"control"** (including the terms **"controlled by"** and **"under the common control"**) means the beneficial ownership of 30% or more of the voting shares of a Person or of the equivalent rights to influence the decisions of that Person.

"Approved Drawings" means the Working Drawings which are approved pursuant to Clause 7 (*Working Drawings, Suppliers, Subcontractors, Spare Parts*).

"Appurtenances" means the engines, pumps, boilers, machinery, equipment, fittings and components of the Vessel.

"Assignment Enforcement Events" has the meaning given in Clause 17.11(b) (*Guarantee Extension*).

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"Auxiliary Documents" has the meaning given in Clause 26.1(b) (*Responsibilities of Buyer*).

"Banking Day" means any day (other than a Saturday or Sunday) on which banks are open for general business in Beijing, New York and Hong Kong.

"Business Days" are Days on which offices, factories and other places of work are generally open for business in Shanghai and Hong Kong, and **"non-business days"** will be construed accordingly.

"Buyer Default" has the meaning given in Clause 19.1(b) (*Definition of Default*).

"Buyer Designees" has the meaning given in Clause 14.6(b) (*How Effected*).

"Buyer Modification" means a change requested by the Buyer to be made to the Specifications.

"Buyer Modification Dispute" has the meaning given in Clause 8.3(b)(ii) (*Buyer Modification*).

"Buyer Modification Request" means a request for a Buyer Modification.

"Buyer Termination Notice" has the meaning given in Clause 20.2 (*Effect of Default*).

"Buyer's Group" means:

- (a) the Buyer;
- (b) the Charterer;
- (c) any future buyer (during construction or after Delivery) or operator of the Vessel;
- (d) any Affiliate of (a), (b) and/or (c);
- (e) any directors, officers, employees and agents of (a), (b), (c) and/or (d), including the Buyer's Representatives and the Charterer's Representatives; and
- (f) any Lenders or Lenders' Agent.

"Buyer's Representatives" means any authorised representatives appointed by the Buyer (including any representatives of the Buyer's lenders).

"Buyer's Supervisor" means one of the Buyer's Representatives designated by the Buyer to act as the Buyer's onsite construction supervisor.

"Buyer's Supplies" means any materials, parts, supplies, machinery, equipment and Appurtenances required under this Contract (and listed in the Specifications) to be supplied and delivered to the Seller by the Buyer.

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"Buyer's Yard" has the meaning given in Clause 17.6(c) (*Remedy of Defects and Post-Delivery Defects*).

"Change Order" means the change order in the form of Schedule 4 (*Change Order Form*).

"Charterer" means a company who will be under the charterparty with the Buyer.

"Charterer's Representatives" means any Charterer's representatives (including any representatives of the Charterer's lenders or any representatives of actual or potential buyers of LNG which might be transported by the Vessel).

"Claim Notice" has the meaning given in Clause 17.3 (*Notice of Claim*).

"Class Rules" means the rules and regulations including all existing amendments and revisions of and under special survey of the Classification Society in force and effect as at the Effective Date and more particularly set forth in the Specifications.

"Class Surveyor" means a hull, machinery, electrical and cargo systems surveyor assigned by the Classification Society.

"Classification Societies" means Lloyd's Register of Shipping and China Classification Society.

"Completion Notice" has the meaning given in Clause 13.5(a) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).

"Compulsory Modification" means any modification to, or any change in the interpretation or application of, any of the Regulations, other than as specified in Clause 3.3(a) (*Classification, Class Rules and Regulations*), and the modification and/or change is made compulsory, or is due to be made compulsory, for the Vessel by the Classification Society and/or the concerned promulgating Regulatory Authorities and/or the ports at which the Primary Terminals are located.

"Contingency" has the meaning given in Clause 15.1 (*Causes of Delay*).

"Contract" means this Shipbuilding Contract and all its Schedules, as each exists on the Effective Date, and as they may subsequently be amended or supplemented.

"Contract Price" has the meaning given in Clause 4.1(a) (*Contract Price*).

"Contractual Delivery Date" means 31st January, 2024.

"Day" means a calendar day or, in the case of the application of a Specification or the measurement of the Vessel's performance, twenty-four (24) consecutive hours beginning at the time the Specification is to be applied or

the performance measured and, unless otherwise stated in this Contract, two or more Days will run consecutively.

"Defects" has the meaning given in Clause 13.5(b) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).

"Deferred Delivery Date" has the meaning given in Clause 14.4(a) (*Deferred Delivery by Buyer*).

"Delay" has the meaning given in Clause 15.1(b)(i) (*Causes of Delay*).

"Delivery" means the Buyer's actual acceptance of physical delivery of the Vessel from the Seller, as evidenced by the Protocol of Delivery and Acceptance signed by, or on behalf of, the Seller and the Buyer in accordance with Clause 14.6 (*How Effected*).

"Delivery Date" means the date on which the Delivery of the Vessel occurs.

"Dispute" means any dispute, controversy or claim which may arise out of, or in connection with, this Contract or the implementation, breach, termination, validity or existence of it.

"Drawings" means the plans, drawings and other documents dated and initialled by the Parties for identification and listed in Schedule 1 (*Specifications, General Arrangement Major Supplier's List, Mid-ship section and Addendum*).

"Early Delivery Date" has the meaning given in Clause 14.3(a) (*Early Delivery*).

"Effective Date" has the meaning given in Clause 2.

"Equipment List" means a list of all equipment that is to be demonstrated and/or tested at or off the Worksite and during sea and other trials, as well as the operating range of the demonstrations and tests.

"Events" means the recognisable construction-related events listed in Clause 5.1 (*Instalment Payments*).

"Exempted Assets" has the meaning given in Clause 34.4(b) (*Waiver of Sovereign Immunity*).

"Final Adjusted Delivery Date" means the final Adjusted Delivery Date, as adjusted before Delivery pursuant to Clause 14.1(b) (*Time*).

"Final Notice" has the meaning given in Clause 15.2(c) (*Notices*).

"Final Stage Certificate" means the certificate in the form of Schedule 3 (*Final Stage Certificate*).

"Flag State" means Hong Kong or such place where the Vessel is to be registered pursuant to Clause 3.4(b) (*Vessel Registration*).

"Good Shipbuilding Practice" means a good, sound and workmanlike manner in accordance with internationally accepted shipbuilding and marine engineering standards and practices (including those of ISO9001:2008, OHSAS 18001).

"Governmental Charges" has the meaning given in Clause 27.1 (*Governmental Charges*).

"Grace Period" has the meaning given in Clause 16.1(a) (*Contract Price Reduction*).

"Guarantee" means the guarantee given by the Seller under Clause 17 (*Post-Delivery Defects and Seller's Guarantee*).

"Guarantee Defect" has the meaning given in Clause 17.1(a)(i) (*Guarantee*).

"Guarantee Engineer" has the meaning given in Clause 17.12(a) (*Guarantee Engineer*).

"Hand Over Meeting" has the meaning given in Clause 14.6(c) (*How Effected*).

"Incomplete State" has the meaning given in Clause 19.4(a)(ii) (Disposition of Vessel).

"Information" has the meaning given in Clause 25.1(b) (*Protection of Confidential Information*).

"Information Brokering" has the meaning given in Clause 22.1(c) (*Representations and Warranties*).

"Initial Notice" has the meaning given in Clause 15.2(a) (*Notices*).

"Instalments" means the instalments of the Contract Price set out in Clause 5.1 (*Instalment Payments*).

"Insurance" means the insurance required to be placed pursuant to Clauses 11 (*Seller's Risks and Insurance*) and 12 (*Loss or Damage*).

"Interest" has the meaning given in Clause 4.3 (*Interest*).

"Interim Stage Certificate" means the certificate in the form of Schedule 2 (*Interim Stage Certificate*).

"Latest Permitted Delivery Date" has the meaning given in Clause 14.1(c) (*Time*).

"Lenders" has the meaning given in Clause 29.1 (*Buyer Financing Requirements*).

"Lenders' Agent" has the meaning given in Clause 29.1 (*Buyer Financing Requirements*).

"LMAA" has the meaning given in Clause 34.2 (*Resolution by Arbitration*).

"LNG" means liquefied natural gas, being a mixture of hydrocarbons, predominantly methane, in a liquid state at or near atmospheric pressure.

"Major Supplier" means a Supplier named in the Major Supplier's List (as amended by the Parties from time to time).

"Major Supplier's List" means the "Major Supplier's List" referred to in Schedule 1 (*Specifications, General Arrangement, Major Supplier's List and Mid-ship section and Addendum*) (as amended by agreement from time to time).

"Materials" means all materials, parts, supplies, machinery and equipment (except the Buyer Supplies and the Appurtenances), plant, vessels and consumables required by this Contract and/or the Specifications to be incorporated on, in, or used in the construction of, the Vessel.

"Modification" has the meaning given in Clause 8.1 (*Modification Restriction*).

"months" means a period beginning in one calendar month and ending in the next calendar month on the day numerically corresponding to the day of the calendar month on which it started Provided that if there is no such numerically corresponding day, it shall end on the last day of such next calendar month and **"months"** and **"monthly"** shall be construed accordingly.

"OCIMF" means Oil Companies International Marine Forum.

"Officials" has the meaning given in Clause 22.1(a)(iii) (*Representations and Warranties*).

"OHSAS" means Occupational Health and Safety Advisory Services.

"Other Requirements" has the meaning given in Clause 3.3(b)(ii) (*Classification, Class Rules and Regulations*).

"Parties" means both the Seller and the Buyer.

"Party" means any of the Seller or the Buyer.

"Person" means any individual, firm, corporation, stock company, limited liability company, trust, partnership, association, joint venture, or other business entity.

"Physical Damage" has the meaning given in Clause 17.1(a)(ii) (*Guarantee*).

"Planned Programme" means a planned programme for the construction of the Vessel from start of the Work to Delivery.

"Post-Delivery Defects" has the meaning given in Clause 17.1(a)(iii) (*Guarantee*).

"Postponed Delivery Date" has the meaning given in Clause 16.3 (*Buyer's Option to Choose Delivery Date*).

"Potential Adjustments" has the meaning given in Clause 8.2(a) (*Potential Adjustments*).

"PRC" means the People's Republic of China.

"Pre-Delivery Instalments" means the first, the second and the third Instalments of the Contract Price.

"Primary Terminal" has the meaning given in Clause 3.2 (*Dimensions and Characteristics*).

"Progress Report" has the meaning given in Clause 9.5(a) (*Progress Reporting*).

"Project Execution Plan" means a document to be prepared by the Seller and approved by the Buyer, which shall serve as the framework for developing the detailed project/worksite specific plans for the Work.

"Protocol of Delivery and Acceptance" means the form set out in Schedule 8 (*Form of Protocol of Delivery and Acceptance*).

"Protocol of Trials" has the meaning given in Clause 14.6(c) (*How Effected*).

"Refund Guarantee" has the meaning given in Clause (*Refund Guarantee*).

"Refund Guarantor" means any one of the main branch or head office of Bank of China Limited or The Export-Import Bank of China, or any other bank or other financial institution acceptable to the Buyer and the Lenders.

"Regulations" means those rules, regulations, requirements and recommendations set out in the Specifications, which includes, the requirements officially declared, published or adopted by IMO or the relevant authorities in the Flag State, EU, USA, or PRC.

"Regulatory Authorities" means those national or international entities, whether governmental or non-governmental (including the Classification Society), which promulgate and/or oversee compliance with certain of the Regulations.

"Relevant Expiry Date" has the meaning given in Clause 17.2(g) (*Applicable Guarantee Periods*).

"Remedial Details" has the meaning given in Clause 13.5(c) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).

"Remedial Work" has the meaning given in Clause 17.6(a) (*Remedy of Defects and Post-Delivery Defects*).

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"Repair Yard" has the meaning given in Clause 17.6(d) (*Remedy of Defects and Post-Delivery Defects*).

"Selected Delivery Date" has the meaning given in Clause 16.3 (*Buyer's Option to Choose Delivery Date*).

"Seller Inspection" has the meaning given in Clause 17.4 (*Seller Inspection*).

"Seller Notified BM Adjustments" has the meaning given in Clause 8.3(b)(i) (*Buyer Modification*).

"Seller Notified CM Adjustments" has the meaning given in Clause 8.4(a)(ii) (*Compulsory Modifications*).

"Seller Termination Notice" has the meaning given in Clause 19.3 (*Contract Termination*).

"Seller's Bank" means a first-class prime bank, or other financial institution acceptable to the Buyer and the Lenders, and designated by the Seller in writing.

"Seller's Group" means:

- (a) the Seller;
- (b) any Affiliate of each of (a); and
- (c) the directors, officers, employees and agents of (a) and (b).

"Seller's Nominated Yard" has the meaning given in Clause 17.6(b) (*Remedy of Defects and Post-Delivery Defects*).

"Seller's Place of Custody" has the meaning given in Clause 26.1(a) (*Responsibilities of Buyer*).

"Seller's Supervisor" means one or more authorised representatives acting on the Seller's behalf in making decisions required by the Seller under this Contract, either as specified elsewhere in this Contract or as otherwise delegated by the Seller in notices to the Buyer.

"Seller's Supplies" means the Materials, equipment and/or services for the Vessel delivered to the Seller, other than the Buyer's Supplies.

"Shipyard" means the Seller's shipyard and its affiliates in Shanghai, including Pudong New District, Yangpu District, Changxing Island, Chongming Island of Shanghai, or other docks acceptable to the Buyer.

"Specifications" means:

- (a) the specification dated and signed by the Parties for identification and referred to in Schedule 1 (*Specifications, General Arrangement, Major Supplier's List, Mid-ship section and Addendum*);

- (b) the Drawings as they exist on the Effective Date; and
- (c) the Approved Drawings as they exist on their approval dates,

in each case, as they may subsequently be amended or supplemented from time to time in accordance with this Contract.

"Statement of Events" has the meaning given in Clause 15.2(b) (*Notices*).

"Subcontractors" means:

- (a) any Person to whom the Seller delegates part of its Work under a contract; and
- (b) any Person to whom any Person referred to in (a) delegates its Work under a contract.

"Substitution" has the meaning given in Clause 8.8 (*Change Orders*).

"Supplemental Completion Notice" has the meaning given in Clause 13.5(c) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).

"Supplier" means any Person who supplies any item of Appurtenances or Materials to the Seller. This includes a Major Supplier, except where any provision in this Contract specifically refers to a Supplier that is not named on the Major Supplier's List or proposed to be added to the Major Supplier's List.

"Suppliers' Guarantees" has the meaning given in Clause 17.11(a) (*Guarantee Extension*).

"Supplier's Technical Agreement" has the meaning given in Clause 7.2(a)(i) (*Major Suppliers and Subcontractors*).

"Table" has the meaning given in Clause 18.1(a) (*Criteria*).

"Tonnes" means metric tonnes or 1,000 kilograms.

"Trial Results" has the meaning given in Clause 13.5(a)(i) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).

"United States Dollars" or **"US Dollars"** or **US\$** means the currency of the United States of America.

"Update Reports" has the meaning given in Clause 15.2(b) (*Notices*).

"Vessel" means the liquefied natural gas carrier more fully described in Clause 3.1(a) (*Performance of the Work*) (including its Appurtenances), at any stage of construction, to be constructed in accordance with this Contract and the Specifications.

"Waiver" has the meaning given in Clause 8.4(b) (*Compulsory Modifications*).

"Work" means all activities of the Seller and the Seller's Subcontractors under, or in connection with, this Contract.

"Working Drawings" means the plans, drawings, calculations, equipment and machinery specifications which, the Seller and the Buyer agree, will require the Buyer's written approval or comment and which the Seller sends to Classification Society and other Regulatory Authorities. This includes plans and drawings of machinery arrangements, piping arrangements, electric wiring arrangements and manufacturers' and Suppliers' arrangements for pumps, motors, valves and other parts and equipment and GTT's drawings for cargo containment system.

"Worksite" means the Shipyard, lands, waters and other places in or through which the Work is to be performed, including floating construction equipment, vessels or places of any kind (whether on the Seller's premises, the Subcontractors' premises, the Supplier's premises or otherwise), as well as all design offices, workshops and places where the Work is being performed or where the Materials are being obtained, stored, tested, inspected, sampled, surveyed or used for the purpose of performing the Seller's obligations under this Contract.

1.2 Interpretation

- (a) Unless a contrary intention appears:
 - (i) the singular includes the plural and vice versa; and
 - (ii) a reference expressed in one gender includes the other gender.
- (b) Unless a contrary intention appears, references to Clauses and Schedules are to be construed as references to clauses of, and schedules to, this Contract. Clauses and Schedule headings are for ease of reference only.
- (c) All Schedules attached to this Contract and all documents listed in them, but not attached to the Schedules or this Contract are deemed incorporated in, and made an integral part of, this Contract. This includes the Drawings, as well as all Change Orders executed by the Parties in accordance with this Contract.
- (d) References to "include" or "including" shall not be construed as being by way of limitation and references to "other" or "otherwise" shall not be construed as being limited by any words with which they are associated.

2. EFFECTIVE DATE OF CONTRACT

This Contract shall become effective upon fulfilment of all the following conditions::

- (1) Due execution of this Contract hereto;

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(2) Buyer's board approval on or before 19th July, 2021.

3. **DESCRIPTION AND CLASS**

3.1 **Performance of the Work**

- (a) Subject to the terms and conditions of this Contract:
- (i) the Seller will design, construct, launch, equip, test, supply and complete at the Shipyard; and
 - (ii) the Buyer will take Delivery, and pay for,
 - the "**Vessel**", being a 174,000 m³ LNG carrier to be designated as Hull No. H1829A which will:
 - (A) have the dimensions and characteristics set out in the Specifications;
 - (B) meet and comply with the Regulations; and
 - (C) be registered as a ship under the Hong Kong Shipping Registry.
- (b) The design of the Vessel will duplicate that of the Seller's Project with Hull No. H1827A.
- For the avoidance of doubt, notwithstanding any other provisions herein, H1827A's Specifications, Approved Drawings and Modifications till the signing of this Contract shall be automatically applied to the Vessel without further approval from the Buyer, Classification Society and other Regulatory Authorities.
- (c) The Vessel will be constructed in a good, sound and workmanlike manner, in accordance with:
- (i) the Good Shipbuilding Practice; and
 - (ii) the terms and conditions of this Contract and the Specifications.
- (d) The Vessel will be delivered under this Contract after sea and gas trials, safely afloat and immediately ready to engage fully in the loading, transportation and delivery of LNG.
- (e) The Seller will, at its own cost, provide all services required for completion and Delivery of the Vessel. The services will include management, supervision, personnel, labour, design, specifications, calculations, plans, drawings, Appurtenances, Materials, inspections, surveys, approvals, permits, priorities, allocations and all other things (whether of a temporary or permanent nature) in so far as the necessity for providing the services is specified in, or can reasonably be inferred from, this Contract and/or the Specifications.
- (f) The Seller will establish and maintain systems for HSE, project execution and QA/QC, including project organisation, document

control, execution management, schedule management, change management, HSE management and quality management as agreed by the parties and approved by the Buyer before the Effective Date. The Seller will also conform to such systems throughout the construction period.

- (g) The Seller will provide all information reasonably requested by the Buyer to support the Buyer's oversight of the Seller's performance of the Work, including performance of the Suppliers and the Subcontractors.

3.2 Dimensions and Characteristics

- (a) The Vessel will have the dimensions and characteristics stated in the Specifications and, in particular, the following:

Length overall:	295.00 metres
Length between perpendiculars:	288.00 metres
Breadth moulded:	45.00 metres
Depth moulded:	26.25 metres
Scantling draught, moulded:	12.50 metres
Design draught, moulded:	11.50 metres
Guaranteed Cargo Capacity (100%):	174,000 m3
Cargo containment system type:	GTT NO 96 L03+
Guaranteed Speed @ design draught, Normal Operating Power (NOP) with 21% Sea Margin:	19.5 knots
Main Engine:	
Maximum Continuous Rating (in total) rpm	2 x 13,265 kW x 69.1
Normal Operating Power (NOP)	2 x 11,275kW x 65.4rpm

M/E guaranteed SFGC & SFOC figure to be as per Technical Memorandum. Main Engine Guaranteed Fuel Consumption:

Type	Specific Fuel Oil Consumption (SFOC)	Specific Fuel Gas Consumption (SFGC)
Win G&D 6X72DF	172.7 g/kWh @ NOP, at shop test, using MDO with a lower calorific value of 42,707 kJ/kg at ISO 3046-1:2002 standard	7095 kJ/kWh @ NOP, at shop test, using fuel gas with a lower calorific value of 50,000 kJ/kg, and pilot oil with a lower

	reference condition, IMO NOx Tier II emission compliance.	calorific value of 42,707 kJ/ kg at ISO standard reference condition, IMO 3046-1:2002 NOx Tier III emission compliance.
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Guaranteed Boil-Off: 0.100% per day based on fully loaded cargo during laden voyage

Guaranteed Dead Weight: **79,130** MT at design draught

Loading and Unloading Rate: **14000** m³ per hour at Loading and **14000** m³ per hour at unloading, details to be described in the Specification.

(b) Class Notation:

The scope of work for Classification Societies is the same as which have already been applied for the project of H1827A, unless otherwise agreed in writing by the parties.

Lloyds Register: +100A1 Liquefied Gas Tanker, Ship Type 2G, UMS, NAVI, Shipright (IHM), Shipright (SDA, ACS(B)), Shipright (FDA plus (40, trading route 50% North Atlantic and 50% from North-West Europe to Japan)) Shipright (CM), *IWS, BWMP(T), SCM. The Vessel will be designed and constructed to be:

- (i) suitable for employment in the worldwide LNG trade in a safe and reliable manner and specifically between the primary terminals listed in Specifications (each a "**Primary Terminal**");
- (ii) optimized for and fully compatible with the port facilities at the Primary Terminals; and
- (iii) fit to load, handle, carry and discharge LNG in bulk, safely between other port(s) agreed between the Parties, as described in the Specifications.

3.3 **Classification, Class Rules and Regulations**

(a) The Vessel, including the Appurtenances, Materials and spare parts to be carried by it, will be designed, constructed, surveyed and tested to:

- (i) fully comply with the following rules, regulations, recommendations and guidelines including any circular set into

force at the date of signing of the Contract. This shall include those amendments officially declared and published by the relevant regulatory authority but awaiting ratification, enactment or implementation at the date of signing of the Contract to come into effect, which is listed in Specifications; and

- (ii) fully comply with the Class Rules and Regulations.

Any requirements in addition to Clause 3.3(a)(i) and (ii) above will be implemented under Clause 8.3 (*Buyer Modification*), except where the modification has been incorporated into the Specifications and ship price in accordance with a pricing structure agreed between the Seller and the Buyer.

- (b) The Seller will, at its own cost, arrange for:
 - (i) Class Surveyors to attend at the Shipyard, the premises of the Subcontractors or other Worksite. The Class Surveyors will ensure, under survey of the Classification Society or otherwise, that the construction of the Vessel and the manufacture, installation and testing of all equipment and systems for, and in, the Vessel satisfy the rules, regulations, requirements and recommendations of the Classification Society so as to permit the issuance of the classifications set out in Clause 3.2(a) and the Class Rules and all the Statutory Certificates in accordance with the applicable Regulations together with related surveys as required by this Contract and Specifications; and
 - (ii) (if appropriate) supervision and approval by relevant Regulatory Authorities other than the Classification Society under their Regulations ("**Other Requirements**").
- (c) The decision of the appropriate Class Surveyors as to whether or not the Vessel complies with the Class Rules and the Other Requirements (compliance with which has been delegated to the Classification Society) is final, conclusive and binding on the Parties, except where this Contract provides for arbitration.
- (d) All survey, testing, inspection costs and charges incidental to compliance with the Regulations and the Class Rules (including royalties, if any, payable in connection with the Work and/or the construction of the Vessel) are for the sole account of the Seller. The Seller indemnifies and holds the Buyer's Group harmless from and against any claims and/or liabilities for, or in connection with, such fees and charges and/or penalties for failure to pay the same fees and charges.

3.4 Vessel Registration

- (a) The Buyer will, at its own cost, carry out the registration of the Vessel (excluding, however, all arrangements and preparations for, and the conducting of, tests and surveys required for registration, which will be at the Seller's own cost).
- (b) The Buyer may elect to change the registry of the Vessel, within three (3) months after the Effective Date, upon notice to the Seller, such change shall be deemed a Potential Adjustment pursuant to Clause 8.2(a) (*Potential Adjustments*) and such election will be considered a Buyer Modification Request under Clause 8.3 (*Buyer Modification*). Without prejudice to the foregoing, if the Seller claims that the change increases the construction cost to the Seller or causes delay in the construction and/or Delivery, the Seller may make a claim under, and subject to, Clause 8.3 (*Buyer Modification*) for an increase in the Contract Price and/or an extension of the Contractual Delivery Date or the Adjusted Delivery Date of the Vessel (including the Latest Permitted Delivery Date). Any increase in the Contract Price will be paid at Delivery in accordance with Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*).
- (c) The Seller will provide all reasonable assistance to the Buyer to secure the Vessel registration chosen by the Buyer.
- (d) The Buyer will provide the name of the Vessel to the Seller by notice in writing prior to the keel laying of the Vessel.

3.5 Governmental Approvals

- (a) The Seller is responsible, at its own risk and cost, for obtaining and keeping in force at all times:
 - (i) all PRC governmental licences, approvals (whether national, provincial, municipal or local) required or appropriate as of, and/or after, the Effective Date for the Work, construction of the Vessel and the Vessel's sale to the Buyer and its export from the PRC.

The Seller's obligations under this Clause 3.5(a) also include all licences, permits, authorisations, approvals and waivers for:

- (i) currency conversions, if necessary;
- (ii) withdrawal from, and/or payment outside or inside, the PRC of any monies payable or repayable to the Buyer under this Contract;
- (iii) any assignment or novation of this Contract permitted under Clause 28 (*Assignment and Novation*); and

- (iv) importing any Materials, Appurtenances or other items (except the Buyer's Supplies) required in respect of the Vessel.
- (b) At the Buyer's request, the Seller will assist the Buyer in:
 - (i) the importation, exportation, landing and government release/clearance of the Buyer's Supplies and their inland transportation to the Shipyard or other location as the Seller directs; and
 - (ii) obtaining any licences, permits, other authorisations or waivers necessary or convenient for the Buyer's Representatives and/or the Charterer's Representatives to enter and/or stay in the PRC and any other country in which Work is to be conducted and perform their functions as provided for in this Contract.

The Seller's assistance will be at no cost to the Buyer, except for the Seller's reasonable documented out-of-pocket costs incurred, which will be reimbursed by the Buyer.

4. **CONTRACT PRICE, CURRENCY AND INTEREST**

4.1 **Contract Price**

- (a) The Buyer will pay the Seller US Dollars One Hundred Ninety-Four Million Two Hundred and Eighty Thousand Only (US\$194,280,000.00) which is the total sum of the price components set out in Schedule 11 (*Pricing Structure*) (the "**Contract Price**").
- (b) The Contract Price may be adjusted upward or downward pursuant to the terms of this Contract and excludes:
 - (i) all items designated by the Buyer or the Buyer's Supplies (except as provided in Clause 10.1 (*Title*), Clause 11.2 (*Required Insurance*), the first sentence of Clause 26.2(a) (*Responsibilities of Seller*) and Clause 26.2(c) (*Responsibilities of Seller*)); and
 - (ii) that part of the Vessel registration-related expense stipulated for the Seller's account in Clause 3.4(a) (*Vessel Registration*).

this Vessel is a repeat one of H1827A. For the avoidance of doubt, any modification applied to H1827A till the signing of this Contract shall be applied to this Vessel without adjustment to the Contract Price. And the modification applied to H1827A after the signing of this Contract shall be discussed and mutually agreed between both Parties.

- (c) The Seller and the Buyer unconditionally and irrevocably waives any rights it has, or may have, under any applicable law, rules or regulations (including those of the PRC), to escalate or otherwise

adjust the Contract Price, other than an adjustment as permitted in Clause 4.1(b).

- (d) The Contract Price shall be paid in accordance with Clause 5 (*Terms of Payment*).

4.2 **Currency**

Unless otherwise stated in this Contract, all payments under this Contract by the Buyer to the Seller or by the Seller to the Buyer shall be made in US Dollars.

4.3 **Interest**

- (a) The rate of interest under this Contract is calculated at an annual rate of five per cent (5%) on the basis of a three hundred and sixty (360)-day year.
- (b) Unless otherwise stated in this Contract, any Interest due will be calculated as simple interest.

5. **TERMS OF PAYMENT**

5.1 **Instalment Payments**

The Buyer will pay the Contract Price to the Seller by the Instalments. The Instalments are timed to the satisfactory completion of the Events. Each Instalment is to be paid as provided in Clauses 5.2 and 5.3, with the Pre-Delivery Instalments being paid as conditional advances and not as deposits.

- (a) **First Instalment:**

Ten per cent. (10%) of the Contract Price amounting to US Dollars Nineteen Million Four Hundred Twenty Eight Thousand (US\$19,428,000), or maybe adjusted by mutual agreement, within seven (7) Banking Days after the Effective Date and receipt by the Buyer of the invoice sent by fax or the original invoice submitted, if required, in accordance with Clause 5.2(a)

- (b) **Second Instalment:**

Ten per cent. (10%) of the Contract Price amounting to US Dollars Nineteen Million Four Hundred Twenty Eight Thousand (US\$19,428,000), or maybe adjusted by mutual agreement, after keel laying of the Vessel.

- (c) **Third Instalment:**

Ten per cent. (10%) of the Contract Price amounting to US Dollars Nineteen Million Four Hundred Twenty Eight

Thousand(US\$19,428,000), or maybe adjusted by mutual agreement, after the launching of the Vessel.

(d) Fourth Instalment:

Seventy per cent. (70%) of the Contract Price amounting to US Dollars One Hundred Thirty Five Million Nine Hundred Ninety Six Thousand(US\$135,996,000) upon Delivery, as adjusted in accordance with Clause 5.4(a).

For the purpose of this Clause 5.1:

"steel cutting of the Vessel" is deemed to have taken place when the Seller certifies to the Buyer that it has begun to cut steel plates for construction of the Vessel. The cutting shall immediately precede the commencement of construction in accordance with the Planned Programme.

"keel laying of the Vessel" is deemed to have taken place when the first prefabricated hull block(s) with a total weight of at least fifty (50) tonnes as stipulated by the Class Rules have been completed, inspected and accepted by the Buyer's Supervisor and placed in the building dock. The placement shall coincide with the commencement of continuous erection in accordance with the Planned Programme, and the Seller has provided the Buyer with a fax copy of evidence of the required Insurance pursuant to Clause 11.3 (*Evidence of Required Insurance*), which copy has been acknowledged by the Buyer.

"launching of the Vessel" is deemed to have taken place when the Vessel is safely free floating alongside the outfitting quay. The outside hull of the Vessel shall then be fully welded and the Classification Society has confirmed, in writing, that there is an adequate completion of the hull for launching.

5.2 Payment Obligation Verification

Verification that the Instalments are due and payable is as follows:

- (a) In the case of the Event triggering the First Instalment, the Seller shall:
 - (i) prepare duplicate original invoices for the amount of the Instalment;
 - (ii) send by fax to the Buyer the invoice; and
 - (iii) send by hand or courier to the Buyer an original of the invoice
- (b) Upon the occurrence of each Event triggering the Second and Third Instalments, the Seller shall:
 - (i) prepare triplicate originals of the Interim Stage Certificate;
 - (ii) see to the signing of the Interim Stage Certificate by the Seller's Supervisor, the Buyer's Supervisor and the appropriate Class

Surveyors. The signing by the Buyer's Supervisor of the Interim Stage Certificate does not deprive the Buyer of its right to demand rectification of any non-conformity under Clause 6.8 (*Construction Non-Conformity; Safety Violations*));

- (iii) prepare duplicate original invoices for the amount of the Instalment;
- (iv) send by fax to the Buyer, copies of the signed original Interim Stage Certificate and invoice; and
- (v) in relation to the Third Instalment, copies of insurance policies as required by Clause 11 (*Seller's Risks And Insurance*).

At the same time, the Seller shall send by hand or courier to the Buyer one set of the originals of the Interim Stage Certificate and invoice.

The faxes and original documents described in Clauses 5.2(a) and 5.2(b) shall be sent to the Buyer in accordance with Clause 32.1(ii)(B) (*All Communication*).

- (c) In the case of the Fourth Instalment, at the preliminary handover meeting held pursuant to Clause 14.6(b) (*How Effected*), the Seller's Supervisor and the Buyer's Supervisor shall agree the kind and an amount of any sums due, refundable or creditable in accordance with Clause 5.4(a) and document the agreement by signing a duplicate original Final Stage Certificate. The Seller's Supervisor and the Buyer's Supervisor shall each retain an original of the executed Final Stage Certificate. If they fail to agree the terms of the Final Stage Certificate, the matter shall be resolved pursuant to Clause 34.2 (*Resolution by Arbitration*).

5.3 Instalment Payment Dates

- (a) Each Instalment is due and payable as follows:

- (i) First Instalment:

Within seven (7) Banking Days after the Effective Date and receipt by the Buyer of the invoice sent by fax or the original invoice submitted, if required, in accordance with Clause 5.2(a)

- (ii) Second and Third Instalments:

Within Seven (7) Banking Days after the Buyer receives the original invoice and Interim Stage Certificate submitted in accordance with Clause 5.2(b).

(iii) Fourth Instalment:

The Buyer shall remit this instalment against the original copy of the "**Protocol of Delivery and Acceptance**" (as set forth in Schedule 8) duly signed on behalf of both the Buyer and Seller.

- (b) The Seller shall advise the Buyer and the Buyer's Supervisor (if resident at the Shipyard) of the Seller's estimated date for each of the first three Events specified in Clause 5.1. The advice shall be given no later than fourteen (14) Days before the estimated date.
- (c) For each of the first four (4) Instalments, the Buyer shall promptly advise the Seller when the funds have been sent to the Seller, and the Seller shall promptly advise the Buyer when the funds have been received by the Seller.

5.4 **Adjustment to the Fourth Instalment; Liquidated Damages**

- (a) Any sums due, refundable or to be credited under any of the following circumstances shall either be paid at the same time as, or deducted as a credit from, the Fourth Instalment and be confirmed in writing by the Parties in advance:
- (i) Clause 3.4(b) (*Vessel Registration*) in respect of a change by the Buyer to the Vessel's registry;
 - (ii) Clause 7.2(a)(i) (*Major Suppliers and Subcontractors*) in respect of increased costs incurred by the Seller after the Buyer's request to use the Buyer's preferred Major Suppliers;
 - (iii) Clauses 8.3 (*Buyer Modification*), 8.5 (*Non-Compulsory Recommendations*), 8.7 (*Substitution of Appurtenances and Materials*)
 - (iv) and 8.9 (*Reimbursable Costs; Adjustments to Contract Price*) in respect of the Buyer's Modifications, non-compulsory recommendations, substitution of Appurtenances or Materials, and/or costs reimbursable to the Seller in relation to the Modifications;
 - (v) Clause 11.3 (*Evidence of Required Insurance*) in respect of the Seller's reimbursement of insurance premiums and charges paid by the Buyer;
 - (vi) Clause 14.7(b) (*Fuels, Lubricants, Consumable Stores and LNG*) in respect of fuel, etc. on board the Vessel at Delivery;
 - (vii) Clause 14.9 (*Dry-docking Before Delivery*) in respect of drydocking before Delivery;
 - (viii) Clause 16.1(b) (*Contract Price Reduction*) in respect of liquidated damages for late Delivery;

- (ix) Clause 18.2 (*Payment Due*) in respect of Vessel performance deficiencies (except those for excess boil-off);
 - (x) Clause 19.4(c) (*Disposition of Vessel*) in respect of the Seller's costs incurred in suspending work on the Vessel;
 - (xi) Clause 26.4 (*Cost Reimbursement*) in respect of the Buyer's reimbursements to the Seller in connection with the Buyer's Supplies;
 - (xii) Clause 27.4 (*Withholdings*) in respect of the Buyer's withholdings from monies payable to the Seller; and/or
 - (xiii) Clause 22.1 (*Representations and Warranties*) in respect of certain remuneration received by the Seller in respect of the Work.
- (b) Within fifteen (15) Banking Days after receiving a certificate from the Seller certifying the boil-off determination accomplished in accordance with Clauses 18.1(c) and 18.1(d) (*Criteria*), the Buyer shall send the Seller an invoice for any liquidated damages due to the Buyer for excess boil-off. The Seller shall also pay the Buyer the invoiced amount within Forty-Five (45) Banking Days of receiving the invoice.

5.5 **Payment Procedures and Payment Location**

- (a) If the date on which any payment is due under this Contract does not fall on a Banking Day, payment shall be made on the immediately following Banking Day.
- (b) Payments due under this Contract shall be made:
 - (i) in the case of payments to the Seller, by wire, cable or telex transfer to the account of the Seller's Bank; and
 - (ii) in the case of payments to the Buyer, by wire, cable or telex transfer to such account at such bank inside or outside the PRC as the Buyer, by notice to the Seller, may nominate to receive the payments.

Receipt of the wire, cable or telex transfer by the relevant bank on the due date for payment constitutes timely payment by the payor of the amount authorised by the wire, cable or telex to be paid. The amount authorised shall be credited, as immediately available funds, to the payee's account no later than the date on which payment is due. If the amount is not credited, payment will not be deemed received until the crediting is completed, and additional Interest on the amount authorised will be payable to the payee from the payor from the date of receipt of the transfer to the date of due and full credit.

- (c) Expenses for remitting any payments under this Contract and other expenses connected with it are for the sole account of the payer. Expenses for receiving any payments under this Contract and other expenses connected with it are for the sole account of the payee.
- (d) Payments by either Party to the other under this Contract shall be made without set-off or deduction, and shall not otherwise be deemed a waiver of any claim that either Party may have against the other as to sums due under this Contract.
- (e) Either Party (as payee only) may, on notice to the other, change the place for payment set out in accordance with Clause 5.5(b). Any change, however, will not become effective until thirty (30) Banking Days after a Party receives the notice.
- (f) The Seller warrants that any payment made under this Clause 5.5 does not violate any law, rule or regulation of the PRC, including any political subdivisions of it.

5.6 Prompt Payment

Except for the Fourth Instalment, no payment due under this Contract can be delayed or withheld by the Buyer by reason of:

- (a) any dispute or disagreement arising between the Parties; or
- (b) reference of the dispute or disagreement to arbitration as provided for in this Contract.

6. BUYER, CHARTERER AND SELLER REPRESENTATIVES ON SITE

6.1 Nomination; Authority; Seller Counterpart

- (a) The Buyer has the right, at its own cost, to maintain not more than thirty (30) Buyer's Representatives and one or more Charterer's Representatives at the Worksite while Work is proceeding to observe the Work.
- (b) The Buyer's Representatives have the right to:
 - (i) attend all the inspections, tests and trials related to the Work and the Vessel, including its machinery, equipment and outfitting;
 - (ii) inspect the Vessel, its machinery, equipment and outfitting while in storage or the process of fabrication, erection, construction and installation;
 - (iii) review Working Drawings and other documents and information;
 - (iv) require tests, inspections and trials described in this Clause 6.1(b);

- (v) submit a Buyer Modification Request pursuant to Clause 8.3(a) (*Buyer Modification*);
 - (vi) approve Subcontractors;
 - (vii) supervise the HSE system and QA/QC system of the Seller and their implementation; and
 - (viii) do any other things under this Contract as may be authorised by the Buyer.
- (c) The Buyer's Supervisor has the authority to act on behalf of the Buyer in the activities specified in this Contract or as otherwise delegated by the Buyer by a duly executed power of attorney to the Seller. However, the Buyer's Supervisor always has the option to refer any notice, direction or approval required of the Buyer to the Buyer for the Buyer's action.
 - (d) Before arriving at the Worksite, the Buyer shall notify the Seller of:
 - (i) the names of the Buyer's Representatives and the Charterer's Representatives;
 - (ii) the identity of the Buyer's Supervisor and the specific scope of his authority, including what authority, if any, the Buyer's Supervisor can, in turn, delegate; and
 - (iii) the anticipated dates of arrival of all the representatives at the Shipyard.
 - (e) The Buyer has the right, on notice to the Seller, to appoint different Buyer's Representatives (including the Buyer's Supervisor) and Charterer's Representatives, and to amend, revoke or issue new authority to the Buyer's Supervisor.
 - (f) The Charterer's Representatives have the right to participate as observers in all the activities of the Buyer's Representatives (including those of a Buyer's Representative designated as the Buyer's Supervisor) under this Contract. However, save as provided in Clause 6.8(b), the Charterer's Representatives are not entitled to make any request or recommendation directly to the Seller or any of the Seller's employees, agents, Suppliers or Subcontractors, except through the Buyer or the Buyer's Supervisor.

6.2 Seller's Supervisor

- (a) The Seller shall, at its own cost, maintain a Seller's Supervisor permanently at the Shipyard.
- (b) Within ninety (90) Days after the Effective Date, the Seller shall notify the Buyer of (i) the name of the Seller's Supervisor; and (ii) the

Sellers' Initials J

Buyer's Initials JS

specific scope of authority of the Seller's Supervisor, including what authority, if any, the Seller's Supervisor can, in turn, delegate.

- (c) The Seller has the right, on notice to the Buyer and the Buyer's Supervisor, to appoint a different Seller's Supervisor, and to amend, revoke or issue new authority to the Seller's Supervisor. The Seller's Supervisor always has the option to refer any notice, direction or approval required of the Seller to the Seller for the Seller's action.

6.3 **Supervisor Interface**

Unless otherwise stated in this Contract or notified by one Party to another, the Buyer's Supervisor and the Seller's Supervisor shall each address all questions, directions and proposals to one another and take any response or communication from each other as coming from the Seller or the Buyer, as the case may be.

6.4 **Facilities; Accommodation; Assistance**

- (a) From the Effective Date, the Seller shall, at its own cost, provide suitably lighted, heated and air conditioned office accommodation, including a suitable number of desks, chairs, drawing tables, filing cabinets, six personal computers, photo copying machine(s), laser color printer and scanner machine(s), on a local area network with high-speed internet access for all of the Buyer's Representatives and the Charterer's Representatives, conference or meeting rooms, changing rooms, lavatory facilities, telephones and faxes, and tools for inspection and measuring, safety protection articles, working lunch in private canteen, mineral water, laundry and cleaning service, bicycle and pick up bus service reasonable and safe access to the work site and the Buyer shall make available the use of such other reasonable facilities as may be necessary to enable them to carry out their duties effectively.
- (b) The Seller shall pay for all telephone and fax communications within the Shipyard and Shanghai. International and long distance telephone calls outside Shanghai and fax communications by the Buyer's Representatives and/or the Charterer's Representatives shall be paid by the Seller and reimbursed by the Buyer to the Seller.
- (c) The Seller shall also provide access to every facility by the Buyer's Representatives and the Charterer's Representatives free of charge while the Work is proceeding, to examine and inspect the Work, and to call for and witness any tests and trials as may be required or as they may reasonably request.
- (d) Whenever reasonably requested by the Buyer during the period of construction of the Vessel, but, in any event, during the last twelve (12), six (6) and four (4) months of the period, the office space shall, on the Buyer's notice to the Seller, be increased to accommodate up

to six (6), twelve (12) and eighteen (18) members of the crew respectively with whom the Buyer plans to operate the Vessel.

- (e) Upon the Buyer's request, the Seller shall assist the Buyer to locate and employ, at the Buyer's cost and responsibility, one or more secretaries capable of speaking, reading and typing English and the local working language to perform secretarial services for the Buyer's Representatives and/or the Charterer's Representatives during regular working hours at the Shipyard.

6.5 Seller Reimbursements

Any reimbursement due to the Seller from the Buyer under this Clause 6 shall be:

- (a) supported by the Seller's invoices (including tax, if any) supplied to the Buyer and the Buyer's Supervisor; and
- (b) paid by the Buyer on a monthly basis.

6.6 Inspections; Tests; Trials

- (a) When the Buyer's Representatives arrive at the Shipyard, the Seller's Supervisor shall, subject to the requirements in the Specifications, designate to the Buyer and the Buyer's Supervisor the tests, inspections, and trials which the Seller will conduct. The Seller shall agree with the Buyer or the Buyer's Supervisor which of the tests, inspections and trials will be attended by the Buyer's Representatives and the Charterer's Representatives. In any event, the Buyer's Representatives and the Charterer's Representatives will be entitled to attend all Major Suppliers' shop tests and, unless otherwise agreed by the Buyer, the Seller's Representatives shall attend shop test for main propulsion system, IAS, CTS, cargo handling machinery, Fuel Gas Supply System, Reliquefaction Plant, GCU and cryogenic valves
- (b) Except as provided in Clauses 13.4(b)(i) (*Sea and Gas Trials*) and 9.3 (*Schedule for Suppliers*), the Seller or the Seller's Supervisor shall give notice to the Buyer and the Buyer's Supervisor before the date for conducting all tests, inspections and trial. The notice shall be given twenty four (24) hours (if the location is at the Shipyard or other Worksite), seven (7) Days (if the location is in any other place in the PRC) and fourteen (14) Days (if the location is outside the PRC), respectively, before the commencement of the relevant test, inspection or trial (as the case may be). The Seller shall consider extending the notice period if any inspections, tests or trials are to be conducted during non-business days. The Seller shall make relevant Seller's production drawings and materials, together with the Seller's inspection or test records, workmanship standards and accuracy grade, etc ready for the relevant inspection, tests or trials.

- (c) The Buyer's Supervisor is responsible for advising the Charterer's Representatives of the scheduled time and place of the tests, inspections and trials. Notice required under this Clause 6.6 shall not be given on a Saturday, a Sunday, the Seller's non-business day or a day which is a public holiday in the PRC. However, as a general requirement, tests, inspections and trials shall ordinarily be conducted on business days, save that tests, inspections and trials may be conducted on non-business days when necessary and reasonably requested by Seller. Failure of the Buyer or the Buyer's Representatives to be present at the tests, inspections and trials after a valid notice has been given to them in accordance with this Clause 6.6 and without proper cause for the failure, is deemed to be a waiver of their right to be present.
- (d) The Buyer and Buyer's Supervisor shall be entitled to request the Seller to provide results (including recommendations and status of correction) of such inspections, trials or tests attended by the Classification Society. If Seller fails to pass the Buyer's or Buyer's Supervisor's or Classification Society's examination twice for any inspection, trials or tests, the Seller shall find out the reasons for such failure and the Buyer retains the right to request re-assessment on the relevant design, production and QA/QC system of the Seller and request correction by the Seller accordingly.

6.7 Work Rules

- (a) The Buyer's Representatives and the Charterer's Representatives shall observe the work rules prevailing at the Seller's or the Subcontractors' premises. The Seller shall give reasonable prior notice of the work rules to the Buyer's Representatives and the Charterer's Representatives.
- (b) Normal working hours and overtime working shall be in accordance with the China Labor Law. The Seller is responsible for arranging transportation services and necessary accommodations for the Buyer's Representatives and the Charterer's Representatives during overtime working period.

6.8 Construction Non-Conformity; Safety Violations

- (a) (i) If the Buyer or the Buyer's Supervisor discovers any construction, Appurtenances, Materials and/or workmanship which do not conform to the requirements of this Contract, the Specifications, the Class Rules, the Good Shipbuilding Practice and/or the Other Requirements, the Buyer or the Buyer's Supervisor shall give notice to the Seller's Supervisor and the Seller as to such non-conformity.
- (ii) Upon receipt of the notice, the Seller shall correct the non-conformity without cost to the Buyer, increase in the Contract Price and/or any extension of the then existing Adjusted

Delivery Date. Should disagreement arise between the Seller and the Buyer regarding the existence and/or extent of such non-conformity and/or its rectification, the dispute, at either the Seller's or the Buyer's option, shall be resolved in accordance with Clause 34 (*Disputes*) or, if appropriate, to the Classification Society pursuant to Clause 3.3(c) (*Classification, Class Rates and Regulations*) for resolution.

- (b) If the Buyer, the Buyer's Supervisor or any Charterer's Representative becomes aware of any safety violations or unsafe act (contrary to the OCIMF HSE and OHSAS 18001 guidelines then in effect) on the premises of the Seller or any Worksite, the Buyer's Supervisor and/or the Charterer's Representative can require that the Seller discontinues prosecution of that part of the Work leading to the violation and the Seller shall act accordingly until such time as the violations or unsafe act can be fully rectified in accordance with the guidelines.
- (c) The Seller shall correct such act or defect immediately if it has caused or contributed to any death, personal injury or damage to or loss or destruction of personal property to the Buyer, the Buyer's Representatives, the Charterer, the Charterer's Representatives or their estates. If in the Buyer's reasonable opinion, the Seller has not corrected such act or defect mentioned above, and the safety of health and property of the Buyer, the Buyer's Representatives, the Charterer or the Charterer's Representatives cannot be protected, the Buyer shall be entitled to stop the relevant activities on the Vessel or within the Worksite until Seller has corrected such act or defect. Any delay of the Work arising out of this Clause 6.8(c) shall not be a permitted delay of Delivery under this Contract.

6.9 Seller's Obligations Undiminished

Nothing in this Clause 6 or in any action or inaction of the Buyer, the Buyer's Representatives and/or the Charterer's Representatives will relieve or diminish any of the Seller's obligations or liabilities under this Contract in respect of the design, construction, equipping and/or outfitting of the Vessel.

6.10 Liability and Responsibility

- (a) The Seller is not liable to:
 - (i) the Buyer, the Buyer's Representatives, the Charterer, the Charterer's Representatives or their estates for their death or personal injury during the time when they are engaged in the activities contemplated under this Contract, either on the Vessel or within the Worksite, unless death or personal injury is caused, in whole or in part, by the gross negligence or wilful misconduct of the Seller, the Subcontractors or its or their employees or agents; and

- (ii) the Buyer, the Buyer's Representatives, the Charterer or the Charterer's Representatives in respect of damage to, or loss or destruction of, their personal property in or about the Shipyard and/or the Worksite, unless the damage to, or loss or destruction of, property is caused by the gross negligence or wilful misconduct of the Seller, the Subcontractors, or its or their employees or agents.
- (b) The Buyer is not liable to:
 - (i) the Seller, the Seller's Representatives, the Charterer, the Charterer's Representatives or their estates for their death or personal injury during the time when they are engaged in the activities contemplated under this Contract, either on the Vessel or within the Worksite, unless death or personal injury is caused, in whole or in part, by the gross negligence or wilful misconduct of the Buyer or its employees or agents; and
 - (ii) the Seller, the Seller's Representatives, the Charterer or the Charterer's Representatives in respect of damage to, or loss or destruction of, their personal property in or about the Shipyard and/or the Worksite, unless the damage to, or loss or destruction of, property is caused by the gross negligence or wilful misconduct of the Buyer or its or their employees or agents.
- (c) The Charterer is not liable to:
 - (i) the Buyer, the Buyer's Representatives, the Seller, the Seller's Representatives or their estates for their death or personal injury during the time when they are engaged in the activities contemplated under this Contract, either on the Vessel or within the Worksite, unless death or personal injury is caused, in whole or in part, by the gross negligence or wilful misconduct of the Charterer or its employees or agents; and
 - (ii) the Buyer, the Buyer's Representatives, the Seller, or the Seller's Representatives in respect of damage to, or loss or destruction of, their personal property in or about the Shipyard and/or the Worksite, unless the damage to, or loss or destruction of, property is caused by the gross negligence or wilful misconduct of the Charterer or its or their employees or agents.
- (d) The Seller indemnifies and holds harmless the Buyer's Group in respect of the claims and liabilities set out in Clauses 6.10(b) and/or 6.10(c) from which the Buyer or the Charterer has been exonerated.
- (e) The Buyer indemnifies and holds harmless the Seller's Group, the Charterer and/or the Charterer's Representatives in respect of the claims and liabilities set out in Clauses 6.10(a) and/or 6.10(c) from which the Seller or the Charterer has been exonerated.

- (f) The Charterer indemnifies and holds harmless the Seller's Group, the Buyer and/or the Buyer's Representatives in respect of the claims and liabilities set out in Clauses 6.10(a) and/or 6.10(b) from which the Seller or the Buyer has been exonerated.

6.11 **Replacement of Representatives**

The Seller has the right to request that the Buyer replace any of the Buyer's Representatives and/or the Charterer's Representatives whom the Seller deems unsatisfactory for proper progress of the Work, provided that the Seller's reasons are set out in reasonable detail in the request. The Buyer shall investigate the Seller's request and, if the Buyer considers the Seller's request is justified, the Buyer will effect a replacement as soon as practicable. The Buyer has the same rights, and the Seller the same obligations, in respect of the replacement of the Seller's or its Sub-contractor's or Supplier's employees or agents if the replacement is requested by the Buyer.

7. **WORKING DRAWINGS, SUPPLIERS, SUBCONTRACTORS, SPARE PARTS**

7.1 **Working Drawings**

(a) **Approval**

- (i) Both parties understood that Vessel is a repeat one of H1827A. Therefore, the same drawings and technical documents as those used for construction of H1827A shall be used for construction of the Vessel without approval by Class or the Buyer except for some modification which shall be mutually agreed between the parties.
- (ii) The Buyer is not liable for any cost associated with, and no adjustment of the Contract Price nor extension of the permissible time for the Seller to deliver the Vessel under this Contract will be granted as a result of, withholding approval of the Working Drawings by the Buyer in accordance with this Clause 7.1, except as may be agreed by the Parties.
- (iii) The Seller shall ensure the integrity and quality of Working Drawings to be submitted to the Buyer. The Seller shall pre-review the Suppliers' drawings before submitting them to the Buyer.

(b) **Response Timing**

- (i) The Seller shall submit to the Buyer, for record, three (3) hard copies of the Working Drawings before commencement of any Work associated with the Working Drawings and one (1) electronic copy in Excel, Word or PDF format.

- (ii) The Seller shall submit hard copies of the Working Drawings to the Buyer by airmail or airfreight, and electronic copies. The Seller shall also, simultaneously, send a fax to the Buyer identifying the Working Drawings sent and, if sent by air courier, quoting relevant waybill details. Upon receiving the Working Drawings, the Buyer shall send a fax to the Seller confirming receipt and the date of receipt. The Buyer shall return one (1) copy of the Working Drawings with approval, amendments or remarks, written on or accompanying it, within twenty one (21) Days after receiving the Working Drawings. The Seller shall then respond to the Buyer by either accepting or rejecting the Buyer's amendments and remarks, if any, within twenty one (21) Days after receiving them. Concurrently with the arrival of the Supervisor at the Shipyard, the Buyer may notify the Seller in writing, stating the authority which the Supervisor may have to approve, disapprove, or comment on such Working Drawings which have not yet been sent to the Buyer. If such Supervisor has been authorized by the Buyer with regard to approving such Working Drawings, the Supervisor shall return one (1) copy of the Working Drawings with approval, amendments or remarks written on or accompanying it, within twenty one (21) days after receipt thereof.
- (iii) Unless notice of approval or disapproval of any Working Drawings is given to the Seller by the Buyer within the deadlines set out in Clause 7.1, the Working Drawings in respect of which no approval or disapproval notice is received by the Seller are deemed to have been approved by the Buyer as submitted by the Seller. If the Seller fails to respond to the Buyer's amendments and/or remarks in accordance with Clause 7.1(b)(ii), the amendments and/or remarks are deemed to have been accepted by the Seller. However, the foregoing does not imply that the Seller has agreed to amend the Initial Specifications and any amendment to the Initial Specifications shall be agreed by both Parties and made through a Change Order signed by both Parties.
- (iv) Once accepted by the Seller, the Seller shall incorporate and insert all amendments or remarks made by Buyer, Classification Society and the relevant Regulatory Authorities into such Working Drawings which will be marked as "O" version. Such "O" version shall become Approved Drawings and shall be delivered to the Buyer's Representatives by the Seller at least seven (7) Days prior to the commencement of the relevant inspection, test or trial. Any failure by the Seller to deliver the Approved Drawings shall entitle the Buyer and/or the Buyer's Representatives to reject or disapprove any of the inspections, tests or trials.

(c) Seller Obligations Undiminished

The review or approval of any amendment or supplement to any Working Drawings by the Buyer does not:

- (i) relieve the Seller or the Subcontractors from obtaining any and all required or appropriate approvals of the Classification Society and Regulatory Authorities in respect of the Working Drawings; and/or
- (ii) signify the Buyer's approval of an adjustment of the Contract Price and/or extension of the permissible time for the Seller to deliver the Vessel under this Contract; and/or
- (iii) relieve or diminish the responsibility or liability of the Seller and/or the Subcontractors for the satisfactory design, workmanship, Materials, Appurtenances and construction of the Vessel.

(d) Miscellaneous

- (i) The Seller shall promptly provide the Buyer, upon the Buyer's reasonable request, with access to, technical correspondence between the Seller and any of (A) the Major Suppliers; (B) any licensors of the Seller and/or of the Major Suppliers including GTT and other suppliers of Cargo Containment System; (C) the Classification Society and/or the Regulatory Authorities, which are concerned with the relevant Work. Unless the Seller is constrained by a confidentiality agreement from so doing, the Seller shall also supply copies of the correspondence upon the Buyer's request.
- (ii) Any withholding of approval or delay in responding to the Working Drawings by the Classification Society and the Regulatory Authorities will not result in any adjustment of the Contract Price and/or extend the permissible time for the Seller to deliver the Vessel under this Contract.

7.2 Major Suppliers and Subcontractors

(a) Selection of Major Suppliers

- (i) It is mutually agreed that since the Vessel repeat the same design of H1827A, the Major Suppliers selected for H1827A shall be fully followed and applied to the Vessel and the Notes as indicated in the Major Suppliers List shall be subject to this principle, other than amendments to be mutually agreed, if any. The Seller shall notify in writing to the Buyer the selections and confirmed by the Buyer, The Seller shall undertake any liability therefrom and any delay arising therefrom shall not be a permitted delay of Delivery under this Contract. For the

amendments mutually agreed, within ten (10) Days after receiving the Seller's written notice, the Buyer shall confirm the Seller's selection of the Major Supplier(s) or require the Seller to select another Major Supplier as provided in Clause 7.2(a)(ii). Failure of confirmation or recommendation by the Buyer within such ten (10) Days shall be deemed to be the Buyer's acceptance of such Major Supplier. The Buyer will not attend negotiation meetings in respect of technical agreement between the Seller and the Supplier selected or to be selected by the Seller according to this Clause 7.2(a)(i) ("**Supplier's Technical Agreement**"). The Buyer shall have the right to provide its reasonable comments, including a rejection to a Supplier's Technical Agreement. If the Buyer has some comments on the Supplier's Technical Agreement provided by the Seller, at the Buyer's request, a clarification meeting would be held among the Buyer, the Seller and the Supplier. If a Supplier's Technical Agreement is rejected by the Buyer and is not remedied or corrected within a reasonable time period allowed by the Buyer, such Supplier shall not be a qualified supplier for the Vessel and shall not attend any subsequent competition procedures.

- (ii) If pursuant to Clause 7.2(a)(i), the Buyer requires a particular Major Supplier on the Major Supplier's List over one chosen by the Seller from the Major Supplier's List in respect of an item covered by the Major Supplier's List, the Seller shall, following notice from the Buyer or the Buyer's Supervisor, substitute the Major Supplier preferred by the Buyer. If the Buyer's preference involves documented additional costs to the Seller, an adjustment shall be made to the Contract Price in accordance with Clause 8.2(b) (Potential Adjustments) to reflect the additional costs.
- (iii) Except where only one Supplier acceptable to the Buyer exists, two (2) to three (3) Major Suppliers for each type of Appurtenance, Material and/or service shall be contemplated in the Major Supplier's List and to be supplied under this Contract.
- (iv) Without prejudice to other provisions of this Contract, in the absence of the Buyer's prior consent, the Seller will not enter into any procurement negotiations, any Supplier's Technical Agreements or any similar or equivalent contracts or agreements for the supply of Appurtenances and Material from the Major Supplier's List with any supplier who has not been named on the Major Supplier's List. However, in the event that all the Major Suppliers for the relevant Appurtenance or Material named in the Major Supplier's List are unable to supply that Appurtenance or Material, the Buyer shall not withhold its approval unreasonably to an alternative Major Supplier proposed by the Seller provided that such alternative

Major Supplier meets the standards stipulated in the Specifications.

(b) Selection of Subcontractors

The Seller has the right to subcontract any part (but not the whole or a substantial portion) of the Work to a Subcontractor if:

- (i) the selection of any major Subcontractor (those providing design, supply, assembly, construction or testing of any major hull structure of the Vessel or the Vessel's cargo piping, cargo handling system, or cargo containment system) is subject to:
 - (A) the satisfactory outcome of a survey by the Seller of the Subcontractor, in which the Buyer shall be invited to participate, demonstrating the suitability of the Subcontractor; and
 - (B) the Buyer's written approval, which shall be consistent with this Contract and the Specifications, and shall not be unreasonably withheld,

provided that, in each case:

- (1) the Work of the Subcontractor is under the supervision of the Seller at all times during the term of this Contract;
 - (2) quality and HSE programmes apply for the Work of the Subcontractor (the programme to be substantially the same as the quality programme of the Seller applicable for the Work if the Work was done at the Shipyard); and
 - (3) the Work of the Subcontractor is subject to the same rights of access and inspection as set out in Clause 6 (*Buyer, Charterer and Seller Representatives On Site*);
- (ii) any erection of the steel blocks for the Vessel is conducted at the Shipyard;
 - (iii) the Seller remains responsible to the Buyer in accordance with Clause 7.2(d)(iii), and the Buyer's rights under this Contract are not in any way reduced in respect of the subcontracted Work;
 - (iv) the Buyer has the right to demand the replacement of any Subcontractor whose level of workmanship or HSE performance fails to meet the requirements of this Contract and/or the Specifications; and

Sellers' Initials

40

Buyer's Initials

- (v) during the course of the Work:
 - (A) the Seller may not change any Subcontractors or engage new Subcontractors (excluding in-house Subcontractors who may work exclusively for the Seller at the Shipyard, subject to the Buyer's approval); and
 - (B) no Subcontractor may be permitted by the Seller to subcontract any Work relating to the assembly or construction of any major hull structure of the Vessel or the Vessel's cargo handling equipment, cargo containment system, main engine, diesel generators, and other main machinery components, without the prior approval of the Buyer.

The Seller shall, within three (3) months from the Effective Date, provide to the Buyer a complete list of all major Subcontractors in respect of which the Seller seeks the Buyer's approval under this Clause 7.2(b) (i)(B) above and shall notify the Buyer from time to time as necessary of any additions or amendments to such list. Each Subcontractor to be employed by the Seller in the performance of major Subcontractor's Work shall be of quality assurance certified by an authorized organization to a standard not less than ISO9001 or equivalent and acceptable to the Buyer.

(c) Buyer's Interface

- (i) The Buyer, the Buyer's Representatives and/or the Charterer's Representatives have the right to be present, to make any reasonable request and to reject any proposal which results in the Vessel not being compliant with the requirements of this Contract or results in the Seller being unable to perform its obligations under this Contract as they fall due, at all discussions of the Seller and/or the Seller's Supervisor with the Major Suppliers, major Subcontractors (those providing design, supply, assembly, construction or testing of any major hull structure of the Vessel or the Vessel's cargo piping, cargo handling system, or cargo containment system), the Classification Society and the Regulatory Authorities. Further, the Buyer has the right, at any time through the Seller's Supervisor, to demand and attend meetings with the Class Surveyor or any Regulatory Authority surveyor or, where reasonably justified, with any Supplier or Subcontractor. These rights shall not be unreasonably exercised.
- (ii) The Seller shall, upon receiving notice from the Buyer's Representatives, provide the Buyer and the Buyer's Supervisor (if resident on site at the Shipyard) access to all necessary technical information regarding the Appurtenances and Materials to be supplied by the Seller or the Suppliers,

including all information relating to their operation, maintenance and repair, and provide the Buyer with a copy of the information on request.

(iii) The Seller shall ensure that, in its contractual arrangements with the Subcontractors and the Suppliers, the Seller has the right to provide the Buyer's Representatives and/or the Charterer's Representatives with access to the facilities of the Subcontractors and the Suppliers for the purpose of carrying out inspections, tests and trials in accordance with Clause 6.6 (*Inspections; Tests; Trials*). The Seller shall notify them in advance and assist them in respect of visas and other permits required for any overseas attendance.

(d) Seller's Interface

(i) The Seller shall contract with the Suppliers and the Subcontractors as principal, and not as agent for, or otherwise on behalf of, the Buyer and/or the Charterer, even in respect of the Major Suppliers or those otherwise approved or chosen by the Buyer.

(ii) The Seller warrants that all Suppliers and Subcontractors will be paid on time and in accordance with all applicable labour laws and regulations. The Seller indemnifies and holds the Buyer harmless from and against any claims and liabilities arising as a result of, or in connection with, any default in payment to any Subcontractors and Suppliers.

(iii) The Seller is responsible for all Work, acts, omissions or defaults of its Subcontractors, Suppliers, the Seller's other agents and representatives, as well as the collective employees of all of these parties as if the Work, acts, omissions or defaults were the Work, acts, omissions or defaults of the Seller. This is the case regardless of:

(A) the Buyer's approval of the Suppliers;

(B) the negligence of the Subcontractors, the Suppliers, the Seller's other agents and representatives or the collective employees of these parties;

(C) whether the use of these parties to perform the Work required in this Contract is or is not compulsory.

(iv) Delivery of the Appurtenances, Materials and/or Buyer Supplies to, or otherwise the placing of these items in the custody of, the Subcontractors is deemed to be delivery to, and will effect a transfer of custody to, the Seller.

7.3 Spare Parts

- (a) The cost of all onboard spare parts sufficient for use on the Vessel for two years as specified in the Specifications is included in the Contract Price. The Seller is responsible, at its own cost, for handling, bringing on board, maintaining records of inventory, tagging and storing on the Vessel all the spare parts, tools and supplies in accordance with instructions and requirements of the relevant Suppliers (if any) and under the instruction and supervision of the Buyer's Representatives.
- (b) All onboard spare parts provided by the Seller shall be obtained or procured originally from the Supplier and shall be properly protected against physical decay, corrosion and mechanical damage in accordance with instructions and requirements of the relevant Suppliers and shall be properly listed so that replacements may be readily ordered. If there is any physical decay, corrosion and/or mechanical damage on any spares provided by the Seller before Delivery, the Seller shall replace them with new ones without costs to the Buyer.

7.4 Work Execution

The Seller shall provide, or cause to be provided, all personnel necessary for the proper and timely performance of the Work. The personnel shall have the necessary skills and experience in their respective trades and professions, documented, as required, with valid certificates or other proof of skills and experience to the extent required to perform the Work. The identification of such qualification shall always be attached on boiler suit and/or helmets of the personnel, so that they can be recognised as qualified personnel.

8. MODIFICATIONS AND SUBSTITUTIONS

8.1 Modification Restriction

Except as provided in this Clause 8, there shall not be any modification to the Specifications and/or to any of the particulars or performance criteria of the Vessel set out in this Contract ("**Modification**").

8.2 Potential Adjustments

- (a) Any Modification permitted under this Clause 8 may require adjustment of the Contract Price, the Vessel particulars and performance criteria, the then existing Adjusted Delivery Date, the Specifications and/or any other provisions of this Contract. These adjustments are referred to in this Clause 8 as "**Potential Adjustments**".
- (b) Any permitted adjustment of the Contract Price shall be agreed by the Parties, in a fixed amount and shall reflect the Seller's

documented reasonable profit and increased costs (or savings in costs) resulting from the Modification.

8.3 Buyer Modification

(a) Buyer Request

The Buyer or the Buyer's Supervisor may submit a Buyer Modification Request to the Seller at any time after the Effective Date. The Buyer or the Buyer's Supervisor shall supply with a Buyer Modification Request sufficient documentation and detail to describe the change requested provided that the Seller's Planned Programme and other commitments can reasonably be adjusted to accommodate the change.

(b) Procedure

The procedures set out in this Clause 8.3(b) apply to each Buyer Modification Request.

(i) No later than twenty one (21) Days after receiving a Buyer Modification Request, the Seller shall notify the Buyer and the Buyer's Supervisor (if then in residence at the Shipyard) of any Potential Adjustments which the Seller believes the Buyer Modification reasonably necessitates ("**Seller Notified BM Adjustments**"). The notification shall also provide sufficient particulars and documentation to describe the Seller Notified BM Adjustments and reasons.

(ii) Within twenty one (21) Days after receiving a Seller Notified BM Adjustment, the Buyer or the Buyer's Supervisor shall, by notice to the Seller, elect, either:

(A) to agree to the Seller Notified BM Adjustment, in which case the Seller shall, subject to Clause 8.8, immediately build the Vessel in accordance with the Buyer Modification;

(B) to dispute the reasonableness of any or all of the Seller Notified BM Adjustments ("**Buyer Modification Dispute**"); or

(C) to withdraw the Buyer Modification Request, in which case the Seller shall continue with the construction of the Vessel as if no such Buyer Modification Request had been given.

(iii) If the Buyer makes the election set out in Clause 8.3(b)(ii)(B) and the Parties do not fully resolve the Buyer Modification Dispute within thirty (30) Days after the Seller receives notice of the Buyer's election, the Buyer shall either withdraw the

Buyer Modification Request or submit the Buyer Modification Dispute to arbitration pursuant to Clause 34 (*Disputes*). If the Buyer submits the Buyer Modification Dispute to arbitration, the Seller shall proceed to construct the Vessel without reference to the Buyer Modification Request pending the arbitral award on the Buyer Modification Dispute.

- (iv) Within thirty (30) Days after the Buyer receives a Seller Notified BM Adjustment, if neither the Buyer nor the Buyer's Supervisor has made an election as provided in Clause 8.3(b)(ii), the relevant Seller Notified BM Adjustments are deemed to have been accepted by the Buyer.

8.4 **Compulsory Modifications**

(a) Notice and Resolution

If there is a Compulsory Modification at any time before Delivery, the following will apply in respect of each Compulsory Modification:

- (i) upon receipt of notice of the Compulsory Modification, the Seller or the Buyer shall promptly inform the other, giving sufficient particulars and documentation to describe the Compulsory Modification;
- (ii) within twenty one (21) Days after the Seller receives notice of the Compulsory Modification, the Seller shall give notice to the Buyer of:
 - (A) any Potential Adjustments which the Seller believes the Compulsory Modification reasonably necessitates ("**Seller Notified CM Adjustments**"); and
 - (B) the effect on any provision of this Contract and/or the Specifications of any delay caused by any necessary interpretation or consideration of the Compulsory Modification; and
- (iii) within twenty one (21) Days after the Buyer receives a Seller Notified CM Adjustment, the Buyer or the Buyer's Supervisor shall, on notice to the Seller, authorise the Seller to either:
 - (A) seek a waiver for the Compulsory Modification in accordance with Clause 8.4(b); or
 - (B) continue construction of the Vessel incorporating the Compulsory Modification.

(b) Modification

Unless the Buyer allows the Seller to apply for, and the Seller is granted, a formal waiver of compliance ("**Waiver**") with the

Compulsory Modification from the Classification Society or the Regulatory Authorities having power to grant the Waiver, the Seller shall continue construction of the Vessel, incorporating the Compulsory Modification.

(c) Costs and Time

Any time and costs arising from a Compulsory Modification shall be for the Buyer's account. The Seller shall require adjustment to the Contract Price or the Delivery Date.

8.5 Non-Compulsory Recommendations

- (a) In addition to its obligations under Clause 7.1(d)(i) (*Working Drawings*), the Seller shall inform the Buyer and the Buyer's Supervisor of all non-compulsory recommendations of the Classification Society and/or the Regulatory Authorities relating to the Vessel.
- (b) The Seller shall, at the Buyer's request, comply with any proposed non-compulsory recommendations described in Clause 8.5(a) with any such Buyer's request being treated as a Buyer Modification Request under Clause 8.3.

8.6 Seller's Modifications

The Seller may make minor changes to the Specifications if they are necessary for introduction of improved production methods or otherwise, provided that the Seller shall first obtain the Buyer's approval, which approval shall not be unreasonably withheld.

8.7 Substitution of Appurtenances and Materials

During the construction of the Vessel, if:

- (a) any Appurtenances or Materials required by this Contract and/or the Specifications cannot be procured in time or are in short supply to maintain the then existing Adjusted Delivery Date; and/or
- (b) alternative Appurtenances or Materials are claimed by the Seller to be available which are suitable as substitutes by reason of advances in technology, the updating or improvements of, or changes in, specified Appurtenances or Materials or changes in their manufacture or production,

the Seller may use or install the substitute Appurtenances or Materials, subject to the approval of the Buyer or the Buyer's Supervisor and, where necessary or appropriate, approval of the Classification Society and/or any Regulatory Authorities. The Appurtenances or Materials shall be shown by the Seller to be equal to, or better than, those substituted for and capable of meeting the requirements and recommendations to which construction of the Vessel shall

comply. Any agreement to the substitution may reduce the Contract Price and adjust the then existing Adjusted Delivery Date. No increase in the Contract Price is permitted as a result of the substitution.

8.8 **Change Orders**

If:

- (a) a Modification is authorised or required pursuant to this Clause 8;
- (b) a substitution of the Appurtenances and/or the Materials is authorised or required pursuant to this Clause 8; or
- (c) a substitution is made of an item on the Major Supplier's List (together with the substitution in Clause 8.8(b), the "**Substitution**"),

the Seller shall immediately alter the construction of the Vessel accordingly, including any additions to, or reductions from, the Work, but (in the absence of a contrary provision or direction in writing from the Buyer) the Seller may not proceed with the Modification or Substitution unless the Parties have executed a Change Order. The Change Order shall document those Potential Adjustments specified in Clauses 8.3, 8.4, 8.5, 8.6 and 8.7 which apply, respectively, to the Modification or Substitution as agreed by the Parties.

8.9 **Reimbursable Costs; Adjustments to Contract Price**

Any costs reimbursable to the Seller by the Buyer pursuant to this Clause 8 shall be documented and invoiced to the Buyer. The costs shall be payable to the Seller on Delivery pursuant to Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*). Any adjustments to the Contract Price pursuant to this Clause 8 shall be properly documented by the Seller and paid or credited on Delivery pursuant to Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*).

8.10 **Miscellaneous**

Any Modification, Substitution or other alteration made in accordance with this Clause 8 does not relieve or diminish the Seller's obligations or liabilities under this Contract in respect of the design, construction, equipping and/or outfitting of the Vessel, or otherwise.

9. **PLANNED PROGRAMME, LAUNCHING, BERTHING**

9.1 **Planned Programme**

- (a) Within sixty (60) Days after the Effective Date, the Seller shall submit to the Buyer and the Buyer's Supervisor (if then in residence at the Shipyard), a Planned Programme, which shall include the construction events set out in Schedule 5 (*Planned Programme Outline*) and a critical path network in connection with it.

- (b) If the Seller considers it necessary to make alterations to the Planned Programme, the Seller shall immediately send copies of its proposed alterations to the Buyer and the Buyer's Supervisor, together with an explanation in writing of the reasons for the alterations. Any Seller-proposed alterations which may adversely affect the date of Delivery shall be subject to the Buyer's or the Buyer's Supervisor's approval before implementation, which approval shall not be unreasonably withheld or delayed.

9.2 **Buyer's Supplies Schedule**

Within one hundred and twenty (120) Days after the Effective Date, the Seller shall submit to the Buyer a schedule setting out the timing for the Buyer's delivery of the Buyer's Supplies to the Seller. The schedule shall:

- (a) be subject to the Buyer's approval, which approval shall not be unreasonably withheld;
- (b) take into account the restriction on the commencement of the deliveries in Clause 26.1(a) (*Responsibilities of Buyer*); and
- (c) be updated as needed and, after any required update, be resubmitted to the Buyer for approval.

9.3 **Schedule for Suppliers**

Within one hundred and eighty (180) Days after the Effective Date, the Seller shall submit to the Buyer and the Buyer's Supervisor, a schedule for all Suppliers' pre-delivery shop tests and inspections, and shall subsequently provide the Buyer and the Buyer's Supervisor with an updated schedule of the tests and inspections at intervals of not more than ninety (90) Days.

9.4 **Equipment List**

Within one hundred and eighty (180) Days after the Effective Date, the Seller shall submit to the Buyer and the Buyer's Supervisor, the Equipment List. The Equipment List shall be updated as needed and, after any required update, be resubmitted to the Buyer and the Buyer's Supervisor.

9.5 **Progress Reporting**

During the construction of the Vessel, the Seller shall submit to the Buyer and the Buyer's Supervisor:

- (a) a progress report setting out the actual progress of the Work, which shall be in the form of Schedule 6 (*Progress Report Format*) (the "**Progress Report**"). Six (6) hard copies and one (1) electronic copy of the Progress Report shall be submitted to the Buyer on the first (1st) Day of the second (2nd) month immediately after the month in which this Contract is executed and on the first (1st) Day of each subsequent month, or more frequently as may reasonably be requested when the

progress of the Work either outpaces, or falls short of, the Planned Programme;

- (b) a list of the Buyer's Modifications, the Compulsory Modifications and/or the non-Compulsory Modifications agreed to, or resolved in accordance with, Clause 8 (*Modifications and Substitutions*) during the previous month (or previous months, in the case of the first Progress Report given), including all adjustments, if any, agreed or resolved in respect of cargo tank capacity, Vessel displacement, design draught, guaranteed boil-off, guaranteed speed, fuel oil consumption or other Vessel particulars, the Contract Price and/or the Adjusted Delivery Date. The list shall be accompanied by the Change Orders as required by Clause 8.8 (*Change Orders*);
- (c) digital color photographs, representing the progress of the Work, which shall be submitted monthly commencing on keel laying of the Vessel. The photographs shall cover all important stages of construction agreed between the Seller and the Buyer. Aerial photographs and/or videos of a good quality of the VESSEL whilst underway at sea, on sea or gas trials shall be submitted before Delivery. In addition, the Buyer's Representatives shall be entitled to take photographs of all parts of the construction process at any time;
- (d) a report detailing any industrial relations problems or potential industrial relations problems which are affecting or might affect the Work, including a description of the actual or potential effects and any events that may otherwise cause delay in the progress of the Work, the Seller's estimate of the period of delay resulting from these events and the Seller's response or planned response to them. The report shall be submitted on the last Day of any month during which the problems or potential problems might reasonably be held to exist; and
- (e) safety statistics reporting in accordance with OCIMF HSE guidelines (as of July 2003).

9.6 Launching and Berthing

- (a) Launching of the Vessel:
 - (i) shall be carried out by the Seller in such a way as to prevent any damage to the Vessel; and
 - (ii) shall be done only after the Vessel's hull envelope, trunk deck and primary internal structure parts (transverse/longitudinal bulkhead, deck plating - upperdeck, tank top and hopper top), including webframes, girders, stringers and side shell longitudinals attached to the primary internal structure parts, have been fully welded out.

- (b) The Buyer and the Seller shall agree the extent and location of incomplete welding, if any. After launching, the Vessel shall be moored safely at a suitable wharf at which the Vessel can always lie safely afloat at any state of the wind, tide or other weather or sea conditions, and from which the Vessel can be safely moved to another mooring or other place which is likewise safe. The Seller's mooring plan shall include appropriate engineering calculations and shall have been reviewed by the Buyer before implementation. During the outfitting period, the Vessel shall be maintained in a condition which will not allow damage to, or deterioration of, any part of the Vessel, or contact with the harbour bottom.

10. PROPERTY TITLE, REFUND GUARANTEE

10.1 Title

- (a) All Appurtenances and Materials intended for the Vessel shall be marked with the Vessel's hull number immediately upon delivery to the Seller's or the Subcontractors' premises or custody in accordance with the Seller's practices.
- (b) Title to, and all risk of loss of, and damage to, the Vessel remain with the Seller during construction of the Vessel and, subject to Clause 19 (*Default by Buyer*), will pass to the Buyer only when Delivery has been completed in accordance with Clause 14.6(c) (*How Effectuated*).
- (c) (i) Title to the Buyer's Supplies remains with the Buyer at all times. The Buyer shall not request the Seller to dispose of any items of the Buyer's Supplies without having first transferred title to the items to the Seller in writing.
- (ii) Any Buyer's Supplies not used for, or in the construction of the Vessel, remains the property of the Buyer. The Seller has a continuing duty, at the Seller's risk and cost, to insure and protect the Buyer's Supplies and hold them at the Shipyard pending the Buyer's disposal instructions. Risk of loss or damage to the Buyer's Supplies remains with the Seller until they leave the Shipyard or other place of the Seller's custody in accordance with the Buyer's disposal instructions. The Buyer shall promptly give the Seller instructions on confirmation from the Seller to the Buyer of the non-use. All costs of disposal of such unused Buyer's Supplies from the Shipyard or other place of the Seller's custody are for the Buyer's account.

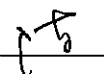
10.2 Refund Guarantee

The Seller shall, at the request of the Buyer, at its own cost, deliver an original irrevocable refund guarantee (the "Refund Guarantee") in favour of the Buyer, guaranteeing the Seller's full and punctual payment under Clauses 20.2(a) (Effect of Default), 20.2(b) (Effect of Default) and 27.5 (Seller Refunds and Other Payments).

Sellers' Initials



Buyer's Initials



11. SELLER'S RISKS AND INSURANCE

11.1 Seller's Risks

- (a) Notwithstanding Clause 10 (*Property Title, Refund Guarantee*), the Vessel and all Appurtenances, Materials and Buyer's Supplies, from the time they are taken into custody by the Seller, remain at the sole risk of the Seller until Delivery (whether or not built into, or installed on or in, the Vessel, but in the case of the Buyer's Supplies, until the date specified in Clause 10.1 (*Title*)). The risks include earthquakes, volcanic eruptions, tidal waves, typhoons, war, strikes, terrorism and other politically or religiously motivated activities, insurrection, seizure by governments or authorities (whether PRC or foreign and whether at war or at peace), and other risks specified in this Clause 11.
- (b) In addition to the risks specified in Clause 11.1(a), and unless otherwise specified in this Contract, the Seller bears all risk of, and liability for, damages or loss to any property and/or of, and for, any injuries or death to any Person in and about the Worksite or connected with the Work and/or the Vessel for the period up to Delivery.

11.2 Required Insurance

- (a) Insurance - General

From keel laying until Delivery (or, in the case of the Buyer's Supplies, until the date specified in Clause 10.1 (*Title*)), the Seller shall, at its own cost, keep the Vessel, all Appurtenances, Materials and Buyer's Supplies at the Worksite or other place under the Seller's custody (whether or not built into, or installed on or in, the Vessel), fully covered by the Insurance. The Insurance shall:

- (i) include deductibles in an amount no greater than United States Dollars One Million (US\$1,000,000);
- (ii) be against all risks set out in Clause 11.2(b);
- (iii) be provided by People's Insurance Company of China or China Pacific Property Insurance Co., Ltd. or Anbang Property and Casualty Insurance Co., Ltd. or China Continent Property and Casualty Insurance Co., Ltd. or Sunshine Property and Casualty Insurance Co., Ltd. or Huatai Property and Casualty Insurance Co., Ltd.; and
- (iv) conform to all the criteria set out in this Clause 11.

For the purposes of the Insurance, construction of the Vessel is deemed to commence upon the keel laying of the Vessel as defined in Clause 5.1 (*Instalment Payments*).

(b) Insured Risks

The Insurance shall insure against all usual marine and seller's risks. In particular, it shall cover:

- (i) risks of strikes, riots, civil commotion and malicious damage;
- (ii) risks of earthquake, typhoon, volcanic eruption and tidal wave;
- (iii) war risks and removal of wreck expenses;
- (iv) all third-party liabilities, including all claims for property loss or damage, loss of life and personal injury whether attaching to the Seller, the Seller's Group, the Buyer, the Buyer's Group and/or the Vessel arising from, or in connection with, any casualty to, or by, the Vessel or arising from, or in connection with, the Work or the Vessel during its construction, launching, sea trials and gas trials;
- (v) all loss, damage and expense in respect of the Seller's or the Subcontractors' real and personal property arising from, or in connection with, any casualty to, or caused by, the Vessel or arising from, or in connection with, the Work or the Vessel during its construction, launching, sea trials and gas trials; and
- (vi) all costs and expenses incurred in investigating, defending, safeguarding or prosecuting a claim covered by the Insurance, including litigation expenses, attorneys' fees and disbursements, and settlement costs.

(c) Insured Amounts

The Seller shall ensure that the amounts insured meet the following requirements:

- (i) In relation to the Vessel and all Materials and Appurtenances, the amounts shall always be maintained in a sum at least equal to one hundred and ten per cent. (110%) of the aggregate of all Instalments paid and all other payments made by the Buyer to the Seller under this Contract, plus:
 - (A) any payments earned by the Seller but not yet due;
 - (B) Interest due to the Buyer under this Contract in relation to any Seller-obligated refund of the Instalments or other payments made by the Buyer and/or Seller-obligated direct payments; and
 - (C) the value of all Buyer's Supplies at the Worksite or other place under the Seller's custody (whether or not built into, or incorporated on or in, the Vessel).



- (ii) All amounts shall be payable in US Dollars at a place in or out of the PRC as may be specified by the Party entitled to the amount.
 - (iii) In relation to third-party liability risks, coverage shall be for a minimum sum of US Dollars ten million (US\$10,000,000) for each accident or occurrence and unlimited in the aggregate. The maximum amount of pollution cover shall be up to the initial Contract Price stated in Clause 4.1(a) (*Contract Price*) if available in the Lloyd's market or, if cover for an amount up to the initial Contract Price is not available, the amount insured shall be the highest amount for which pollution cover can be obtained.
- (d) Other Insurance Terms
- (i) The Insurance shall contain the following clauses, and it shall not be less than London Institute Seller's risks clauses endorsed or made subject to an appropriate rider, if necessary, to include the cover stipulated in this Clause 11:
 - (A) Institute clauses - Seller's risks;
 - (B) Institute strikes clauses – Seller's risks; and
 - (C) Institute war clauses – Seller's risks.
 - (ii) The Insurance shall:
 - (A) contain an admission of the Vessel's seaworthiness by underwriters;
 - (B) be taken out in the joint names of the Buyer and the Seller;
 - (C) allow the Buyer to be promptly supplied with certified copies of the policies, with the originals to be made available to the Buyer or its designees for inspection at all reasonable times;
 - (D) contain waivers of subrogation against the Seller's Group, the Buyer's Group and the Vessel;
 - (E) include a requirement that the underwriter provides the Buyer with sixty (60) Days' written notice before the effective date of any cancellation or material change in any of the Insurance, and the right of the Buyer to satisfy, on behalf of the Seller, any outstanding premiums which the Seller has failed to pay; and



- (F) provide that there is no right of recourse against the Vessel or any member of the Buyer's Group for payment of premiums or other insurance charges.
- (iii) Except in respect of third-party liability risks, the Insurance shall contain a provision to the effect that the Insurance proceeds are payable to the Seller in the event of an actual, constructive, arranged or compromised total loss (as defined in the Insurance).
- (iv) In respect of a partial loss (as defined in the Insurance), the Insurance shall contain provisions to the effect that loss or damage claims in respect of each accident or claim are payable to the Seller. The Seller shall apply the payment in making good the loss or damage in order that the Vessel complies with the provisions of this Contract and the Specifications and (if applicable) meets the approval of the Classification Society and/or any concerned Regulatory Authorities.

11.3 Evidence of Required Insurance

- (a) The Seller shall promptly supply the Buyer with copies of insurance policies duly certified by the lead underwriter, showing a full list of insurers and when they are issued. Upon request by the Buyer, the Seller shall also produce to the Buyer evidence that the Seller has complied with its duty to insure in accordance with the provisions of this Clause 11 and has timely paid all premiums and any other charges necessary for the maintenance or renewal of Insurance taken out pursuant to this Clause 11. The evidence shall be in the form of a copy of the relevant insurance policy showing a full list of underwriters and insurance broker's confirmation that the amount of the cover under the Insurance is sufficient to cover the requirements of this Clause 11.
- (b) If the Seller breaches its duty to insure under this Contract, the Buyer may, at the Seller's expense, take out any required Insurance itself, either with the underwriters whose Insurance have not been taken out by the Seller or different underwriters. The Seller shall immediately reimburse the Buyer for the amounts of premium and other costs of the replacement Insurance (or payments made in respect of unpaid premiums pursuant to Clause 11.2(d)(ii)) plus Interest running from the date of the Buyer's payment of the premiums and the costs to the date the Buyer receives the full amounts to be reimbursed. The Buyer has the option, on notice to the Seller, to receive repayment of the costs and Interest as a credit in respect of the Fourth Instalment.

11.4 Seller's Responsibility Undiminished

The procurement by the Seller of the Insurance under this Clause 11 and/or the Buyer's replacement of it does not relieve the Seller of any obligation or liability under, or arising from, this Contract, or generally arising at law.

11.5 Timing for Placement of Insurance

The Seller shall put in place the Insurance required by this Clause 11 no later than the commencement of keel laying, failing which the Buyer may obtain replacement Insurance itself as provided in Clause 11.3.

11.6 Seller Indemnity

The Seller's obligations to indemnify the Buyer and the Buyer's Group are set out in Clause 6.10(d) (*Liability and Responsibility*).

11.7 Termination of Seller's Insurance Obligations

Subject to Clause 10.1 (*Title*), the Seller's obligations to maintain the Insurance as provided in this Clause 11 will cease upon Delivery.

12. LOSS OR DAMAGE

12.1 Partial Loss

If the Vessel or any Materials, Appurtenances and/or the Buyer's Supplies suffer loss or damage before Delivery by any cause (whether or not the cause is insured against), and if the loss or damage does not constitute an actual, constructive, arranged or compromised total loss of the Vessel (as defined in the coverage terms of the Insurance), the Seller shall, at its own cost, make good the loss or damage so that the Vessel complies with the provisions of this Contract and the Specifications. Any insurance proceeds payable under the Insurance in respect of the loss or damage are payable to the Seller. The Adjusted Delivery Date existing at the time of loss, however, will be changed, if appropriate, by agreement of the Parties in good faith.

12.2 Total Loss

- (a) If the Vessel sustains loss or damage or is destroyed before Delivery by any cause (whether or not the cause is insured against) and if the loss or damage constitutes an actual, constructive, arranged or compromised total loss of the Vessel (as defined in the coverage terms of the Insurance), the Seller shall, upon agreement with the Buyer, either:
 - (i) proceed in accordance with the terms of this Contract, in which case the amount recovered under the Insurance policy will be applied to repair the damage. However, the Parties shall first have agreed in writing as to the new Adjusted Delivery Date and the new Contract Price; or
 - (ii) within thirty (30) Days after the Buyer's request, refund to the Buyer the full aggregate amount of all monies paid or prepaid by the Buyer towards the Contract Price, and pay any monies due to the Buyer from the Seller under this Contract, with Interest running on and from the dates when the monies were

paid or prepaid to the Seller or became due to the Buyer until the date the Buyer receives the full amounts to be paid. In this case:

- (A) the Seller will not be liable to repair the damage or replace the Vessel; and
- (B) in respect of the Buyer's Supplies delivered to the Seller's Place of Custody, the Seller shall, upon notice from the Buyer, either:
 - (1) return to, or dispose as directed by, the Buyer, all the Buyer's Supplies which have not been lost or damaged and which can be removed in sound condition from the Vessel, the Shipyard or other Seller's Place of Custody, and pay the Buyer the value of those Buyer's Supplies which have been lost or damaged or which cannot be removed in sound condition from the Vessel, the Shipyard or other Seller's Place of Custody; or
 - (2) pay to the Buyer the value and Interest on all the Buyer's Supplies delivered to the Seller's Place of Custody, irrespective of their condition or ability to be removed, and whether or not installed in or on the Vessel.

If the Parties fail to agree on the options set out in Clauses 12.2(a)(i) and 12.2(a)(ii) within sixty (60) Days after the Vessel is determined to be an actual, constructive, arranged or compromised total loss, the option set out in Clause 12.2(a)(ii) applies. The value of the Buyer's Supplies will be determined as stipulated in Clause 26.3 (*Value of Buyer's Supplies*). The Buyer's notice on the option chosen in Clause 12.2(a)(ii)(B) sets out the value of the Buyer's Supplies on which the Buyer seeks payment. The Seller shall comply with the Buyer's request no later than thirty (30) Days after the Seller receives the Buyer's notice as to the option chosen.

- (b) Any refunds and/or payments to be made by the Seller to the Buyer under this Clause 12 is subject to the requirements of Clause 27.5 (*Seller Refunds and Other Payments*).
- (c) Upon the Buyer's receipt of all sums due to the Buyer in immediately available funds, and the Seller's disposal of the Buyer's Supplies as and if directed by the Buyer, in accordance with this Clause 12.2, this Contract will (save as otherwise provided in this Contract) terminate, without further liability of one Party to another.

13. **TESTS AND TRIALS**

13.1 **Test and Trial Programmes**

Comprehensive testing and trials programmes covering commissioning, cool-down test, dock trials, sea trials, post-sea trial inspections, gas trials, post-gas trial inspections, and cryogenic trials shall be submitted by the Seller to the Buyer and the Buyer's Supervisor in accordance with Clauses 13.1(a) and 13.1(b) for approval by the Buyer and, if required, by the Classification Society and the Regulatory Authorities:

- (a) the programmes for cool-down test, sea trials and gas trials shall be submitted to the Buyer and the Buyer's Supervisor at least sixty (60) Days before the scheduled commencement of each test or trial concerned;
- (b) the programmes for all other tests or trials shall be submitted to the Buyer and the Buyer's Supervisor at least thirty (30) Days before the scheduled commencement of each test or trial; and
- (c) all expenses in connection with the tests, trials and inspections is for the Seller's sole account.

During these tests, the Seller shall demonstrate to the Buyer based on the approved test and trial programmes in accordance with this Clause 13.1 and, as appropriate, to the Classification Society and the Regulatory Authorities that the Vessel's condition and performance meet the requirements of this Contract, the Specifications and the Approved Drawings.

13.2 **Commissioning Programme; Dock Trials**

When the construction and fitting out of the Vessel have been completed by the Seller, the Seller shall carry out all tests, commissioning, inspections and dock trials in respect of the Vessel and the Appurtenances as are necessary to demonstrate that the Vessel and the Appurtenances:

- (a) conform to this Contract and the Specifications; and
- (b) function in their intended manner.

All these activities shall be carried out:

- (a) in compliance with the Specifications and to the satisfaction of, as appropriate, the Classification Society and the Regulatory Authorities; and
- (b) at the sole risk and cost of the Seller.

The Seller shall submit programmes for dock trials for the Buyer's prior approval.

13.3 Dry-docking and Painting

No more than thirty (30) Days before the first scheduled date for the sea trials, the Vessel shall be drydocked, inspected and painted in accordance with the Specifications and/or approved painting scheme. All expenses incurred in connection with this are for the Seller's sole account.

13.4 Sea and Gas Trials

(a) When Conducted

On completion of the tests, commissioning, inspections, quay tests, dock trials and dry-docking as provided in Clauses 13.2 and 13.3 and after the Buyer and the Classification Society have approved the program of the trials, which shall not be unreasonably withheld, the sea and gas trials shall be carried out as set out in the Specifications to the satisfaction of the Buyer, the Classification Society and the Regulatory Authorities, as appropriate. The Vessel shall not perform any voyages before Delivery, other than in connection with the tests and trials and for the purpose of safety, emergency and, if required, dry-docking outside the Shipyard.

(b) Notice/Observers/Waiver

(i) Notices

The Seller shall give the Buyer and the Buyer's Supervisor not less than ninety (90) Days' prior notice of the schedule for sea and gas trials and not less than seven (7) Days' prior notice of the time when sea and gas trials are each to commence. For each trial, the notice shall specify the place from which the Vessel will sail and the expected date of trial commencement. The Seller's Supervisor and the Buyer's Supervisor shall agree, before the trial, on the course, distance and water depth for each trial, as well as the number of trial runs, if these are not specified in the Specifications.

(ii) Observers

(A) During the trials, the Buyer's Supervisor, the other Buyer's Representatives, the Charterer's Representatives, as well as engineers, surveyors, inspectors, naval architects and/or prospective crew members, all as designated by the Buyer or the Buyer's Supervisor by notice to the Seller, shall attend on board the Vessel to observe and determine the performance of the Vessel and its Appurtenances.

(B) The Seller shall provide accommodation and messing arrangements for the Buyer's Supervisor and all of the Buyer-designated personnel mentioned above. The

Seller shall provide familiarisation for any prospective crew members designated by the Buyer before the prospective crew members' participation as observers as described above. The Buyer's Supervisor shall notify the Buyer's designees of the time and place of the familiarisation and of each trial arranged by the Seller.

(iii) Waiver

If the Buyer's Supervisor fails, without proper reason, to attend the trial after the Seller has given notice to the Buyer and the Buyer's Supervisor as required in Clause 13.4(b)(i), the Seller may proceed with the trial and the Buyer is obliged to accept that the Vessel passed the trial, if the Seller and the appropriate and duly authorised Class Surveyors and Regulatory Authorities certify in writing that the Vessel, upon the completion of the trial, conforms to this Contract and the Specifications.

(c) How Conducted

(i) Vessel Crew

During the sea and gas trials and when positioning the Vessel for the trials, the Seller shall supply, at its own cost and risk, the necessary complement of Master, officers and crew to comply with conditions of safe navigation, operation and management of the Vessel.

(ii) Cost/Risks

The sea and gas trials shall be carried out at the sole cost and risk of the Seller. The Seller is regarded as the owner and operator of the Vessel for the purpose of any relevant legislation and the Seller's name shall appear on the Articles of Agreement or Enlistment with the crew supplied by the Seller.

(iii) Indemnity

The safe operation, management and navigation of the Vessel in transit to, during and from the sea and gas trials back to the Shipyard and at all other times up to Delivery remain the sole responsibility and risk of the Seller. The Seller is responsible for all acts or omissions (whether negligent or not) of its employees, Suppliers, Subcontractors, contractors or representatives including the Master, officers and crew, any pilots and other personnel required for the trials. Neither the Buyer nor any of the Buyer's Representatives or the Charterer's Representatives nor any personnel designated by the Buyer as observers pursuant to Clause 13.4(b)(ii) will bear, or be liable for, loss or damage done by or to the Vessel, or personal injury

or loss of life arising during the trials, except where the personal injury or loss of life is directly attributable to the gross negligence or wilful misconduct of the Buyer, the Buyer's Representatives, the Charterer's Representatives, or any personnel designated by the Buyer as observers pursuant to Clause 13.4(b)(ii). Unless otherwise specified in this Contract, the Seller indemnifies and holds the Buyer's Group harmless from, and against, any claims and liabilities arising from the loss, damage and the consequences of personal injury and loss of life mentioned above.

(iv) Fuel and Other Consumable Stores

All fuel oil, lubricant oil and greases, fresh water and other consumable stores required for tests and trials as set out in the Specifications shall be procured and paid for by the Seller. The necessary ballast (sea and fresh water) and other ballast as may be required to bring the Vessel to the trial draughts as outlined in the Specifications shall also be supplied by the Seller at the Seller's cost.

(v) Supply of LNG/Gas Trial Costs

After satisfactory completion of the sea trials, the Seller shall obtain and load the Vessel with a sufficient quantity of LNG for the purpose of carrying out the gas trials in accordance with the Specifications. Before obtaining and loading the Vessel, the Seller shall advise the Buyer of the quantity of LNG to be loaded onboard the Vessel to conduct the gas trials. The Seller bears:

- (A) the cost of obtaining and loading supplies of LNG and/or other liquefied gases and equipment required for the testing of the cargo system, and for the discharging of it as may be necessary;
- (B) the cost of any gases consumed in the course of testing; and
- (C) all costs associated with the use of the gas terminal, including any port and terminal charges.

(vi) Vessel Stores

The Buyer has an option to store the Vessel before the gas trials.

(vii) Unfavorable Trial Condition

- (A) If the weather or sea conditions at the time scheduled for any sea and/or gas trial is such that it cannot be

carried out properly, the Seller shall postpone it or such part of it as is reasonably necessary to the first following date when weather and sea conditions are suitable to ensure that all readings and results are obtained in accordance with the Specifications and this Contract. A wind exceeding wind grade of Beaufort 3 postpones a speed trial unless the Seller's Supervisor and the Buyer's Supervisor otherwise agree.

- (B) If the weather and/or sea conditions become unfavourable during a trial, such that it would have precluded the commencement of the trial had the change in weather and/or sea conditions occurred before the trial had started, the trial of the Vessel will be discontinued until the first following favourable Day, unless the Buyer's Supervisor agrees to continue the trial or accept the Vessel on the basis of the trial made before the change in weather and/or sea conditions. Any accumulated delay to the sea and/or gas trials of more than twenty-four (24) hours as a result of unfavourable weather and/or sea conditions may operate to extend the then existing Adjusted Delivery Date or the Deferred Delivery Date (as the case may be) by the period of delay involved exclusive of the said twenty-four (24) hours. However, the Seller shall thereafter exercise reasonable endeavours to mitigate the effect of such delay.

(viii) Breakdown

If any breakdown occurs during any test or trial which gives rise to interruption or irregular performance, and the breakdown can be repaired by normal means available on board the Vessel, the repairs shall be effected with all reasonable dispatch, and the test or trial shall be continued after repairs or other remedial actions are completed. However, if the Vessel shall return to a port or to the Shipyard to enable the breakdown to be remedied, a further complete test or trial shall be undertaken after completion of repairs to the Vessel. Any delay to sea or gas trials caused by the breakdown and repairs, including any return to port or to the Shipyard and back again to sea, will not extend the then existing Adjusted Delivery Date.

(ix) Manuals

- (A) All initial operation manuals will be provided to the Buyer for review and approval six (6) months before Delivery. All final operation manuals will be provided to the Buyer for review and approval ninety (90) Days before commencement of sea trials.

- (B) Operation manuals shall be in English (save that all warnings in the relevant operation manuals shall be in both English and Chinese), be comprehensive and contain relevant drawings and explanations for each system and piece of equipment.
- (C) Operation manuals by the Suppliers and makers of Appurtenances shall be written by authors experienced in writing manuals for LNG vessels approved by the Buyer.

13.5 Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials

- (a) Upon completion of each of the trials, the Seller shall notify the Buyer and the Buyer's Supervisor that the sea or gas trial, as the case may be, has been successfully completed (each, a "**Completion Notice**"). The Completion Notice shall be accompanied by documentation:
 - (i) showing the trial records and results obtained in each test or trial performed, and signed by the Buyer's Representative and/or the appropriate class Surveyors or Regulatory Authority, as the case may be, (the "**Trial Results**") together with their comments and/or remarks; and
 - (ii) evidencing that all equipment is running properly, without any intervention by technicians of the Seller or any Supplier and without any functions, alarms or safety features bypassed.
- (b) Within five (5) business days of receiving the Completion Notice and Trial Results, the Buyer's Supervisor shall notify the Seller of the Buyer's technical acceptance or technical rejection of the Vessel. In the case of a rejection, the Buyer's Supervisor's notice shall set out the reasons for the rejection, including a list of items which the Buyer's Supervisor contends do not meet the requirements of this Contract and/or the Specifications. The Buyer's Supervisor may reject the Vessel not only for defects and/or incomplete work items discovered during the tests and trials, but also defects discovered and previously notified to the Seller but not yet rectified (together, "**Defects**"). The Defects include the Seller's failure to deliver any spare parts, supplied under this Contract and the Specifications, but not minor items which the Seller's Supervisor and Buyer's Supervisor (both acting reasonably) agree shall be remedied during the period of Guarantee as provided in Clause 17 (*Post-Delivery Defects and Seller's Guarantee*).

- (c) (i) If:
- (A) the Vessel or any part of it fails to meet the requirements of this Contract and/or the Specifications;
or
 - (B) the Seller accepts the Buyer's Supervisor's notice of rejection given pursuant to Clause 13.5(a),

the Seller shall investigate with the Buyer's Supervisor the cause of the failure or rejection and the steps and time required to remedy the failure. The Seller shall, at its own cost, make whatever corrections, alterations, work item completions and/or retests or retrials as may be reasonably necessary. Upon completion of the alterations, corrections, work item completions, retests and/or retrials to the Seller's satisfaction, the Seller shall notify the Buyer and the Buyer's Supervisor of the completion (the "**Supplemental Completion Notice**").

(ii) The retests or retrials shall be made in the presence of the Buyer's Supervisor. However the Buyer's Supervisor is deemed to have waived his right to attend the retests and retrials if he fails to attend despite the Seller's due notice given as prescribed below. Unless otherwise agreed, the retests and/or retrials shall be conducted with at least twenty four (24) hours' prior notice to the Buyer's Supervisor (or seventy two (72) hours' prior notice if more than seven (7) Days have elapsed, or are expected to have elapsed, since the previous test or trial of the Vessel or the Appurtenance or Material which is to be subject to the retest or retrial).

(iii) The Supplemental Completion Notice shall be accompanied by the Seller's documentation showing details of the Seller's remedial work and the retest/retrial results (the "**Remedial Details**"). Within five (5) business days of receiving the Supplemental Completion Notice and the Remedial Details, the Buyer's Supervisor shall respond with a notice of acceptance or rejection of the Vessel as set out in Clauses 13.5(a) and 13.5(b). In the case of a rejection, the post-rejection procedures set out in Clause 13.5(b) and this Clause 13.5(c) shall be repeated.

(d) If the Buyer's Supervisor fails to respond timely to the Completion Notice and/or the Supplemental Completion Notice as required by Clauses 13.5(b) and/or 13.5(c), the Buyer is deemed to have technically accepted the Vessel.

(e) Notwithstanding Clauses 13.5(b) and/or 13.5(c), any Defects requiring alteration, correction and/or completion may, if agreed by the Seller's Supervisor and the Buyer's Supervisor, be set out in the body of the Protocol of Trials and remedied, at the Seller's own cost,

during the period of the Guarantee as provided in Clause 17 (*Post-Delivery Defects and Seller's Guarantee*).

- (f) If there is a dispute as to whether the Vessel or any part of it has Defects requiring alteration, correction and/or completion the Seller's Supervisor and the Buyer's Supervisor may agree to list the disputed Defects in the Protocol of Trials and to resolve the dispute after Delivery. Any Defects agreed to, or determined by, the arbitrators shall be remedied, at the Seller's own cost, during the period of the Guarantee as provided in Clause 17 (*Post-Delivery Defects and Seller's Guarantee*).
- (g) The time spent in remedying any Defects and/or conducting any new trials or tests after completion of the remedial measures undertaken in accordance with Clauses 13.5(b) or 13.5(c):
 - (i) will not extend the then existing Adjusted Delivery Date; and
 - (ii) will be at the Seller's own cost without any adjustment of the Contract Price.

13.6 **Effect of Buyer's Technical Acceptance or Rejection**

The Buyer's Supervisor's notification of technical acceptance of the Vessel, delivered to the Seller pursuant to Clause 13.5(b) or 13.5(c):

- (a) is final and binding on the Buyer insofar as conformity of the Vessel to this Contract and the Specifications is concerned (with the exception of any outstanding Defects or disputed Defects referred to in the Protocol of Trials in accordance with Clauses 13.5(e) and/or 13.5(f)); and
- (b) precludes the Buyer from refusing formal tender of the Vessel for Delivery, provided that the Seller complies with all the preconditions for Delivery set out in Clause 14 (*Delivery of Vessel*).

14. **DELIVERY OF VESSEL**

14.1 **Time**

- (a) The Seller shall deliver the Vessel to the Buyer:
 - (i) except with the Buyer's consent, no earlier than the Contractual Delivery Date; and
 - (ii) no later than the Contractual Delivery Date.
- (b) The Contractual Delivery Date may, from time to time before Delivery, be adjusted by advancement or extension as expressly provided in this Contract (the "**Adjusted Delivery Date**").

- (c) If the Seller fails to tender the Vessel for Delivery on the Final Adjusted Delivery Date or on the Deferred Delivery Date (as determined according to Clause 14.4(a) and adjusted pursuant to Clause 14.4(b) or 15 (*Force Majeure*)), the Final Adjusted Delivery Date or the Deferred Delivery Date, as the case may be, is deemed to be the "**Latest Permitted Delivery Date**".
- (d) If the Seller fails to deliver the Vessel by the Latest Permitted Delivery Date, Clause 16 (*Failure to Deliver by Latest Permitted Delivery Date*) applies, along with any other remedies to which the Buyer may be entitled in accordance with this Contract.

14.2 **Place of Delivery**

Delivery shall be made at the Shipyard or at any other location in Chinese waters as the Parties may agree. It shall be at a safe dock, anchorage or place where the Vessel can always lie safely afloat at any state of the wind and tide or otherwise and from which it can safely depart and reach the sea lanes. The cargo tanks of the Vessel at Delivery shall be full of, at the Buyer's option and at the Seller's cost, nitrogen gas or inert gas.

14.3 **Early Delivery**

- (a) If the Vessel is completed in accordance with this Contract and the Specifications before the Final Adjusted Delivery Date, the Buyer has the option to take early Delivery of the Vessel. If the Seller anticipates that the Vessel will be completed before the Final Adjusted Delivery Date, it shall give notice to the Buyer and the Buyer's Supervisor. The notice shall include the Seller's anticipated date for tender of the Vessel for Delivery (the "**Early Delivery Date**"). The notice shall be given no later than ninety (90) Days before the Early Delivery Date. The Buyer shall have the option to take early Delivery of the Vessel at any date between the Early Delivery Date and the Final Adjusted Delivery Date, which option may be exercised in the Buyer's sole discretion. The Buyer shall notify the Seller of Buyer's intended date of Delivery no later than thirty (30) Days after receiving the Seller's notice. If the Buyer rejects the Seller's offer to tender the Vessel for early Delivery, the Buyer's obligation to take delivery of the Vessel shall remain unchanged as per the terms of this Contract as if such notice of Early Delivery Date had never been sent.
- (b) Readiness of the Vessel for Delivery and/or the Buyer's acceptance of Delivery before the Latest Permitted Delivery Date does not entitle the Seller to any bonus or premium payment.

14.4 **Deferred Delivery by Buyer**

- (a) The Buyer has the option, on notice to the Seller, to require that Delivery be deferred beyond the then existing Adjusted Delivery Date to a new date which falls within a maximum period of two

hundred and ten (210) Days after the existing Adjusted Delivery Date (including the Final Adjusted Delivery Date). If the Buyer exercises the option, the Buyer's notice shall be given no later than sixty (60) Days before the then existing Adjusted Delivery Date and shall specify the new date (the "**Deferred Delivery Date**") for deferred Delivery of the Vessel. Any lay-up of the Vessel shall be within PRC territorial waters and if the lay-up location is outside the Shipyard's breakwater, the Seller shall first have supplied the Buyer with a written risk assessment of the proposed lay-up location which will take account of weather, safety and other environmental factors. The Buyer shall not exercise the deferral option provided in this Clause 14.4(a) more than once.

- (b) Notwithstanding the establishment of a Deferred Delivery Date in accordance with Clause 14.4(a), the Buyer has the option (acting reasonably), on notice to the Seller, to adjust the Deferred Delivery Date. The notice shall be given no later than one hundred and twenty (120) Days before the adjusted Deferred Delivery Date. The adjusted Deferred Delivery Date shall not:
 - (i) without the Seller's consent, be earlier than the Deferred Delivery Date existing as of the time the Buyer exercised its option under this Clause 14.4(b); and
 - (ii) extend beyond the day falling [two hundred and ten (210)] Days from the Adjusted Delivery Date existing at the time of the Buyer's exercise of its option under Clause 14.4(a).
- (c) The Buyer shall reimburse the Seller for all reasonable documented costs as a result of the deferral in Delivery pursuant to the Buyer's election under this Clause 14.4. These cost include costs related to any lay-up and Interest on it and on the Fourth Instalment from the date on which it would have fallen due but for the exercise by the Buyer of its option under this Clause 14.4. The Seller shall take all reasonable steps to minimise these costs. The manufacturers' warranties shall not be extended.

14.5 Lien

- (a) The Seller unconditionally warrants to the Buyer that, at the time of Delivery, the Vessel and every part of it and title in and to the Vessel and every part of it will pass to the Buyer free and clear of any liens, claims, demands, charges or other encumbrances, burdens in the nature of imposts, taxes, or charges imposed by authorities (national, provincial or local) in the PRC and any liabilities arising from the construction of the Vessel or from the operation of the Vessel in trials or otherwise before Delivery.
- (b) If there exists any lien or privilege against or on the Vessel or any of its Materials, Appurtenances and/or the Buyer's Supplies (other than

any lien or other encumbrance on the Buyer's Supplies created by the Buyer), the Seller shall promptly:

- (i) notify the Buyer of the existence; and
- (ii) procure the cancellation of the lien or privilege.

This obligation survives Delivery and any termination of this Contract.

14.6 How Effected

- (a) The Seller shall give the Buyer one hundred and twenty/sixty/thirty/fourteen/seven (120/60/30/14/7) Days prior notice of the anticipated Delivery Date.
- (b) Preliminary Hand Over Meeting

Not later than five (5) Days before the date of the Seller's tender of the Vessel for Delivery as scheduled by the Seller in its notice to the Buyer's Supervisor, a meeting shall be held at the Seller's offices at the Shipyard. The meeting shall be attended by the Seller's Supervisor, the Buyer's Supervisor, the Class Surveyors, representatives of the relevant Regulatory Authorities and other persons designated by the Buyer's Supervisor ("**Buyer Designees**"). At the meeting:

- (i) the Seller's Supervisor will report on the outcome of any Work to correct defects or shortcomings required by Clause 13 (*Tests and Trials*) to be remedied before Delivery;
- (ii) the Seller's Supervisor and the Buyer's Supervisor shall confirm any post-Delivery deferrals of alteration, correction and/or completion of Defects made pursuant to Clauses 13.5(e), 13.5(f) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*) for their notation in the Protocol of Trials and the Protocol of Delivery and Acceptance;
- (iii) the Buyer's Supervisor has the option to adjourn the meeting and conduct a final walk-through inspection of the Vessel, in the presence of the Buyer Designees, the Seller's Supervisor, the Class Surveyors and representatives of the attending Regulatory Authorities;
- (iv) the Seller's Supervisor and the Buyer's Supervisor shall:
 - (A) agree on any estimated adjustments to be made to the Contract Price and any amounts to be paid with, or deducted from, the Fourth Instalment pursuant to Clause 5.2(c) (*Payment Obligation Verification*); and

- (B) formalise the agreement by incorporating it in the duplicate original Final Stage Certificate, as required pursuant to Clause 5.2(c) (*Payment Obligation Verification*), which shall be signed by the Buyer's Supervisor on behalf of the Buyer and by the Seller's Supervisor on behalf of the Seller, with each Party retaining one executed original; and
- (v) the Buyer's Supervisor and the Seller's Supervisor shall:
- (A) confirm the availability of all the documents to be supplied at the Hand Over Meeting to be held pursuant to Clause 14.6(c); and
 - (B) agree the form and content of all these documents, with the exception of those required by Clauses 14.6(c)(D), 14.6(c)(I) and 14.6(c)(K).

Upon the successful completion of the items in Clauses 14.6(b)(i) to 14.6(b)(v) to the satisfaction of the Buyer's Supervisor, the Seller's Supervisor and the Buyer's Supervisor shall agree on a date and time, which is to take place at least three (3) Days after such agreement is made, for the Hand Over Meeting at which the Seller will tender the Vessel for Delivery to the Buyer.

(c) Hand Over Meeting

- (i) On the date and time agreed pursuant to Clause 14.6(b), the Seller's Supervisor and the Buyer's Supervisor shall attend a final hand over meeting (the "**Hand Over Meeting**") at the Shipyard or at some other location as agreed to effect Delivery and the exchange or delivery of documents which, under this Clause 14.6(c), are a precondition to the valid tender of the Vessel for Delivery by the Seller. The Seller's Supervisor and the Buyer's Supervisor shall each have the right to be assisted at the Hand Over Meeting by other representatives of the Parties, including attorneys.
- (ii) At the Hand Over Meeting, the Parties shall agree the final amount to be paid with, or deducted from, the Fourth Instalment in accordance with Clause 5.4 (*Adjustment to the Fourth Instalment; Liquidated Damages*). The Parties shall concurrently deliver to each other, an original Protocol of Delivery and Acceptance signed on behalf of the Seller and the Buyer acknowledging Delivery. The acceptance of the Vessel by the Buyer does not prejudice or diminish the Seller's obligations under Clause 17 (*Post-Delivery Defects and Seller's Guarantee*). The Protocol of Delivery and Acceptance shall be prepared in duplicate and executed by the Parties together with six (6) signed copies, and be accompanied by the following documents, the receipt of which is a condition

precedent to Delivery. All these documents shall be originals, except for the document in Clause 14.6(c)(K):

- (A) PROTOCOL OF TRIALS of the Vessel made pursuant to the Specifications, including a list of outstanding Defects, if any, to be carried over and corrected after Delivery pursuant to Clauses 13.5(e), 13.5(f) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*).
- (B) PROTOCOL OF INVENTORY and spare parts of the Vessel's equipment, including spare parts as detailed in the Specifications;
- (C) CONSUMABLES PROTOCOL of any and all fuels, lubricants, consumable stores, fresh water and LNG supplied pursuant to Clause 13 (*Tests and Trials*) by either the Seller or the Buyer;
- (D) DRAWINGS AND PLANS approved by the Buyer, the Classification Society and the Regulatory Authorities, together with instruction books, operation manuals, maintenance and repair manuals pertaining to the Vessel, its Appurtenances and Materials as stipulated in the Specifications;
- (E) ALL CERTIFICATES required pursuant to the Specifications to be furnished before or upon Delivery, including the Seller's Certificate covering Deadweight, the Classification Certificates and the Safety Construction Certificate. Through no fault on the part of the Seller, if certain of the Classification Certificates and/or other certificates are not available at the time of Delivery, legally obtainable and fully valid provisional certificates (each of which shall have a validity period of not less than three (3) months from the date of Delivery) shall be accepted by the Buyer. The Seller shall furnish the Buyer with the formal certificates as promptly as possible after the formal certificates have been issued (but in any event no later than thirty (30) Days before the expiry of the provisional certificates, including any extensions to it). The provisional certificates shall enable the Vessel to be registered and do not impose or allow any restriction on the Vessel's trading or operations;
- (F) A DECLARATION OF WARRANTY AGAINST LIENS of the Seller in form and substance satisfactory to the Buyer, stipulating the Seller's warranty obligations set out in Clause 14.5 and containing an appropriate indemnity for breach of these obligations;

- (G) **BILLS OF SALE** in form and substance satisfactory to the Buyer, notarised and legalised, as appropriate, and in the number of originals and/or copies required for registration of the Vessel under the Hong Kong Shipping Registry or other registry as the Buyer may choose in accordance with Clause 3.4 (*Vessel Registration*);
- (H) **COMMERCIAL INVOICE** in form and substance satisfactory to the Buyer;
- (I) **OTHER MANUALS AND DOCUMENTS** necessary for the documentation, certification and operation of the Vessel as specified in the Specifications;
- (J) **SELLER'S POWER OF ATTORNEY** in form and substance satisfactory to the Buyer evidencing authority to execute and/or deliver the documents mentioned above on behalf of the Seller, which power of attorney shall be duly notarised;
- (K) if required in PRC, **COPY OF ALL SIDES OF EXPORT CUSTOMS PERMIT** and any other duly issued permits or approvals required for delivery of the Vessel to the Buyer and its export from the PRC; and
- (L) **NON-REGISTRATION CERTIFICATE** in form and substance satisfactory to the Buyer evidencing the vessel has been deleted from all prior registrations and any mortgage or other security against the Vessel has been discharged in full.

14.7 Fuels, Lubricants, Consumable Stores and LNG

- (a) The Contract Price includes all fuels, lubricants, consumable stores, liquid nitrogen and LNG, including vaporised natural gas consumed before Delivery (excluding items consumed as a result of the Buyer's exercise of its option under Clauses 14.4(a) or 14.4(b)).
- (b) Other than as specified in Clause 14.7(a), the Buyer shall pay for all fuels and lubricants, including all of the contents of the main generator engine and auxiliary machinery system, fresh water, other consumable stores and LNG (including vaporised natural gas) remaining on board at Delivery, at the Seller's original net cost as documented by the Suppliers' invoices to the Seller. The Buyer has the option to return any consumable stores (other than fuels and lubricants), which shall be removed by the Seller at no cost to the Buyer.
- (c) No later than three (3) Day before the agreed date for tender of the Vessel for Delivery, the Seller's Supervisor and Buyer's Supervisor

Sellers' Initials



Buyer's Initials



shall attend on the Vessel to determine and agree on the quantities of the items described in Clause 14.7(b) which are then on board the Vessel. The quantities agreed shall be listed in the document required in Clause 14.6(c), and the quantities are deemed to be on board the Vessel at Delivery and shall be paid by the Buyer.

- (d) The Buyer shall also pay for:
 - (i) fuel oil and lube oil remaining in working tanks and sumps; and
 - (ii) lubricating oil and greases in unbroached containers and lube oil in designated storage tanks.

Any payments due to the Seller under this Clause 14.7(d) shall be made at Delivery as provided in Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*).

- (e) Unless otherwise agreed, the Seller shall exercise reasonable efforts to minimise LNG remaining on board at Delivery.

14.8 **Removal of the Vessel**

The Buyer shall take possession of the Vessel on Delivery and shall remove the Vessel from the Shipyard within seven (7) Days after Delivery. If the Buyer fails to do so, the Buyer shall pay the Seller a reasonable mooring charge, in line with prevailing market rates in the PRC, as invoiced by the Seller for each Day (prorated for each part of it) until the Vessel is removed from the Shipyard. The Buyer shall also pay the Seller documented port dues or other charges levied by the PRC for the post-Delivery period which are payable by the Buyer as a result of the Vessel's presence at the Shipyard commencing on the eighth (8th) Day after Delivery. The Seller shall provide reasonable assistance to the Buyer in relation to the removal of the Vessel from the Shipyard.

14.9 **Dry-docking Before Delivery**

- (a) If tender of the Vessel for Delivery is set for more than one hundred and twenty (120) Days after completion of the last dry-docking of the Vessel, the Seller shall conduct an underwater survey of the Vessel to determine the need to clean the Vessel's hull and/or propeller. The Seller shall undertake the cleaning with due diligence. If the survey shows that cleaning in drydock is necessary to maintain Guaranteed Speed as set out in Clause 18.1(d) (*Criteria*), the Seller shall drydock the Vessel and clean the Vessel's hull and/or propeller before Delivery. The Seller shall use reasonable efforts to effect the dry-docking at the Shipyard. Reasonable efforts shall not require the Seller to delay the schedule of any shipbuilding contract made with another customer.
- (b) The underwater survey and any resultant dry-docking and cleaning shall be done at the Seller's own cost and without relief for any delay

attributable to it, unless the reason for the delay in Delivery is due to the Buyer's election to delay Delivery under Clause 14.4, and unless such dry-docking is solely attributable to Buyer's required delay, in this case:

- (i) the Buyer shall bear the reasonable costs of the survey, dry-docking and cleaning (save that where the period since the last dry-docking would not have exceeded one hundred and twenty (120) Days but for a Contingency, the Seller and the Buyer shall share the costs equally); and
 - (ii) unless the Seller has failed to use reasonable efforts to effect the dry-docking at the Shipyard, any additional time necessary as a result of the additional work will amount to a permissible delay under this Contract.
- (c) Any sums owed by the Buyer to the Seller under this Clause 14.9 shall be documented and paid as an increase to the Fourth Instalment, as provided in Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*).

14.10 Additional Vessel Documents; Models of the Vessel

- (a) To the extent not required to be provided at Delivery pursuant to Clause 14.6, the Seller shall deliver to the Buyer, as soon as possible after Delivery, all plans, drawings, 'AS-BUILT' Specifications, operation and maintenance manuals and schedules for the Vessel's machinery and equipment, and all other necessary documents as required in accordance with the Specifications.
- (b) The Seller shall provide four (4) scale models of the Vessel in display cases with foundation and at a scale of 1:150 or such bigger scale as requested by the Buyer as delivery gifts for the Buyer. The Seller shall assist the Buyer to decide color scheme or signs of the models. The Buyer may request the Seller to provide such models before Delivery of the Vessel for the sake of trade marketing or similar purpose. The Buyer will decide the time, place and method for taking the models from the Seller.

15. FORCE MAJEURE

15.1 Causes of Delay

- (a) If, at any time:
 - (i) before the Latest Permitted Delivery Date, either the construction of the Vessel or other performance required of the Seller as a prerequisite to Delivery suffers delay due to one or more of the contingencies set out in Clause 15.1(c); or

Sellers' Initials



Buyer's Initials



- (ii) after the Latest Permitted Delivery Date but before Delivery, either the construction of the Vessel or other performance required of the Seller as a prerequisite to Delivery suffers delay due to one or more of the contingencies set out in Clause 15.1(d),

(jointly and separately, a "**Contingency**"), the time permitted for the Seller to deliver the Vessel under this Contract will be extended for a period of time not exceeding the total number of Days (or pro-rata portion of it) demonstrated by the Seller to have been lost in the construction of the Vessel or in some activity necessary for the Seller to prepare the Vessel for Delivery due to the delay.

- (b) The extension of time is subject to the following:

- (i) the delay in respect of which the Seller is claiming relief (the "**Delay**") could not reasonably have been foreseen at the Effective Date and was not caused, or contributed to in whole or part, by any act and/or omission of the Seller (whether voluntary or compulsory and whether negligent or not). For the purposes of this Clause 15.1, the term "**Seller**" includes the Seller and the Major Suppliers;

- (ii) the Seller has taken, and continues to take, all reasonable steps to mitigate the effects of the Contingency and the resulting magnitude of the Delay;

- (iii) the Delay directly impacts the critical path network established in accordance with Clause 9 (*Planned Programme, Launching, Berthing*) and Schedule 5 (*Planned Programme Outline*) as it exists at the time of the Delay, and reasonable steps were not available to the Seller to revise the critical path network and/or to cure or mitigate the effect of the Delay;

- (iv) the cause of the Delay, as well as the claimed adverse effects of it on the then existing Adjusted Delivery Date or Deferred Delivery Date or Latest Permitted Delivery Date (as the case may be), are clearly demonstrated by the Seller;

- (v) the Seller has given all notices, Statement of Events and Update Reports required under Clause 15.2;

- (vi) any delay due to increased labour or Material costs and/or financial stress or insolvency of the Seller and/or the Subcontractors does not extend the permissible time for Delivery;

- (vii) any delay due to the insufficiency of the Seller's or the Subcontractors' labour forces or the Seller's or the Subcontractors' non-performance or delayed performance does

not qualify for potential extension of the permissible time for Delivery, unless they are directly caused by a Contingency;

(viii) the Seller has diligently monitored the Subcontractors' performance and the Work as a whole, and has promptly identified any slippage in the performance and the Work that should signal delay in Delivery;

(ix) delays due to ordinary storms or inclement weather (including daily temperatures exceeding 37.5°C) do not extend the permissible time for Delivery. For the purposes of this Clause 15.1(b)(ix), "**ordinary storms**" means those atmospheric disturbances which should reasonably be expected to occur in the general vicinity of the Shipyard based on historical data and experience available in the PRC; and

(x) no increase in the Contract Price is made by reason of any Delay which qualifies for permissible extension of the time for Delivery under this Clause 15.

(c) The contingencies referred to in Clause 15.1(a)(i) are: war; blockade; revolution; insurrection; sabotage; high severity fire or explosion; disasters caused by earthquake, tsunami, severe flood; super typhoon or hurricane; disasters caused by blizzard or severe storm; prolonged plague or other epidemic quarantines; long term power outage due to the state administration or governmental authority.

(d) The contingencies referred to in Clause 15.1(a)(ii) are: war; blockade; revolution; insurrection; sabotage; high severity fire for which the Seller has no responsibility; explosion for which the Seller has no responsibility; disasters caused by earthquake, tsunami, severe flood; super typhoon or hurricane; disasters caused by blizzard or severe storm; prolonged plague or other epidemic quarantines; long term power outage due to the state administration or governmental authority.

(e) The Seller shall use its reasonable endeavours to include provisions for Force Majeure at least as stringent as those set out in this Clause 15 in its contracts with the Major Suppliers.

15.2 Notices

(a) As soon as possible, but in any event not later than seven (7) Days after the start of any Delay for which the Seller intends to claim relief under this Clause 15, the Seller shall give the Buyer and the Buyer's Supervisor notice (the "**Initial Notice**") of the date the Delay commenced and the Contingency purported to be its cause and documentary evidence (issued by the Regulatory Authority, if available) supporting the basis for the Seller's claim.

Sellers' Initials



Buyer's Initials



- (b) No later than fourteen (14) Days after giving the Initial Notice, the Seller shall submit to the Buyer and the Buyer's Supervisor a statement specifying, as far as possible and with full particulars, the nature and cause of the Contingency, the effect of the Contingency on the Work, its likely overall effect on the current construction schedule and the then existing (and unexpired) Adjusted Delivery Date and the steps which are being taken, or planned to be taken, by it to mitigate any delay which may result from the Contingency ("**Statement of Events**"). After giving the Initial Notice, the Seller shall provide update reports ("**Update Reports**") at intervals of approximately fourteen (14) Days afterwards until the Delay is at an end.
- (c) Within seven (7) Days after the date on which it becomes aware that the Delay is at an end, the Seller shall give the Buyer and the Buyer's Supervisor notice (the "**Final Notice**") of the date when the Contingency and the Delay ended and the maximum period of time by which the Seller claims that time for Delivery under this Contract should be extended under this Clause 15 on account of the Delay. The Final Notice shall also include documentary evidence issued by the regulatory authority (if available) and the grounds for the claim in sufficient detail so as to enable the Buyer to determine whether the claim is justified.

15.3 **Buyer Response; Waiver**

- (a) Within fourteen (14) Days after the Buyer receives the Final Notice, the Buyer shall notify the Seller of its acceptance or rejection of the Seller's claim for extension of the permissible time for Delivery under this Clause 15.
- (b) If the Buyer or the Buyer's Supervisor fails to respond to the Final Notice as provided in Clause 15.3(a), the Buyer and the Buyer's Supervisor are deemed to have accepted the Seller's claim as presented by the Seller in the Final Notice. If the Seller fails to provide the Initial Notice, any Statement of Event, any Update Report and/or the Final Notice as required under Clause 15.2, the Seller is deemed to have waived and extinguished any right to claim that the permissible time for Delivery should be extended by reason of the Contingency and Delay claimed.

15.4 **Termination for Excessive Accumulated Delay**

- (a) The Buyer may terminate this Contract in accordance with Clause 20 (*Default by Seller*) if the total accumulated time for all Delays claimed by the Seller pursuant to this Clause 15 (and accepted by the Buyer) amounts to one hundred and eighty (180) Days or more (not counting the Grace Period). However, the total accumulated time excludes:

- (i) Delays caused by any default or omission on the part of the Buyer in carrying out its obligations under this Contract; and
- (ii) any Delay occurring after the Buyer's exercise of its option under Clause 14.4 (*Deferred Delivery by Buyer*).

The Seller may not retroactively waive claims accepted by the Buyer in order to eliminate or diminish the Buyer's right to terminate under this Clause 15.4(a).

- (b) At any time after the accumulation of delays justifying termination by the Buyer as provided in Clause 15.4(a), the Seller may demand that the Buyer elects to either terminate or waive its right to terminate this Contract. Within fifteen (15) Days after receiving the Seller's demand, the Buyer shall either notify the Seller of the termination of this Contract or consent to Delivery at a specific future date to be agreed.
- (c) If the Buyer elects to maintain this Contract and the Parties agree to a future date for Delivery and the Vessel is not delivered by that date by reason, in whole or in part, of any delay which would qualify under the terms of this Clause 15 for an extension of permissible time for Delivery, the Buyer has a renewed option to terminate this Contract in accordance with Clause 20 (*Default by Seller*) irrespective of whether the Seller makes a claim for a delay under this Clause 15. However, the Seller has a renewed right to demand that the Buyer makes an election as set out in Clause 15.4(b), subject to the same consequences as set out in this Clause 15.4(c).
- (d) If the Buyer fails to notify the Seller of its intention to terminate this Contract within the fifteen (15) Day period stipulated in Clause 15.4(b), or the Buyer notifies the Seller of its intention to maintain this Contract, but the Parties fail to agree on a specific future date for Delivery within ten (10) Days after the date the Buyer notifies its intention to maintain this Contract, the Buyer is, in either case, deemed to have elected to terminate this Contract in accordance with Clause 20 (*Default by Seller*).
- (e) The Buyer's right to terminate under this Clause 15 does not prejudice the Buyer's right to terminate for delay in Delivery as set out in Clause 16 (*Failure to Deliver by Latest Permitted Delivery Date*).


16. FAILURE TO DELIVER BY LATEST PERMITTED DELIVERY DATE

16.1 Contract Price Reduction

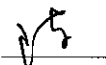
The Contract Price is subject to adjustment as set out in this Clause 16.1. Any reduction in the Contract Price is by way of liquidated damages and not by way of penalty. The Seller certifies that the reductions in the Contract Price

Sellers' Initials

76



Buyer's Initials



set out below are a reasonable pre-estimate of the Buyer's damages for delay in Delivery.

- (a) For the first thirty (30) Days of delay in Delivery beyond the Latest Permitted Delivery Date (ending as of 23:59 Beijing time on the thirtieth (30th) Day of delay) (the "**Grace Period**"), no adjustment is made and the Contract Price remains unchanged.
- (b) If Delivery is delayed beyond the Grace Period, beginning at 24:00 Beijing time of the thirty (30) Day after the Latest Permitted Delivery Date, the Contract Price is reduced by US Dollars one hundred thousand (US\$ 100,000) per Day.
- (c) The total reduction in the Contract Price under Clause 16 shall not exceed the amount that would be made in the case of a delay of one hundred and eighty (180) Days beyond the Grace Period, namely two hundred and tenth (210th) Day beyond the Latest Permitted Delivery Date.

16.2 **Contract Termination**

- (a) If all accumulated delays in Delivery (to the extent attributable to any Contingency and/or non-permissible delays which occurred during the period of this Contract being effective) exceed two hundred and ten (210) Days beyond the Contractual Delivery Date, the Buyer may either terminate this Contract in accordance with Clause 20 (*Default by Seller*) with no entitlement to any liquidated damages set out in Clause 16.1 or 16.3, or accept the Vessel with the applicable liquidated damages as provided in Clause 16.1 and 16.3.
- (b) At any time following a delay in Delivery exceeding the number of Days mentioned in Paragraph (a) above, if the Buyer has not given notice of termination to the Seller, the Seller may demand in writing that the Buyer elects to either terminate or waive its right to terminate this Contract. In this case, the Buyer shall, within thirty (30) Days of receiving the Seller's demand, notify the Seller of its intention to either terminate this Contract or waive its right to terminate and consent to Delivery at a future specific date to be agreed.
- (c) If the Buyer elects to maintain this Contract and the Parties agree to a future date for Delivery and the Vessel is not delivered by that date, the Buyer has the same right to liquidated damages or Contract termination as provided in Clause 16.2(a). If the Seller fails to deliver the Vessel by the agreed date, the Seller's right to demand the Buyer's election and the time given to the Buyer to make the election pursuant to Clause 16.2(b) applies as it would to a delay in Delivery as stated in the election.





- (d) The Buyer is deemed to have elected to terminate this Contract in accordance with Clause 20 (Default by Seller) if:
 - (i) the Buyer fails to notify the Seller of its intention to terminate the Contract within the thirty (30) Day period stipulated in Clause 16.2(b); or
 - (ii) the Buyer notifies its intention to maintain this Contract, but the Parties fail to agree on a future date for Delivery within thirty (30) Days after the notification.
- (e) For purposes of this Clause 16, a portion of a Day is counted as a full Day.

16.3 Buyer's Option to Choose Delivery Date

- (a) If the Seller expects that it will not be able to deliver the Vessel by the end of the Grace Period (or a Postponed Delivery Date or Selected Delivery Date as provided in Clause 16.3(b) below), it shall notify the Buyer in writing forthwith and shall give 30 Days prior notice to the Buyer stating the postponed date for delivery of the Vessel (the "**Postponed Delivery Date**").
- (b) Without prejudice to the Buyer's right to terminate the Contract pursuant to Clause 16.2, and without prejudice Buyer's rights under Clause 16.1, the Buyer shall have the option to accept and take Delivery of the Vessel on the Seller's proposed Postponed Delivery Date, or to select a later date for the acceptance of delivery of the Vessel by notice which shall be given by the Buyer within ten (10) business days after the receipt of the Seller's notice in writing to the Seller ("**Selected Delivery Date**"). Such Selected Delivery Date shall be within a period ending on the earlier of (i) six (6) months after the Seller's Postponed Delivery Date and (ii) two hundred and ten (210) Days from the Latest Permitted Delivery Date (or from the last Postponed Delivery Date in the case of a further postponement pursuant to Clause 16.3(d)).
- (c) If the Buyer agrees to accept delivery of the Vessel on a Postponed Delivery Date or Selected Delivery Date, the Contract Price shall be reduced by a daily rate of US Dollars one hundred thousand (US\$ 100,000) for each day of postponement after the end of the Grace Period until the Postponed Delivery Date.
- (d) Any further postponement of delivery of the Vessel by the Seller shall be notified to the Buyer in the same manner as provided in Clause 16.3(a) and shall be subject to the same conditions as provided in Clause 16.3(b) and (c).
- (e) Any selection by the Buyer of a Selected Delivery Date under this Clause 16.3 shall not be construed as a deferred delivery by the Buyer or otherwise be made subject to Clause 14.4 (*Deferred*

Delivery by Buyer), except that the Buyer shall reimburse the Seller for all reasonable documented costs from the Postponed Delivery Date until the Selected Delivery Date of lay up of the Vessel and any extension of manufacturers' warranties.

17. **POST-DELIVERY DEFECTS AND SELLER'S GUARANTEE**

17.1 **Guarantee**

(a) Subject to the provisions hereinafter set out in this Clause 17, the Seller guarantees the Vessel against the defects described in Clauses 17.1(a)(i) to 17.1(a)(iii), which are discovered and notified by the Buyer to the Seller within the applicable Guarantee and Claim Notice periods set out in Clause 17.2.

(i) Any defect in the Vessel due to defective design, defective Materials, poor workmanship and/or failure to construct and complete the Vessel in conformity with this Contract and the Specifications (in each case, a "**Guarantee Defect**"), excluding any aggravation of a Guarantee Defect caused by ordinary wear and tear, negligent act or omission by the Vessel operator or crew and/or an accident involving the Vessel after Delivery.

(ii) Any physical damage to the Vessel directly caused by a Guarantee Defect ("**Physical Damage**").

(iii) Any defective repair or remedy of a Post-Delivery Defect, if effected pursuant to Clause 17.6. For the purposes of this Clause 17, the terms "Guarantee Defect" and "Physical Damage" are jointly and separately called "**Post-Delivery Defects**".

(b) For the purposes of this Clause 17, the term "**Vessel**" includes the Vessel's hull, machinery, Materials (including coatings and paint) and gear (excluding the Buyer's Supplies, except to the extent of any workmanship or design performed by the Seller in connection with the installation or fitting of the Buyer's Supplies and/or any repair or replacement undertaken by the Seller pursuant to Clauses 26.2(c) and 26.2(d) (*Responsibilities of Seller*)).

(c) The Guarantee granted in this Clause 17 extends to each and every item of Material, equipment, service and/or workmanship furnished by the Suppliers, the Subcontractors or others engaged in the Work.

17.2 **Applicable Guarantee Periods**

The applicable periods of the Guarantee under this Clause 17 are as follows:

(a) Unless otherwise specified in this Clause 17.2, the applicable period of the Guarantee is twenty four (24) months after the date of Delivery

Sellers' Initials J

Buyer's Initials JTS

(or such longer period for certain equipment, machinery or items as specified in the Specifications, including tank coatings, hull anti-corrosive and anti-fouling paints).

- (b) For the cargo containment system, the applicable period of the Guarantee is sixty (60) months from the date of Delivery. For the cargo handling equipment in tanks and underwater parts which require gas freeing and/or drydocking, the applicable period of the Guarantee is thirty (30) months from the date of Delivery. For paint covering the hull, the applicable period of the Guarantee is sixty (60) months from the date of Delivery. For paint covering the ballast tanks, the applicable period of the Guarantee is sixty (60) months from the date of Delivery.
- (c) For any Defects carried over for repair and/or remedy after Delivery in accordance with Clauses 13.5(e) and/or 13.5(f) (*Method of Vessel Acceptance or Rejection after Sea Trials and Gas Trials*), the period of the Guarantee runs for the longer of (i) twenty four (24) months from the date the repair and/or remedy of the Defects is accomplished or (ii) forty eight (48) months from the date of Delivery.
- (d) For any Post-Delivery Defects notified to the Seller pursuant to Clause 17.3 which the Seller fails to repair and/or remedy, the period of the Guarantee runs until the repair and/or remedy is accomplished.
- (e) For any Post-Delivery Defects repaired or remedied by the Seller or the Buyer in accordance with Clause 17.6, the period of the Guarantee is extended and runs for an additional period of twenty four (24) months from the date the repair or remedy is accomplished. The extended period does not reduce the original period of the Guarantee of twenty four (24) months from the date of Delivery under Clause 17.2(a), sixty (60) or thirty (30) months (as applicable) under Clause 17.2(b) and forty eight (48) months under clause 17.2(c).
- (f) Notwithstanding anything to the contrary herein contained, the Seller's guarantee obligations under this Clause 17 and any other provisions under this Contract and any applicable laws shall be completely discharged, and the Seller shall be irrevocably released from any further liability in respect of Post-Delivery Defects and/or latent defects and/or other deficiencies and/or non-conformities and/or omissions set forth in any provisions of this Contract on the date falling forty eight (48) months after Delivery except in respect of (a) equipment, machinery, tank coatings and hull anti-corrosive and anti-fouling paints covered by longer periods as specified in the Specifications, where such longer periods shall be applicable and (b) cargo containment system, cargo handling system and underwater parts which require gas freeing and/or drydocking, in respect of which Seller shall be discharged and irrevocably released hereunder

sixty (60) months after Delivery (in each case the "**Relevant Expiry Date**"). However, if a valid guarantee claim is made before the Relevant Expiry Date but the necessary repairs cannot be completed before the Relevant Expiry Date, the Seller will still carry out the necessary repair work, although no further guarantee period shall apply after such repairs have been completed.

- (g) Before the expiry of any Guarantee period, the Seller and the Buyer will prepare a list of all outstanding guarantee claims and agree the scope of the guarantee work to be carried out, the remedies to be implemented to cure each item, and the timetable to complete the Work under the Guarantee.

17.3 Notice of Claim

- (a) The Buyer shall give the Seller notice of any claim under this Clause 17 ("**Claim Notice**") by fax (confirmed by letter via post or international courier) or e-mail.
- (b) The notice should be given within a reasonable time after the Buyer discovers the Defects and/or the Post-Delivery Defects, but in no event later than thirty (30) Days after the expiration of the applicable period of the Guarantee.
- (c) The Claim Notice shall include such particulars as can reasonably be given as to the nature of the Defects and/or the Post-Delivery Defects and the date of their discovery. This provision does not apply to Defects listed in the Protocol of Trials pursuant to Clause 13 (*Tests and Trials*).

17.4 Seller Inspection

- (a) If the Vessel's working schedule is not unduly impaired or if an emergency does not reasonably dictate otherwise, the Seller has the right, on notice to the Buyer and at the Seller's own cost, to arrange for an onboard inspection of the Vessel ("**Seller Inspection**") to be performed by a Seller-nominated representative before any remedial work is undertaken.
- (b) The purpose of the inspection is to investigate the nature and extent of the Defects and/or the Post-Delivery Defects claimed to exist and the nature of repairs, replacements or other remedial work required to remedy the defects.
- (c) The inspection shall take place at a shipyard or on the Vessel, depending on where the repairs, replacements or work is to be effected as provided in Clause 17.6. The Seller may appoint any Guarantee Engineer then serving on board the Vessel to be its nominated representative.

17.5 **Seller Response**

- (a) If a Seller Inspection takes place, the Buyer shall show (but not surrender) the Vessel's log books and other relevant information to the Seller's Representative at inspection. Within thirty (30) Days after completion of the inspection, the Seller shall advise the Buyer by fax of the Seller's acceptance or rejection of liability for the Defects and/or the Post-Delivery Defects claimed by the Buyer under this Clause 17.
- (b) If a Seller Inspection does not take place, the Seller shall advise the Buyer by fax no later than thirty (30) Days after receiving the Claim Notice as to the Seller's acceptance or rejection of liability for the Defects and/or the Post-Delivery Defects claimed by the Buyer under this Clause 17.
- (c) Upon the Seller's acceptance of liability for the Defects and/or the Post-Delivery Defects claimed by the Buyer under this Clause 17 the Seller shall, in respect of the Defects and/or the Post-Delivery Defects, either bear the cost or make payment to the Buyer as provided in Clauses 17.6 and 17.7.

17.6 **Remedy of Defects and Post-Delivery Defects**

- (a) In respect of any Defects and/or Post-Delivery Defects for which the Seller is liable under this Clause 17, the Seller shall promptly make or pay for necessary repairs, replacements and/or other remedial work (in this Clause 17, jointly and separately, "**Remedial Work**"), as provided in this Clause 17.6.
- (b) Unless otherwise provided in Clause 17.6(c), any Defects and/or Post-Delivery Defects shall be remedied by the Seller undertaking, at its own cost, all necessary Remedial Work at any Seller-owned or operated yard or other works nominated by the Seller to the Buyer (the nominated yard or works is called the "**Seller's Nominated Yard**"). Subject to the Seller's approval (which shall not be unreasonably withheld), the Buyer shall choose the time for bringing the Vessel to the Seller's Nominated Yard.
- (c) If, in the reasonable opinion of the Buyer:
 - (i) immediate Remedial Work is required to remedy the Defects and/or the Post-Delivery Defects;
 - (ii) the Remedial Work can be effected by the Vessel's crew;
 - (iii) the Remedial Work would unduly impair the operation or the working schedule of the Vessel or it will be impractical to bring the Vessel to the Seller's Nominated Yard; and/or

(iv) the Seller's Nominated Yard is not suited for the required Remedial Work,

the Buyer shall cause the necessary Remedial Work to be made elsewhere than at the Seller's Nominated Yard, either by the Vessel's crew, if Clause 17.6(c)(ii) applies, or by others at a yard or works chosen by the Buyer ("**Buyer's Yard**"). The Seller is not liable for any damages caused by the Vessel's crew if later discovered. The Buyer shall give notice to the Seller of the time and location that the Remedial Work will be done (or, in the case of an emergency, of the time and location of the Remedial Work which has been done). If it is reasonable under the circumstances, the Seller shall be afforded the opportunity, at its own cost, to dispatch a representative to the Buyer's Yard to verify the nature and extent of the Defects and to oversee the Remedial Work.

(d) Whether the Remedial Work is done at the Seller's Nominated Yard or at the Buyer's Yard, the Buyer shall bring the Vessel to the yard or works at which the Remedial Work is to be done ("**Repair Yard**"). The Seller is liable for the following costs either directly or by way of reimbursement to the Buyer:

(i) if underwater Defects and/or underwater Post-Delivery Defects are discovered during a regular dry-docking of the Vessel before expiration of the period set out in Clause 17.2(b), and the Vessel is maintained in drydock for an additional period to perform the Remedial Work as a result of the underwater Defects and/or underwater Post-Delivery Defects, the drydock rental for the additional period;

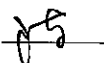
(ii) the cost of gas freeing, warm-up, inerting, LNG used for re-cooling following repairs and the carrying out of any required dismantling and assembling;

(iii) in respect of materials, parts and labour used in connection with the Remedial Work at the Seller's Nominated Yard, all costs incurred in supplying the materials, parts and labour;

(iv) for materials, parts and labour used in connection with the Remedial Work at the Buyer's Yard, an amount equal to the lesser of:

(A) the actual documented costs incurred by the Buyer in providing the materials, parts and labour; or

(B) an amount equal to the charge demonstrated by the Seller to be realistically applicable at the Seller's Nominated Yard had the Remedial Work been performed there.



For the purposes of this Clause 17.6(d)(iv), the realistic costs applicable at the Seller's Nominated Yard is the Seller's suppliers' quoted costs for similar materials and parts used in the Remedial Work and the Seller's documented rates for labour and overhead, plus the Seller's normal profit on similar Remedial Work in effect at the time the Remedial Work is performed at the Buyer's Yard.

- (v) If any spare parts carried on board the Vessel are used by the Buyer, the Vessel's crew, the Seller, the Seller's Nominated Yard and/or the Buyer's Yard to effect the Remedial Work, the Seller shall, at its own cost, replace the parts promptly so as to minimise any adverse effect on the operation of the Vessel and pay the full cost of it (including any freight costs to transport the replacement spare parts to the Vessel).

The Vessel shall be taken, at the Buyer's risk and cost, to the place chosen, ready for the repairs or replacements. However, the Seller is responsible for, and shall reimburse the Buyer for, tugs (within the anchorage place and to the drydock of the Repair Yard) to assist the Vessel at the Repair Yard into or out of drydock or onto a berth, berthing, wharfage, port charges, dockage (including dry-docking rental).

- (e) If the Remedial Work is done by the Vessel's crew, the Seller shall reimburse the Buyer for the incremental cost of the crew's labour incurred.
- (f) The Seller shall reimburse the Buyer for temporary repairs, which are made reasonably necessary by reason of any Defects and/or Post-Delivery Defects.
- (g) For the avoidance of doubt, the Buyer shall not be entitled to claim against the Seller for overhead charges or costs, whether incurred by the Buyer's Representatives at the repair site or by the Buyer's personnel at its headquarters or at any of the Buyer's places of operation, all such costs being for the sole account of the Buyer.

17.7 Certificates

- (a) If any IMO Certificate of Fitness applicable to the Vessel is withdrawn within three (3) years from Delivery because of the Seller's failure to perform its obligations under this Contract, the Seller is liable for the cost of any remedial work necessary to obtain the IMO's reissuance of the Certificate of Fitness.
- (b) At any time within two (2) years after Delivery, if permission for the Vessel to enter any port in the United States or a permission for the Vessel to enter any ports where the Primary Terminals are located is refused or withdrawn, because of a failure to comply with the requirements of the USCG (including those for the USCG Letter of

Compliance), or the requirements of the relevant Regulatory Authority granting the permission, which, in turn, is because of the Seller's failure to perform its obligations under this Contract, the Seller is liable for the cost of any remedial work necessary to enter such port. The Buyer and the Seller shall exercise reasonable efforts to cooperate in obtaining the USCG Letter of Compliance, and any necessary permission from the relevant Regulatory Authority, before Delivery.

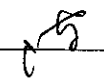
17.8 Replacements

- (a) Any parts replaced in the course of the Remedial Work will, on their removal from the Vessel, become the property of, and be at the risk of, the Seller.
- (b) Replacement or new parts fitted on or in the Vessel in the course of the Remedial Work will, upon fitting, become the property of, and be at the risk of, the Buyer.
- (c) Any parts replaced outside the Seller's Nominated Yard will, at the Seller's risk and cost, be returned to the Shipyard at the Seller's request. The Seller shall reimburse the Buyer for any costs incurred by the Buyer in any return of parts to the Seller.

17.9 Limits on Seller Responsibility

- (a) On Delivery, the Seller is released from all further obligations and liabilities under this Contract, save in respect of those obligations and liabilities arising out of, or in connection with, the Guarantee under this Clause 17 or any of Clause 5.4(b) (*Adjustment to the Fourth Instalment; Liquidated Damages*), Clause 5.5(f) (*Payment Procedures and Payment Location*), Clause 7.2(d)(ii) or (iii) (*Major Suppliers and Subcontractors*), Clause 10.1(c) (*Title*), Clause 13.4(c)(iii), (iv) or (v) (*Sea and Gas Trials*), Clause 14.5 (*Lien*), Clause 17.12(d) (*Guarantee Engineer*), Clause 21.1 (*Licence Rights*), Clause 22 (*Business Standards*), Clause 25 (*Confidentiality*), Clause 27 (*Governmental Charges*) (except Clause 27.3 (*Buyer's Responsibilities*)) or Clause 31.10 (*Indemnification*), including any responsibility or liability for defective workmanship, materials or equipment or in respect of any other defects and any loss or damage resulting from any act, omission or default of the Seller.
- (b) Except as otherwise expressly provided in this Clause 17, the Seller is not responsible or liable for any indirect and consequential damages or expenses, including loss of profit or loss of earnings or demurrage directly or indirectly incurred by the Buyer by reason of any Defects and/or Post-Delivery Defects.
- (c) Except for Remedial Work undertaken by third parties and/or crew pursuant to Clause 17.6, the Seller is not responsible for remedying any Defects and/or Post-Delivery Defects in any part of the Vessel





which, after Delivery, has been repaired or replaced by any Person other than the Seller or the Seller's Nominated Yard. If:

- (i) there is any defect in the Remedial Work for which the Seller is liable and which is undertaken by a Person other than the Seller or the Seller's Nominated Yard; and
- (ii) the Seller is indemnifying the Buyer against costs and expenses incurred in relation to the Remedial Work,

the Buyer shall, on demand, assign to the Seller the benefit of its contract (if any) with that Person. Upon receipt by the Buyer of an indemnity from the Seller against the Buyer's costs and expenses (including legal costs) in bringing a claim, the Buyer shall take all reasonable steps required by the Seller to bring a claim against that Person in respect of that Person's liability for the relevant defect under the relevant contract.

- (d) The Guarantee provided in this Clause and the obligations and liabilities of the Seller in relation to the Post-Delivery Defects are exclusive and in lieu of all other remedies, warranties, guarantees or liabilities of the Seller, express or implied, arising by operation of law or otherwise (including any obligations of the Seller with respect to fitness, merchantability and consequential damages) and whether or not caused by the Seller's negligence. The Guarantee cannot be extended, altered or varied except by a written instrument signed by the duly authorised representatives of the Seller and the Buyer.

17.10 **Currency; Interest**

- (a) Where the Seller is required under this Clause 17 to reimburse the Buyer for Remedial Work done by Persons other than the Seller and/or for other costs incurred or paid by the Buyer, the Seller shall reimburse the Buyer the US\$ equivalent of the costs incurred in respect of the Remedial Work.
- (b) The Buyer shall submit documented invoices to the Seller for any cost to be reimbursed to the Buyer under this Clause 17. The Seller shall remit payment no later than ninety (90) Days after receiving the invoice, failing which the Seller shall pay Interest on the invoiced amounts on and from the date each unpaid invoice was sent to the Seller up to the date the Buyer receives the full invoiced amount, together with Interest.

17.11 **Guarantee Extension**

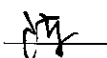
- (a) Before Delivery, if there are any extension of guarantees granted to the Seller by the Suppliers ("**Suppliers' Guarantees**"), the right to enjoy and enforce such Suppliers' Guarantees shall be assigned by the Seller to the Buyer and the Seller shall provide evidence to the Buyer of each Supplier's consent to the assignment. The assignment of

Suppliers' Guarantees to the Buyer by the Seller shall not increase or add any liability or obligation to the Seller beyond those contained in this Contract.

- (b) The assignment shall be on terms that until:
- (i) termination of the Seller's obligation to construct and deliver the Vessel pursuant to Clause 20 (*Default by Seller*); or
 - (ii) expiry of the relevant Guarantee period in Clause 17.2;
- (together called "**Assignment Enforcement Events**"), whichever occurs first, the Buyer undertakes not to deliver any notice of that assignment to any Supplier. The Seller's rights under the Suppliers' Guarantees continue to be exercisable by the Seller to the exclusion of the Buyer. Upon the occurrence of any Assignment Enforcement Event, the Buyer is entitled to serve notices of the assignment on the Suppliers. The Seller shall render all reasonable assistance to the Buyer in securing performance of the Suppliers' Guarantees to the Buyer's benefit.
- (c) The Guarantee may be assigned without the Seller's consent to any future purchasers, operators and/or charterers of the Vessel. For the purposes of this Clause 17, the term "**Buyer**" refers to any Vessel purchasers, operators and/or bareboat charterers.

17.12 **Guarantee Engineer**

- (a) The Seller shall assign a guarantee engineer ("**Guarantee Engineer**") to the Vessel for three (3) consecutive voyages from the date of Delivery. The Guarantee Engineer shall have been approved by the Buyer. If the Buyer considers it necessary to keep the Guarantee Engineer on board the Vessel for a longer period, the Guarantee Engineer shall remain after the expiration of the initial period (for three (3) consecutive voyages) for an additional period not exceeding 6 months, at the Buyer's own cost at US\$6,000 per month. The Guarantee Engineer is deemed to be the employee of the Seller. The Buyer is not liable:
- (i) to the Seller or to the Guarantee Engineer for personal injuries, including death, suffered by the Guarantee Engineer during the time when he is on board the Vessel, unless the personal injuries, including death, were caused by the gross negligence of the Buyer or any of its employees or agents; or
 - (ii) to the Guarantee Engineer for damage to, or loss or destruction of, the property of the Guarantee Engineer, unless the damage, loss or destruction is caused by the gross negligence of the Buyer or any of its employees or agents.



- (b) The Buyer and the Vessel's crew shall give the Guarantee Engineer full cooperation in carrying out his duties on board the Vessel.
- (c) While the Guarantee Engineer always remains the employee or agent of the Seller, he is accorded status equal to the Chief Engineer of the Vessel and receives from the Buyer, at no cost to the Seller or the Guarantee Engineer, lodging, board, medical care and communication services equal to that of an officer on the Vessel. All other emoluments, wages, salaries and other compensation and benefits not otherwise set out above is paid by the Seller.
- (d) The Seller indemnifies and holds the Buyer's Group harmless from and against any claims and liabilities arising from sickness, injury or death of the Guarantee Engineer or loss or damage to his property, unless the sickness, injury, death or loss is caused by the gross negligence or wilful misconduct of the Buyer or the Vessel's crew.
- (e) The detailed terms and conditions governing the duties and obligations of the Guarantee Engineer are the subject of a separate letter agreement in the form of Schedule 9 (*Guarantee Engineer Letter Agreement Format*) between the Seller and the Buyer. The letter agreement will be executed and delivered on or before the date of Delivery.

17.13 Survival

The rights and obligations set out in this Clause 17 survive Delivery and any termination of this Contract until the Seller's payment of all amounts due under this Contract.

18. PERFORMANCE CRITERIA

18.1 Criteria

- (a) In respect of each particular set out in Column (1) of the Performance Table in Clause 18.1(e) (the "**Table**"), the Seller warrants that the Vessel will be built so that it will comply with the vessel performance criteria set out under Column (2) of the Table.
- (b) At the time of Delivery or, in the case of the Guaranteed Boil-Off, at the time after Delivery when the Guaranteed Boil-Off test is conducted pursuant to Clause 18.1(c), if the Vessel is deficient in any of the particulars set out in Column (2) in excess of the amount or percentage set out in Column (3), the Seller shall pay the Buyer, as liquidated damages (not as a penalty), the sum set out in Column (4). If the deficiency exceeds the amount or percentage in Column (5), the Seller shall pay the Buyer, as liquidated damages (not as a penalty) the sum set out in Column (4) applicable to the relevant deficiency or excess even if that is in excess of the amount which would apply to the Maximum Deficiency or Excess in Column (5). As an alternative to receiving the liquidated damages, the Buyer may

reject the Vessel and terminate this Contract in accordance with Clause 20 (*Default by Seller*).

- (c) The test to determine boil-off shall be done no later than three hundred and sixty-five (365) Days after Delivery. Any liquidated damages for deficiency in Guaranteed Boil-Off shall be paid by the Seller to the Buyer no later than forty-five (45) Banking Days after receipt of the invoice, failing which, Interest will run on the amount of liquidated damages due on and from the date after the failure until the date the Buyer receives the full liquidated damage amount and Interest due.
- (d) The agreed performance warranties, allowable margins, liquidated damages, and maximum deficiency or excess in respect of the performance of certain particulars of the Vessel are set out in the Table. The terms "**Guaranteed Speed**", "**Guaranteed Fuel Consumption**", "**Guaranteed Cargo Capacity**", "**Guaranteed Boil-Off**" and "**Guaranteed Dead-weight at Design Draught**" are subject to the definitions and qualifications set out in the Specifications. The maximum boil-off is determined in accordance with the calculation method set out in Schedule 10 (*Boil Off Rate Calculation*).
- (e) Before commencing the tests and trials under Clause 13.1 (*Test and Trial Programmes*), the Seller and the Buyer shall establish procedures to prevent poor measurement accuracy due to inexperience, poor calibration or misuse of measuring devices. Wherever feasible, all measuring devices shall be certified by an independent third-party surveyor. The Buyer is entitled to request re-tests or re-trials if, the Seller fails to comply with the procedures established under this Clause 18.1(e) or the testing and trial program approved by the Buyer under Clause 13.1 (*Test and Trial Programmes*).

Guaranteed Vessel Performance Criteria

Particular (1)	Guarantee (2)	Allowable Margin (3)	Liquidated Damages for Deficiency or Excess (4)	Maximum Deficiency or Excess (5)
Guaranteed Speed	Minimum 19.5 knots	0.2knot deficiency	US\$350,000 per 0.1knot deficiency	0.9knot deficiency
Guaranteed Specific Fuel Oil Consumption ("SFOC")	172.7g/kWh	5% excess	US\$350,000 per 1% excess or pro rata	10% excess for any one engine

Guaranteed Specific Fuel Gas Consumption ("SFGC")	7095 kJ/kWh	5% excess	US\$350,000 per 1% excess or pro rata	10% excess for any one engine
Guaranteed Cargo Capacity (at 100% full)	Minimum 174,000m3	300 m3 deficiency	US\$6,000 per 1 m3 deficiency	900m3 deficiency
Guaranteed Boil-Off	0.1% per Day during laden voyage	0.003% per Day during laden voyage excess	US\$200,000 per 0.001% per Day during laden voyage excess up to 0.02% excess	0.02% per Day during laden voyage excess (without prejudice to Buyer's rights to further Liquidated Damages as provided in Column (4) if it accepts the Vessel)
Guaranteed Dead-weight at Design Draught of 11.5m	Minimum 79130 Tonnes	400 Tonnes Deficiency	US\$1000 per each Tonne of deficiency	2,400 Tonnes deficiency

(f) **Guaranteed Speed**

The Seller guarantees the above speed at NOP with twenty one per cent. (21%) of Sea Margin (which equals to about 2 X 11275kW at shaft) under calm sea conditions with clean hull and propellers and design draught. The speed test measurements shall be conducted in accordance with the Specifications.

(g) **Guaranteed Fuel Consumption**

The guaranteed SFOC (and SFGC) shall be based on MDO with lower calorific value of 42700 kJ/kg (or fuel gas with a lower calorific value of 50,000 kJ/ kg) and ISO reference conditions (measured at official shop tests or factory acceptance test (FAT) as witnessed and confirmed by the Buyer) for each main engine. Details of such conditions are provided in the Specifications. In the event that both SFGC and SFOC (as defined in paragraph (e) above) are in excess of the amount or percentage set out in Column (3) and/or (4) of the Table, and the Seller is liable to pay liquidated damages, only the higher amount of liquidated damages in respect of SFGC or SFOC, as the case may be, shall apply.

(h) **Guaranteed Cargo Capacity**

The cargo tanks shall have the capacity stated above at a temperature of twenty degrees Celsius (20 °C) and 100% full.

(i) **Guaranteed Boil-Off**

The insulation shall be designed to achieve the cargo tank boil-off stated above under laden conditions with a sea water temperature of thirty two degrees Celsius (32 °C) and air temperature of forty five degrees Celsius (45 °C).

18.2 Payment Due

All payments due to the Buyer pursuant to this Clause 18 (except in respect of any payment for a performance deficiency as to Guaranteed Boil-Off) are deducted as a credit from the Fourth Instalment due on Delivery.

18.3 Buyer Election

If the Buyer's right to terminate this Contract under Clause 18.1(b) becomes exercisable, the Buyer shall, within thirty (30) Days, advise the Seller of its decision as to whether to terminate this Contract without any liquidated damages or accept the Vessel with its performance deficiencies in exchange for the applicable liquidated damages. If the Buyer fails to give notice to the Seller on time, the Buyer is deemed to have elected to accept the Vessel with the performance deficiencies and applicable liquidated damages.

18.4 Criteria Improvement

No bonus, premium or additional payment is due to the Seller for any improvement to any of the criteria shown in Column (2) of the Table. No improvement in a particular criterion is used as an offset against deficiencies in another criterion or other criteria.

18.5 Effect of Contract Termination

- (a) The Buyer is not entitled to any liquidated damages set out in this Clause 18 if the Buyer terminates this Contract pursuant to this Clause 18 and/or Clause 20 (*Default by Seller*).
- (b) The Buyer's right to terminate this Contract under this Clause 18 does not prejudice the Buyer's right to terminate this Contract as set out elsewhere in this Contract.

19. DEFAULT BY BUYER

19.1 Definition of Default

The Buyer is deemed to be in default of its obligations under this Contract in any one or more of the following cases:

- (a) **Delay or Failure of Payment**

The Buyer fails to pay the Contract Price or any other payment for which the Buyer is liable under this Contract when due and payable, provided that, save for the Fourth Instalment, the failure continues for

more than ten (10) Days after the Buyer receives notice from the Seller noting the failure and its particulars.

(b) Delay or Failure to Take Vessel Delivery

The Buyer fails to accept delivery of the Vessel on the date of Delivery without any valid grounds under this Contract, which delay or failure continues for fifteen (15) Days after the Buyer receives notice from the Seller objecting to the delay or failure.

The occurrence of any of the events stipulated in Clauses 19.1(a) to 19.1(b) is called a "**Buyer Default**".

19.2 Interest and Charges; Expenses

- (a) If the Buyer is in default to pay any amounts as provided in Clause 19.1(a), the Buyer is, subject to Clause 19.3, liable to pay Interest on the unpaid amounts running on and from the date on which the amounts became due to the Seller to the date the Seller receives the amounts due together with Interest.
- (b) In the event of any Buyer Default, the Buyer shall also reimburse the Seller the amount of all charges and expenses reasonably incurred by the Seller as a direct result of the Buyer Default, together with Interest on it running on and from the date the expenses and charges were incurred or paid by the Seller up to the date the Seller receives the full amounts due together with Interest.
- (c) If any Buyer Default occurs:
- (i) as defined in Clause 19.1(a) and as a result, construction of the Vessel is delayed; or
- (ii) if any Buyer Default occurs under Clause 19.1(b)

the Adjusted Delivery Date is automatically postponed for the period of continuance of the Buyer Default, and the Seller is not obliged to pay any liquidated damages for the delay in Delivery caused by it.

19.3 Contract Termination

If any Buyer Default occurs and continues for a period exceeding the applicable period (if any), the Seller has the right to terminate this Contract by giving notice to the Buyer ("**Seller Termination Notice**"). On receipt by the Buyer of a Seller Termination Notice:

- (a) the Seller ceases to be under any further obligation to construct and deliver the Vessel to the Buyer under this Contract, but remains bound by the provisions of Clauses 19.4 and 19.5. If any purported termination by the Seller is found by an arbitration panel under Clause 34.2 (*Resolution by Arbitration*) to be unjustified, any delay

in the construction and delivery of the Vessel will not be permissible delays under this Contract;

- (b) the Buyer is not liable to pay the Seller any Instalments or other monies which fall due after the date the Buyer receives the Seller's Termination Notice;
- (c) provided that the Seller Termination Notice is validly given, any Buyer's Supplies installed on the Vessel or in the custody of the Seller become the sole property of the Seller, and if not yet built into or installed on the Vessel, they will be sold by the Seller in accordance with Clause 19.4 as if the references in that clause to the Vessel included a reference to those Buyer's Supplies, *mutatis mutandis*; and
- (d) the Seller is entitled to retain and apply any Instalment or other monies paid by the Buyer to the Seller under this Contract in accordance with Clause 19.5.

19.4 Disposition of Vessel

- (a) If this Contract is terminated in accordance with this Clause 19, the Seller shall, on notice to the Buyer, either:
 - (i) complete the Vessel according to the Specifications as they exist as of the date the Buyer receives the Seller's Termination Notice and then sell the Vessel; or
 - (ii) sell the Vessel in the incomplete state that it is in on that date ("**Incomplete State**").
- (b) The sale shall be by public auction (to which the Buyer shall be invited by the Seller in writing and at which the Buyer may bid for, and buy, the Vessel) or, if the Seller reasonably deems a private sale to be more advisable, private sale. In either case, the sale shall be on such terms and conditions as the Seller deems fit, subject to the Seller's duty to exercise reasonable endeavours to obtain the best price possible.
- (c)
 - (i) If the Seller elects to complete the Vessel, the Buyer may, subject to the Seller's prior written consent and by notice of revival to the Seller, revive this Contract at any time before the Vessel is sold at public auction or at any time before a private sale has become effective.
 - (ii) The notice of revival given by the Buyer to the Seller shall provide satisfactory evidence that the events causing the Buyer Default have been remedied, accompanied by payment of any unpaid amounts which would have been due from the Buyer under this Contract but for the termination of it, with Interest

on it running on and from the date each payment was due to the date the Seller receives the full amount due plus Interest.

- (d) The Adjusted Delivery Date existing on the date the Buyer receives the Seller's Termination Notice will be extended to reflect any period during which the Seller may have:
- (i) suspended Work on the Vessel during the period of a Buyer Default; or
 - (ii) committed its work force or facilities to other work as a result of the Buyer Default.

The Seller may add to the Contract Price reasonable and documented costs to the Seller of suspending and recommencing Work and providing for the security of the Vessel, its machinery and any of its equipment or subassemblies during the period of suspension and any separate expenses and/or charges incurred and paid by the Seller described in Clause 19.2(b). The adjustments mentioned above shall be documented by a Change Order signed by the Buyer's Supervisor and the Seller's Supervisor as provided in Clause 8 (*Modifications and Substitutions*).

19.5 Application of Vessel Sale Proceeds

- (a) If the Vessel is sold to a Person other than the Buyer in a completed state, the proceeds of sale of the Vessel together with the proceeds of any sale of the Buyer's Supplies referred to in Clause 19.3(c) received by Seller are applied in the following priority:
- (i) to payment of all reasonable expenses directly relating to the sale or any prior attempted sales, including attorneys' fees and legal costs;
 - (ii) to the Seller's documented expenses and charges described in Clause 19.2(b) incurred and paid by the Seller, plus Interest due on it; and
 - (iii) to payment of the balance of the Contract Price (as adjusted pursuant to the terms of this Contract as of the date the Buyer receives the Seller's Termination Notice) remaining (after deduction of the amounts of any Instalment and of other monies retained by the Seller under Clause 19.3) plus Interest on that balance running from the respective due dates of the unpaid Instalments to the date of application. The Seller shall give the Buyer sufficient documentation to verify the sale proceeds received by the Seller and the various Seller expenses, costs and charges against which the sale proceeds are applied.





- (b) If the Vessel is sold in an incomplete state, the proceeds of sale received by the Seller are applied in the following priority:
- (i) to payment of all reasonable expenses directly relating to the sale and any other prior attempted sales, including attorneys fees and legal costs;
 - (ii) to the Seller's documented expenses and charges described in Clause 19.2(b) incurred and paid by the Seller, plus Interest due on it; and
 - (iii) to payment of all documented Material, labour and other costs incurred by the Seller in accomplishing construction of the Vessel to its incomplete state, together with a reasonable profit on these costs (calculated according to customary practice generally accepted by the Seller and certified by the Seller's appointed independent third-party accountant) less the amount of all Instalments and other monies retained by the Seller pursuant to Clause 19.3. The Seller shall give the Buyer sufficient documentation to verify the sale proceeds received by the Seller and the various Seller expenses, costs, and charges against which the sale proceeds are applied.
- (c) In either of the above events of sale:
- (i) if the proceeds of sale of the Vessel and any Buyer's Supplies sold by the Seller exceed the sums against which the proceeds are to be applied as mentioned above, the Seller shall, no later than thirty (30) Days after receiving the proceeds, pay the excess amount to the Buyer. The amount paid to the Buyer shall not exceed the total amount of Instalment(s) and other monies held by the Seller under this Contract, if any. The Seller shall, at the same time, either:
 - (A) permit the Buyer to remove, at the Buyer's own cost, the Buyer's Supplies (if any) in the Seller's custody which are not built into or installed on the Vessel or sold by the Seller pursuant to Clause 19.3(c); or
 - (B) pay the Buyer the full value of the Buyer's Supplies as determined pursuant to Clause 26.3 (*Value of Buyer's Supplies*). The Seller is not required to pay Interest to the Buyer on this amount.

The cost of the Buyer's removal of any Buyer's Supplies is freight charges from the Shipyard and any removal shall be effected by the Buyer within a reasonable time. The Seller shall pay the Buyer any sums due under this Clause 19.5(c)(i) no later than thirty (30) Days after receiving the Buyer's invoice.

- (ii) If the proceeds of sale of the Vessel and any Buyer's Supplies sold by the Seller are insufficient to pay the total amount payable by the Buyer required under Clause 19.5(a) or 19.5(b), whichever is applicable, the Buyer shall pay the Seller the amount of the deficiency, plus Interest on it running on and from the date of the sale closing to the date the Seller receives the full amount of the deficiency and Interest. The Seller shall submit to the Buyer an invoice (with appropriate documentary supports) for the deficiency amount. The payment shall be made within thirty (30) Days after the Buyer receives the invoice. If the Buyer has paid the Seller the full deficiency amount and Interest on it, the Buyer will have the same optional rights of removal or payment for the Buyer's Supplies as described in Clause 19.5(c)(i).
- (iii) The Seller may use the value of any unsold Buyer's Supplies referred to in Clause 19.5(c)(i) as a credit against any deficiency amount owed by the Buyer under Clause 19.5(c)(ii). Notwithstanding any provision to the contrary, if the Seller is required or entitled to dispose of the Buyer's Supplies, the Buyer will be deemed to have transferred title to the Buyer's Supplies to the Seller with full title guarantee.

19.6 Limit on Buyer's Liability

Except as provided in this Clause 19, the Buyer is not liable to the Seller for any Buyer's default.

20. DEFAULT BY SELLER

20.1 Definition of Default

The Seller is deemed to be in default of its obligations under this Contract in any one or more of the following cases:

- (a) Non-compliance with Other Undertakings

The Seller fails to:

- (i) proceed, in accordance with the Planned Programme Outline as set out in Schedule 5 (*Planned Programme Outline*), with the design, building, completion and delivery of the Vessel under, and in accordance with, this Contract and the Specification by more than thirty (30) Days (or longer time as the Buyer may permit); and
- (ii) implement comprehensive measures to promptly remedy the failure within thirty (30) days (or such longer time as the Buyer may permit), after and in accordance with, a written agreement or final arbitration award if the Seller believes it is prevented

from performing its obligations due to a Contingency under Clause 15.1 (*Causes of Delay*) or other justifiable reason.

(b) Receivership or Insolvency

An order of a court of competent jurisdiction, other than upon petition by the Buyer, appointing a receiver, liquidator or trustee of the assets of the Seller or any part of it, or a decree of the court adjudicating the Seller a bankrupt, or declaring the Seller insolvent, which order continues undischarged for thirty (30) Days.

(c) Acts of Bankruptcy

The Seller files a voluntary petition in bankruptcy, or admits in writing its inability to pay its debts generally as they become due, or consents to, or fails to contest, the appointment of a receiver or receivers of the assets of the Seller, which event continues for thirty (30) Days.

(d) Involuntary Reorganisation

Any petition or answer proposing the reorganisation of the Seller pursuant to any bankruptcy statute or similar law being filed against the Seller in any court and not being dismissed or denied within ninety (90) Days after the date on which such petition or answer was filed or the date approval of such petition or answer by any court of competent jurisdiction is given.

(e) Attachment of Liens or Privileges

The attachment of any lien or privilege against or on the Vessel or any of its Materials, Appurtenances and/or the Buyer's Supplies not due to the act or omission of the Buyer, except for those arranged by the Seller in favour of the Refund Guarantor in connection with:

- (i) financing received from the Refund Guarantor for the construction of the Vessel; or
- (ii) the issuance of the Refund Guarantee from the Refund Guarantor, if the lien or privilege is not removed within forty five (45) Days after the Seller receives demand from the Buyer for the removal or unless the Seller, within that time, has provided the Buyer with a bond in form and substance and from sureties acceptable to the Buyer against the lien or privilege in an amount at least two and a half (2½) times the original and any subsequent amended face amount of the lien or privilege.

(f) Seizure of Assets

The assumption of custody or control of the whole or any substantial part of the assets of the Seller for a continuous period of more than

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sixty (60) Days by any governmental agency or by any court of competent jurisdiction.

(g) Excessive Permissive Delay in Delivery

The accumulation of delays in construction of the Vessel and/or Delivery entitling the Buyer to terminate this Contract under Clause 15.4 (*Termination for Excessive Accumulated Delay*).

(h) Late Delivery

The Seller fails to tender the Vessel for Delivery on time which entitles the Buyer to terminate this Contract pursuant to Clause 16.2 (*Contract Termination*).

(i) Vessel Performance Deficiency

Any Vessel performance deficiency which entitles the Buyer to terminate this Contract pursuant to Clause 18.1(b) (*Criteria*).

20.2 Effect of Default

If any one or more of the events of default specified in Clauses 20.1(a) to 20.1(f) continues for a period exceeding the applicable period without full remedy by the Seller, or if Clause 20.1(g), or Clause 20.1(h) or Clause 20.1(i) applies, the Buyer is entitled to terminate this Contract immediately by giving notice of termination ("**Buyer Termination Notice**") to the Seller, in which case this Contract is terminated after any accounting due under Clauses 20.2(a) to 20.2(c) is fully accomplished.

(a) Refund/Payment

No later than seven (7) Banking Days after the Seller receives the Buyer Termination Notice, the Seller shall refund to the Buyer all monies paid or prepaid by the Buyer to the Seller under this Contract on account of the Contract Price or otherwise, as well as all other monies due to the Buyer from the Seller under this Contract, together with Interest on it running on and from the date when the monies were paid (or prepaid) by the Buyer to the Seller or due from the Seller to the Buyer to the date the Buyer receives the full amount of the monies and Interest due on it. The Seller is entitled to withhold payment, and notify the Refund Guarantor to withhold payment under its Refund Guarantee, if the Seller disputes the Buyer Termination Notice and has commenced arbitration in accordance with Clause 34.2 (*Resolution by Arbitration*).





(b) Buyer's Supplies

Upon the Buyer's notice to the Seller, the Seller shall:

- (i) permit the Buyer, at its own cost, to remove any Buyer's Supplies which are not built into or installed on the Vessel from the Seller's custody, and pay the Buyer the value of any Buyer's Supplies built into or installed on the Vessel plus Interest on it; or
- (ii) pay the Buyer the value of all Buyer's Supplies delivered to the Seller's custody, whether or not built into or installed on the Vessel plus Interest on it.

The value of the Buyer's Supplies is determined according to Clause 26.3 (*Value of Buyer's Supplies*) and Interest on the value runs on and from the date the Buyer's Supplies were delivered to the Seller's custody to and including the date the Buyer receives the full value of the Buyer's Supplies and Interest on it. The cost of the Buyer's removal of the Buyer's Supplies in accordance with Clause 20.2(b)(i) shall be equal to the freight charges from the Shipyard. Any removal shall be effected by the Buyer within a reasonable time.

(c) Refunds and Payments

Any refunds and/or payments to be made by the Seller to the Buyer under this Clause 20 are subject to the requirements of Clause 27.5 (*Seller Refunds and Other Payments*).

(d) Effect of Refunds and Payments

Upon refund and/or payment of the sums referred to in Clauses 20.2(a) and (b) by the Seller or the Refund Guarantor to the Buyer, all obligations, duties and liabilities of the Seller under this Contract are deemed to have been discharged in full.

20.3 Limit on Seller's Liability

Except as provided in this Clause 20, the Seller is not liable to the Buyer for any Seller's default.

21. PATENTS, TRADEMARKS AND COPYRIGHTS

21.1 Licence Rights

- (a) The Seller defends, indemnifies and holds harmless the Buyer's Group against:
 - (i) all claims for infringement or alleged infringement of patent rights, copyrights or trademarks alleged in connection with the design, construction and installation of equipment on the Vessel and of all Materials and Appurtenances; and

- (ii) all costs and expenses of litigation, if any, of any members of the Buyer's Group in connection with any such claims; and
- (iii) all losses, damages, costs and expenses suffered or incurred by any member of the Buyer's Group arising out of any such infringement.

The liability and indemnity do not extend to the Buyer's Supplies.

- (b) Nothing contained in this Contract will be construed as transferring the patent, trademark or copyright covered by this Contract. All these rights are reserved to the true and lawful owners of the rights.
- (c) The Seller shall, at its own cost, provide timely security to each member of the Buyer's Group and the Vessel as required to negate any threatened arrest of the Vessel or gain the release of the Vessel for an actual arrest on any claim of the nature described in Clauses 21.1(a) and/or 21.3(b).

21.2 Identifications

- (a) Machinery, parts and equipment incorporated on or in the Vessel may bear the patent number, trademarks or trade names of the manufacturers.
- (b) The Seller retains all rights with respect to the Specifications, plans, Working Drawings, technical descriptions, calculations, test results and other data, information and documents relating to the design and construction of the Vessel. Without the prior written consent of the Seller, the Buyer undertakes not to disclose the rights or divulge any information contained in the rights to any third parties except:
 - (i) where it is necessary for the operation, repair and maintenance of the Vessel or the administration of Depot Spare, if any; or
 - (ii) where disclosure or divulgence of the information:
 - (A) needs to be made to an expert, the Classification Society or other Regulatory Authorities for the purpose of construction or registration of the Vessel;
 - (B) is required pursuant to the order of any court or other public authorities or for the purpose of legal proceedings; or
 - (C) is made to any member of the Buyer's Group or any tax authorities.

21.3 Approvals and Fees

- (a) The Seller shall timely procure all licences and/or approvals required for the use of the Materials, Appurtenances and processes needed to construct and operate the Vessel.
- (b) All royalties, licensing, engineering and other fees required for incorporating patented, patentable or proprietary processes and Materials and/or Appurtenances on or in the Vessel shall be paid by the Seller. The Seller indemnifies and holds the Buyer's Group harmless from and against all claims and liabilities in connection with the royalties and fees.

21.4 Injunction

If the use of any patented or patentable inventions or items, any trade name, trademark and/or copyrighted items incorporated on or in the Vessel is enjoined in any country and by any court or tribunal, the Seller shall, at its own cost, promptly obtain the right for the Vessel and the Buyer to use, or continue to use, the inventions and/or items without payment of any royalty and/or other consideration by the Buyer. The Seller indemnifies and holds the Buyer's Group harmless from and against all claims and liabilities arising from, or in connection with, the injunction.

21.5 Buyer's Supplies

The Seller's obligations under this Clause 21 do not apply to the Buyer's Supplies, except to the extent of their installation, repair, adjustment and/or replacement by the Seller.

21.6 Buyer Claims

- (a) The Buyer shall notify the Seller of any claim or injunction which the Seller is required to indemnify, or give assistance to, the Buyer's Group as provided in Clauses 21.3(b) or 21.4. Upon notification, the Seller shall, at the Buyer's request, assume the responsibility for the defence of the claim or injunction, with the Seller solely bearing all liability and cost of the defence (including litigation, court, attorney and settlement costs).
- (b) The Seller shall keep the Buyer informed of the progress of the matter, on a regular basis, and shall not settle any claims without the prior written approval of the Buyer, which approval shall not be unreasonably withheld. If the Buyer does not make the request referred to in Clause 21.6(a), the Buyer shall assume responsibility for the defence of the claim or injunction, subject to the Seller indemnifying the Buyer from and against all liabilities and costs of the defence.

21.7 **Miscellaneous**

- (a) The term "**Buyer**", as used in Clauses 21.4 and 21.6, includes any future purchasers, operators and/or bareboat charterers of the Vessel.
- (b) Notwithstanding any provisions to the contrary, the Seller's obligations under this Clause 21 will not be terminated by the passage of any specified period of time.

22. **BUSINESS STANDARDS**

22.1 **Representations and Warranties**

- (a) The Seller, on behalf of itself, its Affiliates, and its and their respective personnel, represents and warrants that it has not made or offered, and will not make or offer, with respect to the matters which are the subject of this Contract any compensation, commission, agency fee, introduction fee, payment, gift, promise or advantage:
 - (i) to a third party, where the payment or advantage would violate applicable laws, including the laws of the PRC or the laws governing the Seller or its Affiliates;
 - (ii) to a third party which is based or calculated on any capital employed, cost incurred, cashflow, revenue, or profit earned or generated, or estimated to be earned or generated, by the Seller or any Affiliate of the Seller in connection with this Contract, except where the payment or advantage:
 - (A) has been fully disclosed to the Buyer; and
 - (B) does not violate the stipulations set out in Clause 22.1(a)(i); or
 - (iii) whether directly or through intermediaries, to, or for the use of, any Person, while knowing or being aware of a high probability that the money or thing of value will be offered, paid, given or promised, directly or indirectly, to any public official, including any Person holding a legislative, administrative or judicial office, exercising a public function for a public agency, a public enterprise or a public international organisation (collectively, "**Officials**"), for the purposes of influencing any act or decision of the Officials in their official capacity, or inducing the Officials to use their influence to obtain or retain business for, or with, or direct business to, the Seller or any Affiliate of the Seller.
- (b) (i) The Seller represents and warrants that all financial settlements, reports and billings rendered to the Buyer under this Contract:

- (A) properly reflect the facts of all activities and transactions handled for the Buyer's account; and
 - (B) may be relied upon as being complete and accurate in any further recording or reporting made by the Buyer and/or any Person in the Buyer's Group for any purpose.
- (ii) The Seller shall require the same warranty and representation from its Suppliers and Subcontractors involved in the Work.
- (c) The Buyer and the Seller are aware of a practice where Persons approach contractors, vendors, suppliers and others and offer them confidential information or illicit influence to obtain business through corruption or subversion of the competitive contract bidding and/or award process ("**Information Brokering**"). The Seller recognises that the practice of Information Brokering or any other corruption or subversion of contract award procedures is not permitted by Buyer and Seller warrants and represents that it has not and will not utilise Information Brokering in connection with this Contract or any other contract obtained for or pursuant thereto. The Seller warrants and represents that it has not, and will not, utilise Information Brokering in connection with this Contract or any other contract obtained for or pursuant to it.
- (d) The Seller warrants and represents that it will promptly inform the Buyer of any remuneration, compensation or other benefit received by the Seller from any third party or parties in connection with the performance of the Work (whether by way of gratuity, commission, finder's or agent's fee or otherwise). The remuneration, compensation or other benefit received may be deducted by the Buyer from the Contract Price or other monies owed by the Buyer to the Seller under this Contract.
- (e) The Seller acknowledges that the representations and warranties are fundamental to the Seller's performance under this Contract.

22.2 Seller Controls

- (a) In performing its obligations under this Contract, the Seller shall establish and maintain appropriate business standards, procedures and controls, including those necessary to avoid any real or apparent impropriety or adverse impact on the interests of the Buyer. The Seller shall comply with the Buyer's policy which, to the same extent as set out in Clause 22.1, prohibits the giving or receiving of gifts, entertainment or favors of any kind directly or indirectly for, or on account of, this Contract or the Work.
- (b) When reasonably requested by the Buyer, the Seller shall review with the Buyer the business standards, procedures and controls referred to in Clause 22.2(a), including those relating to establishing precautions to prevent the Seller or its Suppliers, the Subcontractors and their

respective employees, contractors or agents from making, receiving or offering gifts, entertainment, payments, loans or other consideration for the purpose of influencing individuals to act contrary to the Buyer's best interests and/or applicable law.

22.3 Seller Notification

The Seller shall promptly notify the Buyer:

- (a) of the identity of any Suppliers and Subcontractors having a corporate relationship with the Seller, as well as details regarding the nature of the relationship;
- (b) if the Seller encounters any Information Brokering; and
- (c) upon becoming aware of any failure to comply with the requirements of this Clause 22, together with details of the non-compliance and the Seller's corrective actions taken or to be taken.

23. ACCOUNTING AND AUDIT

Payments made by the Buyer will not be construed as a waiver of the Buyer's rights to subsequently object to the payments and/or any Seller invoices for the payment.

24. RECORD RETENTION

- (a) The Seller shall keep all technical records pertaining to the performance of the Work in a safe place. The technical records shall include items which are reasonably necessary in order to give the Buyer technical support after the date of Delivery. These include instructions, plans, drawings, memoranda, data stored in computer libraries and other documentation and related systems and controls.
- (b) The Seller's obligation referred to in Clause 24(a) applies for the duration of the Work and for six (6) years after the date of Delivery.

25. CONFIDENTIALITY

25.1 Protection of Confidential Information

- (a) During the performance of the Work, it may be necessary for a member of the Buyer's Group to make available Information to the Seller. Without the prior consent of the Buyer (or the relevant member of the Buyer's Group, as the case may be), the Seller shall hold the Information in confidence and not disclose it to any third party or use it for any purpose other than performance of the Work.
- (b) For the purposes of this Clause 25, "**Information**" means any technical and/or commercial information conveyed to the Seller, whether orally, in writing or in electronic form, by the Buyer or another member of the Buyer's Group, except for information:

- (i) which was developed by, and in the possession of, the Seller before first receipt by the Buyer or the relevant member of the Buyer's Group;
- (ii) which, at the Effective Date or afterwards, becomes generally known in the public domain through no wrongful act or failure to act on the part of the Seller;
- (iii) which is furnished to the Seller by a third party as a matter of right without restriction on disclosure; or
- (iv) which is required to be disclosed by applicable law.

25.2 **Employees, Agents, Suppliers and Subcontractors**

The Seller represents and warrants that each of its employees and each of its agents, Suppliers and Subcontractors and their employees involved in the performance of the Work or having access to the Information is obligated to maintain confidentiality in a manner consistent with Clause 25.1(a). In addition, the Seller shall cause the members of the Seller's Group, to the extent any members obtain any Information, to maintain confidentiality in a manner consistent with Clause 25.1(a).

25.3 **Design Data; Drawings**

- (a) The Seller retains all rights with respect to the Specifications, drawings, technical descriptions, calculations, test results and other data, information and documents relating to the design and construction of the Vessel, all of which will be made available to the Buyer's Group.
- (b) If any of the Specifications, drawings, technical descriptions, calculations, test results and other data, information and documents are marked "confidential," the Buyer shall not (and shall exercise reasonable efforts to ensure that members of the Buyer's Group do not) disclose the details or divulge any information contained in it to third parties without the prior consent of the Seller, which consent shall not be unreasonably withheld. However, the Buyer and members of the Buyer's Group may, without the Seller's consent, possess, use and disclose all of the documentation and data to third parties where reasonably required for modification, operation, repair, maintenance, sale, purchase and/or financing of the Vessel.

25.4 **Duration of Confidentiality Undertaking**

The Seller agrees that the confidentiality undertaking provided in this Clause 25 continues to be in full force and effect for five (5) years after Delivery.

26. **BUYER'S SUPPLIES**

26.1 **Responsibilities of Buyer**

- (a) The Buyer shall, at its own risk and cost, supply and deliver the Buyer's Supplies to the Seller at the Shipyard or other place of the Seller's custody as reasonably directed by the Seller ("**Seller's Place of Custody**"). The Buyer's Supplies shall be in a condition ready for installation and in accordance with the delivery schedule for these items established by the Parties in accordance with Clause 9.2 (*Buyer's Supplies Schedule*).
- (b) The Buyer shall, at its own cost, deliver the Buyer's Supplies to the Seller, together with necessary plans, instruction books, test reports and certificates required by applicable rules or regulations (collectively, the "**Auxiliary Documents**"). If necessary and if requested by the Seller, the Buyer shall, at its own cost, also arrange for representatives of the manufacturers or suppliers of the Buyer's Supplies to assist the Seller at the Shipyard or otherwise in the installation of the Buyer's Supplies and/or in the making of any necessary adjustments to them.
- (c) The Buyer is liable for the reasonable and documented cost incurred by the Seller in repairing or replacing the Buyer's Supplies as a result of defective material, poor workmanship, failure to perform or damage existing before their delivery to the Seller's Place of Custody. The Seller shall not conduct the repair or replacement without the prior consent of the Buyer.
- (d) If:
- (i) the Buyer fails to deliver any item of the Buyer's Supplies and/or the Auxiliary Documents to the Seller's Place of Custody on time; or
- (ii) the Seller needs to repair or replace the Buyer's Supplies for the reasons stipulated in Clause 26.1(c),
- and the Seller can show that:
- (i) the failure to deliver or the need for repair or replacement has an actual effect on the progress of the Work; and
- (ii) the Seller will exercise reasonable endeavours to minimise the extent of the effect,

the Seller may submit a claim to extend the time for Delivery. If the Buyer's Supplies are delivered to the Seller's Place of Custody on or before the corresponding date for delivery set out in the delivery schedule in Clause 9.2 (*Buyer's Supplies Schedule*), the delivery is

deemed to be timely, and therefore will not support a claim to extend the time for Delivery.

26.2 Responsibilities of Seller

- (a) The Seller shall, at its own cost, promptly receive the Buyer's Supplies into its custody and subsequently inspect, store, care for and build or install them on the Vessel. The Seller has the right to reject any Buyer's Supplies if found, on inspection, that they are unsuitable by reason of defects or damage existing before their arrival at the Seller's Place of Custody.
- (b) If requested by the Buyer, the Seller shall repair or adjust the Buyer's Supplies where needed to remedy any defects or damage existing before their arrival at the Seller's Place of Custody, without being responsible for any consequences arising from it. The Buyer shall reimburse the Seller for the reasonable and documented cost of the repair or adjustment.
- (c) The Buyer's Supplies are at the Seller's sole risk from the time they arrive at the Seller's Place of Custody until the time they are redelivered to the Buyer either as part of the Vessel or otherwise. If any item of the Buyer's Supplies is, during the time they are at the Seller's risk, lost or damaged (whether or not by a peril insured against under the Insurance), the Seller shall promptly repair or replace it at its own cost (without any increase in the Contract Price). Any delay (other than a delay due to a Contingency and permitted under Clause 15 (*Force Majeure*)) incurred by reason of the need to make the repair or replacement does not constitute a basis for extension of the permissible time for Delivery.
- (d) Except for any repair or replacement of the Buyer's Supplies by the Seller pursuant to Clause 26.2(c), the Seller is not responsible for the quality, performance and/or efficiency of the Buyer's Supplies. However, the Seller guarantees the installation and fitting of all the Buyer's Supplies. Any royalties required for installation or fitting of the Buyer's Supplies are the sole responsibility of the Buyer.
- (e) The Buyer shall notify the Seller of the value of the Buyer's Supplies delivered to the Seller's Place of Custody for insurance purposes. Upon receiving the notice, the Seller shall promptly amend the insured value for the Buyer's Supplies under the Insurance.
- (f) If the Buyer terminates this Contract in accordance with its terms, and unless otherwise provided in this Contract, the Seller shall, at its own cost and risk and under instruction from the Buyer, return to the Buyer or dispose of, as directed by the Buyer, all of the Buyer's Supplies not incorporated on the Vessel as of the effective date of termination.

26.3 **Value of Buyer's Supplies**

Where the Seller is required to pay the Buyer the value of the Buyer's Supplies delivered to the Seller's Place of Custody, the value of the Buyer's Supplies is their acquisition cost to the Buyer, plus freight for delivery to the Seller's Place of Custody, both of which to be evidenced by invoices from each applicable vendor/supplier and freight provider.

26.4 **Cost Reimbursement**

Any reimbursement due from the Buyer to the Seller under Clause 26.2 shall be invoiced and documented by the Seller and shall be paid by the Buyer to the Seller at Delivery in accordance with Clause 5.2(c) (*Payment Obligation Verification*).

27. **GOVERNMENTAL CHARGES**

27.1 **Governmental Charges**

For the purposes of this Clause 27, the term "**Governmental Charges**" means any sales, value-added, income or other taxes, duties, employment levies or assessments, fees, stamp duties, including any penalties, fines and interest associated with the failure to pay these amounts, whether national, provincial or local, which, at any time after the Effective Date (whether before or after Delivery), are imposed, determined or assessed in, or by, any country.

27.2 **Seller's Responsibilities**

- (a) The Seller is solely responsible for, and will pay or cause to be paid (without recourse to the Buyer's Group):
 - (i) all Governmental Charges which are imposed, determined or assessed in the PRC:
 - (A) in connection with the execution and performance of this Contract;
 - (B) in respect of the Vessel or any part of it, including its sale, Delivery and/or export from the PRC; and
 - (C) on any imports of the Seller's Supplies; and
 - (ii) all Governmental Charges which are imposed, determined or assessed in, or by, any country outside the PRC on the Seller's Supplies.
- (b) The Seller is solely responsible for all income taxes (or taxes or assessments determined by reference to income, profits or gain) of the Seller and/or any Person comprising the Seller's Group, regardless of where the income tax is imposed, determined or assessed.

27.3 Buyer's Responsibilities

The Buyer is solely responsible for, and will pay or cause to be paid (without recourse to the Seller's Group), all Governmental Charges imposed, determined or assessed:

- (a) in or by the PRC on the import of the Buyer's Supplies delivered to the Seller by the Buyer;
- (b) in or by the PRC on the Buyer's Representatives and/or the Charterer's Representatives, by reason of their residence at the Shipyard during construction of the Vessel. This is without prejudice to adjustment of the Governmental Charges as between the Buyer and the Charterer; and
- (c) in or by any country outside the PRC in connection with the Buyer's execution and performance of this Contract.

27.4 Withholdings

If and to the extent required by the laws of the PRC, the Buyer has the obligation to withhold from payments due to the Seller under this Contract. Any amounts withheld shall be credited, in accordance with Clause 5.4(a) (*Adjustment to the Fourth Instalment; Liquidated Damages*), against the Contract Price and/or any other payments due from the Buyer to the Seller under this Contract.

27.5 Seller Refunds and Other Payments

- (a) Under Clause 12 (*Loss or Damage*) and Clause 20 (*Default by Seller*), the Seller is obligated to refund to the Buyer monies paid or prepaid by the Buyer to the Seller on account of the Contract Price or otherwise, and to pay to the Buyer monies owed by the Seller to the Buyer under this Contract.
- (b) The refunds and/or payments by the Seller shall be made free and clear of, and without deduction for, any Governmental Charges imposed, determined or assessed in, or by, any country. If the Seller is required by law to make any deduction from any refund or other payment to the Buyer, the sums payable shall be increased as may be necessary so that, after making all the required deductions (including deductions applicable to the additional sums payable under this Clause 27.5), the Buyer receives an amount equal to the sums it would have received if no deductions were made. The Seller agrees that no amounts payable by the Seller to the Buyer under this Contract are subject to set-off or counterclaim by the Seller.

27.6 **Indemnity**

The Seller indemnifies and holds the Buyer's Group harmless from and against any and all claims and liabilities for any Governmental Charges, which are the sole responsibility of the Seller under this Clause 27.

28. **ASSIGNMENT AND NOVATION**

28.1 **Buyer's Rights to Assign**

Upon prior notice to the Seller, the Buyer may assign all or any of its rights under this Contract to any Person in the Buyer's Group. Save as permitted in Clause 28.3, the Buyer may not otherwise assign any of its rights under this Contract without the prior written consent of the Seller, which shall not be unreasonably withheld, conditioned or delayed.

28.2 **Seller's Rights to Assign**

The Seller may not mortgage the Vessel under construction or any Materials or Appurtenances and may not assign any of its rights under this Contract without the prior written consent of the Buyer, which shall not be unreasonably withheld. However, the Seller is entitled to assign its claims for payment of the Instalments in accordance with Clause 5 (*Terms of Payment*) to a bank or other financial institution providing finance to the Seller. The Seller may not transfer any of its obligations under this Contract without the prior written consent of the Buyer.

28.3 **Novation**

Without prior consent from the other Party, which shall not be unreasonably withheld, one Party shall not novate any right and obligation to any other parties

28.4 **Costs**

Any costs incurred in connection with any assignment or novation under this Clause 28 are borne by the Party assigning its rights or transferring its rights and obligations by way of novation under this Contract, as the case may be.

28.5 **Successors and Assigns**

This Contract is binding on the Seller and the Buyer and their respective successors and permitted assigns.

28.6 **Assignment and Novation of Refund Guarantee**

The Buyer has the same rights of assignment and novation given in Clauses 28.1 and 28.3 with respect to the Refund Guarantee.

28.7 **Seller's Obligation to Cooperate**

If required, the Seller shall cooperate with the Buyer or its successors and/or assigns in relation to possible changes of name of the Vessel, place of registry and/or funnel marking due to the assignment and/or novation under Clause 28.1, 28.3 and 28.6, and/or signing any necessary document to achieve such assignment and/or novation.

29. **RIGHTS OF BUYER'S LENDERS**

29.1 **Buyer Financing Requirements**

The Parties recognise that the Buyer may obtain financing or refinancing from one or more credit providers, including commercial banks, export credit agencies, through the issuance of debt securities in the capital markets and/or the use of leasing structures. At no additional cost to the Buyer (save that the Buyer shall pay documented costs incurred by the Seller in respect of legal opinions), the Seller shall, if requested by the Buyer in writing:

- (a) deliver to:
- (i) the lenders and other entities providing credit or financing to the Buyer or the Charterer or both (collectively, "**Lenders**"); or
 - (ii) the agent acting on behalf of the Lenders ("**Lenders' Agent**"),

certified copies of its corporate charter and by-laws, power of attorney of the Seller signed by a representative director of the Seller, incumbency certificates, legal opinions (covering items as the validity and enforceability of this Contract and the due organisation and existence of the Seller, as well as other matters customarily the subject of legal opinions in similar transactions), latest publicly available financial statements, consent to receive service of process in England and copies of all required governmental authorisations, approvals and permissions (where the authorisations, approvals and permissions are required before the Seller can perform its obligations under this Contract);

- (b) provide the Lenders or the Lenders' Agent, as and when requested in writing, with information regarding the progress of construction of the Vessel and payments made by the Buyer under this Contract;
- (c) request the Refund Guarantor or any financial institution or other entity issuing a guarantee or performance bond in respect of the Vessel and the Seller's performance under this Contract, to execute and deliver to the Lenders or the Lenders' Agent, a direct agreement or consent and agreement in form and substance reasonably satisfactory to the Lenders' Agent, covering matters substantially similar in scope to the consent and agreement or direct agreement to be delivered by the Seller as set out in Clause 29.2;

- (d) use its reasonable endeavours to provide all information reasonably requested by the Lenders or the Lenders' Agent to facilitate the financing or refinancing; and
- (e) request its lenders providing financing in relation to this Contract to enter into intercreditor arrangements with the Lenders providing financing in connection with its obligations under this Contract.

29.2 Buyer Right of Collateral Assignment

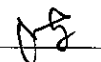
With prior notice to the Seller, the Buyer may assign its rights under this Contract to the Lenders and/or the Lenders' Agent as security for its obligations to the Lenders. Upon the Lenders' and/or the Lenders' Agent's written request, the Seller shall enter into a direct agreement or consent and agreement provided that:

- (a) the Seller shall deliver to the Lenders or the Lenders' Agent, as the case may be, all notices given under this Contract to the Buyer at the same time, and in the same manner, as given to the Buyer, to the extent that the notices are:
 - (i) to inform the Buyer of its contractual default under this Contract;
 - (ii) to demand the Buyer's remedy of the default; or
 - (iii) to notify the Buyer of the Seller's intention to terminate this Contract;
- (b) the Lenders or the Lenders' Agent, as the case may be, are entitled to exercise all rights and be given an additional period to cure any defaults of the Buyer under this Contract before the Seller terminates this Contract on account of the default. The Seller shall accept the exercise or cure as though it had been done by the Buyer. The cure period shall not exceed:
 - (i) fourteen (14) Days, in the case of a default under Clauses 19.2(a) (*Interest and Charges; Expenses*) and 19.1(b) (*Definition of Default*); and
 - (ii) thirty (30) Days, in the case of a default under Clause 19.1(b) (*Definition of Default*).

In the case of the defaults specified in Clause 19.1(b) (*Definition of Default*), the Seller shall give the Lenders or the Lenders' Agent, as the case may be, the opportunity to novate this Contract to a substitute purchaser within the relevant cure period, subject to the Buyer's consent and on terms reasonably acceptable to the Seller;

- (c) without fourteen (14) Days' prior written notice to the Lenders or the Lenders' Agent, the Seller shall not consent to, or accept, any cancellation or termination of this Contract by the Buyer. If the





Lenders or the Lenders' Agent object to the proposed cancellation or termination within the period, the Seller shall not consent to, or accept, any cancellation or termination of this Contract by the Buyer;

- (d) the Seller shall not make any demands under this Contract on account of any default by the Buyer without:
 - (i) giving prior written notice to the Lenders or the Lenders' Agent, as the case may be; and
 - (ii) providing the Lenders or the Lenders' Agent, as the case may be, with an opportunity to cure the default within the time periods specified in Clause 29.2(b);
- (e) the Seller shall provide such information or take such actions as the Seller is required to provide or take (as the case may be) by Clause 29.1 which, in addition to this Clause 29.2, describe the Seller's obligations regarding the Lenders or the Lenders' Agent. If the Lenders succeed to the interests of the Buyer by assignment or novation under this Contract, the Seller shall:
 - (i) continue to perform all of its obligations under this Contract in a timely manner; and
 - (ii) recognise the Lenders or any substitute entity nominated by the Lenders in the place of the Buyer, including the nomination of any substitute entity to take title to the Vessel on Delivery; and
- (f) without fourteen (14) Days' prior written notice to the Lenders or the Lenders' Agent, the Seller shall not execute any agreement amending this Contract in any material respect.

30. REQUISITION AND EXPORT DENIAL

30.1 Contract Termination

At any time before Delivery, if the Vessel is requisitioned by the government of the PRC or otherwise does not authorise the transfer of the Vessel to the Buyer for export from the PRC, the Buyer has the option to give the Seller forty five (45) Days' notice of its intention to terminate this Contract. If the Seller is unwilling to accept termination immediately, the Parties shall, within the forty five (45) Days, consult with each other with a view to reaching agreement to obviate termination. If no agreement is reached by the end of the forty five (45) Days, this Contract will terminate after the accounting required under Clauses 30.2 and 30.3 is fully accomplished.

30.2 Seller Reimbursement and Payment

- (a) In the event of a termination of this Contract under this Clause (f), the Seller shall make refunds and payments to the Buyer and dispose

of the Buyer's Supplies in accordance with Clauses 12.2(a) and 12.2(b) (*Total Loss*).

- (b) In the case of a requisition for use, the Buyer shall, in addition to the remedies available to it under law, be entitled to receive all compensation paid by the requisitioning government until the aggregate of the payments equals the amounts plus Interest due to the Buyer from the Seller under this Clause 30.2. The Seller shall, either by itself or with the Buyer, take all reasonable actions to ensure that the compensation is paid to the Buyer.

30.3 Buyer Supplies

Upon the Buyer's receipt of all sums due to the Buyer and the Seller's disposition of the Buyer's Supplies as and if directed by the Buyer, this Contract will, except as otherwise provided, cease and terminate without further liability of one Party to another.

31. INTERPRETATION AND PRIORITY OF DOCUMENTS

31.1 Entire Agreement

This Contract, together with the Specifications, constitutes the entire agreement between the Parties and supersedes all other written or oral negotiations, representations, promises, warranties, agreements and undertakings made or entered into by, or between, the Parties with respect to the subject matter of this Contract before the Effective Date. Both the Seller and the Buyer acknowledge that they have not been induced to enter into this Contract by any representation or warranty, other than statements contained in, or referred to, in this Contract.

31.2 Amendments

No amendment of, or any supplement to, this Contract or the Specifications is valid unless it is in writing executed by authorised designees of the Seller and the Buyer.

31.3 Priorities

If there is any discrepancy between the following documents, the priority between them will, unless otherwise provided in this Contract, be as follows:

- (a) the terms of this Contract (excluding the Specifications) and the terms of the Specifications - the terms of this Contract will prevail;
- (b) the Specifications and the Drawings - the Specifications will prevail;
- (c) the Specifications and the Approved Drawings - the Specifications will prevail;
- (d) the Approved Drawings and the Drawings - the Approved Drawings will prevail;

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- (e) one Approved Drawing and another Approved Drawing - the one later in time will prevail;
- (f) the Specifications and any amendments to them made in accordance with Clause 8 (*Modifications and Substitutions*) - the amendments will prevail;
- (g) any two amendments made in accordance with Clause 8 (*Modifications and Substitutions*) and any other provision of this Contract - the amendment later in time will prevail;
- (h) the Regulations and the Specifications - the applicable Regulations will prevail; and
- (i) the Class Rules and the Specifications - the applicable Specifications will prevail, unless compliance with the Specifications violates the Class Rules, in which case the Class Rules will prevail.

31.4 Invalidity

If any provision of this Contract is invalid or unenforceable, that provision will, to the extent of the invalidity or unenforceability, be disregarded and the remainder of this Contract will remain in force.

31.5 Contract Drafting

No provision of this Contract will be interpreted or construed against any Party because that Party, or its legal representative, drafted the provision.

31.6 UN Convention

The United Nations Convention on Contracts for the International Sale of Goods does not govern this Contract or the performance of any of the obligations under this Contract.

31.7 Waiver

Any waiver of any term or right under this Contract does not constitute a precedent, nor bind the Party making the waiver to make a subsequent waiver of it or any other term or right.

31.8 Laws and Regulations

Notwithstanding any provisions in this Contract to the contrary, this Contract shall not be interpreted or applied so as to require either Party to do, or refrain from doing, anything that might violate, or be inconsistent with, applicable laws, rules or regulations.

31.9 Counterparts and English Language

- (a) This Contract is executed by the Parties in two counterparts, one counterpart being retained by the Seller and one counterpart being

retained by the Buyer, each of which is an original and equally authentic.

- (b) The Drawings have been initialled by the Parties, in duplicate, one counterpart being retained by the Seller and one counterpart being retained by the Buyer, each of which is an original and is equally authentic.
- (c) This Contract, the Specifications and the Drawings have been prepared, and the Working Drawings and Approved Drawings will be prepared, in English, which will have control over any translation of them into another language.

31.10 Indemnification

Whenever the Seller and the Buyer are obligated to indemnify and hold the other harmless from and against claims and liabilities under this Contract:

- (a) the Seller's indemnification obligations:
 - (i) run jointly and severally to the Vessel, the Buyer and any Person in the Buyer's Group; and
 - (ii) survive Delivery and any termination of this Contract;
- (b) the Buyer's indemnification obligations survive Delivery and any termination of this Contract;
- (c) the term "**claims and liabilities**" includes costs; and
- (d) the term "**costs**" as used in Clause 31.10(c) includes fees, penalties, cost of defence, including litigation and attorneys fees and the amount of any settlement of claims.

31.11 Third-Party Beneficiaries

Except those rights expressly granted in this Contract to members of the Buyer's Group, nothing in this Contract is intended, nor should be construed, to confer upon any Person, any rights as a third-party beneficiary of this Contract or any part of it.

32. LANGUAGE, NOTICES AND INVOICES

32.1 All Communication

Unless otherwise provided in this Contract, all approvals, agreements, rejections, requests, demands, consents, elections, statements, instructions, notices, designations, authorisations, acknowledgements, responses and other communications given, or required to be given, by either Party to the other Party under, or in connection with, this Contract shall be in writing in English and shall be personally delivered or sent by postage prepaid

registered mail (airmail, in the case of notices and communications sent from one country to another), air courier service or fax to the following addresses:

(i) To the Seller:

- (A) For all plans, drawings, Specifications, calculations and other technical matters:

Hudong-Zhonghua Shipbuilding (Group) Co., Ltd.

Attn: Mr. Yan Yan, Design Department

Address: Room 1004, Donghua Technology Building, 2789 Pudong Dadao, Shanghai, People's Republic of China 200129

Fax: +86 2158711226

Telephone: +86 2158713222-5501

E-mail: design@hz-shipgroup.com

- (B) For all legal and financial matters:

Hudong-Zhonghua Shipbuilding (Group) Co., Ltd.

Attn: Mr. Shen Ning, Business Department

Address: Room 406, Donghua Technology Building, 2851 Pudong Dadao, Shanghai, People's Republic of China 200129

Fax: +86 2158461761

Telephone: +86 2158711442

E-mail: bmd@hz-shipgroup.com, and

scsbiz@chinasc.com.cn

- (C) To the Seller's Supervisor, at a fax number and e-mail address at the Shipyard to be advised by the Seller to the Buyer.





(ii) To the Buyer:

(A) For all plans, drawings, Specifications, calculations and other technical matters:

FORTUNE MAGNIFICENT SHIPPING
LIMITED Attn: Mr. Teng Fei

Address: Room 12B01-02, Marine Tower, No.1
Pudong Avenue, Shanghai 200120,
China.

Fax: +86 21 68869036

Telephone: +86 21 68862050

E-mail: tengf@cscshipping.com

(B) For all legal and financial matters:

FORTUNE MAGNIFICENT SHIPPING LIMITED

Attn: Mr. Teng Fei

Address: Room 12B01-02, Marine Tower, No.1
Pudong Avenue, Shanghai 200120,
China.

Fax: +86 21 68869036

Telephone: +86 21 68862050

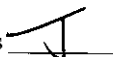
E-mail: tengf@cscshipping.com

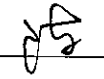
(C) To the Buyer's Supervisor, at a fax number and e-mail address at the Shipyard to be advised by the Buyer to the Seller.

(iii) to the Buyer's lender, at the address to be notified by the Buyer to the Seller from time to time.

32.2 Changes

Either Party may change the individuals, addresses, e-mails, fax and/or telephone numbers set out above by giving notice to the other Party in accordance with this Clause 32. The notice shall set out the change and the effective date of the change, and shall be given at least twenty one (21), but not more than sixty (60) Days, before the effective date.

Sellers' Initials 
118

Buyer's Initials 

32.3 Receipt of Communications

Unless otherwise provided in this Contract, all notices and communications given in accordance with this Clause 32 are effective or received:

- (a) if personally delivered or transmitted by mail or air courier services, on receipt by the addressee, if the receipt is during normal business hours of the addressee or, if the receipt is before or after those hours, on the next normal opening of business of the addressee;
- (b) if transmitted during normal business hours at the place of the addressee, on receipt of the fax transmission to the addressee or, if received before or after those hours, at the opening of business on the next normal working Day at that place. The correct fax confirmation from the addressee's fax machine shall be received by the sender; or
- (c) if transmitted by e-mail, on receipt in readable form by the addressee.

32.4 Payment of Invoices

Any payment invoices from either Party shall be sent to the address shown in Clauses 32.1(i)(B) or 32.1(ii)(B), as the case may be.

33. LAW

- (a) This Contract, and all non-contractual obligations arising from, or in connection with it shall be governed by and construed in accordance with English law.
- (b) A person who is not a party to this Contract does not have any right pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

34. DISPUTES

34.1 Dispute

Any dispute arising out of or in connection with this Contract shall be firstly settled by the Parties through amicable negotiation. Any Dispute which cannot be resolved by the Parties amicably will be decided by arbitration in accordance with this Clause 34.

34.2 Resolution by Arbitration

- (a) In the event any Dispute cannot be resolved amicably by the Parties, then either Party may initiate arbitration proceedings and such dispute shall be finally determined by arbitration in London, England in accordance with the English Laws and the London Maritime Arbitrators Association (the "LMAA") terms current at the time when the arbitration proceedings are commenced. The seat of the arbitration shall be England, even where the hearing takes place outside England. The reference shall be to three (3) arbitrators.

- (b) Each Party shall appoint one arbitrator, and the two so appointed shall thereafter appoint the third arbitrator; provided, however, that if the two arbitrators so appointed cannot agree on the appointment of the third arbitrator within fourteen (14) Days of one calling upon the other to do so, then such third arbitrator shall be appointed by the then current president of the LMAA. The language of the arbitration shall be English. Any award shall be final, conclusive and binding upon and enforceable against the Parties in any court of competent jurisdiction.

34.3 **Caveats**

Notwithstanding the reference of a Dispute for resolution under this Clause 35, except where a Party has given notice to terminate this Contract, the Parties shall continue to observe and perform their respective obligations and duties under this Contract diligently as if no Dispute had arisen. The Arbitration Board has the authority to decide whether the time required for Delivery should be extended or advanced by virtue of the matters covered in the Dispute. The effectiveness of this Clause 34 survives Delivery and any termination of this Contract.

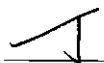
34.4 **Waiver of Sovereign Immunity**

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Contract and all other agreements, contracts, documents and writings relating to this Contract, constitute private and commercial acts and not public or governmental acts;
- (b) agrees that if any proceedings are brought against it or its assets in relation to this Contract or any transaction contemplated by this Contract, other than the assets protected by the diplomatic and consular privileges under the U.S. Foreign Sovereign Immunities Act or any analogous legislation ("**Exempted Assets**") in any jurisdiction, no immunity, sovereign or otherwise, from the proceedings, executions, attachment or other legal process will be claimed by, or on behalf of, itself or with respect to any of its assets (other than the Exempted Assets); and
- (c) consents to the enforcement of any judgment against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with the proceedings, including the making, enforcement or execution against, or in respect of, any property, irrespective of its use or intended use.

This Contract has been entered into on the date stated at the beginning of this Contract.

Sellers' Initials



Buyer's Initials



EXECUTION of Shipbuilding Contract:

The Buyer

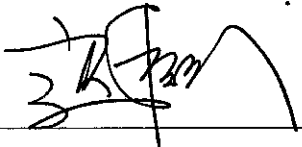
For and on behalf of
FORTUNE MAGNIFICENT SHIPPING LIMITED



Teng Fei
Title : Director

The Seller

For and on behalf of
HUDONG-ZHONGHUA SHIPBUILDING (GROUP) CO., LTD.



Chi Benbin
Title: Vice President

SCHEDULE 1
SPECIFICATIONS, GENERAL ARRANGEMENT, MAJOR SUPPLIER'S LIST,
MID-SHIP SECTION AND ADDENDUM

- A. Specifications, Drawing No. 0000101B
- B. General Arrangement, Drawing No. 0000401D
- C. Major Supplier's List, Drawing No. 0000501K
- D. Mid-ship section, Drawing No. 1020401D
- E. Addendum

Sellers' Initials J

Buyer's Initials V.P.

**SCHEDULE 2
INTERIM STAGE CERTIFICATE**

Hull No. [●] (the "Vessel") under a shipbuilding contract dated [●] made between [●] ("Buyer"), Hudong-Zhonghua Shipbuilding (Group) Co., Ltd. ("Seller")

We certify, in connection with the building of the Vessel, that: [●].

For and on behalf of
Hudong-Zhonghua Shipbuilding (Group)
Co., Ltd.

By: _____
Name: [●]
Title: [●]

For and on behalf of
Fortune Magnificent Shipping Limited
By: _____
Name: [●]
Title: [●]

For and on behalf of
[Lloyds Register of Shipping]
By: _____
Name: [●]
Title: [●]

Sellers' Initials J
Schedule 2 – Page 1

Buyer's Initials JF

**SCHEDULE 3
FINAL STAGE CERTIFICATE**

Hull No. [●] (the "Vessel") under a shipbuilding contract dated [●] (the "Contract") made between [●] ("Buyer"), Hudong-Zhonghua Shipbuilding (Group) Co., Ltd. ("Seller")

We certify that the following amount is due to the Seller on delivery of the Vessel:

(A) US\$[●] being the Fourth instalment of the Total Price referred to in Schedule 11 (*Pricing Structure*) to the Contract due on delivery of the Vessel

AND (B) The total of all sums payable to [●]
the Seller in accordance with
Clause 5.4(a) of the Contract

sub-total

LESS C The total of all sums payable to the [●]
Buyer in accordance with
Clause 5.4(a) of the Contract

TOTAL AMOUNT CLAIMED [●]

For and on behalf of
Hudong-Zhonghua Shipbuilding (Group)
Co., Ltd.

By: _____

Name: [●]

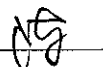
Title: [●]

For and on behalf of
Fortune Magnificent Shipping Limited

By: _____

Name: [●]

Title: [●]



**SCHEDULE 4
CHANGE ORDER FORM**

SHIPBUILDING CONTRACT FOR [●] SELLER CHANGE ORDER NUMBER:
CBM LNG CARRIER HULL NO.: [●]

BUYER: [●]

DATE OF CHANGE ORDER (dd mm yy):

SELLER: HUDONG-ZHONGHUA
SHIPBUILDING (GROUP) CO., LTD.

TYPE OF CHANGE ORDER:

(SELECT ONE)

COMPULSORY

BUYER

SELLER

The Contract is changed as follows: *(attach additional documentation if necessary)*

Adjustment to Contract Price *(if any)*

The Contract Price will be unchanged, increased or decreased by this Change Order in the amount of _____ United States Dollars

Changes to Adjusted Delivery Date *(attach additional documentation if necessary)*

The Adjusted Delivery Date will be unchanged, advanced or delayed by _____ days.

The Adjusted Delivery Date as a result of this Change Order therefore is _____.

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Describe as Appropriate:

Impact on Appurtenances and/or Materials:

Impact on Planned Programme:

Impact on Specifications:

Impact on Guaranteed Dead-weight at Design Draught:

Impact on other Vessel Particulars:

Other impacts to liability or obligation of Seller or Buyer under Contract:

Upon execution of this Change Order by Buyer and Seller, the above-referenced change(s) shall become a valid and binding part of the original Contract without exception or qualification, unless noted in this Change Order. Except as modified by this and any

Sellers' Initials J

Buyer's Initials JS

previous issued Change Orders, all other terms and conditions of the Contract shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

For and on behalf of
Fortune Magnificent Shipping Limited

For and on behalf of
Hudong-Zhonghua Shipbuilding (Group)
Co., Ltd.

By: _____

Name: [●]

Title: [●]

Date: [●]

By: _____

Name: [●]

Title: [●]

Date: [●]


Sellers' Initials J


Buyer's Initials JH

**SCHEDULE 5
PLANNED PROGRAMME OUTLINE**

1. Steel Cutting ----- Scheduled on 3rd April, 2022
2. Keel Laying ----- Scheduled on 31st August, 2022
3. Launching ----- Scheduled on 28th January, 2023
4. Sea and Gas Trials ----- Sea trial is scheduled to conduct on 10th October, 2023, Gas trial is scheduled on 30th November, 2023.

Above are the preliminary milestones for the Vessel. Any adjustment to the above milestones shall be duly informed by the Seller to the Buyer subject to mutual agreement between the Parties.

Sellers' Initials 

Buyer's Initials 

**SCHEDULE 6
PROGRESS REPORT FORMAT**

SHIPBUILDING CONTRACT FOR
[●] **CBM LNG CARRIER HULL NO.:**
[●]

DATE: [●]

BUYER: [●]

**SELLER: HUDONG-ZHONGHUA
SHIPBUILDING (GROUP) CO., LTD.**

Progress of Work in relation to Planned Programme *(see attached bar graph)*

Status of Adjusted Delivery Date:

Summary and Update regarding Prior and On-going Contingencies impacting Adjusted Delivery Date:

Photographs of Work in Progress *(see attached)*

Summary and Update regarding Approved Change Orders:

Report on Industrial and Worker Relations *(see attached)*

Safety Statistic Report *(see attached)*

This Progress Report is signed by the Seller's duly authorised representative.

For and on behalf of
**HUDONG-ZHONGHUA SHIPBUILDING
(GROUP) CO., LTD.**

By: _____

Name: [●]

Title: [●]

Date: [●]

Sellers' Initials



Buyer's Initials



**SCHEDULE 7
REFUND GUARANTEE**

To: [●]
[●]

("Buyer")

Date:

Dear Sirs,

We, the undersigned, [____], having our registered address at _____], hereby issue our Refund Guarantee No. _____ in favour of Buyer for account of [____] as follows in connection with the Shipbuilding Contract dated 2nd July 2021 (hereinafter called the "**Contract**", which expression shall include the same as amended, varied and/or supplemented from time to time) made by and between Buyer and Seller for the construction and sale of one (1) 174,000 cbm LNG Carrier having Seller's hull No. H1829A (hereinafter called the "Vessel"), having Contractual Delivery Date (as defined in the Contract) of [____].

If, in accordance with the terms and conditions of the Contract, the Buyer shall become entitled to a refund of the Instalments (as defined in the Contract) paid to Seller prior to delivery of the Vessel together with (if applicable) payment by Seller of the value of Buyer's Supplies (as defined in the Contract) delivered to Seller's custody, in consideration for the sum of USD [____] now paid by Buyer to us and other good and valuable consideration (the receipt and sufficiency whereof we hereby acknowledge), we hereby unconditionally and irrevocably guarantee to Buyer the refund and/or payment of all such Instalments plus, subject as provided in the third paragraph of this Refund Guarantee, a sum equal to such value of Buyer's Supplies within fifteen (15) days after receipt of written demand by Buyer together with interest thereon at the rate of five percent (5%) per annum (the "**Applicable Rate of Interest**") from the date following the date of receipt by Seller of each such Instalment to the date of remittance by telegraphic transfer of such refund by us to Buyer, and in the case of payment of the value of such Buyer's Supplies from the dates such Buyer's Supplies were delivered to Seller's custody to the date of remittance by telegraphic transfer of the payment by us to Buyer.

This Refund Guarantee shall be in force and effect from the date of Seller's actual receipt of the first Instalment in the amount of United States _____ (USD _____) and the amount effective under this Refund Guarantee shall increase correspondingly to the amount of the Instalments actually made by Buyer from time to time, plus the value of the Buyer's Supplies delivered to Seller's custody under the Contract prior to the delivery of the Vessel.

But in any eventuality the amount of this Refund Guarantee shall not exceed the aggregate of (a) USD _____ in respect of the Instalments paid to Seller prior to delivery of the Vessel plus interest thereon at the Applicable Rate of Interest from the date following the date of Seller's receipt of the Instalment to the date of remittance by telegraphic transfer of the refund by us to Buyer plus (b) (subject as provided in the third paragraph of this Refund Guarantee) the sum of the value of Buyer's Supplies delivered to Seller's custody plus interest thereon at the

Sellers' Initials J Buyer's Initials JG
Schedule 7 – Page 1

Applicable Rate of Interest from the dates such Buyer's Supplies were delivered to Seller's custody to the date of remittance by telegraphic transfer of such payment by us to Buyer, in an amount not exceeding USD One Million (USD1,000,000.00) This Refund Guarantee is available against Buyer's written demand stating that Buyer's demand for refund of the Instalments paid to Seller together with (if applicable and subject as provided in the third paragraph of this Refund Guarantee) payment of the value of Buyer's Supplies delivered to Seller's custody has been made in conformity with the Contract and Seller has failed to make such refund and/or (if applicable) such payment.

Payment shall be made to you in immediately available USDs in accordance with the payment instructions given to us by you at the time of a claim under this Refund Guarantee. Payment effected as directed by you shall discharge our obligation to the extent of such payment. We acknowledge and agree that our obligation hereunder shall not be discharged by any amount paid in any currency other than USDs, to the extent that the amount so paid on prompt conversion to USDs under normal banking procedures does not yield the same amount of USD owing hereunder. In the event that such conversion does not yield such amount of USD, we acknowledge that you shall have a separate cause of action against us for the additional amount necessary to yield the same amount of USD due and owing hereunder.

Notwithstanding the provisions hereinabove, in case we receive notification within fifteen (15) days after receipt of Buyer's written demand for refund under this Refund Guarantee from Buyer or Seller stating that Buyer's claim to cancel or terminate the Contract or Buyer's claim for refundment of the Instalments and/or payment of the value of Buyer's Supplies thereunder has been disputed and referred to arbitration in accordance with the provisions of the Contract, then we shall be entitled to withhold payment hereunder until resolution of such arbitration and shall, if such arbitration results in an award in favour of Buyer, refund to Buyer the sum adjudged to be due to Buyer from the Seller by such arbitration but not exceeding the amount available under this Refund Guarantee within fifteen (15) calendar days of receipt from Buyer of a further demand for refund with a copy the relevant arbitration award.

Subject as provided in the next paragraph, this Refund Guarantee shall expire and become null and void upon the earliest of (i) receipt by Buyer of the sum guaranteed hereby or (ii) the execution by both Buyer and Seller of the Protocol of Delivery and Acceptance (as defined in the Contract) of the Vessel or (iii) a valid termination of the Contract due to a Buyer's default in accordance with the provisions of Clause 19 of the Contract or (iv) [●].

However, in case of our receiving notification of arbitration for the matters as described above, this Refund Guarantee shall remain in force until 30 calendar days after final arbitration award has been published and Buyer has received for value the sum adjudged to be due from Seller to Buyer pursuant to the award made under such arbitration if applicable.

All payments made under this Refund Guarantee will be made free and clear of, and without deduction for or on account of, any set-off, counterclaim or any present or future tax, levy, impost, duty, charge, fee or other withholding of any nature whatsoever and by whomsoever imposed (together "**Deductions**"). If we are compelled by law to make any such Deductions we undertake to pay to Buyer such additional amounts as are necessary in order for Buyer to, receive an amount equal to the sum or sums which Buyer would have received had no Deductions been made.

Our liability under this Refund Guarantee shall not be discharged or affected by any security or other indemnity now or hereafter held by Buyer in respect thereof or the Seller's obligations under the Contract, any invalidity, illegality or unenforceability of the Contract,

[]

By:

Sellers' Initials J

Buyer's Initials JS

SCHEDULE 8
FORM OF PROTOCOL OF DELIVERY AND ACCEPTANCE

It is this day agreed that the 174,000 cbm liquefied natural gas carrier built by Hudong-Zhonghua Shipbuilding (Group) Co., Ltd. (the "Seller") as Hull No. H1829A at the Seller's shipyard in [●] under the shipbuilding contract dated [●] and made between the Seller and Fortune Magnificent Shipping Limited (the "Buyer") has today, [●], at [a.m./p.m.] [local] time, been delivered by the Seller and accepted by the Buyer.

For and on behalf of
Fortune Magnificent Shipping Limited

By: _____
Name: [●]
Title: [●]

For and on behalf of
Hudong-Zhonghua Shipbuilding (Group) Co., Ltd.

By: _____
Name: [●]
Title: [●]

Sellers' Initials J
Schedule 8 – Page 1

Buyer's Initials NS

SCHEDULE 9
GUARANTEE ENGINEER LETTER AGREEMENT FORMAT

[Name of Addressee]
[Address of Addressee]

Date: [●]

Dear Sirs

Duties of Guarantee Engineer

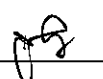
We refer to the shipbuilding contract dated [●] (as amended and/or supplemented from time to time, the "**Contract**") for the construction of a 174,000 cbm liquefied natural gas carrier with Hull No. H1829A, and made between Hudong-Zhonghua Shipbuilding (Group) Co., Ltd. (the "**Seller**"), and Fortune Magnificent Shipping Limited (the "**Buyer**").

Terms defined in the Contract have the same meaning in this letter.

Pursuant to Clause 17.12 (*Guarantee Engineer*) of the Contract, the Seller shall assign a Guarantee Engineer to the Vessel. As a supplement to the terms and conditions of the Contract, the following terms and conditions of the assignment of the Guarantee Engineer are agreed:

1. The Seller shall procure the Guarantee Engineer to perform the following additional duties and services:
 - (a) take responsibility for the control and management of defective parts;
 - (b) write reports to the Buyer and the Seller regarding services;
 - (c) serve as the Seller's representative on the Vessel;
 - (d) collect and record accurately all data and fault reporting with respect to defects and malfunctions of equipment and machinery on the Vessel;
 - (e) pay prompt attention to, and make arrangements to, remedy Guarantee Defects, Physical Damage, Post-Delivery Defects and other malfunctions;
 - (f) provide technical assistance to the Buyer;
 - (g) inspect the Vessel pursuant to the Contract to investigate the nature and extent of the Defects and/or the Post-Delivery Defects claimed to exist and the nature of repairs, replacements or other Remedial Work required to remedy them;
 - (h) assist the crew with the Remedial Work undertaken on board the Vessel;
 - (i) accept notice on behalf of the Seller of the Guarantee Defects, Physical Damage and Post-Delivery Defects from the Buyer;
 - (j) maintain log and rectification status of all Guarantee Defects, Physical Damage and Post-Delivery Defects;





- (k) assure prompt attention to Defect correction by the Seller and the Seller's Subcontractors, as appropriate;
 - (l) coordinate actual attendance by the Seller's Subcontractors on the Vessel for Defect correction; and
 - (m) authorise the Buyer to correct any Defect and undertake Remedial Work if the Seller cannot perform corrective action on time.
2. The Seller shall procure the Guarantee Engineer to perform the duties and services in accordance with the performance standards required of the Seller under the Contract.
 3. The Buyer shall, and shall procure the Vessel's crew to, adhere to the requirements of Clause 17.12 (*Guarantee Engineer*) of the Contract with respect to granting the Guarantee Engineer such cooperation as is required under that provision to enable the Guarantee Engineer to perform the duties and obligations required of the Guarantee Engineer under the Contract and this letter.
 4. Except as provided in the paragraphs above, this letter does not otherwise amend or supplement the Contract. All of the terms and conditions of the Contract are incorporated by reference into this letter.

Kindly indicate your acknowledgement and agreement of this letter by signing and returning the enclosed copy to us.

Yours faithfully

For and on behalf of
Fortune Magnificent Shipping Limited

By: _____

Name: [●]

Title: [●]

Sellers' Initials J

Buyer's Initials NS

Approved and accepted on [●]

For and on behalf of
Hudong-Zhonghua Shipbuilding (Group) Co., Ltd.

By: _____

Name: [●]

Title: [●]

Approved and accepted on [●]



**SCHEDULE 10
BOIL OFF RATE CALCULATION**

[●]

Sellers' Initials J
Schedule 11 – Page 4

Buyer's Initials JA

**SCHEDULE 11
PRICING STRUCTURE**

Basic Price **US\$**

Total Price **US\$**

Sellers' Initials

Buyer's Initials