|                                                                                                              **CONTRACT Nº XXXX.XXXXXXX.XX.X****Dated as of [day]th [month], [year]** |
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**By and between**

**PETROLEO BRASILEIRO S.A**

**and**

**[SELLER COMPANY NAME]**

**FPSO PETROBRAS BÚZIOS 12 (P-91)**

**\*\*\*\*\*\*\*\*\*\*\*Revision Control\*\*\*\*\*\*\*\*\*\*\*\*\***

**0: Bid original version**

**TABLE OF CONTENTS**

**RECITALS**

|  |  |
| --- | --- |
| **ARTICLE 1** | **PURPOSE OF THE AGREEMENT, DEFINITIONS AND INTERPRETATION** |
| **ARTICLE 2** | **RELATIONSHIPS AND ACKNOWLEDGEMENTS** |
| **ARTICLE 3** | **OBLIGATIONS OF SELLER** |
| **ARTICLE 4** | **BRAZILIAN LOCAL CONTENT** |
| **ARTICLE 5** | **OBLIGATIONS OF BUYER** |
| **ARTICLE 6** | **REPRESENTATIONS OF THE PARTIES** |
| **ARTICLE 7** | **APPLICABLE TAXES** |
| **ARTICLE 8** | **PAYMENT MILESTONES** |
| **ARTICLE 9** | **PRICE** |
| **ARTICLE 10** | **PAYMENTS TO SELLER** |
| **ARTICLE 11** | **PROJECT SCHEDULE** |
| **ARTICLE 12** | **CLAIMS AND CHANGE ORDER REQUESTS** |
| **ARTICLE 13** | **TITLE TO SCOPE OF SUPPLY, IMPROVEMENTS AND LICENSE** |
| **ARTICLE 14** | **INSURANCE** |
| **ARTICLE 15** | **DOCUMENTATION** |
| **ARTICLE 16** | **COMPLETION** |
| **ARTICLE 17** | **INSPECTION AND WARRANTY** |
| **ARTICLE 18** | **ASSIGNMENT AND GUARANTEE** |
| **ARTICLE 19** | **SUBCONTRACTING** |
| **ARTICLE 20** | **LIQUIDATED DAMAGES** |
| **ARTICLE 21** | **DEFAULT, TERMINATION AND SUSPENSION** |
| **ARTICLE 22** | **INDEMNITIES; LIMITATIONS OF LIABILITY** |
| **ARTICLE 23** | **FORCE MAJEURE** |
| **ARTICLE 24** | **DISPUTE RESOLUTION** |
| **ARTICLE 25** | **FOREIGN TRADE** |
| **ARTICLE 26** | **MISCELLANEOUS PROVISIONS** |
| **ARTICLE 27** | **COMPLIANCE** |
| **ARTICLE 28** | **ANTI-BRIBERY** |
| **ARTICLE 29** | **SOCIAL RESPONSIBILITY** |
| **ARTICLE 30** | **ADDITIONAL CONSIDERATIONS** |
| **ARTICLE 31** | **PROTECTION OF PERSONAL DATA** |
| **ARTICLE 32** | **JOINT AND SEVERAL LIABILITY** |

**LIST OF EXHIBITS**

|  |  |
| --- | --- |
| **I** | **SCOPE OF SUPPLY** |
| **II** | **GENERAL TECHNICAL DESCRIPTION** |
| **III** | **DIRECTIVES FOR PRODUCT DEVELOPMENT** |
| **IV** | **DIRECTIVES FOR PRODUCT FABRICATION** |
| **V** | **DIRECTIVES FOR ACQUISITIONS** |
| **VI** | **DIRECTIVES FOR PLANNING AND CONTROL** |
| **VII** | **DIRECTIVES FOR QUALITY ASSURANCE SYSTEM** |
| **VIII** | **DIRECTIVES FOR COMMISSIONING PROCESS** |
| **IX** | **DIRECTIVES FOR HEALTH, SAFETY AND ENVIRONMENT** |
| **X** | **FACILITIES FOR BUYER'S REPRESENTATIVES** |
| **XI** | **CONTRACT PRICE DISTRIBUTION AND MEASUREMENT CRITERIA** |
| **XII** | **INSURANCE REQUIREMENTS** |
| **XIII** | **RISK MATRIX** |
| **XIV** | **DIRECTIVES FOR CLAIMS AND CHANGE ORDERS** |
| **XV** | **DIRECTIVES FOR FPSO CLASSIFICATION** |
| **XVI** | **COMPUTIONAL TOOLS AND INTEGRATED MANAGEMENT SYSTEM** |
| **XVII** | **FORM OF SUBSTANTIAL COMPLETION CERTIFICATE** |
| **FORM OF HANDOVER CERTIFICATE** |
| **FORM OF FINAL COMPLETION CERTIFICATE****FORM OF FINAL ACCEPTANCE CERTIFICATE** |
| **XVIII** | **LOCAL CONTENT FOLLOW UP REPORT** |
| **XIX** | **FORM OF COMPLIANCE PERIODIC STATEMENT** |
| **XX** | **FORM OF PARENT COMPANY GUARANTEE** |
| **XXI** | **PRICE SCHEDULE (COMMERCIAL PROPOSAL)** |
| **XXII** | **PROJECT SCHEDULE** |
| **XXIII** | **NOT APPLICABLE** |
| **XXIV** | **NOT APPLICABLE** |
| **XXV** | **REQUEST FOR PROPOSAL** |
| **XXVI** | **FORM OF RELEASE OF CLAIMS AND LIEN WAIVER** |
| **XXVII** | **IMPORTED ITEMS FOLLOW UP REPORT** |
| **XXVIII** | **STATEMENT OF ABSENCE OF IMPEDIMENTS** |
| **XXIX** | **CIRCULAR LETTERS** |

**PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (this “Agreement”), is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between **PETROLEO BRASILEIRO S.A. - PETROBRAS**, a public corporation with mixed equity capital (Sociedade de Economia Mista), duly incorporated and validly existing under the laws of Brazil, having its main offices at Avenida República do Chile, 65, Rio de Janeiro - RJ - Brazil, herein represented by \_\_\_\_\_\_\_, and hereinafter referred to as Buyer ("Buyer" or “Petrobras”), and \_\_\_\_\_\_\_\_, a \_\_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_\_\_\_, having its principal place of business at \_\_\_\_\_\_\_\_ (the “Seller” and together with Buyer, the “Parties”, and each a “Party”).

RECITALS

1. **WHEREAS,** Buyer desires to enter into an agreement with Seller for the supply of one Stationary Production Unit, NCM 8905.90.00 (UNIDADE FLUTUANTE DE PRODUÇÃO, ARMAZENAMENTO E DESCARREGAMENTO DE OLEO TIPO "FPSO"), of the Floating Production, Storage and Offloading (FPSO) type, identified herein as **PETROBRAS** **FPSO BUZIOS 12 (P91)** in accordance with Specifications (including the Specifications specified by Buyer in the Bid Documents and GTD) provided by Buyer to Seller, all as further described herein (the "Unit”), for the Lump Sum Price (as defined below), all in accordance with the terms and conditions of this Agreement;
2. **WHEREAS**, Buyer also desires to enter into an agreement with Seller for the supply of Operational Spare Parts, Capital Spares, Special Tools Stored On Shore and Mooring Components based upon Specifications (including the specifications specified by Buyer in the Bid Documents and GTD) attached hereto as Schedule B and Schedule C as defined in this Agreement and in accordance with the provisions set out in Exhibit I;
3. **WHEREAS,** Buyer desires that Seller provides the Unit in compliance with all the Brazilian Local Content requirements under this Agreement for the Lump Sum Price, as more fully set forth in this Agreement;
4. **WHEREAS,** Seller represents that it possesses all requisites necessary to carry out the Scope of Supply diligently in accordance with the current standards and practices of the industry and is fully experienced, qualified, able and willing to perform all the activities contemplated by the Scope of Supply (as defined herein) in full conformity with this Agreement and is fully committed to supply the Unit to Buyer for a lump sum, and the scope relating to the Change Orders on a unit price basis, in accordance with the requirements set forth in this Agreement.

**NOW THEREFORE,** in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE 1**

 **PURPOSE OF THE AGREEMENT,** **DEFINITIONS AND INTERPRETATION**

* 1. **Object.** The purpose of this Agreement is the purchase and sale of one fully operating [new build] [converted] FPSO (Floating Production, Storage and Offloading) vessel ready to receive and offload oil in the capacities according to the Specifications (including the Specifications specified by Buyer in the Bid Documents and GTD) provided by Buyer to Seller, to be installed at **BUZIOS field** (offshore Brazil), and which Seller shall hand over to Buyer no later than the Handover Date, having carried out its installation, testing, commissioning, and start up, as well as the training of personnel by Seller, in accordance with the Project Schedule and subject to all the other terms and conditions of this Agreement. The purpose of this Agreement shall also include the supply of the Operational Spare Parts, Capital Spares, Special Tools Stored On Shore and Mooring Components as those are defined in this Agreement and listed in Schedule B (Price for Additional Items) and Schedule C (Mooring Components) and in accordance with the provisions of Exhibit I.
	2. **Responsibility of Seller.** Except as otherwise provided herein, the full Scope of Supply, including without limitation, all activities and requirements set forth in this Agreement and Exhibits thereto, as well as any other activity necessary to achieve the above-stated purpose of this Agreement, up to the issuance of the Final Acceptance Certificate, are the sole responsibility of Seller, and within the Contract Price and Project Schedule set forth in Articles 9 and 11 of this Agreement.
	3. **Definitions.** In addition to other defined terms used throughout this Agreement, the following terms shall have the meanings specified below in this Article 1.

“**Additional Warranty Period**” shall have the meaning specified in Section 17.3.1.2.

“**Advance Payment**” shall mean the amount advanced by Buyer to Seller pursuant to Section 5.2 hereof.

“**Advanced Payment Security**” shall have the meaning specified in Section 3.33.

“**Affiliate**” shall mean **(i)** any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party, or **(ii)** any Person that, directly or indirectly, is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, a Party or of which a Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests.

“**Agreement**” shall mean this Purchase and Sales Agreement, including all Exhibits attached hereto, and including all Bid Documents, and all of their respective amendments agreed and made from time to time by the Parties.

“**All Electric Adjusted Lump Sum Price**” shall have the meaning specified in Section 3.39.

“**All Electric Contract Price Adjustment**” shall have the meaning specified in Section 3.39.

“**ANP**” shall mean the Brazilian National Agency for Petroleum, Natural Gas and Biofuels (Agência Nacional do Petróleo, Gas Natural e Biocombustíveis).

“**ANPD**” shall mean the National Data Protection Authority (Autoridade Nacional de Proteção de Dados).

“**Anti-Corruption Laws**” shall have the meaning specified in Section 27.12.

“**Applicable Codes and Standards**” shall mean the codes, standards or requirements valid on the Proposal Submission Date, set forth in any Exhibit hereto or in any Applicable Law, as amended from time to time, which codes, standards and requirements, as so amended, shall govern Seller’s execution of the Scope of Supply under this Agreement, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard shall govern Seller’s performance under this Agreement.

“**Applicable Law**” shall mean any and all treaties, laws, statutes, codes, ordinances, decrees, injunctions, judgments, orders, Permits and Consents, rules or regulations (including those relating to Taxes), policies having the force of law, or collective labor agreements, promulgated, entered into, or endorsed by any Governmental Authority having jurisdiction over any Party, all or any portion of the Site or execution of all or any portion of the Scope of Supply or the operation of the Unit, or other legislative or administrative action of a Governmental Authority related to the matter in question, including any requirements and rules of a relevant flag authority, or a final decree, judgment, or order of a Governmental Authority or court that relates to the execution of the Scope of Supply hereunder or the interpretation or application of this Agreement, including **(i)** Safety and Health Directives, **(ii)** Applicable Codes and Standards, and **(iii)** Environmental Laws, as such treaties, laws, statutes, codes, ordinances, decrees, injunctions, judgments, orders, Permits and Consents, rules and regulations, policies or collective labor agreements, Safety and Health Directives, Applicable Codes and Standards and Environmental Laws may be amended, modified or supplemented from time to time. The Conduct Adjustment Agreements (Termo de Ajustamento de Conduta), as issued, amended, modified or supplemented from time to time by the Federal Public Prosecution Service (Ministério Público Federal), shall also be considered Applicable Law.

“**ART**” shall have the meaning specified in Section 3.7.3.

“**Bid Documents**” shall mean the Request for Proposal and those documents specified in Exhibit XXI through Exhibit XXV.

“**Books and Records**” shall have the meaning specified in Section 3.11.1.

“**Brazil**” shall mean the Federative Republic of Brazil, including its territorial waters.

 “**Brazilian Local Content**” or “**Local Content**” shall have the meaning specified in Section 4.1.3 and Exhibit XVIII.

“**Brazilian Local Content Declaration**” shall have the meaning specified in Section 4.1.3.

“**Brazilian Local Content Schedule A and Schedule C Adjustment**” or “**Brazilian Local Content Schedule A+C Price Adjustment**” shall have the meaning set forth in Section 4.3.

“**Brazilian Local Content Index**” shall have the meaning specified in Section 4.1.2.

“**Brazilian Local Content Report**” shall have the meaning specified in Section 4.2.

“**Brazilian Local Content Requirements Achievement Plan**” shall have the meaning specified in Section 4.1.1.

“**Business Day**” shall mean every day other than a Saturday, Sunday or a day that is an official holiday in **(i)** the city in which the works pursuant to the Scope of Supply are being carried out, or **(ii)** Rio de Janeiro/RJ, Brazil.

“**Buyer**” shall have the meaning specified in the preamble hereto.

“**Buyer Group**” shall mean Buyer; its Affiliates; its subsidiaries and jointly controlled companies; its partners; its joint ventures, direct or indirect and all of their respective officers; its successors; its permitted assigns; its officers, directors, employees and agents.

“**Buyer Improvements**” means any Improvements to Buyer Intellectual Property made during the term of this Agreement or resulting from the performance of this Agreement.

“**Buyer Intellectual Property**” shall mean Intellectual Property owned, used or held by Buyer, whether in existence at the Effective Date or developed or otherwise acquired during the term of this Agreement, together with any Buyer Improvements. Buyer Intellectual Property shall include the GTD, Specification, Bid Documents and the Buyer Patents.

“**Buyer Patents**” shall mean worldwide patents owned by and/or assigned to Buyer.

“**Buyer Policies**" shall mean the policies of Buyer that are summarized in Exhibit IX.

“**Buyer Project Manager**” shall mean that Person designated by Buyer in a written notice to Seller to act on behalf of Buyer on all matters pertaining to this Agreement or the execution of the Scope of Supply.

“**Capital Goods**” shall mean the goods, specified in Exhibit I, of significant cost and/or long lead-time that are essential to the operation of the Unit and, therefore, must be on board from Substantial Completion and must be maintained and preserved on board until their application.

“**Capital Spares**” shall mean the goods, specified in Exhibit I, of significant cost and/or long lead-time that are strategic to the spares inventory.

“**CAT**” shall have the meaning specified in Section 3.20.2.6.

“**Centre**” shall have the meaning specified in Section 24.2.2.

“**Change Order**” shall mean a written signed order from Buyer, issued at Buyer’s sole discretion, in accordance with Article 12 and Exhibit XIV, that authorizes or directs an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of the Scope of Supply or any modification or adjustment to any changed criteria.

“**Circular Letters**” shall have the meaning specified in Section 1.5.12.

“**Claim**” shall mean a written signed letter from Seller in accordance with Article 12 hereof and in the form specified in Exhibit XIV, indicating that during the execution of the Scope of Supply, Seller has encountered one of the situations set forth in Exhibit XIV as giving rise to its right to request a Change Order. A Claim shall not be considered valid unless it complies with the provisions of Article 12 hereunder, and issued in the form specified in Exhibit XIV. Any Claim shall become binding on the Parties as part of this Agreement upon the signature of a respective amendment to this Agreement.

“**Classification Society**” shall mean a member of the International Association of Classification Societies (IACS) with prior FPSO experience, engaged by Seller pursuant to Exhibit I.

“**CNEN**” shall have the meaning specified in Section 3.7.4.

“**Commissioning Management Plan**” shall have the meaning specified in Exhibit VIII.

“**Commissioning Procedure**” shall have the meaning specified in Exhibit VIII.

“**Compliance Sanction**” shall have the meaning set forth in Section 27.12.

“**Confidential Information**” shall mean any proprietary information, technical data, trade secrets or know-how, data, reports or records, or other information, whether or not marked as confidential by the disclosing Party, including research, product ideas, product plans, products, services, customers, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, hardware configuration information, marketing, finances or other business information disclosed by a Party to the other Party directly or indirectly, either orally, in writing, in electronic format, or by drawings or inspection of parts or equipment. Confidential Information does not include:

**(a)** information in the public domain which was not made public by a breach of this Agreement;

**(b)** information which was obtained prior to its disclosure and without violating an obligation of confidentiality;

**(c)** information obtained from third parties which have the right to disclose such information without violating an obligation of confidentiality; and

**(d)** information which must be disclosed as required by any Applicable Laws or Governmental Authorities, provided that **(i)** failure to disclose would subject the disclosing Party to civil, criminal or administrative penalties, and **(ii)** the disclosing Party gives the other Party prompt and timely notice of the request for such disclosure.

In the case established in subsection **(d)** above, the affected Party may request that the disclosing Party appeal the disclosure order to the competent tribunals to the extent permitted under the Applicable Law, in which case the affected Party shall bear the cost of the appeal.

“**Contract Price**” shall mean the aggregate of the sums set out at Schedule A, Schedule B and Schedule C.

“**Contract Scope**” shall have the meaning specified in Section 3.1.

“**Controller**” shall have the meaning specified in Section 31.8.1.

“**Corrective Work**” shall mean all actions necessary for Seller to fully remake, repair or correct any Defects.

“**Critical Path Schedule**” shall mean the critical path items for the performance and completion of the Scope of Supply.

“**Day**” or “**day**” shall mean a calendar day.

“**Decision**” shall have the meaning specified in Section 24.2.3.

“**Default**” shall have the meaning specified in Section 21.1.1.

“**Defect**” shall mean any design, plan, specification, engineering, Equipment, material, tool, supply, test, procedure, component, part or assembly provided by Seller Group which does not materially conform to the Scope of Supply, Applicable Law or Good Engineering and Construction Practices, including any improper or inferior workmanship that is inconsistent with the Scope of Supply, Applicable Law, or Good Engineering and Construction Practices.

“**Defective**” shall have the meaning specified in Section 17.1.1.

“**Demonstration Tests**” shall comprise all tests foreseen in Exhibit VIII, such as, but not limited to: FATs (Factory Acceptance Test), SAT (Site Acceptance Test), SIT (Site Integration Test), Performance Tests and Special Tests (item 3.5 of Exhibit VIII).

“**Dispute**” shall have the meaning specified in Section 24.1.1.

“**Dispute Notice**” shall have the meaning specified in Section 24.1.1.

“**Dissatisfaction Notice**” shall have the meaning specified in Section 24.2.4.

“**Drawings**” shall mean the graphic and pictorial documents, plans or models (in written or electronic format) showing the design, location and dimensions required for the execution of the Scope of Supply, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the execution of the Scope of Supply, including those which depict and describe the Unit with respect to the engineering, structural, instrumentation, control, mechanical, electrical, plumbing, fire protection, acoustical and life safety systems.

“**Effective Beneficiary**” shall mean the natural person or legal entity not incorporated for the sole or primary purpose of realizing tax savings, and which earns income on its own behalf and not as an agent, trustee or authorized representative on behalf of a third party.

“**Effective Date**” shall have the meaning specified in the preamble hereto.

“**Environmental Laws**” shall mean all Applicable Law, including Applicable Codes and Standards and Permits and Consents, related to **(i)** conservation, improvement, protection, Pollution, contamination or remediation of the environment or **(ii)** Hazardous Materials, or any handling, storage, Release, or other disposition of Hazardous Materials that relates to the execution of the Scope of Supply.

“**Equipment**” shall mean all equipment, materials, supplies, apparatus, machinery, parts, tools (including special tools), components, instruments, appliances, commissioning spare parts and appurtenances thereto (including those specified and described as part of the Scope of Supply specified in Exhibit I) that are required for construction of, or incorporation into, the Unit for the full and timely execution of the Scope of Supply.

“**Expert**” shall have the meaning specified in Section 24.2.2.

“**Final Acceptance**" shall mean the Final Acceptance for the Unit which shall be deemed achieved when:

**(i)** the Warranty Period of 12 months set forth in Section 17.3.1 for the Unit has elapsed, it being understood that the Final Acceptance Certificate may be issued before the Additional Warranty Period(s) arising from the correction, repair or replacement of Defects or damages by Seller has (have) elapsed;

**(ii)** the Seller has fulfilled all its obligations under the Agreement and Brazilian Applicable Laws with respect to the Unit;

**(iii)** Seller has delivered to Buyer a fully executed Release of Claims and Lien Waiver with respect to the Unit;

**(iv)** Seller has presented Buyer with evidence that all commitments with Major Subcontractors with respect to the Unit have been fully settled, including in the form of statements to that effect signed by each of its Major Subcontractors;

**(v)** Seller has delivered to Buyer a Final Acceptance Certificate for the Unit, which Buyer has accepted by signing such certificate; and

**(vi)** Seller has delivered the Operational Spare Parts included in the list validated by the Operational Team and Buyer as defined in Exhibit I and its Appendices.

"**Final Acceptance Certificate**” shall mean the Final Acceptance Certificate that is issued by Buyer when **(i)** written notice has been provided from Seller stating that the requirements for Final Acceptance under this Agreement, including those set forth in the definition of Final Acceptance, have been satisfied, and **(ii)** Buyer accepting and signing the Final Acceptance Certificate.

“**Final Completion**” shall mean that the Unit has been successfully handed over to Buyer and that all Scope of Supply and all other obligations under this Agreement (except for delivery of Operational Spare Parts and the Scope of Supply and obligations that survive the termination or expiration of this Agreement, including obligations for warranties and correction of Defects), are fully and completely performed in accordance with the terms of this Agreement, including:

**(i)** the successful achievement of Mechanical Completion and Substantial Completion;

**(ii)** the completion of all Punch-list Items;

**(iii)** all of the Unit’s systems and subsystems have been fully tested, and commissioning has been concluded, with all System Transfer Certificates issued and signed by Seller and Operation Contract team representatives, as well as Offshore Start-up Process concluded;

**(iv)** delivery by Seller to Buyer of all documentation required to be delivered under this Agreement, including Record “As-Built” Drawings and Specifications, and the final operation and maintenance manuals for the Unit;

**(v)** delivery to Buyer, in content and form reasonably satisfactory to Buyer, of copies of all required Subcontracts, written assignments of Subcontractor warranties and a list of the names, addresses and telephone numbers of the Subcontractors providing such warranties;

**(vi)** removal from the Unit of all of Seller’s and Subcontractors’ personnel, supplies, waste, materials, equipment, rubbish, Hazardous Materials, and temporary facilities; (vii) the receipt by Buyer of any and all certificates from the relevant Classification Society; and

**(viii)** the receipt and acceptance by Buyer of the Final Brazilian Local Content Declaration.

“**Final Completion Certificate**” shall have the meaning specified in Section 16.5.

“**Final Completion Date**” shall mean the date on which Buyer accepts the applicable Final Completion Certificate pursuant to Section 16.5.

“**First Oil Date**” shall mean the date on which, subsequent to the successful completion of the pre-commissioning, commissioning and testing requirements of the Scope of Supply provided for in this Agreement, and the Handover of the Unit, unprocessed hydrocarbons from the Sergipe-Alagoas Basin field are first introduced into the topside process equipment on the FPSO.

“**First Oil Production**” shall mean the event on which, subsequent to **(i)** the successful completion of the pre-commissioning, commissioning and testing of the Unit in accordance with the Scope of Supply provided for in this Agreement, and **(ii)** the Handover of the Unit, unprocessed hydrocarbons from the field are first introduced into the topside process equipment of the FPSO.

“**Flag State**” shall mean the country or state where the Unit is registered, as approved in writing by the Buyer.

“**Force Majeure**” shall have the meaning specified in Section 23.4.

“**General Technical Description**” or “**GTD**” shall mean a specification that gives general information about the intended conditions and requirements for the design, construction (or conversion), assembly, transport, installation and operation of one Floating Production Storage and Offloading System (FPSO), as specified on Exhibit II.

“**Good Engineering and Construction Practices**” shall mean the generally accepted practices, methods, skill, care and techniques employed by the petroleum engineering and construction industries with respect to:

**(i)** the engineering, procurement, construction, pre-commissioning, commissioning, testing and operation of projects comparable to the Unit, in accordance with Applicable Law and the written recommendations of the suppliers and manufacturers of any equipment necessary to maintain the supplier and manufacturer warranties in full force and effect, and the design performance of such projects;

**(ii)** personnel and facility health, safety and environmental protection;

**(iii)** optimizing the scheduling of projects comparable to the execution of the Scope of Supply; and

**(iv)** optimizing reliability and availability under the operating conditions comparable to those of the Unit. Good Engineering and Construction Practices are not intended to be limited to the optimum practices, methods or techniques to the exclusion of all others, but rather include a spectrum of reasonable and prudent practices, methods and techniques employed by the petroleum engineering and construction industries.

“**Governmental Authority**” shall mean any national, regional or other government of any state, province, county, municipality, or other political subdivision thereof, any governmental body, agency, authority, division, department, board or commission, or any instrumentality, officer or official of any of the foregoing, including any court, tribunal or committee, and in each case having executive, administrative or regulatory authority over a Party, the Unit, the Site or any portion of the Scope of Supply execution.

“**GRI**” or “**Grau de Risco de Integridade**” or “**Integrity Risk Degree**” shall have the meaning specified in the Petrobras Ethical Conduct Guide for Suppliers.

“**Gross Negligence**” is conduct that evinces a reckless disregard for the rights of others or smacks of intentional wrongdoing, as defined under applicable New York law.

“**Guaranteed Handover Date**” shall have the meaning specified in Section 11.3.1.2.

“**Guaranteed Ready for First Oil Date**” shall have the meaning specified in Section 11.4.9.

“**Guarantor**” shall mean the Parent Company of the Seller.

“**Handover**” shall have the meaning specified in Section 16.4.

“**Handover Certificate**” shall mean the document in the form set forth in Exhibit XVII and issued by Seller to Buyer in accordance with Section 16.4.

“**Handover Date**” shall mean the date on which Handover of the Unit occurs.

“**Hazardous Materials**” shall mean any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including:

**(i)** any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons;

**(ii)** any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous wastes”, “toxic substances”, “toxic pollutants”, or any words of similar import pursuant to Applicable Law, or

**(iii)** any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, or which may be the subject of liability for damages, costs or remediation.

“**Hull**” shall mean the hull of the Unit.

“**IBGE**” shall mean the Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística).

“**ICC**” shall have the meaning specified in Section 3.2.3.1.

“**ICC Rules**” shall have the meaning specified in Section 24.3.1.

“**Import Content List**” shall have the meaning specified in Section 3.32.2.

“**Improvements**” shall mean any improvement, refinement, modification, update, upgrade or enhancement to any of the Intellectual Property, whether or not patentable, copyrightable, or otherwise protectable under any Applicable Laws.

“**Integration**” shall mean all activities necessary to integrate the Modules, systems and Equipment of the topsides of the Unit with each other and with the Hull and its systems and Equipment.

“**Integration Yard**” shall mean the site, including all installations, facilities and Equipment therein, at which Seller shall perform the Integration activities.

“**Intellectual Property**” means any intellectual property rights, including inventions, patent applications (including any patents that may issue therefrom), patents (including any re-exams, reissues and any other patent rights claiming priority thereto), utility models, trade and service marks, trade or business names, domain names, rights in designs, copyrights, database rights, know how, trade secrets and rights of confidence, and all embodiments thereof, whether tangible or intangible, whether or not registered or registrable in any country, for the full term of such rights including any extension to or renewal of the terms of such rights and including registrations and applications for registration of any of these and rights to apply for the same and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world.

“**Intellectual Property Claims**” shall have the meaning specified in Section 22.4.1.

“**Intellectual Property Losses**” shall have the meaning specified in Section 22.4.1.

“**International Court of Arbitration**” shall have the meaning specified in Section 24.3.4.

“**Invoice**” shall mean Seller's request for payment in accordance with Article 10.

“**Joint And Liable Company**” shall have the meaning specified in Section 32.1.

“**Key Person”** or **“Key Personnel**” shall have the meaning specified in Section 2.2.

“**Lender**” shall mean any entity or entities providing temporary or long-term financing for the Unit and any agent or trustee of such entity or entities.

“**LGPD**” or “**Lei Geral de Proteção de Dados**” shall have the meaning specified in Section 31.1.

“**Lien**” shall mean any encumbrance of any kind, mortgage, lien, pledge, charge, security interest, deed of trust, claim, or any charge on property for payment of a debt, obligation or duty.

“**Liquidated Damages for Delay**” shall have the meaning specified in Section 20.1.

“**Lump Sum Price**” shall have the meaning specified in Section 9.1.

“**Major Subcontract**” shall mean **(a)** any Subcontract, having an aggregate value in excess of US$ 30,000,000.00 (thirty million US Dollars) or **(b)** multiple Subcontracts with the same Subcontractor or an Affiliate of such Subcontractor having an aggregate value in excess of US$ 30,000,000.00 (thirty million US Dollars), in each case for performance of any part of the Scope of Supply.

“**Major Subcontractor**” shall have the meaning specified in Section 19.3.

“**Mechanical Completion**” shall mean the completion of all construction activities, works and Certification Tests necessary to achieve system/subsystem completion in accordance with drawings, specifications, instructions, and applicable codes and regulations.

“**Mechanical Completion Date**” shall mean each date on which the Mechanical Completion of each applicable Module, Integration of the Unit, system or subsystem of the Unit occurs.

“**Milestone**” shall have the meanings specified in Exhibit VI.

“**Module**” shall mean a specific module of the Unit.

“**Modules Yard**” shall mean the site, including all installations, facilities and Equipment therein, at which Seller shall carry out the fabrication of the Modules.

“**Monthly Progress Reports**” shall have the meaning set forth in Section 3.17.3.

“**Mooring Components**” shall mean the goods under the Seller's responsibility to supply, such as chains, polyester ropes and devices, as per the specifications and battery limits set out in Exhibit II – General Technical Description (GTD) and its annexes.

“**Operation Contract**” shall mean the agreement between Buyer and Seller or the company appointed by Seller according section 2.3.1.2 of the Request for Proposal for the provision of pre-operation, operation and maintenance of Floating Production, Storage and Oil Transfer Unit (FPSO), with supply of goods and maritime hotel services ("CONTRATO DE PRESTAÇÃO DE SERVIÇOS DE PRÉ-OPERAÇÃO, OPERAÇÃO E MANUTENÇÃO DE UNIDADE FLUTUANTE DE PRODUÇÃO, ARMAZENAMENTO E TRANSFERÊNCIA DE ÓLEO (FPSO), COM FORNECIMENTO DE PARTES E PEÇAS E SERVIÇO DE HOTELARIA MARITIMA") of the Unit to be supplied under this Agreement, under the conditions described in the forementioned contractual documents.

“**Operation Contract Team**” shall mean the staff employed by the Operation Contract contractor, directly or indirectly, who will be responsible for pre-operation, operation and maintenance of Floating Production, Storage and Oil Transfer Unit (FPSO) with supply of goods and maritime hotel services.

“**Operational Goods**” shall have the meaning specified in Exhibit I.

“**Operational Spare Parts**” shall have the meaning specified in Exhibit I.

“**Parent Company Guarantee**” or “**Parent Guarantee**” shall mean a parent company guarantee substantially in the form of Exhibit XX issued by the “Guarantor”.

“**Party**” or “**Parties**” shall have the meaning set forth in the preamble hereto.

“**Payment Milestone**” shall have the meaning specified in Exhibit XI.

“**Payment Milestones Report**” shall mean a written report issued by the Seller to the Buyer, as specified in Article 8 of the Agreement, presenting evidence of the completion of each Payment Milestone in the Payment Milestones Report, in accordance with the requirements of this Agreement and Exhibit XI.

“**Offshore Start-up Processes**” shall have the meaning specified in Exhibit VIII.

“**Performance Security**” shall have the meaning specified in Section 3.37.1.

“**Performance Security Release Date**” shall be the date in which the Performance Security is released pursuant to Section 3.37.11.

“**Performance Tests**” shall mean those tests performed to ensure that the Unit meets the performance and operational criteria set forth in this Agreement, and in particular Exhibit I and Exhibit VIII, and to the extent not provided therein such tests as are conducted consistent with the requirements of Article 17.

“**Permits and Consents**” shall mean any and all valid waivers, certificates, approvals, consents, licenses, exemptions, variances, franchises, permits, authorizations or similar orders or authorizations from any Governmental Authority required to be obtained or maintained in full force and effect in connection with the Unit, the Site, the Scope of Supply, this Agreement or the transactions contemplated hereto.

“**Person**” shall mean any natural or legal person or entity.

“**Petrobras Ethical Conduct Guide for Suppliers**” shall mean the document entitled “Petrobras Ethical Conduct Guide for Suppliers” made available in Petrobras Supplier Channel website.

“**Pollution**” shall mean the degradation of environmental quality resulting from activities that directly or indirectly:

**(a)** impair the health, safety and well-being of the population; and/or

**(b)** create adverse conditions for social and economic activities; and/or

**(c)** adversely affect the biota; and/or

**(d)** affect the aesthetic or sanitary conditions of the environment; and/or

**(e)** throw materials or energy in disagreement with established environmental standards.

“**Pre-Commissioning**” shall mean the set of activities carried through on all instruments, Equipment, systems and subsystems, including calibration, flushing, cleaning, pickling, N2 leakage test, megger test, continuity test, cold test and pre-alignment of rotary equipment, required to achieve the applicable Mechanical Completion.

“**Pre-Operation Stage**” shall mean the phase during which the Operation Contract contractor monitors the activities of the Agreement and the transfer of operational systems. This stage includes the preservation or hibernation of the operational systems of the Unit, ensuring the habitability of the unit, and maintaining and operating the unit’s systems until Ready for First Oil is achieved. The detailed requirements for the Pre-Operation Stage are contained in the Operation Contract.

“**Price Schedule**” shall mean the table set out in Exhibit XXI which represents the portions of the Agreement total price.

“**Processor**” shall have the meaning specified in Section 31.8.1.

“**Project Schedule**” shall have the meaning specified in Section 11.3.1.1.

“**Proposal Submission Date**” shall have the meaning specified in Request for Proposal (RFP), included under Exhibit XXV.

“**Qualified Issuer**” shall mean a commercial bank, insurance company or other financial institution reasonably acceptable to Buyer capable of accepting a drawing certificate under the Performance Security and issuing funds on such drawing certificate, with a long-term rating of at least “Investment Grade”.

“**Quality Assurance Plan**” shall have the meaning specified in Section 3.15.

“**Quality Assurance System**” shall mean the quality assurance system developed by Seller in accordance with Exhibit VII.

“**Ready for First Oil**” shall have the meaning specified in “Ready for Oil Production” milestone in Exhibit XI.

“**Ready for Gas Exportation**” shall have the meaning of **(i)** commissioning and system transfer certificate issued for all systems and SSOPs necessary for the Gas Exportation, **(ii)** Substantial Completion and Handover shall have occurred and **(iii)** if the Buyer infrastructure for Gas Exportation is ready for operation, 72 hours of continuous Gas exportation in accordance with the specifications set out in Exhibit II.

“**Ready for Gas Reinjection**” shall have the meaning specified in “Ready for Flare-out” milestone in Exhibit XI.

“**Ready for Gas Treatment (CO2) and Gas Lift**” shall mean when Seller, duly based on the Agreement and Exhibits requirements, confirms that all requirements to be performed by Seller for starting gas lift have been satisfied, including the successful carrying out of Performance Tests on the subsystems and systems related to the gas lift such as CO2 removal and CO2 compression.

“**Ready for Produced Water Treatment**” shall mean when Seller, duly based on the Agreement and Exhibits requirements, confirms that all requirements to be performed by Seller for starting the treatment and discard of produced water have been satisfied, including the achievement of Performance Tests for the related subsystems.

“**Ready for First Water Injection**” shall mean when Seller, duly based on the Agreement and Exhibits requirements, believes that all requirements to be performed by Seller for starting the injection of water have been satisfied, including the achievement of Performance Tests for the subsystems related to the systems water treatment and water injection

“**Record As-Built Drawings**” shall mean final record Drawings (but not field mark-ups) of the Unit showing current and accurate “as-built” conditions, as further described in Exhibit III.

“**Recovery Schedule**” shall have the meaning specified in Section 11.5.

“**Release**” shall mean any release, spill, emission, leaking, pumping, injection, pouring, emptying, deposit, disposal, discharge, dispersal, dumping, escaping, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

“**Release of Claims and Lien Waiver**” shall mean the Release of Claims and Lien Waiver in the form attached as Exhibit XXVI.

“**Request**” shall have the meaning specified in Section 24.3.4.

“**Request for Proposal**” shall mean that certain Request for Proposal **No. 7004433974** issued by Buyer with regard to this Agreement.

“**RO**” or “**Occurrence Report**” shall have the meaning specified in Section 3.3.7.

“**Safety and Health Directives**” shall mean the safety and health directives specified in Exhibit IX.

“**Sail Away**” shall mean the event, after Substantial Completion is achieved, when the Unit leaves the Integration Yard, to be delivered to Buyer in accordance with Section 3.2.3.1.

“**Schedule A Lump Sum Price**” shall mean the Lump Sum Price of the Agreement set out in Price Schedule pursuant to Exhibit XXI and payable in accordance with the definitions in Exhibit XI.

“**Schedule B Additional Items**” - shall mean the total price for additional items (Operational Spare Parts, Capital Spares and Special Tools Stored On Shore) as set out in Exhibit XXI (Schedule B) and payable in accordance with the definitions in Exhibit XI.

“**Schedule C Mooring Components**” - shall mean the total price for Mooring Components as set out in Exhibit XXI (Schedule C) and payable in accordance with the definitions in Exhibit XI.

“**Scheduled Final Completion Date**” shall have the meaning specified in Section 11.3.1.3.

“**Scope of Supply**” shall mean the description of the scope to be performed by Seller for the supply to Buyer of a fully functional and operable Unit, as set forth herein and as specified in Exhibit I, which may be modified only in accordance with this Agreement.

“**Seller**” shall have the meaning specified in the preamble hereto.

“**Seller Group**” shall mean Seller, its Affiliates, successors, permitted assigns, officers, directors, employees and agents (including Subcontractors).

“**Seller HSE Management Plan**” shall have the meaning specified in Exhibit IX.

“**Seller Improvements**” means any Improvements to Seller Intellectual Property made in accordance with this Agreement.

“**Seller Intellectual Property**” shall mean Intellectual Property of Seller Group existing on or before the Effective Date, developed independently by Seller Group outside of this Agreement, and Seller Improvements.

“**Seller Project Manager**” shall mean that Person designated by Seller in a written notice to Buyer who shall have complete authority to act on behalf of Seller on all matters pertaining to this Agreement, including giving instructions and making changes to the Scope of Supply that have been approved by Buyer.

“**Seller’s Proposal**” shall mean the technical and commercial proposals submitted to Buyer in response to the Request for Proposal issued by Buyer.

“**Senior Personnel**” means with respect to a Party, any individual who functions as such Party’s designated manager or supervisor of an onshore or offshore installation or facility used for operations and activities of such Party, and any individual who functions for such Party or one of its Affiliates at a management level equivalent to or superior, or any officer or director of such Party or one of its Affiliates.

“**SISBACEN**” shall mean the “Sistema de Informações do Banco Central do Brasil,” the Brazilian Central Bank database system.

“**SISCOMEX**” shall mean the Brazilian electronic foreign trade information system (Sistema Integrado de Comércio Exterior), jointly operated by the Brazilian Central Bank, the Brazilian Federal Tax Revenue Agency and the Brazilian Foreign Trade Agency.

“**Site**” shall mean any parcel(s) of land on which any portion of the Scope of Supply are or will be performed by Seller or its Subcontractors, including the Integration Yard and the Modules Yard.

“**Special Tools Essential for the Safe Operation of the Unit**” shall mean the special tools that the Seller, Buyer and Contract Operation Team agree shall be carried on board to the final location and kept on board during the operation phase of the Unit.

“**Special Tools Stored On Shore**” shall mean the special tools that Seller, Buyer and Contract Operation Team agree that must be kept on shore during the operation phase, therefore, these cannot be transported on board the Unit until the final location.

“**Specifications**” shall mean those documents consisting of the written requirements for the Unit, Equipment, standards of workmanship for the Scope of Supply execution and its performance, which are prepared as a part of and throughout the performance of this Agreement.

“**Subcontract**” shall mean any agreement between Seller and a Subcontractor, or between a Subcontractor and any other contractors or suppliers, for the performance of any portion of the Scope of Supply, including any Major Subcontract.

“**Subcontractor**” shall mean any Person with whom Seller or Subcontractor has entered into any Subcontract with, including any purchase order or other agreement for such Person to perform any part of the Scope of Supply, or to provide any materials, Equipment or supplies, including any Major Subcontractor and any other Person at any tier with whom any Subcontractor has further subcontracted any part of the Scope of Supply.

“**Substantial Completion**” shall have the meaning specified in Exhibit VIII.

“**Substantial Completion Certificate**” shall have the meaning specified in Exhibit VIII.

“**Substantial Completion Date**” shall mean each date on which Substantial Completion of the Unit occurs.

“**Substantial Completion Punch-list**” shall have the meaning specified in Exhibit VIII.

“**System Transfer Certificate**” shall have the meaning specified in Exhibit VIII.

“**Taxes**” shall mean any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes, gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium, franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

“**Technical Dispute**” shall have the meaning specified in Section 24.2.1.

“**Technical Support**” shall mean Seller’s Vendor technical support needed to ensure proper integration into the detail engineering design, including equipment information for transportation, receiving, preservation, assembly, commissioning and startup essential to the Final Completion of the Unit.

“**Tribunal**” shall have the meaning specified in Section 24.3.5.

“**Total Loss**” sham mean:

**(i)** actual or constructive or compromised or agreed or arranged total loss of the Unit as determined by applicable insurers of the Unit; or

**(ii)** any hijacking, theft, confiscation, forfeiture, seizure, condemnation, capture, requisition, restraint or disappearance of the Unit deemed constructive, compromised, agreed or arranged total loss unless the Unit is released, and returned to ownership of the Buyer Group before it is deemed constructive, compromised, agreed or arranged total loss by the applicable insurers of the Unit; or

**(iii)** in the event that the insurers do not admit a claim for an actual or constructive or compromised or agreed or arranged total loss in terms of either **(i)** or **(ii)** above, a total loss subsequently adjudged by a final order or final award given by a competent court of law or arbitration tribunal.

“**Unit**” shall have the meaning specified in the preamble hereto.

“**Unrealized Brazilian Local Content**” shall have the meaning specified in Section 4.3.2.

“**US Dollar**” or “**$**” shall mean the lawful currency of the United States of America.

 “**Value of the Unrealized Brazilian Local Content**” shall mean the value of the Brazilian Local Content which would be required for the Seller to comply with the minimum required Brazilian Local Content (the “Brazilian Local Content Index”) identified in Section 4.1.2.

“**Vendor**” shall mean any supplier with whom Seller, or any of its Subcontractors, has entered into an agreement or purchase order to supply Equipment and/or material that are required for construction of, or incorporation into, the Unit for the full and timely execution of the Scope of Supply.

“**Vendor List**” shall mean the list of vendors approved by Buyer (Vendor List), as identified in Exhibit II.

“**Warranty Period**” shall have the meaning specified in Section 17.3.1.

“**Warranty Start Date**” shall have the meaning specified in Section 17.3.1.

“**Willful Misconduct**” is an intentional wrongdoing as defined under applicable New York law.

* 1. **Section and Exhibit References.** Any reference to a particular Article, Section, subsection, paragraph, subparagraph, Exhibit, or schedule, if any, shall be a reference to such Article, Section, subsection, paragraph, subparagraph, Exhibit, or schedule in and to this Agreement.
	2. **Interpretation**
		1. Except where the context suggests otherwise, terms in the singular shall include the plural and vice versa.
		2. Any reference to any agreement, document or drawing defined or referred to in this Agreement shall include each amendment, modification and supplement thereto and waiver thereof as may become effective from time to time in accordance with the terms thereof, except where otherwise indicated.
		3. Any term defined by reference to any other agreement or document shall have such meaning whether or not such agreement or document remains in effect.
		4. The words “include” and “including” shall be construed to include the phrase “without limitation”. The terms “hereof” or “thereof”, “herein” or “therein”, “hereunder” or “thereunder”, and comparable terms refer to the entire Agreement with respect to which such terms are used and not to any particular Article, Section or other subdivision thereof.
		5. A reference to any Governmental Authority includes any Governmental Authority succeeding to such agency’s or authority’s functions and capabilities. Any reference to a Person shall include that Person’s successors and permitted assigns or to any Person succeeding to that Person’s functions.
		6. Unless provided as in the discretion of one of the Parties, if any provision of this Agreement contemplates that the Parties shall negotiate or agree to any matter after the date that this Agreement is effective, such provision shall be construed to include an obligation of the Parties to negotiate or reach an agreement in good faith within the spirit and intent of this Agreement.
		7. Except as otherwise expressly indicated herein, any reference in this Agreement to any Applicable Law shall be considered as including a reference to all norms, directives or regulations then in force and enacted in connection therewith and whose validity derives therefrom.
		8. All schedules, Exhibits or attachments to this Agreement shall be read in conjunction with the body of the Agreement, and such schedules, Exhibits or attachments shall be interpreted so as to give effect to the intent of the Parties as evidenced by their terms when taken as a whole, provided, however, that in the event of an express and irreconcilable conflict between the terms of any schedules, Exhibits or attachments and the provisions of the body of this Agreement, the provisions of the body of this Agreement shall control.
		9. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.3 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, the provision that requires the highest standard on the part of Seller shall control. This Agreement is composed of the following documents, which are listed in priority:
			1. Change Orders or written amendments to this Agreement;
			2. This Agreement, as entered into on the Effective Date; and
			3. Exhibits and Schedules to this Agreement.
		10. The terms and provisions of Exhibit I shall prevail upon any other Exhibit and/or attachment of this Agreement.
		11. The terms and provisions of Exhibit II shall prevail over any other Exhibit (except Exhibit I) and/or attachment to this Agreement.
		12. The Circular Letters issued by Buyer during the bidding process, that are summarized in Exhibit XXIX, containing clarifications and answers in relation to the terms of such bidding process, shall have priority over the terms and provisions of the Exhibits.
		13. Notwithstanding the above, the provisions of this Agreement, including all Exhibits, shall, wherever possible, be construed as complementary rather than conflicting.
		14. All headings used herein are for convenience only and shall not be taken into consideration in the interpretation of this Agreement.

**ARTICLE 2**

 **RELATIONSHIPS AND ACKNOWLEDGEMENTS**

* 1. **Status of Seller**. The relationship between Seller and Buyer shall be that of independent Parties. Seller shall have complete charge of the personnel engaged in the performance of the Scope of Supply and have complete control over the details of the execution and manner in which the purpose of this Agreement shall be accomplished, subject to compliance with this Agreement. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, act on behalf of, or to act as or be an agent or representative of, or to otherwise bind or obligate the other Party. Nothing contained herein shall be construed as creating a master-servant relationship or principal-agent relationship between Buyer and Seller or any of its Subcontractors or sub-subcontractors and Buyer. Any provisions of this Agreement which may appear to give Buyer the right to direct or control Seller as to details of activities pertaining to the Scope of Supply, or to exercise any measure of control over the execution of the Scope of Supply, shall be deemed to mean that Seller shall follow the desires of Buyer in the results of these activities only, and not in the means by which the Scope of Supply is to be accomplished. Nevertheless, Seller shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Seller is an independent Party does not relieve it from its responsibility to fully, completely, timely and safely execute the Scope of Supply in strict compliance with this Agreement and be responsible for all Subcontractors’ performance and supply.
	2. **Key Personnel and organizational chart.** Seller’s organizational chart and the list of key personnel (“Key Personnel” and each a “Key Person”) from Seller’s organization who will be assigned a key role in the fulfillment of this Agreement shall be included in the Contract Management Plan to be presented by Seller after Agreement signature, as foreseen in Exhibit VI.
	3. **Seller Project Manager**. The Seller Project Manager is a Key Person and prior consent from the Buyer shall be required for the appointment of the Seller Project Manager. Notification of a change in Seller Project Manager shall be provided in advance, in writing, to Buyer, who shall have the right to reject the proposed replacement Seller Project Manager. Seller shall appoint and have in place at all times as its project manager an individual who is a qualified professional in good standing.
	4. **Subcontractors.** Buyer acknowledges and agrees that Seller intends to have portions of the Scope of Supply accomplished by Subcontractors pursuant to Subcontracts in accordance with Article 19. Notwithstanding any Subcontract, Seller shall remain fully responsible for the completion of the Scope of Supply in accordance with this Agreement as if such Subcontract had not been entered into.

**ARTICLE 3**

 **OBLIGATIONS OF SELLER**

* 1. **Contract Scope – general scope**. The Contract Scope shall be as described in Exhibit I and shall include, without limitation, the Scope of Supply, the supply of the complete Unit, to be fabricated in full accordance with all requirements further detailed in this Agreement, including but not limited to in accordance with the Specifications, supply of Operational Goods, Capital Goods, Special Tools Essential for the Safe Operation of the Unit, Operational Spare Parts, Capital Spares, Special Tools Stored On Shore and Mooring Components and the transportation of the Unit from the Integration Yard to its final location at Sergipe-Alagoas Basin, offshore Brazil (“Contract Scope”).
	2. **Seller’s specific obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Seller shall:
		1. Be responsible for any basic and/or detailed engineering design, pursuant to the GTD, to supply the Unit in accordance with the Specifications provided in this Agreement;
		2. Be responsible for the fabrication, construction, construction management (including furnishing all management, personnel, all Site supervision, Equipment, tools, field supplies, warehousing and facilities necessary for fabrication), all necessary power (electrical or otherwise), and all inspection and quality control and commissioning work required to ensure that the Scope of Supply is executed in accordance herewith;
		3. Take into consideration and comply with all Applicable Law in order to secure the customs clearance of the Unit, which shall be physically delivered to Buyer in accordance with this Section 3.2.3.1;
			1. **Delivery of the Unit / Incoterms**: The condition of sale to apply shall be DAP (Delivery at Place) at Sergipe-Alagoas Basin, in accordance with Incoterms 2020 published by The International Chamber of Commerce (ICC). As per DAP Incoterms, the Seller shall deliver the Unit to the Buyer or their consignee on the arriving means of transportation, including unloading operations at the agreed point at the named place of destination on the agreed date or within the agreed period. It is understood that "unloading operations" refers to the release of the Unit after its waterborne transportation to the agreed point by means of "dry tow vessels", tugboats or similar;
				1. Unless instructed by Buyer, the supply of the Unit must be made in one single delivery, notwithstanding the provisions in Section 25.3.
				2. Subject to Buyer’s right to intervene at any time as necessary to protect its rights and interests, claims arising out of any collision of the Unit with any ship or other vessel shall be resolved directly between Seller and those representing the interests of such ships or other vessel, it being understood that Seller shall timely apprise Buyer of the status of each such claim and of any significant developments in connection therewith.
		4. Negotiate all guarantees, warranties, delivery schedules, insurance requirements and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement;
			1. The inspection and warranty requirements shall follow Article 17, including but not limited to Coating Warranty Requirements.
		5. Ensure that the work of Subcontractors meets all of the requirements of this Agreement;
		6. Contract a Classification Society in order to provide the Unit classification, as indicated in this Agreement, especially in the Exhibits I, II and III;
		7. Ensure that Scope of Supply is performed in accordance with the Critical Path Schedule and the Project Schedule, in a manner such that each Mechanical Completion Date, the Substantial Completion Date, the Guaranteed Handover Date and the Scheduled Final Completion Date will be met;
		8. Conduct and manage all Pre-Commissioning, start-up operations, commissioning and Performance Tests of the Unit, in accordance with Exhibit VIII;
		9. Other than those Permits and Consents listed in Section 5.3, which are a requisite for any tests to be performed at the final location of the Unit at the Sergipe-Alagoas Basin, field offshore Brazil and shall be the responsibility of Buyer, Seller shall timely provide and obtain at its expens:
			1. Any and all Permits and Consents required for the execution of the Scope of Supply or necessary to comply with any of its obligations hereunder;
			2. Any and all Permits and Consents, including, without limitation, completion certificates and operating permits as required by Applicable Law to conduct the Performance Tests, Demonstration Tests, or any other necessary test;
			3. Assistance, information, and documentation required or requested by Buyer in order to make it possible for the latter to obtain the permits listed in Section 5.3.
		10. Not applicable.
		11. Provide training and certification for Buyer’s team and Operation Contract Team operating and maintenance personnel in accordance with Exhibit V - Directives for Acquisitions for the Equipment supplied by Seller;
		12. Replace any Subcontractor(s) that fails(fail) to perform its (their) Subcontract obligations;
		13. Handle all customs issues and be responsible for all duties related to imported Equipment;
		14. At the request of Buyer, cooperate with, provide the information and documentation requested by, and respond to inquiries from any Lender relating to activities being undertaken under this Agreement;
		15. Be fully responsible for ensuring that the requirements in respect of Brazilian Local Content are met in accordance with the terms of this Agreement;
		16. Be responsible for and pay any and all Taxes related to the Scope of Supply;
		17. Engage a Certification Agency to certify that the requirements of Seller in respect of Brazilian Local Content have been met in accordance with the specifications set forth in Article 4.
		18. In addition, with regard to the Scope of Supply, Seller **(i)** warrants that Seller and its Affiliates and their respective directors, officers, employees, representatives and personnel have complied with, and **(ii)** covenants that Seller and its Affiliates and their respective directors, officers, employees, representatives and personnel will comply with the Anti-Corruption Laws.
		19. Seller shall, as soon as possible, notify Buyer of any investigation or proceeding initiated by a Governmental Authority relating to an alleged violation of the Anti-Corruption Laws and obligations by Seller, or its Affiliates, or any of their directors, officers, employees, representatives, personnel, or any service providers of such Seller or its Affiliates, concerning the Scope of Supply. Seller shall use reasonable efforts to keep Buyer informed as to the progress and disposition of such investigation or proceeding, except that Seller shall not be obligated to disclose to Buyer any information that would be considered legally privileged.
		20. Seller represents, warrants and covenants that Seller, its Affiliates, their directors, officers, employees, representatives, personnel, or any service providers of such Seller or its Affiliates have been informed of their obligations in relation to the Anti-Corruption Laws and have adequate policies and procedures in place in relation to the Anti-Corruption Laws.
		21. Seller shall defend, indemnify and hold Buyer harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from or related to, any breach by Seller of the warranties and covenants set out in Articles 3, 27 and 29 and the Anti-Corruption Laws. Such indemnity obligation shall survive termination or expiration of this Agreement. Seller shall as soon as reasonably practicable, **(i)** respond in reasonable detail to any notice from Buyer reasonably connected with the above-stated warranties, covenants and Anti-Corruption Laws; and **(ii)** furnish applicable documentary support for such response upon request from Buyer. Such indemnity obligations shall survive termination or expiration of this Agreement.
		22. Seller shall promptly respond in reasonable detail to any reasonable request from Buyer concerning a notice sent by Buyer pursuant to Sections 3.2.19 or 28.4, and shall furnish applicable documentary support for Seller’s response, including showing Seller’s compliance with the undertakings set out in Article 27 and Article 28, except that Seller shall not be obligated to disclose to Buyer any information that would be considered legally privileged.
		23. In addition Seller shall, on the written request of Buyer, furnish Buyer with a written certification signed by an authorized representative to the effect that Seller has complied with Article 27 and Article 28, subject to any Seller response to any notice sent by Seller under Section 3.2.19 or 28.4.
		24. Seller shall deliver to Buyer, together with Unit, a complete inventory regarding Equipment, instruments, parts, Capital Goods, Special Tools Essential for the Safe Operation of the Unit and Operational Goods, supplied by Seller. The Inventory list shall be prepared and provided in an Excel or Access file, according to a template to be supplied by Buyer, and shall contain as a minimum the following detailed information related to each item of Equipment, material, instrument, part, Capital Good, Special Tools Essential for the Safe Operation of the Unit or Operational Good:
1. System and subsystem;
2. Description of Equipment, material, instrument or part;
3. Model;
4. Vendor;
5. Part Number;
6. Serial Number;
7. Quantity;
8. Unit;
9. NCM (Mercosur Common Nomenclature);
10. Location on board (Tag Number).
	1. **Seller’s further obligations.** Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, as part of the Scope of Supply. Seller shall further:
		1. Perform the Pre-commissioning and commissioning of the Unit, as well as render assistance to Operation Contract Team during the commissioning period, as specified in Exhibit I and Exhibit VIII;
		2. Supply to Buyer all documents and information necessary for the inspection of the Unit (including the exercise by Buyer of its inspection rights as contemplated in Section 17.2), grant full and unrestricted access to all the places where any portion of the Scope of Supply is being executed, and promptly comply with Buyer’s requests and contractual requirements regarding the Scope of Supply;
		3. Remake or repair, at its own expense and within a schedule mutually agreed between Buyer and Seller, any irregularities or Defects that may have been rejected by Buyer or that have been carried out without due regard to the terms of this Agreement;
		4. Submit the name of the Seller Project Manager, together with the relevant curriculum vitae to Buyer for prior approval. Any substitution, or provisional or permanent replacement, of the Seller Project Manager shall be submitted to Buyer for Buyer’s prior approval;
		5. Correct any errors, discrepancies or omissions in any documents prepared by Seller or Subcontractors in accordance with this Agreement;
		6. Inform Buyer, in writing, of any errors, omissions or discrepancies found in the norms, instructions, guidelines, Drawings and Specifications supplied to it by Buyer throughout the execution of the Scope of Supply, it being understood that, in so doing, Seller shall not have the right to request the revision of any of the terms or conditions of this Agreement, unless Seller demonstrates to Buyer that the information provided by Buyer was insufficient to detect errors, omissions and discrepancies, according Exhibit XIV.
		7. Prepare and maintain, at each Site, an Occurrence Report (RO), as described in Exhibit XVI, prepared in accordance with the format provided by Buyer, containing records on the activities executed, remarks on irregularities found and other events concerning the performance of this Agreement. Buyer shall inform Seller, before the beginning of the performance of this Agreement the periodicity of the Occurrence Report. The periodicity and format of the RO may be changed along the execution phase of the Scope of Supply per Buyer request. The RO shall be issued and delivered to Buyer in two counterparts (the first one to Buyer and the second to Seller), duly executed by the Seller Project Manager and by Buyer.
		8. Defend, indemnify and hold each member of the Buyer Group free and harmless from and against any and all claims, losses and/or liabilities (including the cost and expenses related to any administrative, judicial, and arbitration procedures before any court or tribunal and related attorneys’ fees) suffered or incurred by any member of the Buyer Group or by any third party and arising out of or resulting from the failure by any member of the Seller Group to observe any Applicable Law or the provisions of this Agreement, subject only to the limitations of liability set forth in Article 22 (as well as the exclusions therefrom);
		9. Maintain in full force and effect all Permits and Consents required to be obtained by Seller under this Agreement. Notwithstanding the generality of the foregoing, Seller shall, in a manner that complies with the Project Schedule, obtain and maintain all Permits and Consents required for the performance of the Scope of Supply;
		10. Implement and maintain, at its own expense, during the term of this Agreement, a Quality Assurance System and the commissioning systems in accordance with Exhibit VII and Exhibit VIII, respectively.
			1. Carry out all additional experiments and tests that Buyer may deem necessary to evidence compliance with the quality levels required for the fulfillment of the Agreement, in accordance with the Quality Assurance System. If such additional experiments and tests do not demonstrate non-compliance with the quality levels required in this Agreement, in accordance with the Quality Assurance System, then Buyer shall reimburse Seller for the costs of such experiment or test and shall allow an extension of time to Seller, compatible with the actual impact on the Project Schedule, to compensate for the time that was spent in carrying out these additional experiments and tests. In such a case, the Seller may invoke Clause 3 of Exhibit XIV to seek compensation for any resulting costs and impacts on the schedule;
		11. Subject to the provisions of Article 7, pay and bear all Taxes and expenses, including import duties, payable as a consequence of the Scope of Supply execution, in accordance with the terms of this Agreement to all local, state or federal Governmental Authorities, as the case may be, both in Brazil and abroad;
		12. Provide the insurance coverage set forth in Article 14, and bear all expenses related to any insurance contracted in accordance with Article 14.
	2. **Capital Goods, commissioning goods, Special Tools Essential for the Safe Operation of the Unit and Operational Goods.**
		1. Prior to Mechanical Completion of each system or subsystem of the Unit, Seller shall deliver to the Site all Pre-Commissioning, commissioning, testing and start-up spare parts necessary to commission, test and start-up the Unit. The costs related to such Capital Goods, Pre-Commissioning, commissioning, testing and start-up spare parts, Special Tools Essential for the Safe Operation of the Unit and Operational Goods are included in the Lump Sum Price, including the procurement and delivery of such spare parts and the actual purchase price of such spare parts.
		2. Seller shall provide and Buyer shall approve, the Operational Goods list as set forth in Exhibit I.
		3. Seller shall deliver the Capital Goods, Special Tools Essential for the Safe Operation of the Unit and Operational Goods, according to the definition in Section 1.3, at the Integration Yard before the Unit Sail Away Date. The Capital Goods, Special Tools Essential for the Safe Operation of the Unit and Operational Goods must be delivered to Buyer together with the Unit. The Goods, Special Tools Essential for the Safe Operation of the Unit and Operational Goods must be delivered to Buyer on board the Unit.
		4. Not applicable.
	3. **Standard of Supply**. Seller shall provide the Scope of Supply in a good and workmanlike manner, in accordance with the terms and conditions of this Agreement, and shall cause all Subcontractors of any tier to perform all elements of the part of the scope to be supplied by them in compliance with Good Engineering and Construction Practices, Applicable Law and all other applicable provisions of this Agreement.
	4. **Seller’s Equipment**. Seller shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe execution of the Scope of Supply in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Seller shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Seller or its Subcontractors for use in the Scope of Supply execution. Seller shall ensure that all Equipment for the Unit, including Equipment supplied by Buyer, is stored, protected and preserved in accordance with the manufacturer’s written instructions and so as to maintain in full force and effect all warranties related thereto.
	5. **Employment of Personnel.** Seller shall not employ, in connection with its performance under this Agreement, any unfit person or anyone not skilled in the work assigned to such person. If in the Buyer’s reasonable discretion that any employee and/or third party contractor personnel engaged by the Seller and/or the Subcontractor does not meet the foregoing requirements, the Seller agrees to promptly remove (or to require any Subcontractor to remove) the aforementioned employee and/or third party contractor personnel from the Site in connection with the Scope of Supply, without any cost and liability to Buyer. Buyer shall have no liability and Seller agrees to defend, indemnify and hold each member of the Buyer Group free and harmless from and against any claims, losses and/or liabilities (including the cost and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction that may be filed against a member of the Buyer Group and related attorneys’ fees) suffered or incurred by any member of the Buyer Group resulting from Seller’s or any Subcontractor’s termination of any employee and/or third party contractor personnel under this Section.
		1. Seller shall, with respect to its employees and its Subcontractors:
			1. Be solely responsible for the supervision, technical and administrative guidance and labor required for the execution of the Scope of Supply;
			2. Refrain from using, in all activities related to the performance of this Agreement, forced labor or the work of minors and cause the above-mentioned requirement to be included in each Subcontract;
			3. Whenever required by Buyer, issue a written statement representing that it has complied or is complying with the requirement contained in Section 3.7.1.2;
			4. Submit for approval by Buyer the documents indicated in Exhibit VI, on the dates therein established.
			5. Present, whenever requested by Buyer, the documentation related to the proof of payment of its tax, social security, labor and *Fundo de Garantia do Tempo de Serviço* (“FGTS”) deposits, regarding activities taking place in Brazilian territory.
			6. Inspect the compliance by Subcontractors executing any part of the Scope of Supply in Brazilian territory, with their obligations under labor laws, social security contributions and FGTS deposits in accordance with Brazilian Applicable Law. Seller shall, whenever requested by Buyer, present documentation that proves the compliance with such obligations by its Subcontractors, regarding the execution of any part of the Scope of Supply.
		2. Seller shall cause its employees and its Subcontractors’ employees, as well as their respective contractors, to use identification badges furnished by Buyer when working at any Buyer facility, which badges must be returned to Buyer after termination of this Agreement or upon termination of the employee or Subcontractor from the activities related to this Agreement.
		3. Seller shall arrange for the Technical Term of Responsibility (Anotação de Responsabilidade Técnica – “ART”) concerning this Agreement to be obtained at the appropriate Regional Council of Engineering, Architecture and Agronomy (Conselho Regional de Engenharia, Arquitetura e Agronomia – CREA), forwarding a copy thereof to Buyer before the commencement of the Scope of Supply execution, and will further demonstrate its compliance with any other ART requirements to Buyer whenever any amendments are proposed to be made to this Agreement or in any of the cases provided for in the resolutions of the Federal Council of Engineering, Architecture and Agronomy (Conselho Federal de Engenharia Arquitetura e Agronomia – CONFEA).
		4. Seller shall deliver to Buyer, concerning all activities carried out in Brazil, **(i)** a letter from the National Nuclear Energy Commission (Comissão Nacional de Energia Nuclear, “CNEN”), approving the physical control system and the contingency plan adopted by Seller, **(ii)** industrial safety prescriptions adopted by it in accordance with Applicable Law, **(iii)** instructions furnished to its employees, agents, representatives and Subcontractors regarding the risks and precautions to be observed, and **(iv)** affidavits reflecting the verification and assessment of monitoring and measurement equipment, all in accordance with Brazilian Applicable Law (including CNEN norms), and prior to the performance of any portion of the Scope of Supply execution involving the use of any industrial X-ray and/or gamma-ray equipment.
			1. Seller shall designate an X-Ray and/or gamma-ray protection superintendent, who shall be responsible for ensuring, especially in emergency situations, the safety of all persons who, given the place and conditions of the activity performed by them, may be exposed to the radiation emitted in connection therewith.
		5. Seller shall:
			1. Furnish on a monthly basis, or whenever in receipt of a request by Buyer in accordance with the terms and conditions of this Agreement (Exhibit VI), written reports on the progress of the various stages of the Scope of Supply, on any elements still required to ensure the fitness and adequacy thereof, and for the preparation of statistical information, in accordance with Buyer’s requirements.
			2. Not applicable.
			3. Correct, immediately and at its own expense, any and all portions of the Scope of Supply (including in the Agreement amendments), Equipment or engineering documents that are Defective or otherwise not in accordance with this Agreement, and/or remake the parts of the Scope of Supply that have been rejected by Buyer as Defective (or are otherwise not in accordance with the provisions of this Agreement), undertaking to carry out all necessary welding repairs, as well as all relevant X-ray and/or gamma-ray inspections, and any required non-destructive testing.
	6. **Operational Personnel**. Seller shall provide Buyer and Operation Contract contractor with orientation and training concerning the operation and maintenance of the Unit that may be necessary for Operation Contract contractor designated personnel or representatives to operate and maintain the Unit in accordance with Good Engineering and Construction Practices, Applicable Law and all other applicable provisions of this Agreement. The training shall be in accordance with a training plan submitted to Buyer and Operation Contract contractor for approval not less than three (3) months prior to Handover Date. Seller shall provide such training to all qualified individuals identified in the list provided by Buyer and Operation Contract contractor, as further specified in Exhibit VIII. Notwithstanding the foregoing, neither the removal nor the replacement of the individuals designated by Buyer and Operation Contract contractor for training shall result in additional training obligations on the part of Seller with respect to the individuals substituted for those removed or replaced.
	7. **Emergencies.** In the event of any emergency endangering life or property during the execution of the Scope of Supply, Seller shall take such immediate action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Seller’s response thereto, to Buyer. If Seller has not taken reasonable precautions for the safety of the public or the protection of the Scope of Supply, and such failure creates an emergency requiring immediate action, then Buyer, with or without notice to Seller may, but shall be under no obligation to, provide reasonable protection as required to control such emergency. The taking of any such action by Buyer, or Buyer’s failure to take any action, shall not limit Seller's liability. Seller shall reimburse Buyer for the performance of any such actions or the furnishing of any such Equipment in connection with any emergency in an amount equal to the reasonable costs incurred by Buyer in such actions or furnishing of Equipment. The taking by Seller or Buyer of any actions in accordance with this Section 3.9 to prevent, avoid or mitigate injury, damage, or loss as a result of an emergency shall in no way alter or excuse any of Seller’s obligations under this Agreement.
	8. **Seller assistance with Buyer Permits and Consents**. Seller shall provide information, assistance and documentation to Buyer as reasonably requested in connection with the Permits and Consents to be obtained by Buyer as listed at Section 5.3.
	9. **Books, Records and Audits**
		1. Seller shall keep such full and detailed books, construction and manufacturing logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement, and in any way relating to this Agreement (the “Books and Records”). Seller shall keep all such Books and Records in accordance with applicable generally accepted accounting principles, or otherwise in the ordinary course of business, and shall retain all such Books and Records for a minimum period of **five (5) years** following the Effective Date or such greater period of time as may be required under Applicable Law.
		2. Upon request by Buyer, Seller shall provide Buyer or its agents or representatives with any appropriate information, documents or reports that may be necessary to determine Seller’s compliance with Brazilian Local Content requirements hereunder.
		3. Upon reasonable notice, Buyer shall have the right to examine or audit (or to have examined or audited) the Books and Records of Seller which in any way relate to this Agreement. When requested by Buyer, Seller shall grant to the examiners and auditors (including Buyer’s personnel) full access to all personnel, property, and records and Seller's personnel shall cooperate with the auditors to effect the audit or audits hereunder. The examiners and auditors shall have the right to copy any and all documentation relating to performance under this Agreement. Seller shall pay for all costs incurred by it in assisting Buyer with examinations and audits performed pursuant to this Section. Seller shall ensure that similar audit provisions are included in all Subcontracts. Notwithstanding the foregoing, Buyer’s audit rights shall not extend to the composition of lump sum prices, agreed rates, markups, or proprietary information, except where such information is necessary to verify compliance with performance obligations or the case of suspected fraud or material breach.
	10. **Tax accounting**. Within a reasonable period of time following Buyer’s request, Seller shall provide Buyer with any information regarding quantities, descriptions and costs of any Equipment installed in or incorporated into the Unit, as Buyer may deem reasonably necessary in connection with its tax management or the preparation of its tax returns. Seller agrees to indemnify Buyer for any loss of tax benefits (including any additional Taxes, interest, penalties and late fees) that are imposed or arise as a result of the failure of Seller to provide Buyer with the information described in this Section 3.12, provided that the Buyer’s request is made with reasonable advance notice.
	11. **Temporary facilities.** Seller shall provide Buyer, in accordance with Exhibit X, with sufficient office space and other temporary facilities at the time of Site mobilization to accommodate Buyer’s Site representative(s) and support staff. Seller shall provide for Buyer and its representatives any other temporary facilities required for the inspection of the Scope of Supply execution, whenever reasonably requested by Buyer, at no cost to Buyer.
	12. **No liens**.
		1. Seller agrees to notify Buyer immediately of the filing of any Liens, or possible filing of Liens, upon the Unit, any Site, any Equipment (other than Equipment owned or leased by or procured for Seller and used in the execution of the Scope of Supply), or any moneys due to Seller by Buyer under this Agreement. If any such Liens are filed, Seller shall arrange for the removal of such Lien not later than **sixty (60)** **days** after such filing. If Seller fails or refuses to remove such Lien within **sixty (60) days**, then Buyer shall have the right (but not the obligation) to pay any sums necessary to obtain prompt release of such Lien. In such event, Seller shall reimburse Buyer for any sums so paid within **thirty (30) days** of a demand therefore, or Buyer shall have the right to set off such amounts against payments owed to Seller by Buyer hereunder in accordance with Section 10.10.
	13. **Quality assurance**. No later than the date indicated in Exhibit VII, Seller shall submit to Buyer for its approval (as specified in Exhibit VII): **(i)** a quality assurance plan (the “Quality Assurance System”) and **(ii)** a detailed inspection plan, and Seller shall provide for the Site, Subcontractors and Vendors a quality assurance manager to supervise the implementation of the Quality Assurance System, the inspection plan, and the inspection procedures at the Site, Subcontractors and Vendors premises.
	14. **Commissioning.** No later than the date indicated in Exhibit VIII, Seller shall submit to Buyer for its approval the Commissioning Management Plan and Commissioning Procedure. The Commissioning Management Plan shall nominate a commissioning manager to supervise and implement the Commissioning Management Plan, which shall include the inspection plan and the inspection procedures. No approval by Buyer, shall in any manner release Seller from its obligations under this Agreement or lessen its liability hereunder. Seller shall, in all cases, remain responsible for quality and completeness of the Scope of Supply and its performance pursuant to this Agreement.
	15. **Plans & reports**. Seller shall provide to Buyer all plans and documents specified in Exhibit VI on the dates therein indicated, together with progress reports and such other information as may be reasonably requested by Buyer, including the following:
		1. Minutes for all status meetings and other project meetings within **five (5) Business Days** following any such meeting.
		2. Safety incident reports according to Exhibit IX.
		3. Monthly progress reports (“Monthly Progress Reports”), in form and substance acceptable to Buyer, in accordance with Exhibit VI.
			1. Seller shall provide the Monthly Progress Report on or before the **fifth (5th) Business Day** of each month. Each Monthly Progress Report shall cover activities up to the end of the previous month. Seller shall provide copies of the Monthly Progress Report to any other persons as Buyer may reasonably request.
		4. Seller shall provide reports on Force Majeure duly notified as specified in Article 23 and Section 26.5 hereof, in a form reasonably acceptable to Buyer, detailing the status and developments of any significant problem, strike, injury, work stoppage, legal problem which occurs or may be anticipated, and any emergency or other unanticipated event which might adversely affect Seller's ability to perform its obligations hereunder. The report shall detail all available information and steps being taken to correct or address such Force Majeure, significant problem, strike, injury, work stoppage, legal problem, emergency or other unanticipated event, and in each case shall be submitted by Seller as soon as practicable. Buyer may at any time request a report on any event that Buyer reasonably regards as significant. Notwithstanding delivery of such reports, all events of Force Majeure claimed by Seller shall be handled in accordance with Article 23.
		5. Seller shall provide written reports on damage if any Equipment and/or any portion of the Unit is materially damaged or is destroyed, as soon as practicable after the occurrence of such damage or destruction, detailing such occurrence, any required repairs or replacement and the estimated duration of such repairs or replacement, including any estimate impact on the Project Schedule and/or on the Critical Path Schedule. Without limiting the foregoing, such damage report shall be in a form acceptable to any insurance company against which a claim is made for coverage of such damage.
		6. Not Applicable.
		7. Seller shall provide written notice to Buyer of any unanticipated significant changes or developments in the Scope of Supply execution. Seller shall make available, and upon Buyer’s request shall furnish, to Buyer such documents as may be necessary at Buyer’s sole discretion for Buyer to inspect, evaluate or review the performance of the Scope of Supply execution.
		8. Seller shall provide copies of technical correspondence between Seller and its Subcontractors of any tier, or their respective suppliers, upon request of Buyer, including all notes, designs, Drawings, specifications and other technical data pertaining to the technical aspects of the Contract Scope, provided that receipt by Buyer of such technical correspondence shall not be deemed a consent thereto or approval by Buyer of such technical correspondence and shall not limit any of the obligations of Seller under this Agreement or any of the rights of Buyer to enforce the provisions of this Agreement.
		9. Seller shall provide reports in form and substance reasonably satisfactory to Buyer discussing compliance by Seller and its Subcontractors with health, safety and environmental standards and procedures (including the Safety and Health Directives) required pursuant to this Agreement and by Applicable Law.
	16. **Payment.** Seller shall timely make all payments required to be paid to Buyer in accordance with the terms of this Agreement.
	17. **Progress meetings.** During the execution of the Scope of Supply, periodic progress meetings shall be held at a location and time mutually agreeable to the Parties. The frequency, attendance list, objectives and details of such meetings shall be in accordance with the dispositions in Exhibit VI. All matters bearing on the progress and execution of the Scope of Supply and the Project Schedule since the preceding progress meeting shall be discussed and resolved, including any previously unresolved matters, Defects or the methods being employed, and any problems, difficulties, or delays which may be encountered. Seller shall provide Buyer with minutes of all progress meetings within **five (5) Business Days** of the meeting in question. All decisions taken at such progress meetings shall be recorded in the minutes. Buyer shall initial and sign the minutes, noting any disagreements. The minutes shall be considered the definitive record of what occurred and what was decided at the meetings.
	18. **Site security and safety**. Seller recognizes and agrees that safety is of paramount importance in this Agreement and that Seller is responsible for executing the Scope of Supply in a safe manner. Seller agrees to implement the Seller HSE Management Plan that is to be submitted to Buyer for its approval no later than the deadline defined in Exhibit IX. Seller shall execute the Scope of Supply in such a manner as to minimize impact upon human health and safety. No approval by Buyer as provided in this Section 3.20, shall in any manner release Seller from its obligations under this Agreement or lessen its liability hereunder. Seller shall, in all cases, remain responsible for the quality and completeness of the Scope of Supply, and its performance, pursuant to this Agreement.
		1. In carrying out the foregoing, Seller shall comply with Good Engineering and Construction Practices, Applicable Law and the Seller HSE Management Plan (as approved by Buyer, which approval shall not be unreasonably withheld, and incorporating modifications requested by Buyer), as well as Buyer’s standards as specified herein and the Safety and Health Directives specified in Exhibit IX. Seller’s submission of the Seller HSE Management Plan shall not be construed as imposing upon Buyer a responsibility to review (or as limiting in any manner) Seller’s obligation to undertake all reasonable actions toward maintaining safe working conditions at the Site and in the Unit, nor, or for the adequacy of the environmental, health and safety program at the Site and in the Unit. Seller shall assume all costs associated with compliance therewith. Seller further agrees to provide the necessary training to its employees and Subcontractors to ensure their compliance with the foregoing safety and health rules and standards. Should Buyer at any time observe Seller, or any of its Subcontractors, executing the Scope of Supply in an unsafe manner, or in a manner that may, if continued, become unsafe, then Buyer shall notify Seller of the unsafe or potentially unsafe condition. Buyer’s notification shall establish a deadline for Seller to remedy or rectify such condition. If Seller fails to remedy or rectify the unsafe or potentially unsafe condition by such deadline, Buyer shall have the right (but not the obligation) to require Seller to stop the Scope of Supply execution until such time as the manner of performing the Scope of Supply has been brought into conformity with the requirements of this Agreement; provided, however, that at no time shall Seller be entitled to an adjustment of the Contract Price or the Project Schedule or to present Claims pursuant to Exhibit XIV based on such work stoppage. Nothing in this Section 3.20 shall affect Seller’s status as an independent Seller.
		2. In addition, Seller shall comply with the following obligations:
			1. Seller shall be responsible for all security matters at the Sites during all times prior to Final Completion, and shall implement measures reasonably designed to prevent vandalism, sabotage, loss, theft and danger or any other changes to the Sites, any Equipment, the Unit and any personnel.
			2. Seller shall coordinate entrance and exit from the Sites.
			3. Seller shall inspect all injuries to persons and damage to property arising during the execution of the Scope of Supply to determine whether any unsafe conditions that exist at the Site contributed to such injuries or damage and shall be solely responsible for the correction of any such conditions.
			4. Seller shall cooperate with Buyer on all security matters and shall promptly comply with any reasonable security requirements requested by Buyer. Such compliance shall not relieve Seller of its responsibility for maintaining proper security, nor shall it be construed as limiting in any manner Seller’s obligation to comply with Good Engineering and Construction Practices, Applicable Law or all other applicable provisions of this Agreement, and to undertake reasonable action to establish and maintain secure conditions at the Site.
			5. Seller shall not be entitled to any extension of time or compensation on account of Seller's failure to exercise reasonable care to protect the Sites, the Unit and all Equipment as described herein.
			6. Seller shall issue a work accident notice (Comunicação de Acidente de Trabalho, “CAT”), in full compliance with the deadlines, terms and conditions set out in Brazilian Applicable Law, for any and all work injuries related to activities carried out in Brazil and involving any member of Seller Group in connection with its performance under this Agreement.
			7. Seller shall immediately inform Buyer about any and all work injuries involving members of Seller Group in connection with this Agreement. Buyer reserves the right to verify the compliance by Seller with the obligation stated in Section 3.20.2.6 and to require Seller to prove that the CAT has been issued in conformance with the deadline, terms and conditions of Brazilian Applicable Law.
			8. Seller shall take all necessary actions to ensure that no member of Seller Group, by action or omission, conceals, takes part in the concealment of, or consents, allows or conspires in, the concealment of any work injury arising in connection with its performance under this Agreement.
			9. Seller shall facilitate and never prevent any action by Buyer towards ensuring compliance by Seller with the obligations set forth in Sections 3.20.2.6 and 3.20.2.7, and Buyer shall be entitled to require written evidence that Seller, its Subcontractors and assignees have issued the CAT in conformance with the deadline, terms and conditions of Brazilian Applicable Law.
	19. **Access to documents.** Buyer, as represented by the Buyer Project Manager or any other person authorized in writing by Buyer, shall have access, at all reasonable times, to inspect and make copies of all notes, designs, Drawings, specifications and other technical data pertaining to the technical aspects of the Scope of Supply, Equipment specifications, performance data, warranties, shop and field Performance Test and field representative reports; in the understanding, however, that Seller shall not be obligated to provide access to proprietary technical data regarding Equipment manufactured by or for Seller and not provided by Seller to other Persons so long as Seller provides the non-proprietary portion of such technical data and the non-proprietary data provided by Seller shall be of such type and detail as is customarily provided by Vendors and provides Buyer with a reasonable basis for technical review of the design, operation and maintenance of the Unit. Drawings representing the latest modifications to or the current as-built status of the Unit required in accordance with Exhibit III shall be available for Buyer’s inspection at the Site at all times during any Business Day.
	20. **Environmental compliance.** Seller is fully responsible for executing the Scope of Supply in an environmentally sound manner and shall take all actions, whether or not required by Applicable Law, to protect the environment and marine life, and to avoid damage or nuisance to persons, to public property or to property of third parties, whether resulting from Pollution or other causes arising as a consequence of its execution of the Scope of Supply. Seller shall dispose of any waste buildup in the water or wastewater treatment systems at the Site and/or on the Unit, as well as waste from the sanitary sewer or from any other source at the Site and/or on the Unit arising from Seller’s execution of the Scope of Supply. Seller shall dispose of all non-hazardous wastes and Hazardous Materials generated or encountered during the execution of the Scope of Supply only at disposal facilities approved and permitted to receive such wastes and Hazardous Materials.
		1. Seller shall be liable for any environmental damage arising from causes attributable to the Seller in connection with the Pre-Commissioning and commissioning of instruments, Equipment, systems and subsystems, and/or the Performance Tests and Demonstration Tests carried out on the Unit.
			1. **Exemption of responsibility.** Seller shall in no event be liable to Buyer or any third party for:

**(i)** any pre-existing Pollution at the final location of the Unit in the field;

**(ii)** any damage to the environment caused by Buyer Group’s hydrocarbons which is not attributable to Gross Negligence of Seller's Group Senior Personnel and Willful Misconduct from any member of Seller’s Group;

**(iii)** any loss or damage to any wells or to any formation, reservoir or mineral resources within the field or any other field in Brazil;

**(iv)** any blowout or uncontrolled flow of hydrocarbons from any well of Buyer, including costs incurred to establish control over the blowout or the uncontrolled flow and to remove hydrocarbons originating from such blowout or uncontrolled flow;

**(v)** any Pollution emanating from subsurface underwater sources (including the reservoir) due to blow-out, loss of control or seepage of underground fluids;

**(vi)** without limiting the liability of Seller under Section 3.22 and 3.22.1, any Pollution emanating from Buyer’s equipment and facilities (excluding, for the avoidance of doubt, the Unit and any related equipment or facilities that are provided by Seller under this Agreement); and

**(vii)** any Pollution deriving from third party properties surrounding, or in the vicinity of, the work Site.

* + 1. Except as expressly provided herein, in the event of any non-compliance by Seller or any member of the Seller Group with any Environmental Law, or the occurrence of any environmental incident (including any Release) caused by any member of the Seller Group, Seller shall notify Buyer thereof as soon as reasonably possible after having knowledge thereof, and in no event later than one (1) day after such occurrence. Seller shall, at its sole cost and expense, be responsible for all fines and penalties associated with such non-compliance with any Environmental Law or the occurrence of any environmental incident, and shall remediate the Release of any substance or other event in violation of this Section 3.22 as soon as practicable but in no event later than the time periods specified by the applicable Environmental Law and shall repair any damage caused thereby.
		2. Seller shall indemnify and hold Buyer Group harmless against any and all actions, claims, suits, demands, losses, costs and damages, including reasonable and documented attorney fees and court costs, arising out of or in connection with damages to the environment caused by Seller during the performance of the Scope of Supply, including, without limitation, repair, remediation and clean-up costs.
	1. **Displacement.** Seller shall be responsible for the displacement of all Equipment, Subcontractors and personnel used to execute the Scope of Supply according to the INCOTERM in Section 3.2.3.1.
	2. **Export of the Unit.** Seller shall take all necessary steps and shall obtain all necessary Permits and Consents for the timely export of the Unit, including all export customs clearance procedures, such as customs licenses, export taxes, any duties, issuance of commercial invoice and packing list and costs inherent to the export process at origin in accordance with DAP incoterm 2020. Seller, on behalf of itself and its Affiliates, agrees to defend, indemnify and hold each member of the Buyer Group free and harmless from and against any claims, losses and/or liabilities (including the cost and expenses related to any administrative, judicial, and arbitration procedures before any court or tribunal and related attorneys’ fees) suffered or incurred by any member of the Buyer Group resulting from the failure of Seller to obtain any required Permits and Consents, including failure to obtain Permits and Consents from the relevant registries including the Registro de Operações de Crédito and the Registro de Exportação with the Sistema Integrado de Comércio Exterior (“SISCOMEX”).
	3. **Conditions of the Site**. Seller represents and warrants that it knows and has carefully reviewed and taken account of all matters concerning the full and complete execution of the Scope of Supply, and in accordance with the Critical Path Schedule and the Project Schedule. Seller has had the opportunity to investigate and has carefully reviewed and taken account of all matters concerning the Sites, including bathymetry, topography and weather patterns at the Sites and the surrounding areas, the management and storage of materials and Equipment, the availability of labor, construction water, construction electricity, and construction communications, the access routes to the Site (including the suitability of those routes, with such modifications or reinforcements as Seller has identified as necessary for delivery of Equipment) and soil and subsoil conditions and characteristics, and accepts them. Seller’s failure to acquaint itself with such general or local conditions or circumstances affecting the execution of the Scope of Supply existing as of the Effective Date shall neither relieve it from the responsibility for successfully performing this Agreement nor entitle Seller to a Change Order or to a Claim. Seller is responsible for the pertinence, sufficiency and accuracy of all information used in the execution of the Scope of Supply. Seller acknowledges that all appropriate allowances for these conditions have been taken into account in the Contract Price and in determining the Project Schedule. No discrepancy between the actual conditions encountered by Seller and the conditions that Seller anticipated or allowed for shall excuse Seller from any failure to execute the Scope of Supply in accordance with the Project Schedule. In addition, no claim shall be considered for any increase in the Contract Price or for any extension of the Project Schedule, or any other claim, relief or remedy whatsoever (including the presentation of Claims pursuant to Exhibit XIV), based in whole or in part upon any such discrepancy.
	4. **No Hazardous Materials to be brought on Site**. Seller shall not, nor shall permit or allow any Subcontractor to, transport to or maintain or store at the Sites or the Unit any Hazardous Materials, except to the extent necessary for the execution of the Scope of Supply and in accordance with applicable Environmental Law. Seller shall remove, transport and dispose of, in accordance with applicable Environmental Laws, any Hazardous Materials transported onto the Site or the Unit or generated as a direct result of its execution of the Scope of Supply under this Agreement, provided the same is done in compliance with applicable Environmental Law, and Seller shall remain responsible and strictly liable for all such Hazardous Materials. Subject to the other provisions of this Agreement, Seller, on behalf of itself and of the Seller Group, agrees to defend, indemnify and hold each member of the Buyer Group free and harmless from and against any and all claims, losses and/or liabilities (including the cost and expenses, including reasonable attorneys’ fees, related to any administrative, judicial, and arbitral procedures before any court or any administrative or arbitral body) that arise from or out of Seller’s use, handling, or disposal of Hazardous Materials at the Sites and/or the Unit, provided that such claims, losses and/or liabilities do not arise as a result of the gross negligence or willful misconduct of any member of the Buyer Group.
	5. **Clean-up**. Seller shall at all times keep the Sites and the Unit free from waste materials or rubbish caused by its activities. As soon as practicable after the completion of all Substantial Completion Punch-list items, Seller shall remove, at its own cost, all its Equipment and materials not constituting part or otherwise incorporated to the Unit and remove all waste material and rubbish from the Site and the Unit so as to bring the Site into full compliance with Applicable Law and this Agreement. Seller shall be responsible for all costs associated with removal of any waste materials and garbage from the Sites and the Unit, including costs associated with permitting and transportation.
	6. **Non-interference.** From the date of Substantial Completion and until the completion of the Substantial Completion Punch-list, Seller shall ensure that the execution of the Scope of Supply is carried out with minimal interference with the operations of the Unit, and with the objective that the Unit be operated, managed and maintained in an efficient, safe, and ecologically optimal manner. If Seller’s execution of the Scope of Supply interferes with the operation of the Unit, then subject to the limitations set forth Sections 22.8 and 22.9, Seller shall be liable for and shall defend, indemnify and hold each member of the Buyer Group free and harmless from and against any and all claims, losses and/or liabilities (including the cost and expenses (including reasonable attorneys’ fees) related to any administrative, judicial, and arbitral procedures before any court or any administrative or arbitral body) suffered or incurred by any member of the Buyer Group resulting from such interference. At no time may Seller utilize any Buyer systems or assets unless specifically authorized by Buyer in writing.
	7. **Access to Site**. Seller shall make the Site available to Buyer, or to any Person at the request of Buyer, including Buyer’s personnel, its agents, representatives and Subcontractors for the purpose of carrying out Buyer’s obligations under this Agreement or for the purpose of monitoring Seller's activities pertaining this Agreement.
		1. Access to the Unit at the final location. Seller's representatives will have access to the Unit during the offshore phase, subject to the availability of vacancies on board. Seller and Operation Contract are free to jointly define the occupation of the Unit - POB (People on Board), if the accommodations intended for Petrobras representatives are preserved, in accordance with the contractual requirements of the Operation Contract.
	8. Not applicable.
	9. Seller shall execute a warranty certificate to the Buyer certifying that it has complied with all of its warranty requirements under this Agreement. Seller shall fully comply with all inspection and warranty requirements as per Article 17, including but not limited to Coating Warranty Requirements, as per Exhibit IV.
	10. Considering that Buyer may contract financing from export credit agencies and commercial banks, Seller agrees to:
		1. Comply with the formalities required by financial agents (export credit agencies and commercial banks) upon analysis of the conditions to grant funding to Buyer and take steps so that such financial agents may have access to data and information on the Agreement.
		2. Submit to Buyer the list of imported inputs and supply items, or inputs and items whose import is planned ("Import Content List") for the purpose of executing the Scope of Supply, detailing the description and value (or percentage in comparison to the overall value of the Agreement) corresponding to imported goods and services.
			1. The Import Content List shall be submitted as per the template in Exhibit XXVII, including the imported inputs and supply items with the highest monetary values, representing at least 90% (ninety percent) of the value of all imported content (or all content to be imported) throughout the execution of the Scope of Supply, as provided for and executed up to the date of submission.
			2. The first Import Content List shall be delivered within **sixty (60) Days** from the Effective Date. The Import Content List shall be periodically updated every **six (6) months** and at the end date of the contractual term.
			3. The Import Content List shall be delivered even if Seller has no plans to use, or contract for, any imported inputs and supply items.
	11. **Advanced Payment Security.** The Seller shall, until the issuance of the invoice for the first Payment Milestone, obtain and provide to Buyer an unconditional and irrevocable guarantee (the “Advanced Payment Security”).The Seller agrees that the Advanced Payment Security is to guarantee the proper investment and full amortization of the Advance Payment(or if relevant, to guarantee that the Seller returns the amount equivalent to the Advance Payment and any interest that the Buyer may require Seller to pay pursuant to Section 3.33.2 at the time of the return of the Advance Payment).
		1. For purposes of the Advanced Payment Security, Seller shall provide the Buyer with:

**a)** before the issuance of the invoice for the first Payment Milestone and as applicable, either the **(i)** original documents of the Surety Bond certificate(s) or policy(ies) containing the essential data, such as insurers, term, duration, amounts insured, deductibles and coverage conditions; or the **(ii)** original(s) of the Letter(s) of Bank Guarantee; or **(iii)** the Parent Company Guarantee, as applicable; and

**b)** any other supporting and relevant documents for purposes of evidencing the Advanced Payment Security provided to the Buyer, shall be sent before the renewal, endorsement or reinforcement of the guarantees, subject to the applicable penalties.

Notwithstanding any other term in this Agreement, the Seller agrees that the Buyer shall, under no circumstances, be required to provide the Advance Payment to the Seller unless the Advanced Payment Security has been provided and the Advanced Payment Security is in compliance with the requirements under this Section.

* + 1. The Advanced Payment Security shall be equal to 100% (one hundred percent) of the Advance Payment at the Effective Date but Seller may request that the amount of the Advanced Payment Security be reduced to 50% (fifty percent) of the Advance Payment (i.e., 5% (five percent) of the Lump Sum Price) when Buyer has paid at least 50% (fifty percent) of the Lump Sum Price, and may request a further reduction to the Advanced Payment Security to 20% (twenty percent) of the Advance Payment (i.e., 2% (two percent) of the Lump Sum Price) when Buyer has certified that Seller has achieved the on-shore full load test pursuant to the Project Schedule and Exhibit XI. Buyer shall return to Seller the Advanced Payment Security within a period of **15 (fifteen) Days** of the date in which Buyer has recovered the Advance Payment and has accepted the Final Completion Certificate pursuant to Section 16.5 hereof. In the event of an early termination of this Agreement for any reason, the Advance Payment shall be repaid to Buyer within a period not to exceed 15 (fifteen) Business Days after the date on which the Seller is notified of the termination. In the event that the Advance Payment is not amortized for any reason, Seller must repay to Buyer the unamortized portion of the Advance Payment as soon as required, it being understood that in all instances Seller must add to that unamortized portion of the Advance Payment interest at the Secure Overnight Financing Rate (SOFR), published by the Chicago Mercantile Exchange with a **0,42826% spread.** The charges shall be calculated on the unamortized portion of the Advance Payment and shall be computed by calendar days from the expiration of the period for repayment until the date on which the unamortized amounts of the Advance Payment are actually made available to Buyer. Buyer shall have the right to draw on the Advanced Payment Security to collect the full amount of the Advance Payment or interest thereon. If performance of Seller’s obligations hereunder is delayed, Seller shall arrange for the Advanced Payment Security to be extended at its cost for a period equal to the period of delay.
		2. **Parent Company Guarantee.** If Seller provides the Advanced Payment Security in the form of a Parent Company Guarantee, Seller shall provide the Parent Company Guarantee in accordance with the form set out in Exhibit XX of the Request for Proposal. Further, Seller must present, together with this Parent Company Guarantee, **(i)** the financial statements of the Guarantor stating that the Guarantor and Seller belong to the same economic group and that the Guarantor’s and such financial statements must meet the accounting indicators- financial terms stipulated by Buyer; **(ii)** corporate documentations establishing the legal relationship between Seller and Guarantor; and **(iii)** a legal opinion to be issued in terms and conditions accepted by Buyer. The Seller shall ensure that the foregoing legal opinion shall among others confirm that if the Parent Company Guarantee is issued by a foreign controller or a controller that owns foreign assets, the Guarantor shall be jointly and severally liable for the Advance Payment and any other amounts owed by Seller to Buyer under the terms of this Agreement.
			1. Seller agrees that the Guarantor must have a credit rating issued by two agencies (Moody’s, Fitch or S&P), according to the issuer's long-term or senior unsecured issue rating, or equivalent. The credit rating must remain valid throughout the exposure period of the Parent Company Guarantee according to the advance percentages that may be covered by the Parent Company Guarantee. The Seller agrees that the Guarantor’s credit rating shall adhere to the formulations provided in

Table 1

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Moodys** | **Fitch** | **S&P** | **%PL** |  | **Moodys** | **Fitch** | **S&P** | **%PL** |
| Aaa | AAA | AAA | 20,00% |  | Ba1 | BB+ | BB+ | 3,40% |
| Aa1 | AA+ | AA+ | 18,30% |  | Ba2 | BB | BB | 1,50% |
| Aa2 | AA | AA | 16,60% |  | Ba3 | BB- | BB- | 0,80% |
| Aa3 | AA- | AA- | 15,00% |  | B1 | B+ | B+ | 0,00% |
| A1 | A+ | A+ | 13,30% |  | B2 | B | B | 0,00% |
| A2 | A | A | 11,40% |  | B3 | B- | B- | 0,00% |
| A3 | A- | A- | 10,00% |  | Caa1 | CCC+ | CCC | 0,00% |
| Baa1 | BBB+ | BBB+ | 8,40% |  | Caa2 | CCC | CC | 0,00% |
| Baa2 | BBB | BBB | 7,00% |  | Caa3 | CCC- | C | 0,00% |
| Baa3 | BBB- | BBB- | 5,00% |  | Ca | CC | RD | 0,00% |
|  |  |  |  |  | C | C | D | 0,00% |

* + - 1. The Seller agrees that the Guarantor’s total amount of outstanding advances guaranteed by the Parent Company Guarantee in any contract entered into with Buyer cannot be greater than the percentage of the Net Worth (% PL) indicated in Table 1, as related to the shareholders' equity of the Guarantor. For each new advance granted, the indicator must be reassessed by Buyer.
			2. If requested, Seller shall forward to Buyer, within **ten (10) Days**, the latest financial statements of the Guarantor, as well as any other information required by Buyer that will allow Buyer to carry out the analysis of the economic and financial structure of the Guarantor.
			3. Seller agrees that if the Guarantor of the Parent Company Guarantee is no longer classified, on a global scale, in the risk classification levels required by Buyer in Section 3.33.3.1, or if the Guarantor no longer meets the requirements stipulated by Buyer during the term of the Parent Company Guarantee, Seller undertakes to, within a period of **thirty (30) days** from when it discovers (or when it should have reasonably discovered) that the Parent Company Guarantee no longer complies with this Section, replace the Parent Company Guarantee with an equivalent guarantee acceptable and approved by Buyer to meet its obligations to provide Seller with the Advanced Payment Security.
			4. In connection with Section 3.33.3.4, if Seller does not present another type of guarantee accepted by Buyer or if it does not return the Advance Payment amounts within the period and form stipulated by the Buyer, the Buyer shall have a right to call on the original Parent Company Guarantee and claim the amounts owed by Seller to Buyer.
			5. If Seller decides to provide a Parent Company Guarantee for purposes of the Advanced Payment Security, this Parent Company Guarantee shall be presented separately and shall be kept in full force independently of the Parent Company Guarantee presented for the qualification phase of the Bid.
		1. **Letter of Bank Guarantee**. If Seller provides a letter of bank guarantee for purposes of the Advanced Payment Security (“Letter of Bank Guarantee”), the Letter of Bank Guarantee shall be in the form of Addendum N - ADVANCED PAYMENT SECURITY - FORM OF BANK GUARANTEE LETTER of the Request for Proposal.

The Seller agrees that the Letter of Bank Guarantee shall be issued by an issuing bank which bears the risk classification established by an agency internationally qualified and acknowledged in the Scale of Global Ratings for “Investment Grade” or present in the Brazilian National Ratings Scale the rate as “Aaabr“ or equivalent. Further, the foregoing issuing bank shall always be approved by the credit department of Buyer. Notwithstanding the foregoing, Buyer shall be allowed to impose any additional requirements that the issuing bank will need to meet in order for the issuing bank to qualify to issue the Letter of Bank Guarantee.

* + - 1. The Seller shall ensure that the Letter of Bank Guarantee stipulates among others, the address of the issuing bank guarantor and that the Letter of Bank Guarantee will be released or refunded if the conditions as stipulated under Section 3.33.1. have been met.
			2. If there are any amendments to the Agreement which impacts the Letter of Bank Guarantee, the Seller shall amend the Letter of Bank Guarantee accordingly. Seller agrees that if the issuing bank of a Letter of Bank Guarantee is no longer classified, on a global scale, in the risk classification levels required by Buyer in Section 3.33.4.1, Seller undertakes to, within a period of **thirty (30) days** from when it discovers (or when it should have reasonably discovered) that the Letter of Bank Guarantee no longer complies with this Section, replace the Letter of Bank Guarantee with an equivalent guarantee acceptable and approved by Buyer to meet its obligations to provide Seller with the Advanced Payment Security.
			3. In connection with Section 3.33.4.3, if Seller does not present another type of guarantee accepted by Buyer or if it does not return the Advance Payment amounts within the period and form stipulated by the Buyer, the Buyer shall have a right to call on the original Letter of Bank Guarantee and claim the amounts owed by Seller to Buyer.
		1. **Surety bond**. If Seller provides a surety bond for purposes of the Advanced Payment Security (“Surety Bond”), Seller shall ensure that the Surety Bond shall be issued by an institution authorized by SUSEP to operate in the insurance market. Further, the Surety Bond shall be issued by an institution that **(i)** is not under any tax management, intervention, extrajudicial winding up or special inspection regime, **(ii)** is not at the date of issuance of the Surety Bond under a suspension penalty imposed by SUSEP, and **(iii)** observes the guidelines provided in the Circular SUSEP 662/2022.
	1. Not applicable
	2. Not applicable
	3. Seller shall deliver the Operational Spare Parts, Capital Spares, Special Tools Stored On Shore and Mooring Components according to the definitions provided in Exhibit I.

3.37. **Performance Security**. In addition to any other performance securities provided herein, Seller shall maintain in full force and effect throughout the term of this Agreement a Performance Security for the full and faithful performance of its obligations under this Agreement.

3.37.1. The value of the Performance Security shall correspond to the amount of **5%** of the Contract Price.

3.37.2. The Performance Security shall be kept in full force and effect until the achievement of the Final Completion.

3.37.3. The following forms of Performance Security shall be accepted:

* + - 1. Performance Bank Guarantee issued by a bank accepted by Buyer

3.37.3.1.1. The assurance bank must bear risk classification established by agency internationally qualified and acknowledged in the Scale of Global Ratings for “Investment Grade” or present in the Brazilian National Ratings Scale the rate as “Aaabr“ or equivalent. The issuing bank always must be approved by the credit department.

3.37.3.1.2. For Performance Securities originally denominated in other currencies, the conversion to the requisite amount in US Dollars will be according to the exchange rate, as published by the Central Bank of Brazil, two Business Days before the issuance of the Performance Security.

3.37.3.1.3. It is Buyer’s discretion to apply any other economical or financial consideration as may be necessary for acceptance of the issuing bank. The issuing bank always must be approved by the credit department. If the issuing bank is not approved by the credit department, an approved confirming bank will be required.

3.37.3.2. Performance Bond, issued by an Insurer (Surety) duly authorized to operate.

3.37.4. If Seller decides to make use of more than one form of Performance Security, or even from different Banks or Sureties as per Section 3.37.3 above, the aggregated values of all Performance Securities presented shall be according to the amounts required by Section 3.37.1.

3.37.5. In case there is an Amendment to the Agreement that postpones the deadline of the delivery of the Unit, the Performance Security shall be extended accordingly, so as to reflect the new deadline established or a new one has to be issued, under the same conditions required in Section 3.37.

3.37.6. In case of any claim from Buyer pertaining to the Agreement, the Performance Security shall remain valid until the later of:

a) Performance by Seller of all the obligations undertaken under this Agreement;

b) Parties agree on the solution of such claim.

3.37.7. The Performance Security will be returned to the Seller **30 (thirty) Days** after the Final Completion, if there is no claim by Buyer in force, related to the obligations under the Agreement or **30 (thirty) Days** after its final resolution.

3.37.8. Buyer shall previously notify the Seller in case of claims upon the Performance Security.

3.37.9. Any and all performance securities issued subsequently by Seller to Buyer to supplement or replace such original Performance Security, must be in accordance with Item 3.3.8. of the Request for Proposal released by Buyer, in the form specified in Exhibit XXV. This Performance Security shall be valid according to Section 3.3.8. of the Request for Proposal and, when presented in the form of “Performance Bank Guarantee”, shall be unconditional and irrevocable.

3.37.10. **General terms.** Seller shall provide to Buyer, before execution of the Agreement, a performance security (“Performance Security”) in accordance with Exhibit XXV. In the event the amount to be paid by Buyer under this Agreement is increased by one or more Change Orders in accordance with the terms of this Agreement, Seller shall increase the amount of the Performance Security to reflect the corresponding increase in the payment obligations. The Performance Security shall be held by Buyer until the issuance of the Final Completion Certificate.

3.37.11. **Replacement of Performance Security.** If the Performance Security is set to expire according to its terms prior to the Performance Security Release Date, then no later than **thirty (30) Days** prior to the expiration date of the Performance Security, Seller shall, at its own cost, provide Buyer with an extension or replacement of the Performance Security meeting the terms set forth in Section 3.37.1, which shall be valid until the Performance Security Release Date. If at any time the Person that has issued the Performance Security is no longer a Qualified Issuer, then Seller shall, at its own cost, replace such Performance Security with a replacement security instrument complying with the terms hereof from a Qualified Issuer within **five (5) Business Days**. In the event that Seller fails to so extend or replace the Performance Security in accordance with this Section 3.37.1, Buyer shall have anytime thereafter the right to draw on all remaining funds in the Performance Security prior to its expiration and hold such funds as cash collateral for the obligations of Seller hereunder.

3.38. Company guarantee for financial and economic qualification criteria. In case of non-achievement of the financial and economic qualification criteria set forth in Table 1 of Addendum C of the Request for Proposal, Seller shall provide and maintain in full force and effect a parent company guarantee in the form attached as item 4 of Annex 2 of Addendum C of the Request for Proposal and in accordance with the Request for Proposal.

3.38.1. **Guarantor financials**. As soon as they become available, but in any event within **sixty (60) Days** after the end of each fiscal quarter of Guarantor, Seller shall deliver to Buyer the unaudited and consolidated balance sheet of Guarantor as of the end of such quarter, and the related consolidated statements of operations, income, cash flows, retained earnings and stockholders’ equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of Guarantor subject to normal year-end audit adjustments. As soon as they become available, but in any event not later than **one hundred twenty (120) Days** after the end of each fiscal year of Guarantor, Seller shall deliver to Buyer a copy of the audited consolidated balance sheets to the end of each such year, as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 3.38.1 shall be complete and correct in all material respects and shall be prepared in accordance with generally accepted accounting principles applied consistently throughout the periods reflected therein.

[Item 3.39 and subitems are to be used if “price deflation” has been granted to the winning proposal in the classification phase for the use of All Electric. If that’s not the case, use “Not applicable”]

**3.39.** **All-Electric Contract Price Adjustment**. The Parties acknowledge and agree that the initial Lump Sum Price has been determined based on the premise that the Unit will incorporate All-Electric system, as set forth in Seller’s Proposal and in accordance with the technical and functional requirements set forth in Addendum A of the Request for Proposal. The inclusion and full compliance with such requirements constitute material conditions of this Agreement.

**3.39.1.** In the event the Seller, for any reason, fails to deliver the Unit in conformity with the all-electric system requirements specified in Addendum A, the Lump Sum Price shall be adjusted as follows:

Adjusted Lump Sum Price = Lump Sum Price – **US$ 72,000,000.00 x i**

Where, **i** = the adjustment factor calculated based on the *Secured Overnight Financing Rate* (**SOFR**) published by the “Chicago Mercantile Exchange” with a **0,42826%** spread from the **date of proposal submission until handover**.

**3.39.2.** This price adjustment shall be applied without prejudice to any other rights or remedies available to the Buyer under this Agreement, including, but not limited to, liquidated damages, or specific performance.

**ARTICLE 4**

 **BRAZILIAN LOCAL CONTENT**

* 1. **Brazilian Local Content requirements**. Seller shall comply with the following Brazilian Local Content requirements, calculated in accordance with the ANP’s criteria, methods and procedures.
		1. Seller shall, within **ninety (90) Days** from the date of execution of this Agreement, submit for Buyer’s review and approval, a Brazilian Local Content Requirements Achievement Plan, to be followed by Seller for the purpose of achievement of the provisions set forth in this Article 4.
			1. Seller shall include in the Brazilian Local Content Requirements Achievement Plan, the strategy for the achievement of Article 4 requirements, containing but not limited to a list of the main goods, services to be purchased in Brazil such as Modules and skids, Equipment of the Hull and Topsides, engineering, commissioning work, etc.
		2. The minimum required Brazilian Local Content (the “Brazilian Local Content Index”) shall be at least **25% (twenty five percent)**.
		3. The determination of actual “Brazilian Local Content” shall be made in accordance with the formulas for the calculation of Brazilian Local Content established by ANP from time to time. Seller shall provide Buyer with a certification of Brazilian Local Content (“Brazilian Local Content Certificate”) indicating the percentage of Brazilian Local Content achieved, duly prepared by a company properly authorized by ANP to make such a determination (the “Certification Agency”).
		4. The Certification Agency contracted by Seller and/or by a Major Subcontractor shall be deemed to be a Subcontractor of Seller.
		5. Seller shall provide a Brazilian Local Content Declaration for the Unit, encompassing the entire Scope of Supply as well as any materials or Equipment actually provided by Buyer.
			1. Seller shall provide the Brazilian Local Content Declaration **within 90 (ninety) Days** from the date of issuance of the first definitive class or statutory certificate, after the First Oil Date, or after the date of regularization of the constructive or commissioning requirements provided for in the first class or statutory certificate issued after the First Oil Date, in the event that no new certificate is issued, as provided in Article 36-A, § 1, of ANP Resolution Nº 19, 2013.
			2. Only the requirements originally identified at the time of issuance of the first class or statutory certificate after the First Oil Date shall be considered in the analysis of the regularization of the conditions, disregarding those that are added subsequently.
		6. To be considered valid, the Brazilian Local Content Certificates must conform in all respects with the requirements of ANP’s Resolution No. 19, dated June 14, 2013 and Regulation SCL nº 5/2020, dated August 2020, and/or other resolutions and documents issued by ANP, which are in force.
		7. Seller shall retain all Brazilian Local Content Documentation that support the issue of the Local Content Declaration and all other financial information related to all goods and services provided in connection with the Unit for at least **eleven (11) years** from the Final Completion Date under this Agreement and shall promptly make such information available upon request at any time to Buyer and to ANP, and to the Certification Agency.
		8. Seller is fully responsible for the accuracy and completeness of all information relating to Brazilian Local Content that is provided to Buyer, ANP and to the Certification Agency.
		9. Seller shall defend, indemnify and hold each member of Buyer Group harmless from and against any and all fines, penalties, claims, losses and/or liabilities (including the cost and expenses related to any administrative or judicial procedures before ANP or any other agency or court and related attorneys’ fees) incurred by or imposed on any member of Buyer Group and arising out of the provision by Seller to Buyer or ANP of inaccurate information with respect to Brazilian Local Content, in each case to the extent that such fine, penalty, claim, loss or liability is in excess of the Brazilian Local Content Schedule A+C Price Adjustment for such failure pursuant to Section 4.3.
	2. **Brazilian Local Content Report**. Seller shall provide, on a quarterly basis, throughout the term of this Agreement, Brazilian Local Content reports according to Exhibit XVIII.
		1. To be considered valid, the Local Content Report must conform in all respects with the requirements of ANP’s Resolution No. 871, dated March 30, 2022, Resolution No. 19, dated June 14, 2013, Resolution No. 879, dated July 7, 2022, and Regulation SCL nº 3/2019, dated June 2019, and/or other resolutions and documents issued by ANP, which are in force.
	3. **Brazilian Local Content Schedule A+C Price Adjustment**. The Parties acknowledge and agree that the initial price for the sum of Schedule A and Schedule C (Schedule A+C Price) has been determined based on the premise that Seller will satisfy all of the Brazilian Local Content requirements, as set forth in Section 4.1.2, and that Seller’s failure to satisfy such Brazilian Local Content requirements necessitates an adjustment to the Schedule A+C Price. Accordingly, without prejudice to Section 4.4 hereof, if Seller fails to achieve the Brazilian Local Content Index required in Section 4.1.2, then the Schedule A+C Price shall be adjusted pursuant to the adjustments set forth below (“Brazilian Local Content Schedule A+C Price Adjustment”):
		1. If the Unrealized Brazilian Local Content (%) is less than 65% (sixty five percent) of the Brazilian Local Content Index set forth in Section 4.1.2, then the Lump Sum Price shall be reduced in accordance with the Brazilian Local Content Contract Price Adjustment calculation which is determined as an amount equal to 40% (forty percent) of the Value of the Unrealized Brazilian Local Content.
		2. If the Unrealized Brazilian Local Content (%) is equal or exceeds the 65% (sixty fiver percent) Brazilian Local Content Index set forth in Section 4.1.2 then the Brazilian Local Content Contract Price Adjustment shall be determined as follows:

**BLCCPA** = [Unrealized Brazilian Local Content (%) – 25%] x Value of the Unrealized Brazilian Local Content

Where:

**BLCCPA** = Brazilian Local Content Contract Price Adjustment;

**Unrealized Brazilian Local Content (%)** = [(Brazilian Local Content Index – Realized Brazilian Local Content Percentage) / Brazilian Local Content Index];

**Value of the Unrealized Brazilian Local Content** = Unrealized Brazilian Local Content (%) x Brazilian Local Content Index x Lump Sum Price.

* + 1. Following the submission of the quarterly Brazilian Local Content report, the Buyer shall have the right to during the quarter which the Brazilian Local Content Report relates to review the Seller’s projection of the Local Content as stated in its Local Content Report (“Projected Local Content”) and the actual requirements of the Brazilian Local Content as stipulated by ANP.
			1. If the Projected Local Content is less than the required Local Content, the Buyer shall have the right to withhold payments equivalent to the projected difference of the Brazilian Local Content Contract Price Adjustment.
		2. Seller shall defend, indemnify and hold each member of Buyer Group harmless from and against any and all fines, penalties, claims, losses and/or liabilities (including the cost and expenses related to any administrative or judicial procedures before ANP or any other agency or court and related attorneys’ fees) incurred by or imposed on any member of Buyer Group and arising out of Seller’s failure to achieve the Brazilian Local Content requirements set forth in State Law no. 9.148/20 of Rio de Janeiro to the extent that such fine, penalty, claim, loss or liability is in excess of the Brazilian Local Content Contract Price Adjustment pursuant to this Section 4.3.
	1. **Price adjustment for brazilian change in law regarding Local Content requirements**. Without prejudice to Section 4.3 hereof, in the event that, after Seller presents its proposal in the bidding process, a supervening modification, which is not reasonably foreseeable by the Parties during the submission of Seller’s bid to Buyer, is adopted by the Brazilian governmental authorities to the calculation basis, criteria, methods or procedures for the determination of the Brazilian Local Content requirements which is proven to have a material and direct increase (or decrease) in the economic burden of Seller under this Agreement, the Schedule A+C Price shall be revised in proportion to such material increase or decrease as actually occurred, with any difference resulting from said modifications being compensated at the earliest possible opportunity. In the event of an increase in the burden of compliance with the Brazilian Local Content requirements for Seller, the corresponding revision shall only occur if the increase in question does not result from decisions taken by Seller subsequent to the modification to the calculation basis, criteria, methods or procedures for the determination of Brazilian Local Content requirements.
	2. **General Provisions**
		1. Any goods or services provided by Seller without their respective Brazilian Local Content Certificates will be regarded as having been imported in their entirety (i.e., containing no Brazilian Local Content).
		2. All amounts provided in the Brazilian Local Content Reports shall be expressed in contract currency.
		3. In the event that it becomes necessary to simultaneously apply the adjustments contemplated by Sections 4.3 and 4.4 hereof, the Parties agree that they will first determine the impact of the change in law provision in Section 4.4, and then proceed to determine the adjustment for the failure to comply with the Brazilian Local Content requirements, as provided in Section 4.3 for purposes of determining the adjustment to the Schedule A+C Price (if any).

**ARTICLE 5**

 **OBLIGATIONS OF BUYER**

* 1. Payment. Buyer shall timely pay the Contract Price and all other sums, if any, required to be paid by Buyer to Seller in accordance with the terms of this Agreement including the provisions of Article 9 and Article 10 hereof.
	2. **Advance Payment.** After the Effective Date and once Seller has provided the Advanced Payment Security pursuant to Section 3.33 hereof, Buyer will provide Seller an Advance Payment equivalent to **10% (ten percent)** of the Lump Sum Price in order for Seller to perform the Scope of Supply (the “Advance Payment”). Seller may only use the Advance Payment to comply with its Scope of Supply obligations hereunder. After the Advance Payment has been made, the percentage of each Payment Milestone of Lump Sum Price as defined in Appendix 1 of Exhibit XI and the Section 21.1.1 (viii) shall be kept in full force.
		1. If Seller fails to provide the Advanced Payment Security before issuing the invoice for the first Payment Milestone, Buyer shall not provide Seller with the Advance Payment and the percentage of each Payment Milestones as defined in Appendix 1 of Exhibit XI and the Section 21.1.1 (viii) regarding the Advanced Payment Security is not applicable.
	3. Buyer shall be responsible for obtaining the environmental permit (IBAMA - Instituto Brasileiro do Meio Ambiente e dos Recursos Renováveis), related to the operation of the Unit at its final location at the Sergipe-Alagoas Basin.
		1. Seller shall assist Buyer by supplying project data and information required to obtain the above-mentioned Permits and Consents.
		2. Buyer shall provide Seller with copies of such Permits and Consents.
	4. Buyer shall provide information, assistance and documentation to Seller as reasonably requested in connection with the Permits and Consents to be obtained by Seller as defined in Sections 3.2.9 and 3.2.9.2.
	5. Not applicable.
	6. **Temporary asset transfers.** Buyer may transfer to Seller temporary custody of certain assets or Equipment owned or leased by Buyer and required by Seller to execute the Scope of Supply. Such transfer shall not be construed as a transfer of Buyer’s ownership, title, or other interest in or to the relevant asset or Equipment. Seller shall return promptly each such asset or Equipment to Buyer upon the completion of the portion of the Scope of Supply for which the custody of such asset was required by Seller. Seller shall be liable for any damage to the asset or Equipment occurring during the time such asset or Equipment is in Seller’s custody.
		1. Prior to any transfer, Seller shall demonstrate to Buyer’s satisfaction (at Buyer’s sole and absolute discretion) that it possesses sufficient insurance to cover any damage or risk of loss to the asset or Equipment.
	7. **Timely performance by Buyer**. Buyer shall carry out its duties hereunder in accordance with Applicable Law and this Agreement.
	8. **No additional obligations**. Except as expressly provided herein, Buyer shall have no additional obligations under this Agreement with respect to the execution of the Scope of Supply.

**ARTICLE 6**

 **REPRESENTATIONS OF THE PARTIES**

* 1. **Representations and warranties of Buyer**. Buyer represents and warrants to Seller that, as of the Effective Date:
		1. **Due organization**. It is a company duly organized and validly existing under the laws of Brazil and is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, or business.
		2. **No violation of law; litigation.** It is not in violation of any Applicable Law or judgment entered by any Governmental Authority, which violations, individually or taken together, would materially and adversely affect its performance of any obligations under this Agreement. Except as publicly disclosed by Buyer before the U.S. Securities and Exchange Commission and the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários), there are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to the best of its knowledge) threatened against it that, if adversely determined, could reasonably be expected to have a material adverse effect on its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.
		3. **Permits and Consents.** It is the holder of all Permits and Consents required to permit it to operate or conduct its business now and as contemplated by this Agreement and to carry out the provisions of this Agreement.
		4. **No conflict.** Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof, will conflict with, or result in a breach of, or require any consent under, its charter or by-laws, or any Applicable Law or regulation or any order, writ, injunction or decree of any court, or any agreement or instrument to which it is a party or is bound or to which it is subject, or constitute a default under any such agreement or instrument.
		5. **Corporate action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Buyer of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against Buyer in accordance with its terms.
		6. **Financial solvency.** It is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to perform its obligations hereunder.
	2. **Representations and warranties of Seller**. Seller represents and warrants to Buyer that, as of the Effective Date:
		1. **Due organization**. It is a company duly organized, validly existing and in good standing under the laws of [Seller’s country], and is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations or business.
		2. **No violation of law; litigation.** It is not in violation of any Applicable Law or judgment entered by any Governmental Authority, which violations, individually or taken together, would materially and adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to the best of its knowledge) threatened against it that, if adversely determined, could reasonably be expected to have a material adverse effect on its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.
		3. **Permits and Consents**. It is the holder of all Permits and Consents required to permit it to operate or conduct its business now and as contemplated by this Agreement and to carry out the provisions of this Agreement.
		4. **No conflict**. Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof, will conflict with, or result in a breach of, or require any consent under, its charter or by-laws, or any Applicable Law or regulation or any order, writ, injunction or decree of any court, or any agreement or instrument to which it is a party or is bound or to which it is subject, or constitute a default under any such agreement or instrument.
		5. **Corporate action.** It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Seller of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against Seller in accordance with its terms.
		6. **Financial solvency.** It is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to execute the Scope of Supply and perform its obligations hereunder.
		7. **Professional skills**. It has substantial experience and all the required skills and capacity necessary for the procurement and construction of the Equipment used in the Unit, and is fully qualified to procure, construct and deliver the Unit and otherwise execute the Scope of Supply in accordance with this Agreement. Seller shall diligently execute the Scope of Supply in a competent and professional manner, utilizing sound project management procedures and supervisory procedures, all in accordance with this Agreement.
		8. **Legal requirements.** Seller has knowledge of or has investigated to its satisfaction all of the requirements of Applicable Law and business practices that must be followed in executing the Scope of Supply and such execution will be in conformity with such requirements and practices and in compliance with this Agreement. Without prejudice to the foregoing, Seller acknowledges that, while operating in Brazil, it will be subject to and shall abide by the Applicable Law of Brazil and that, while operating in any country different from its country of origin, it will be bound to abide by the Applicable Law of that country. Seller likewise acknowledges that the Unit can be constructed, complete in every detail in accordance with this Agreement, for the Lump Sum Price.

**ARTICLE 7**

 **APPLICABLE TAXES**

* 1. Due taxes of any kind directly resulting either from this Agreement, or from its execution, shall be the exclusive responsibility of the entity identified as liable for the relevant tax under Applicable Law, and shall not give rise to any right of reimbursement to the payor of the tax, by any party.
		1. Taxes whose economic burden would have to be borne by Seller in any event are not to be construed as due taxes directly resulting from this Agreement and include, but are not limited to, “Corporate Income Tax” (*Imposto de Renda sobre Pessoa Jurídica*, IRPJ), “Social Contribution on Net Profits” (*Contribuição Social sobre o Lucro Líquido*, CSLL), “Tax on Operations of Credit”, “Exchange and Insurance” (*Imposto sobre Operações Financeiras*, IOF), and payroll social security contributions, among others.
		2. Seller represents and acknowledges that it has considered, for the submission of its proposal, those taxes applicable to the supply of the Unit, and no Claim grounded on error in this evaluation shall be admissible for the purposes of requesting a price revision or reimbursement for payments ordered by the relevant authority.
		3. Seller agrees to reduce the applicable portion of the Contract Price due to improper inclusion of amounts corresponding to taxes of any kind, failure to take advantage of tax benefits, failure to perform deductions or to use credits allowed by law, with the consequent restitution or compensation to Buyer of amounts eventually paid to Seller, updated exclusively at the “Secure Overnight Financing Rate” (SOFR), published by the “Chicago Mercantile Exchange” with a **0,42826%** spread, considering the period between the date of payment made to Seller and the date prior to the date of restitution or compensation referred to in this Section herein.
			1. In the event the “Secure Overnight Financing Rate” (SOFR), published by the “Chicago Mercantile Exchange” is discontinued, Buyer shall designate a substitute reference rate it believes in good faith to be substantially equivalent, and a notice to that effect shall be issued by Buyer.
	2. Buyer, when the withholding source, shall deduct and collect from payments it makes, within the periods defined by law, those taxes which it is obliged to collect as a retention agent under current legislation, and Seller shall not be entitled in connection thereto to any right of increase in the calculation basis or to the revision mentioned in Section 7.3.
		1. Seller shall supply in advance all documents required for the eventual reduction or elimination of withholding to be performed by Buyer, with no requirement for notification or prior warning.
		2. The prohibition of increase in the calculation basis mentioned on Section 7.2 shall prevail even if the laws of the jurisdiction to which the Seller is subject do not allow for the compensation of taxes withheld at source.
		3. Buyer shall furnish Seller with all the documentation required to enable due compensation of any Seller taxes that are withheld and paid to Brazilian tax authorities for taxes due by the Seller under the laws of the jurisdiction to which the Seller is subject.
	3. In the event that, after Seller presents its proposal, there supervenes the creation of new taxes, modification of rates and/or modification to calculation basis, the extinction of existing taxes, inception of tax breaks of any kind and/or exemption from or reduction of taxes or also the final judicial decision by higher courts that changes the application of tax rules that either directly or indirectly are proven to increase or reduce the burden of the Seller, the Contract Price shall be revised in proportion to such increase or reduction as actually occurred, and the difference resulting from said modifications shall be compensated at the earliest possible opportunity.
		1. The revision set forth in Section 7.3, to increase applicable portion of the Contract Price, shall only occur if the increase in tax burden does not result from decisions by Seller, such as change of service provider facility, enrollment in simplified tax system, among others, or further from mere economic circumstance, such as inclusion in a higher tax bracket due to growth in income, which already existed at the time of proposal submission.
		2. Seller shall supply all documents required to avoid burdens resulting from joint and several liability of Buyer, pursuant to the law, including those related to its Subcontractors, with no requirement for notification or prior notice, under penalty of bearing compensation at the first opportunity of the value of taxes in connection to which the joint and several liability set forth by law applies.
	4. The applicable portion of the Contract Price shall be immediately adjusted, in order to expunge the value of undue tax, in cases where any tax that composes such a value is no longer fully or partially due, as a result of:

**(i)** declaratory act by the “General Attorney for the National Treasury”, approved by the “Minister of State of Treasury”, authorizing the non-initiation of appeal or waiver of appeal filed by the “Union”;

**(ii)** binding precedent;

**(iii)** final ruling by the “Supreme Federal Court”, through “Direct Action of Unconstitutionality” (ADI) or “Declaratory Action of Constitutionality” (ADC);

**(iv)** suspension of norm by the “Federal Senate”, or

**(v)** qualification or classification in a tax incentive regime.

* 1. For purposes of compliance with tax legislation in force, the Seller, if resident or domiciled abroad, shall provide the following register information:

**(a)** tax identification number (NIF) provided by the tax authorities abroad, indicating whether it is a natural person or a legal entity;

**(b)** individual taxpayer registry identification (*Cadastro de Pessoas Físicas*, “CPF” or *Cadastro Nacional de Pessoa Jurídica “CNPJ”*), as required by law;

**(c)** full address (street, avenue, number, complement, district, city, administrative region, State, Province, etc.);

**(d)** country of tax residence.

* + 1. If during the performance or after termination of the Agreement, tax authorities observe the insufficiency or irregularity of any of the register information provided by Seller, the latter shall be responsible for compensating losses caused to Buyer, including due to the imposition of administrative penalties, with the consequent reimbursement or compensation of amounts paid or held in an escrow account pursuant to legal proceedings, upon making the payment or deposit in court.
	1. Seller hereby states to possess operational capacity to achieve its corporate purposes, in addition to being the Effective Beneficiary of the income earned by virtue of this Agreement.
		1. Seller agrees to submit, whenever there is any change to their condition, at the end of the Agreement and upon request by Buyer, even after the termination of this Agreement, for a period of 6 years, updated statements and supporting documents proving their operational capacity and the fact that they are the Effective Beneficiary of the income earned, for the purposes of compliance with Brazilian Applicable Law.
			1. The operational capacity herein stated is evidenced by, among others, facilities and human resources applied to the execution of this(these) operation(s).
		2. If during the performance or after termination of this Agreement, tax authorities observe the insufficiency or the operational capacity of the Seller, or overrule its status as Effective Beneficiary of income paid by virtue of this Agreement, Seller shall be responsible for compensating losses caused thereby to Buyer, including due to the imposition of administrative penalties, with the consequent reimbursement or compensation of amounts paid or held in an escrow account pursuant to legal proceedings, upon making the payment or deposit in court.
	2. Seller undertakes to issue billing documents in accordance with the tax laws and the provisions of this Agreement.
		1. If, during or after the performance of this Agreement, the tax authorities or Buyer find that Seller presented a tax document contravening the tax legislation in force or with this Agreement, Seller shall submit a substitute document, in accordance with that legislation, and take all necessary steps and administrative actions with the “Treasury” to cancel the rejected document, under the terms of the relevant legislation.
		2. In the event of a tax assessment against Buyer, due to non-compliance with the obligation of Section 7.7, at any time, Seller will reimburse the losses caused to Buyer, with the consequent reimbursement or compensation of amounts paid or held in an escrow account pursuant to legal proceedings, at the time of payment or court deposit, plus costs incurred by Buyer in its eventual defense, in administrative and/or judicial proceedings.
		3. Seller assumes full responsibility for any Liens and shall undertake to remove expeditiously any Liens that may be imposed upon Buyer by virtue of a tax document that it issues in contravention with the applicable legislation.

**ARTICLE 8**

 **PAYMENT MILESTONES**

* 1. Seller shall submit to Buyer the Payment Milestones Report that will evidence the conclusion of each Payment Milestone as established in Exhibit XI.
	2. The Milestone recorded in the Payment Milestones Report as having been performed shall be deemed provisionally accepted, and acknowledged to be invoiced by Seller; provided, however, that Buyer will be entitled to reject such recorded Milestone at a subsequent time but not later than **30 days** after the submission by Seller, if any failure, discrepancy, fault or Defect is later ascertained, in which case Seller shall be required to remake or correct such failure, discrepancy, fault or Defect at its sole cost in accordance with this Agreement.
	3. Seller may provide feedback to the inspection carried out by Buyer by submitting, within **five (5) Business Days** after its receipt of Buyer’s comments to the Payment Milestones Report, its response setting forth any claims, comments or considerations that Seller wishes Buyer to consider.

**ARTICLE 9**

**PRICE**

* 1. **Lump Sum Price.** Except as otherwise provided herein and in Exhibit XIV in connection with Change Orders, as compensation in full to Seller for the full and complete execution of the Scope of Supply regarding the supply of the Unit (including all of Seller’s other activities and obligations under this Agreement with respect to the Unit), Buyer shall pay and Seller shall accept, a lump sum price, which is not subject to any adjustments other than as provided for in Sections 4.3, 4.4, , 7.1.3, 7.3, 7.4, 9.2 and 21.3 of this Agreement.
		1. The lump sum price for the supply of one Unit is US$ XXX.XXX.XXX (XXXXXXXXXXXX United States Dollars) (the “Lump Sum Price”), which is broken-down in the Price Schedule “A” (the “Price Schedule “A”). Seller has satisfied itself as to the correctness and sufficiency of the Lump Sum Price for the full Scope of Supply and delivery of the Unit in accordance with the terms and conditions of this Agreement.
		2. The Lump Sum Price covers all of the scope to be supplied or performed under this Agreement by Seller with respect to the Unit, Capital Goods, Operational Goods and Special Tools Essential for the Safe Operation of the Unit, including, without limitation, all activities which, though not specifically mentioned herein, can be inferred from this Agreement as being necessary or appropriate  for Seller to comply with the Scope of Supply.
		3. The nature of the Lump Sum Price is that of a lump sum, which includes all costs, charges, and expenses of whatever nature applicable to the Scope of Supply, including, without limitation, the Equipment, labor, transportation, activities and intellectual property rights to be provided hereunder, all Taxes (other than those Taxes for which Seller is expressly not responsible pursuant to this Agreement), any financial cost borne by Seller, as well as the expected rate of return by Seller.
		4. Seller shall not be entitled to any additional payment for the Scope of Supply of the Unit, including with respect to any change that arises from the acts, omissions or commission, error or negligence on the part of Seller or its Subcontractors, all costs arising from such changes being at Seller’s exclusive charge.
		5. It is agreed that the value of items listed at Schedule B (Price for Additional Items) and Schedule C (Price for Mooring Components) shall not form part of the Lump Sum Price. For the avoidance of doubt, the Operational Spare Parts, Capital Spares, Special Tools Stored On Shore and Mooring Components are considered extra items, as provided in Sections 9.3 and 9.4, respectively.
	2. Not applicable.
	3. **Schedule B Additional items**. The Operational Spare Parts, Capital Spares and Special Tools Stored On Shore to be supplied by Seller, are set forth in the Price Schedule attached as Exhibit XXI - Schedule “B”. The amount to be paid by Buyer to Seller under this Agreement for Schedule B Additional Items scope is the amount of US$ XXX.XXX (XXXXXXX United States Dollars).
	4. **Schedule C Mooring Components**. The Mooring Components to be supplied by Seller, are set forth in the Price Schedule attached as Exhibit XXI - Schedule “C”. The amount to be paid by Buyer to Seller under this Agreement for Schedule C Mooring Components scope is the amount of US$ XXX.XXX (XXXXXXX United States Dollars).
		1. For the avoidance of doubts, the spare mooring line shall be considered as Capital Spares and included on Schedule B, instead of Schedule C.
	5. **Reduction of the applicable portion of the Contract Price**. Notwithstanding the nature of the portions of the Contract Price as a lump sum, the Parties expressly agree that if there is **(i)** a Brazilian Local Content Schedule A+C Adjustment as provided in Section 4.3 of this Agreement; **(ii)** any tax reduction as provided in Sections 7.1.3 and 7.4 of this Agreement; or **(iii)** any subsequent change to the quantities and/or the Scope of Supply as ordered by Buyer in a Change Order, such that there is a corresponding cost reduction in the Scope of Supply of the Unit; then the Parties shall deduct from the applicable portion of the Contract Price the Brazilian Local Content Schedule A+C Price Adjustment or the tax benefits or savings, as the case may be, or in the case of a Change Order, the Parties shall evaluate the variance in question and the corresponding amount in savings shall be deducted from the applicable portion of the Contract Price.
	6. **Resource exhaustion.** For the avoidance of doubt, when the aggregate payments made by Buyer reach the Contract Price, Buyer’s payment responsibilities shall cease except as otherwise specifically provided in this Agreement. Notwithstanding the foregoing, Seller shall be responsible for carrying out the obligations under this Agreement in full, regardless of cost, and shall not be entitled to any increases in the Contract Price, except by amendments to this Agreement as expressly provided by the procedure set forth in Article 12.
	7. **Substantial hardship**. Seller acknowledges that it did not enter into this Agreement in reliance of any representation or guarantee from Buyer that the execution of the Scope of Supply would generate any profit for Seller and that, accordingly, Seller is bound to perform its contractual duties even if events render performance unprofitable (or even loss-making) and/or more onerous than could reasonably have been anticipated at the Effective Date.

Notwithstanding the foregoing or any other provision of this Article 9, the Parties agree that it is not their intention that a Party acting as a reasonable and prudent contractor in the discharge of its contractual obligations should find itself subject to extraordinary hardship due to the economic effects and/or consequences arising from the performance of the Scope of Supply.

Thus, the Parties hereby agree that, if, after the Effective Date, there occurs an unforeseeable, unanticipated, intervening and extraordinary event or change of circumstances that is beyond the control of the affected Party acting as reasonable and prudent contractor, and which has economic consequences and effects that fundamentally and essentially alter the economic equilibrium and balance of this Agreement for the foreseeable future, in a manner such that the Parties would either not have entered into the Agreement at all, or else would have entered into it with different terms had such a change been anticipated and foreseeable, then the Party claiming to have been placed in substantial hardship may, by notice, request a meeting with the other Party to determine if such unforeseeable, intervening, extraordinary event or change in circumstances has indeed happened and, if so, to agree what, if any, adjustment in the Contract Price, and/or in other terms and conditions thereof, would be justified under the circumstances, and in fairness to both Parties given the contractual distribution of risk, in order to alleviate the consequences and effects of this unforeseeable intervening event or change in circumstances.

This request shall be made in writing without undue delay and shall clearly indicate the grounds on which it is based, it being understood that the issuance of such a request for renegotiation shall not entitle the Party making it to suspend its ongoing performance under the Agreement and the Parties shall continue to rely on the current provisions of this Agreement.

It is expressly understood that neither Party shall be entitled to claim substantial hardship in connection with any events:

**(i)** that could have reasonably been taken into account, foreseen or anticipated by such Party before the conclusion of this Agreement;

**(ii)** that are normal, ordinary, usual, habitual or expected in projects such as the one which is the object of this Agreement;

**(iii)** that does not have a proven adverse and extraordinarily onerous impact in the reasonable financial expectation of the affected party with respect to this Agreement;

**(iv)** whose adverse effect could have been avoided by Seller or a prudent contractor, or

**(v)** that the affected party can reasonably be expected to have taken the risk of the potential consequences of the event in question in light of the purpose and object of this Agreement.

It is also expressly understood that any adjustment to the Contract Price will only seek to leave the affected Party in the same economic position that it had prior to the occurrence of the change in circumstance that provoked the substantial hardship, not to improve it in any way. In the event that the Parties, fail to agree what form the relief for substantial hardship should take within **ninety (90) Days** of the date in which the unaffected-Party received notice from the affected-Party, either Party may refer the dispute to arbitration in accordance with the dispute resolution provisions of this Agreement, it being understood that the arbitration Tribunal will proceed to examine all pertinent circumstances and, if possible, make in equity the necessary adjustments to the Contract Price to reestablish the economic equilibrium or balance in the Agreement, which shall then become binding on the Parties, or otherwise declare the termination of this Agreement without liability to either Party.

**ARTICLE 10**

 **PAYMENTS TO SELLER**

1. 1. Subject to any other terms in this Agreement, payments relating to the Schedule A Lump Sum Price, Schedule B Additional Items and Schedule C Mooring Components shall be made by Buyer to Seller in accordance with Section 8.2 and the terms further specified in Exhibit XI provided that Seller is otherwise in material compliance with the terms of this Agreement. Buyer shall also make payments to Seller relating to any Change Order as established in Exhibits XI and XIV. Each payment shall be subject to Buyer’s right to withhold payments under this Agreement. Payments shall be made in [currency of payment of the contract] to an account designated by Seller.
		1. Payments related to Schedule “A” shall be made as established in Section 9.1 and terms further specified in Exhibit XI.
		2. Payments related to Schedule “B” shall be made as specified in Exhibit XI.
		3. Payments related to Schedule “C” shall be made as specified in Exhibit XI.
	2. **Amortization of the Advance Payment.** If the Advanced Payment Security is presented by Seller in accordance with the timeline stipulated under Section 5.2, the Advance Payment will be amortized progressively up to the Milestone “Unit Final Completion” with no need for deductions or retentions on the Payment Milestones.
		1. The amortization percentage of the Advance Payment will correspond to the ratio between the sum of the measured milestones percentage, indicated on Section 5 4.1 of Appendix 1 of Exhibit XI, and **89,75%.**
		2. On the calculation described on Section 10.2.1, the milestones “Advance Payment” and “Unit Final Acceptance” shall not be considered in the sum of the measured Milestones percentage.
	3. **Invoicing.** Following the Payment Milestone approval by Buyer, Seller shall submit to Buyer, with a copy to the Buyer Project Manager, its Invoice for such milestone, accompanied by any necessary supporting documentation, including the documentation described in Section 10.4 and Section 10.5, in a form reasonably acceptable to Buyer.
		1. In the event Seller submits its Invoice on a date later than that specified in Section 10.3, the due date for payment of the Invoice shall be postponed by as many days as the number of days of delay in the delivery of the Invoice and/or of any supporting documents required by Section 10.4.
	4. **Invoicing documents**. Each Invoice issued by Seller to Buyer shall contain at a minimum the following information:
		1. Buyer’s address and, if applicable, CNPJ and “State Enrollment”;
		2. Reference to this Agreement;
		3. Reference to the completed Payment Milestone which has not been the subject of a previous Invoice submitted to Buyer and any numbering system used to identify such Payment Milestone;
		4. Seller’s bank account information;
		5. Any other information necessary for Buyer to make payment thereof.
			1. For all payments to be made prior to the issuance of the ”Export Declaration/Manifest for Customs” and the “Bill of Lading” (BL) (in case of dry-towage) or “Vessel Clearance to Leave” (in case of wet-towage) and related to the Payment Milestones, the invoicing documentation must be substantiated in a numbered pro forma Invoice, which shall:
				1. Contain the corporate names and addresses of Buyer and Seller, the contract number and the description of the Payment Milestone;
				2. Have attached the supporting documentation for the verification and acceptance, by Buyer, of the Milestone achievement;
				3. Contain the bank details of the Seller, the number or SWIFT code of the bank, ABA number and the name of the bank, the number of the agency with the respective account or IBAN code, city, state and country;
				4. Correspond to a single and exclusive Purchase Order;
				5. Contain the customs classification of the good (in accordance with the Harmonized Commodity Description and Coding Systems (HS)), where applicable;
				6. Contain the pre-determined intermediate events to be paid, where applicable;
			2. For all payments to be made subsequent to the issuance of the “Comprovante de Importação” (CI”), the invoicing documentation to be delivered by the Seller shall contain:
				1. The commercial Invoice;
				2. “Aviso de Disponibilização do Bem” (ADB), where applicable;
				3. The BL or “Airway Bill” (AWB) and its annexes;
				4. The packing list, where applicable;
				5. Buyer’s acceptance of the achievement of the event to which payment is conditioned;
				6. “Importation Statement” (Declaração de Importação, “DI”) or “Comprovante de Importação” (CI).
		6. The monetary value reflected in the BL shall not exceed the applicable portion of the Contract Price.
		7. Due to technical characteristics of the Buyer's payment system, it is agreed that the final amount of each invoice be truncated to zero the decimals corresponding to cents of a dollar (i.e. shall be the whole dollar amount and ignore any cents of a dollar). Any residual differences between the nominal amount (i.e. the sum of the milestone amounts of each invoice including cents of a dollar amounts) and the final invoice amount presented for payment in accordance with this Section 10.4.7 (i.e. ignoring any cents of a dollar amounts) will be invoiced in a single invoice at the end of the Agreement , and shall not be considered as outstanding or due until the due issue of such invoice. This Agreement applies to all invoices during the performance of the contract. For the avoidance of doubt, no interest shall accrue on the amount of any residual differences referred to above, and Buyer’s payments in accordance with the arrangements set out in this clause shall not give rise to any breach or default on the part of the Buyer under this Agreement.
	5. **Representation.** Each Invoice is a representation and warranty by Seller that:
		1. The quality and scope of the Milestones covered by the Invoice is in accordance with the terms of this Agreement;
		2. Seller is entitled to payment of the amount invoiced;
		3. The Payment Milestones (or any portion thereof) referred to in the Invoice and in all prior Invoices, are free and clear of all Liens, security interests and encumbrances;
		4. All Subcontractors have been paid the monies due and payable to them for their work and supplies in connection with this Agreement (except for such amounts as may be disputed in good faith by Seller).
	6. **Release of Claims and Lien Waiver.** As a condition to the Final Acceptance Milestone payment, the Invoice shall be accompanied by the Release of Claims and Lien Waiver from Seller and any Subcontractor corresponding to the Scope of Supply relating to the Unit.
	7. **Review and approval.** Each Invoice shall be reviewed by Buyer in order to be compared with the Payment Milestone Report for the corresponding Milestone. Upon Buyer’s request, Seller shall furnish additional supporting documentation, including certificates, and provide any further information as may be reasonably requested by Buyer to verify such Invoice. Unless disputed in accordance with Article 24, the amount of each Invoice shall be due and payable **within thirty (30) days** immediately following the date such Invoice and all documentation required under this Agreement is received by Buyer. If any amount described in any Invoice is disputed by Buyer, payment shall be made only with respect to its undisputed portion. Payment of disputed amounts shall be made as soon as the dispute is resolved to the extent determined to be payable.
	8. **Method of payments.** Subject to this Article 10, the payment amount due to Seller shall be made by Buyer by means of a wire transfer of funds to Seller’s bank account identified below, or to such other account as Seller shall advise Buyer in writing.

BANK: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BRANCH/ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ACCOUNT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* + 1. Whenever Seller desires to utilize bank information different to that indicated above, it shall notify Buyer in accordance with Section 26.5 indicating the new bank reference concurrent with an Invoice.
		2. If any amount hereunder is due on a day which is not a Business Day, such amount shall not be due and payable until the next following Business Day, and no interest shall accrue in respect of such delay.
		3. During the customs clearance period, between the issuance of the ”Export Declaration/Manifest for Customs” and the “Bill of Lading” (BL) (in case of dry-towage) or “Vessel Clearance to Leave” (in case of wet towage) and the issuance of the “Comprovante de Importação” (CI) no payment will be due and the counting of the 30-day period referred to in Section 10.7 will be disregarded and restarted after the issuance of the CI, regardless of the period elapsed between the presentation of the invoice documentation and the beginning of the import process.
	1. **Payments not acceptance of supply.** No payment made hereunder shall be considered as an approval or acceptance of the accomplished Scope of Supply or portions of the accomplished Scope of Supply by Buyer, or a waiver of any claim or right that Buyer may have hereunder. All payments shall be subject to correction and adjustment to be made in subsequent payments.
	2. **Payments withheld and deducted.** In addition to disputed amounts specified in an Invoice, Buyer may withhold or deduct payment of any amount described in an Invoice or portions thereof in an amount and to such extent as may be reasonably necessary to recover the Advance Payment or protect Buyer due to:
		1. Amortization of the Advance Payment by Buyer pursuant to Section 10.2;
		2. Defects that Seller has not commenced and steadily continue to correct and remedy of the Defects pursuant to Section 17.3.4;
		3. Amounts incorrectly paid by Buyer to Seller or in respect of Invoices that were not accompanied by the required supporting documentation;
		4. Amounts corresponding to the satisfaction of any liability to third parties for which Seller is responsible (which liability is established directly or under any provision of this Agreement, including any provisions relating to Seller’s duty to indemnify any member of the Buyer Group) and brought against Buyer, Buyer Group and/or its Affiliates;
		5. Liquidated damages which Seller owes;
		6. Any material breach by Seller of any term or provision of this Agreement;
		7. Amounts corresponding to the satisfaction of any judicial or administrative decision, encumbrances, liabilities to third parties for which Seller is responsible, (whether directly or under any provision of this Agreement, including any provisions relating to Seller’s duty to indemnify Buyer, Buyer Group or its Affiliates), and brought against Buyer, Buyer Group and/or its Affiliates or, in the case of an encumbrance or Lien, created on any property of Buyer, Buyer Group and/or its Affiliates;
		8. Any undisputed amounts due and payable by Seller to Buyer;
		9. Any Invoice that fails to substantially meet the requirements of Section 10.4;
		10. The Seller is in Default pursuant to Section 21.1 and such Default has not been cured within the time set forth in Section 21.1.
		11. There is an assessment of any fines or penalties against Buyer as a result of Seller’s failure to comply with Applicable Law or Applicable Codes and Standards;
		12. Seller failed to provide the insurance coverages in accordance with Article 14; and
		13. As a result of the Brazilian Local Content Schedule A+C Price Adjustment
	3. **Payments during Default.** Buyer shall not be obligated to make any payments hereunder at any time in which a Default shall have occurred and is continuing, and Seller shall have no right to exercise any remedy hereunder in respect of such payments if and for so long as such Default is continuing.
	4. **Offset.** Buyer may offset any amount due and payable from Seller to Buyer against any amount due and payable to Seller hereunder, without prejudice to Buyer’s other rights and remedies under this Agreement.
	5. **Payment error**. Payments made in error shall be immediately returned by the Party receiving the payment in error. Notwithstanding the generality of the foregoing, in the event Buyer discovers that a Milestone associated with a payment was not in fact achieved, Buyer may set off the amount paid against other payment obligations of Buyer until such Milestone is achieved, at which time the amount recovered by Buyer through exercise of such rights of set off shall be due and payable by Buyer to Seller.
	6. **Final Acceptance.** To achieve Final Acceptance, Seller shall submit to Buyer a statement summarizing and reconciling all previous Invoices, Change Orders, payments received and reflecting any other amendments, together with **(i)** an affidavit confirming that all payrolls, Taxes, Liens, charges, Claims, demands, judgments, security interests, bills, Equipment, and all indebtedness connected with this Agreement and owed to Seller and any Subcontractor have been paid or otherwise satisfied and discharged and **(ii)** a final Release of Claim and Lien Waiver, executed and delivered by Seller, including all Subcontractors.
	7. Seller shall certify that all Liens have been released and there are no Liens, including Liens of Subcontractors. Seller shall indemnify Buyer against any claims by Subcontractors for Liens.
	8. **Adjustments.** The Parties expressly understand and acknowledge that Seller has taken the potential effects of exchange rate fluctuations into account in proposing and agreeing to the Contract Price and Buyer shall not be obligated to adjust the Contract Price or to pay any additional amounts in respect of the Contract Price for any reason related to fluctuations of exchange rates or price fluctuations.
		1. Considering the Local Content requirements (Article 4) and the absence of contractual provision of price adjustments related to R$/US$ rate exchange variations, Seller shall bear all the risk of exchange rate fluctuations as defined in Exhibit XIII as well as take any measures it considers necessary to protect the contractual balance against exchange rate variations.

**ARTICLE 11**

 **PROJECT SCHEDULE**

11.1. **Commencement of the Contract Scope.** Seller agrees to commence the execution of the Scope of Supply upon the Effective Date.

* 1. Not applicable
		1. Not applicable.
	2. **Project Schedule**.
		1. The term for the accomplishment of the object of this Agreement and the full and complete execution of the Scope of Supply shall be **2200 days**, to be counted from the Effective Date.
			1. Seller shall execute the Scope of Supply in accordance with the Critical Path Schedule and the Project Schedule and management plan agreed upon between the Parties and specified in Exhibit XXII (as updated and revised in accordance with this Section 11.3, the “Project Schedule”, and Exhibit VI - Directives for planning and control). Within **60 Days** after the Effective Date, Seller shall submit for Buyer review and approval the first detailed Project Schedule, in accordance with the requirements in Exhibit VI. The Project Schedule will be the baseline schedule for the Scope of Supply execution and, once approved by Buyer, will be revised only in accordance with Exhibit VI, Article 12, Section 21.3, Section 21.5 or Section 23.3. Seller shall not be entitled to any extension of time for any change that arises from the acts or omission or commission, error or negligence on the part of Seller or its Subcontractors, all costs arising from such changes being at Seller’s exclusive charge.
			2. Seller shall achieve Handover no later than **1461 Days** from the Effective Date (the “Guaranteed Handover Date”). The Guaranteed Handover Date shall be adjusted only as provided in this Agreement. If Seller fails to achieve Handover by the Guaranteed Handover Date, the provisions of Section 20.1 shall apply and such failure also shall constitute a Default under Section 21.1.
			3. Seller shall achieve Final Completion no later than **1826 Days** counted from the Effective Date (the ”Scheduled Final Completion Date”). The Scheduled Final Completion Date shall be adjusted only as provided in this Agreement. If Seller fails to achieve Final Completion by the Scheduled Final Completion Date or the Final Acceptance within **2200 Days** from the Effective Date, such failure may constitute a Default under Section 21.1.
	3. **Project Schedule Milestones**. The Scope of Supply shall be executed in accordance with the Milestones and other interim deadlines described below, which shall be included in the Project Schedule to be submitted by Seller, in accordance with Section 11.3.1.1. Without prejudice to the foregoing, and subject to any subsequent changes to the Project Schedule here under, Seller shall:
		1. Complete issuance of plans and procedures and documentation no later than the dates indicated on Exhibits;
		2. Not applicable.
		3. “**Purchase Orders**”. Complete issuance of “Purchase Orders” for critical equipment and materials, according to the timeline foreseen on the Master Schedule (Exhibit XXII);
		4. Conclude mobilization of **(a)** the Hull shipyard, **(b)** Modules Yard and **(c)** the Integration Yard according to the timeline foreseen on the Master Schedule (Exhibit XXII);
		5. Achieve Mechanical Completion for all of the Modules for the Unit according to the timeline foreseen in the Master Schedule (Exhibit XXII);
		6. Initiate the Integration of the Unit according to the timeline foreseen in the Master Schedule (Exhibit XXII);
		7. Not applicable.
		8. Achieve Handover as set forth in Section 11.3.1.2;
		9. Have the Unit Ready for First Oil no later than **sixty (60) days** counted from the Handover Date. The “Guaranteed Ready for First Oil Date” shall mean the earliest of **(i) 1521 days** counted from the Effective Date or **(ii) sixty (60) days** counted from the Handover Date;
		10. Get the Unit Ready for Gas Reinjection no later than **sixty (60) days**, from the Unit First Oil;
		11. Get the Unit Ready for Produced Water Treatment no later than one hundred and **twenty (120) days** from the Unit First Oil;
		12. Get the Unit Ready for First Water Injection no later than **one hundred and fifty (150) days**, from the Unit First Oil;
		13. Get the Unit Ready for Gas Exportation no later than **one hundred and eighty (180) days**, from the Unit First Oil.
		14. Achieve Final Completion as set forth in Section 11.3.1.3.
		15. Provide training programs, as described in Exhibit VIII - Directives for Commissioning Process, during the period of time when the Integration is being provided for the Unit, and complete all such training before the Substantial Completion of the Unit;
		16. Not applicable.
	4. **Recovery schedule**. If, at any time during the execution of the Scope of Supply, any activity on the Critical Path Schedule (or subcritical paths) is delayed in a manner that Handover of the Unit is reasonably likely to occur after the Guaranteed Handover Date, Seller shall prepare a plan (“Action Plan”), as described in Exhibit VI, detailing how it intends to achieve the Guaranteed Handover Date.
		1. Within a reasonable period of time, Seller shall submit such Recovery Schedule to Buyer for its review. The Recovery Schedule shall represent Seller’s best judgment as to how it shall achieve Handover and Final Completion by the Guaranteed Handover Date and the Scheduled Final Completion Date, respectively. The Recovery Schedule shall be prepared in accordance with Good Engineering and Construction Practices and to a similar level of detail as that set out in the Project Schedule, and shall be developed for and cover that period of time reasonably necessary to meet the Guaranteed Handover Date and the Scheduled Final Completion Date, respectively, using all commercially practicable efforts and diligence (including, where effective, establishing additional shifts, hiring additional manpower, working overtime, providing additional Equipment, obtaining priority shipments and re-sequencing activities).
		2. The cost of preparing the Recovery Schedule and executing the Scope of Supply in accordance with the Recovery Schedule shall be borne by Seller. Buyer’s review of the Recovery Schedule shall not relieve Seller of any obligations for the Scope of Supply execution, change the Guaranteed Handover Date or the Scheduled Final Completion Date, as the case may be, or be construed to establish the reasonableness of the Recovery Schedule.
	5. Any adjustment to the applicable portion of the Contract Price or any other changes to this Agreement that the Parties agree will need to be implemented by an Amendment, according to Article 12 and Exhibit XIV.
	6. Project schedule deviation shall be explained and, if applicable as described on Exhibit VI, a recovery plan shall be presented.

**ARTICLE 12**

**CLAIMS AND CHANGE ORDER REQUESTS**

1. 1. At any point throughout the execution of the Scope of Supply, Buyer may request Change Orders and Seller may pose a Claim that they consider indispensable for the precise accomplishment of the Scope of Supply.
	2. The directives for Claims and Change Order requests are set forth in Exhibit XIV – Directives for Claims and Change Order Requests.
	3. Seller shall minimize cost and schedule impacts related to Change Orders on the implementation of the Scope of Supply.
		1. In no event shall Seller be entitled to any adjustment to the provisions of this Agreement, including to the Contract Price, for any delay or impact to the extent that Seller or any of its Subcontractors could have taken, but failed to take, reasonable actions to mitigate or prevent such delay or impact.
	4. **Accord and satisfaction.** Change Orders which the Parties have subsequently agreed upon shall constitute a full and final settlement, accord and satisfaction of all effects of the Change Order as described in the Change Order in question, and shall be deemed to compensate Seller fully for all the variations thereunder.
		1. Accordingly, Seller expressly waives and releases any and all right to make a Claim or to take any action or proceeding against Buyer for any other consequences arising out of, relating to, or resulting from such Change Order, whether the consequences result directly or indirectly from such Change Order, including any Claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to such Change Order (including any Claims that any number of Change Orders, individually or in the aggregate, have impacted the Scope of Supply).
	5. Adjustment only through Claims and Change Order directives in accordance to Exhibit XIV. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Scope of Supply, shall provide the basis for an adjustment in the applicable portion of the Contract Price, the Price Schedule, the Project Schedule, the Guaranteed Handover Date, the Scheduled Final Completion Date, any Scope of Supply, or any other obligations of Seller or right of Buyer under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by Buyer. Seller shall not perform any change to the Scope of Supply unless and until such change is authorized pursuant to this Article 12 and Exhibit XIV, and should Seller perform or claim to perform any changes to the Scope of Supply prior to authorization of the Change Order, all such costs and expenses incurred by Seller (including to remedy any unauthorized action) shall be for Seller’s account.
		1. Notwithstanding any provision to the contrary in this Agreement, no course of conduct or dealings between the Parties nor any express or implied acceptance of additions, deletions, suspensions or modifications to any portion of the Scope of Supply, and no claim that Buyer has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement shall be the basis for any adjustment in the applicable portion of the Contract Price, the Project Schedule, the Guaranteed Handover Date, the Scheduled Final Completion Date, the Price Schedule, any Scope of Supply, or any other obligations of Seller under this Agreement. Any and all obligations of Seller under this Agreement can only be adjusted or modified with Buyer’s express written consent.

**ARTICLE 13**

 **TITLE TO SCOPE OF SUPPLY, IMPROVEMENTS AND LICENSE**

* 1. **Title**
		1. **Clear title**. Seller warrants and covenants that Buyer’s legal title to, and ownership of, the Unit shall at the Final Acceptance be free and clear of any and all Liens, including whenever the title thereto passes to Buyer.
		2. Title to the Scope of Supply. Title to all or any portion of the Scope of Supply shall pass to Buyer upon the earlier of **(i)** payment of a related Milestone by Buyer therefor, or **(ii)** integration into the Unit. Transfer of title shall not release Seller from Seller’s responsibility to perform fully its obligations hereunder and shall be without prejudice to Buyer’s right to reject Defects or any other right in this Agreement. Seller and/or any Subcontractor shall not sell or otherwise dispose of any part of the Scope of Supply prior to such transfer, without the prior written consent from Buyer.
		3. All items of materials or Equipment for the Modules or the Unit and any parts and/or sub-assemblies of parts or components therefore shall be set aside and marked with an appropriate code number. Seller shall include a similar obligation, protecting Buyer’s interests, in each of its sub-contracts for manufacture or fabrication, and/or supply of parts or components for the materials and/or Equipment and ensure that its Subcontractors include obligations in all of their related subcontracts.
		4. **Title to and Intellectual Property of Drawings**. Title to Drawings that are furnished or produced in accordance with this Agreement or required or produced primarily for the performance of Seller’s obligations under this Agreement, shall belong to Buyer and be the sole and exclusive property of Buyer; provided, however, any underlying Seller Intellectual Property and/or Seller Improvements embodied in such Drawings shall remain owned by Seller. Without limiting the foregoing, Buyer may fully exploit and use such Drawings and the underlying Seller Intellectual Property rights, and Seller Improvements embodied in such Drawings, including the right to copy, distribute, license and create derivative works of the Drawings, for the purposes of operating the Unit, modifying the Unit and training personnel associated with such activities. For the avoidance of doubt, and subject to Seller maintaining ownership of its underlying Seller Intellectual Property and Seller Improvements, the Intellectual Property rights of any derivative works created from the Drawings shall be owned by Buyer. Seller hereby assigns (and shall cause its Affiliates and Subcontractors to assign) to Buyer without further consideration, all right, title and interest in all Drawings and other work products, including any Intellectual Property that is not underlying Seller Intellectual Property or Seller Improvements, Buyer Improvements and copyright interests therein to be held and enjoyed by Buyer, successors, and assigns, as fully and entirely as the same would have been held and enjoyed by the Seller. This Section shall survive termination of this Agreement.
			1. For detailed engineering subcontracting Seller acknowledges and agrees that Drawings (except for Drawings directed primarily to Seller Intellectual Property and/or Seller Improvements) do not contain proprietary information of Seller and are not considered Confidential Information of Seller. Seller shall include the following provision or an equivalent provision in any Subcontract and shall cause each Subcontractor to include the following provision in any Subcontract with any Person: “*Title to and Intellectual Property of Drawings. Title to Drawings, and the Intellectual Property rights including copyrights in works of authorship expressed in Drawings, that are furnished or produced in accordance with [Please provide details of this Agreement (i.e. entered between Petroleo Brasileiro S. A. and [X] in connection with [X] (“Agreement”)] or required or produced primarily for the performance of Seller Group’s obligations under this Agreement, shall be the sole and exclusive property of Petroleo Brasileiro S. A. (“Petrobras”). Without limiting the foregoing, Petrobras may fully use and exploit such Drawings and its Intellectual Property rights, including the right to copy, distribute, license and create derivative works, which shall be owned by Petrobras. Further, to the extent that any title of the Drawings and its Intellectual Property rights will need to be assigned to Petrobras, the subcontractor shall do all acts necessary to effect such an assignment.”*
			2. Notwithstanding the obligation under Section 13.1.4, the Intellectual Property of Drawings directed primarily to Seller Intellectual Property and/or Seller Improvements shall remain with Seller Group. With respect to the foregoing, Seller shall grant or procure for Buyer an irrevocable, non-exclusive, worldwide, royalty-free and perpetual license to use and sublicense use of such Drawings (and any necessary Seller Intellectual Property and/or Seller Improvements) for operating and maintaining the Unit and for training personnel for that purpose.
	2. **Seller waiver**. Seller hereby irrevocably waives all rights of any kind and nature, in law or equity, after the payment of the Unit by Buyer, to claim at any place and before any jurisdiction, any Lien on, or retention rights to, any parts of Scope of Supply or to the Unit based on any reason or allegation. Seller shall also require that its Subcontractors, suppliers, agents or any other persons equally waive any such rights in their respective agreements and contracts.
	3. **Risk of loss**. Notwithstanding passage of title as provided in Section 13.1 of this Agreement, Seller shall bear full responsibility of care, custody, control, and risk of physical loss and physical damage with respect to the Unit and the Equipment until the Handover Date and shall make good forthwith at its own cost any loss or damage that may occur to the Scope of Supply, Equipment and Unit (or any part thereof) from any cause during such period.
		1. For the avoidance of doubt, Seller shall remain liable for any physical loss or damage to the Unit or Equipment occurring after the Handover Date to the extent such loss or damage is caused by Seller’s acts, omissions, breach of contract, or failure to perform its obligations under this Agreement. Such liability shall be subject to Section 22.8.1, including its exclusions from the limitation of liability.
	4. **Copyrights**. Copyrights in the works of authorship expressed in Drawings produced by Seller for the execution of the Scope of Supply shall be the sole and exclusive property of Buyer. Buyer may fully exploit any Intellectual Property rights, including the right to copy, distribute and create derivative works of the Drawings. For the avoidance of doubt, any derivative works created from the Drawings shall be owned by Buyer. Any exploitation of copyrights will be subject to the confidentiality provisions of this Agreement. Seller agrees to execute, and to cause its Subcontractors, employees and representatives to execute, any document reasonably requested by Buyer to effect or confirm Buyer’s rights to such copyrights pursuant to this Section 13.4.
	5. **Improvements.** Subject to Section 13.4, Seller shall disclose to Buyer all Buyer Improvements that it or its Subcontractors makes to Buyer Intellectual Property during the term of this Agreement as soon as reasonably practicable following creation of the Improvements. All Buyer Improvements developed or acquired by or on behalf of Seller or its Subcontractors during the term of this Agreement shall belong to Buyer and Seller shall (and shall cause its Affiliates or Subcontractors) to assign all Intellectual Property rights of the Buyer Improvements to Buyer. Any such Buyer Improvements that are pre-assignable shall be considered immediately assigned to Buyer upon creation; and for any Improvements that are not pre-assignable, Seller hereby agrees to assign (or to cause its Affiliates or Subcontractors to assign) to Buyer. At Buyer’s reasonable request, Seller shall, and cause its Affiliates and Subcontractors, employees and representatives to execute all documents and take all such steps (at Buyer’s reasonable expense) necessary to transfer ownership and Intellectual Property rights to Buyer of any such Buyer Improvements and to enforce any Intellectual Property in such Buyer Improvements against third parties. This Section 13.5 shall survive the termination of this Agreement.
	6. **License.** Buyer hereby provides to Seller Group a non-exclusive, revocable, limited, non-assignable, non-transferable, non-sublicensable, royalty-free license to Buyer Intellectual Property solely for Seller Group to perform its obligations pursuant to this Agreement or under the relevant Subcontract. Seller agrees that any material breach by Seller Group of this Section 13.6 shall subject Buyer to irreparable harm; and Seller agrees that, upon such material breach, Buyer shall be entitled to seek immediate equitable relief in addition to other equitable remedies, damages and actions available to Buyer. For the avoidance of doubt, any act or omission of the Seller’s Subcontractors which leads to the material breach of this Section 13.6 shall be deemed to be the act or omission of Seller. This Section 13.6 shall survive the termination of this Agreement.

**ARTICLE 14**

 **INSURANCE**

* 1. Seller shall contract for any insurance coverage required by Applicable Law for the execution of the Scope of Supply, except as provided in Section 14.13.
	2. Seller shall provide, at its own expense and in accordance with applicable legislation, at a minimum, all the insurance policies and requirements listed in Exhibit XII, under penalty of this Agreement being suspended or terminated, at Buyer’s sole discretion.
	3. Seller shall provide, at its own expense, prior to the beginning of the performance of the Agreement the types of insurance specified in Exhibit XII, in accordance with the limits specified therein, in addition to the insurance coverage required by Applicable Law. Seller shall maintain in full force and effect all insurances (as appropriate) throughout the term of execution of the Scope of Supply. In the event that Seller fails to do so, Buyer may, at its sole discretion, suspend or terminate this Agreement.
	4. All insurance limits specified in Exhibit XII might be met through any combination of insurance layers (full primary layer or excess insurance layers).
	5. Seller shall be fully responsible for all the insurance deductibles that may be established for insurance coverage for which Seller is responsible, as well as for any burden, costs and/or expenses resulting from compliance with the requirements set, and recommendations issued, by the insurers.
	6. Seller shall, to the fullest extent possible under the Applicable Law, include Buyer Group as an additional insured party in all of the insurance policies held by Seller in connection with the execution of the Scope of Supply, but only to the extent of the Seller's obligations to indemnify Buyer Group under the Agreement. In the event that such inclusion is not possible despite Seller having made every reasonable effort to that effect, for reasons beyond Seller’s control, Seller may use other insurance to cover the risks and the claims involving Buyer Group, holding Buyer Group, in any event harmless, pursuant to Article 22.
	7. All insurance policies applicable to the performance of the Agreement shall, to the maximum extent permitted under Applicable Law, contain waivers of recourse and subrogation, against Seller Group, but only to the extent of Buyer’s obligations to indemnify Seller Group under the Agreement.
	8. All insurance policies applicable to the performance of the Agreement shall, to the maximum extent permitted by the Applicable Law, contain clauses to waive rights of recourse and subrogation, against Buyer Group, but only in the extent of the obligations of the Seller indemnify Buyer Group under the Agreement.
	9. If a Subcontractor performs any part of the Agreement, Seller shall ensure that the insurance specified in any Subcontracts is consistent with the requirements of this Article. Subcontractors are not required to contract insurance that duplicates the insurance that either Seller or Buyer has already agreed to provide.
	10. Buyer may request that Seller provide insurance certificates, endorsements or other evidence of proper maintenance of insurance by Seller. However, Buyer's analysis or acceptance of any certificate, insurer, terms or limits of insurance proposed by Seller shall not release Seller from any of its obligations or responsibilities.
	11. Seller shall notify Buyer in the event of any cancellation or material change under any insurance policy connected with the execution of the Scope of Supply within **fifteen (15) Business Days** of receiving notification from the insurer for this purpose.
	12. The contracting of insurance and execution of other actions related to this Article will not exempt the Seller from any obligations or responsibilities.
	13. Buyer shall obtain a “Construction All Risks” (Builder’s Risks Insurance) policy for the Lump Sum and Mooring Components, in which the Seller Group will appear as an additional insured party for the purposes of the execution of this Agreement, under the terms described in Exhibit XII, and Seller shall bear any expenses related to insurance deductibles in strict compliance with the provisions of Article 22.
		1. In the event of any non-coverage or insufficient coverage by the insurer, in any event, the Parties shall remain fully bound by the terms of Article 22 and shall bear the burden thereof.
			1. In the case of claims for damage to both Parties, the expenses related to deductibles shall be apportioned in proportion to the indemnities of the Parties.
		2. The issuance of the policy shall occur within six (6) months counted from the Effective Date.
			1. Until the policy is issued, the Parties shall be liable to, and shall indemnify each other, for losses and damages arising from any accidents, as provided in Article 22.
		3. Additional Items are not covered by “Construction All Risks” (Builder’s Risks Insurance).

**ARTICLE 15**

 **DOCUMENTATION**

* 1. **Delivery of Record As-Built Drawings**. Seller shall deliver to Buyer its Record As-Built Drawings in accordance with Exhibit III.
	2. **Purchasing and Subcontractor supplied information**. As more fully set forth in Exhibit III and Exhibit V, Seller shall deliver to Buyer, prior to Handover, copies of all purchase documents, Vendor operating and maintenance information manuals, material and fabrication certifications, as applicable, as well as installation instructions, and specific guarantee and warranty information.
	3. **Construction and commissioning Drawings and manuals.** Seller shall provide Buyer with construction and erection Drawings and manuals as specified in Exhibit III, Exhibit IV and Exhibit VIII.
	4. **Other information.** Seller shall provide all other information and documentation as may be reasonably requested by Buyer.

**ARTICLE 16**

 **COMPLETION**

* 1. **Guarantee of timely completion**. Seller agrees that it shall diligently pursue the Scope of Supply, assigning to it a priority that will accord with the Critical Path Schedule and Project Schedule, and shall achieve **(i)** Handover on or before the Guaranteed Handover Date and **(ii)** Final Completion on or before the Scheduled Final Completion Date. Except as otherwise expressly provided in this Agreement, neither the Guarantee Handover Date nor the Scheduled Final Completion Date shall be modified or extended for any reason whatsoever.
	2. **Mechanical Completion.** Seller shall comply with all requirements for Mechanical Completion specified herein. Mechanical Completion of each Module, each Integration, system and subsystem, shall be achieved when the applicable requirements for Mechanical Completion under this Agreement, including those set forth in the definition of Mechanical Completion under Section 1.3, have been satisfied. For each respective Mechanical Completion, either **(a)** the Module shall be ready for Integration, **(b)** the Integration of the Unit shall be complete, or **(c)** the applicable system or subsystem of the Unit shall be ready for commissioning activities, in each case as specifically described in Exhibit VIII. Prior to each applicable Mechanical Completion, all subsystems, systems, Modules and Integration, as applicable, shall undergo all Pre-Commissioning checks and tests required to ensure that such subsystems, systems, Modules and Integration were correctly installed or performed and are capable of being commissioned safely and reliably within the Specifications contained in this Agreement, Exhibit VIII and according to Good Engineering and Construction Practices and without damage to the Unit or any other property and without injury to any Person, and documentation shall be provided to Buyer which establishes and verifies that all such Pre-Commissioning activities have been performed. Seller shall assure to Buyer that all requirements for Mechanical Completion of each Module, Integration, system or subsystem, as the context indicates, has occurred, by providing a formal record of the achievement of Mechanical Completion in accordance with Exhibit VIII. Each formal record of Mechanical Completion achievement shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Mechanical Completion have been met.
	3. **Substantial Completion**. Seller shall comply with all requirements for Substantial Completion specified herein. Substantial Completion of the Unit shall be achieved when all requirements for Substantial Completion under this Agreement, including those set forth in the definition of Substantial Completion under Exhibit VIII, have been satisfied. Upon Substantial Completion of the Unit, Seller shall certify to Buyer that all of the requirements for Substantial Completion for the Unit have occurred by providing a certificate in the form specified in Exhibit XVII (the “Substantial Completion Certificate”). The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.
		1. **Buyer acceptance of Substantial Completion**. Buyer shall notify Seller whether it accepts or rejects the Substantial Completion Certificate for the Unit no later than **thirty (30) Days** following receipt of the Substantial Completion Certificate. Prior to the end of the **thirty (30) Day** review period, Buyer may extend for the same period, by notice to Seller, the previously mentioned period as may be necessary according to the circumstances. If Buyer does not reject the Substantial Completion Certificate within the term set forth in this Section 16.3.1, then Seller may deem for all purposes that the Substantial Completion Certificate has been accepted.
		2. If Buyer does not agree that Substantial Completion has occurred, then Buyer shall state the basis for its rejection, according to the requirements of this Agreement, in reasonable detail in a written notice provided to Seller. The Parties shall thereupon promptly and in good faith confer and undertake all reasonable efforts to resolve any issues preventing the acceptance by Buyer of the Substantial Completion Certificate. Such issues shall be resolved within **twenty (20) Days** of the delivery by Buyer of its notice, or in the period of days agreed to in writing by the Parties to enable any correction in order to achieve Substantial Completion. If such issues are not resolved within **twenty (20) Days** of the delivery by Buyer of its notice, or in the period of days agreed to in writing by the Parties to enable any correction in order to achieve Substantial Completion, Buyer and Seller shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 24.
	4. **Handover**. The transfer of physical care and custody of the Unit (“Handover”) shall only occur once the following events are completed:

**(i)** the “Substantial Completion” requirements set forth in this Agreement and in Exhibts I, II, VIII and XI have been fully achieved;

**(ii)** Seller has delivered the Unit as set forth in Section 3.2.3.1;

**(iii)** Inspection and clearance by “Brazilian Health Authorities” (Agência Nacional de Vigilância Sanitária, “ANVISA”;

**(iv)** inspection and clearance by the “Brazilian Federal Police”;

**(v)** “Port States Control Inspection” performed and corresponding report issued without impeditive outstanding item for offshore installation and “AIT” (Atestado de Inscrição Temporária) certificate obtained;

**(vi)** inspection and clearance by “Brazilian Customs”;

**(vii)** the delivery to Buyer of the necessary certificates from the relevant Classification Society as well as Permits and Consents required for the transportation and operation of the Unit;

**(viii)** Seller has delivered the Capital Spares and Special Tools Stored On Shore; and

**(ix)** acceptance of the Handover Certificate by the Buyer in accordance with Section 16.4.1 below. The Handover shall be in accordance with Exhibit I conditions agreed between Buyer and Seller and as fully described in the Handover Certificate in accordance with Exhibit XVII.

* + 1. **Buyer acceptance of Handover**. Buyer shall notify Seller whether it accepts or rejects the Handover Certificate for the Unit no later than **thirty (30) Days** following receipt of the Handover Certificate. Prior to the end of the **thirty (30) Day** review period, Buyer may extend, by notice to Seller, the previously mentioned period as may be necessary according to the circumstances. If Buyer does not accept or reject the Handover Certificate within the term set forth in this Section 16.4.1, then Seller may deem for all purposes that the Handover Certificate has been accepted.
		2. If Buyer does not agree that Handover has been achieved, then Buyer shall state the basis for its rejection in reasonable detail in a written notice provided to Seller. The Parties shall thereupon promptly and in good faith confer and undertake all reasonable efforts to resolve any issues preventing the acceptance by Buyer of the Handover Certificate. If such issues are not resolved within **twenty (20) Days** of the delivery by Buyer of its notice, or in the period of days agreed by the Parties to enable any correction in order to achieve Handover, Buyer and Seller shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 24.
		3. The Unit shall, on and from the Handover, be registered in the name of the Buyer under the laws and flag of the Flag State.
	1. **Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion, have been satisfied. Upon Final Completion, Seller shall certify to Buyer by providing a certificate in the form of Exhibit XVII (the “Final Completion Certificate”) that all of the requirements under this Agreement for Final Completion have occurred. Buyer shall notify Seller whether it accepts or rejects the Final Completion Certificate within **fifteen (15) Days** following Buyer’s receipt thereof. Acceptance of the Final Completion Certificate shall be evidenced by Buyer’s signature on such certificate, which shall be forwarded to Seller with such notice. If Buyer does not agree that Final Completion has occurred, then Buyer shall state the basis for its rejection, in reasonable detail in a written notice provided to Seller. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. Such issue shall be resolved within **ten (10) Business Days** of the delivery by Buyer of its notice, or any other term to be agreed to in writing between Parties. If such issues are not resolved within **ten (10) Business Days** of the delivery by Buyer of its notice, or in the period of days agreed to in writing by the Parties, Buyer and Seller shall resolve the Dispute in accordance with the dispute resolution procedures set forth in Article 24, provided, however, that if such deficiencies relate to the failure to complete all the Substantial Completion Punch-list items, Buyer may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Substantial Completion Punch-list items at the expense of Seller.
		1. Final Acceptance shall be achieved when all requirements for Final Acceptance under this Agreement, including those set forth in the definition of Final Acceptance under Section 1.3, have been satisfied.
	2. **Long-term obligations**. No acceptance by Buyer of any or all of the Scope of Supply or any other obligations of Seller under this Agreement, including acceptance of any Mechanical Completion, Substantial Completion, Final Completion or Final Acceptance, nor any payment made hereunder, whether an interim or final payment, shall in any way release Seller or any surety of Seller from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any nonconformities to the requirements of this Agreement, including warranty obligations, any liabilities for which insurance is required or any other responsibility of Seller, including the payment of any and all fines and penalties assessed as a result of Seller’s failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 16.6 shall in any way modify or alter Seller’s obligations under Article 16 and Article 17 hereof.

**ARTICLE 17**

 **INSPECTION AND WARRANTY**

* 1. **Scope of warranty**
		1. **General standards**. Seller shall ensure that all activities performed hereunder, all Equipment supplied by Seller hereunder, and the Unit shall comply with all requirements specified in this Agreement. Without limiting the preceding sentence, Seller warrants:

**(i)** that the Unit furnished hereunder are new and unused, of internationally acceptable standards according to Good Engineering and Construction Practices, and free from encumbrance, Liens or other security interest, and that only proven technology, in commercial operation at the time of execution of this Agreement, with conditions substantially similar to those contained herein, shall be used;

**(ii)** that the Unit shall be designed, manufactured, engineered, constructed, completed, commissioned, pre-commissioned, tested and delivered in strict accordance with this Agreement and the Lump Sum Price;

**(iii)** that the Unit shall be free from defects in materials and/or workmanship, including, but not limited to, any latent defects that may not be readily evident, and shall conform in all respects with the Scope of Supply; and

**(iv)** that the Scope of Supply shall be executed in conformity with the Good Engineering and Construction Practices, Applicable Law and all other applicable provisions of this Agreement. Any Equipment or Scope of Supply that do not meet the standards specified in this Section 17.1 are “Defective” and contain a “Defect”.

* + 1. **Equipment quality**. Seller shall furnish satisfactory evidence to Buyer as to the kind, quality, and quantity of all Equipment supplied by the Seller. Seller shall not use any Equipment other than as specified in this Agreement, except with prior written approval by Buyer specifically waiving the pertinent requirements of this Agreement. If Seller desires to procure Equipment from a Vendor that is not included on the Vendor List, Seller shall submit a request for Buyer’s approval, in accordance with Exhibit V. If Seller wishes to modify the requirements for any Equipment contained herein, then it shall make written application to Buyer for Buyer’s approval, at Buyer’s sole discretion, prior to making such modification. Such application shall **(i)** identify the requirements being modified, **(ii)** certify that the quality of the proposed substitute is equal to or better than that currently specified, and **(iii)** certify that the substitute is suited to the same use and capable of performing the same function as that specified. If the preceding requirements are not followed, then any substitution shall constitute a Default by Seller. All Equipment and material shall be new and manufactured, built, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions and warranties of the applicable Vendor, manufacturer, fabricator or processor. Seller shall obtain (or cause to be obtained) manufacturers’ warranties for all Equipment, to be held by Buyer in Buyer’s name or assigned to Buyer in accordance with Section 17.3.2.
	1. **Buyer right to inspect**
		1. **General rights**. All Scope of Supply execution shall be subject to inspection by Buyer at all times in order to determine its conformity to the requirements of this Agreement, for which purpose Buyer, its officials or authorized representatives shall at all times have the unrestricted right to access to all locations where the Scope of Supply is being executed, whether on the Site or any other place, including Subcontractors’ premises where any parts or all of the Scope of Supply thereof are being manufactured, stored or prepared for delivery to Seller. Seller shall furnish Buyer with access to all locations where the Scope of Supply is being executed, including locations not on the Site. If, in the judgment of Buyer, any parts of the Scope of Supply are Defective, then Seller shall, at its own expense, promptly repair or replace the Defective parts. Subject to Seller’s right to pursue a Dispute under Article 24, the decision of Buyer shall be conclusive as to whether the parts are conforming or Defective, and Seller shall comply with the instructions of Buyer in all such matters while pursuing any such Dispute. If it is later determined that the parts were not Defective, then Buyer shall reimburse Seller for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact which the repair or replacement may have had on the Project Schedule. If Seller fails to commence the repair or replacement of any Defects or Defective parts within **seven (7) Days** or a reasonable period of time as agreed by Parties, then Buyer may, at its sole discretion, repair or replace the Defects or Defective parts, or have the Defects or Defective parts repaired or replaced, and the expenses thereof shall be reimbursed by Seller, and Seller shall not be entitled to any extension of the Project Schedule.
		2. **No obligation to inspect.** Buyer’s right to conduct inspections under Section 17.2.1 shall not obligate Buyer to do so. Neither the exercise of Buyer of any such right, nor any failure on the part of Buyer to discover or reject Defects shall be construed to imply an acceptance of such Defects or a waiver of such Defect or relieve Seller of full liability for the quality, character, proper operation and performance of the completed Scope of Supply, or any part of it, nor shall such waiver or failure prejudice or affect the rights of Buyer set forth in this Agreement.
		3. **Cost of disassembling.** The cost of disassembling or dismantling finished parts of the Scope of Supply for the purposes of any inspection by Buyer, and of reassembling such portions (together with any delay associated therewith) shall be borne by Buyer if such parts are found to conform with the requirements of this Agreement, and by Seller if such parts are found to be Defective.
	2. **Warranty of Defects and services**

17.3.1. **Warranty Period**. Subject to Section 17.3.7, Seller shall promptly rectify, repair or replace, and install, at no cost to Buyer, any Defects, and any part of the Unit or other property which is damaged or affected by Defective parts, if the Defect appears, is discovered or occurs during the period commencing on the “Warranty Start Date” and ending **12 months** after the Warranty Start Date, (the “Warranty Period”) or, if there is an Additional Warranty Period pursuant to Section 17.3.1.2, after the Additional Warranty Period has elapsed. The Warranty Start Date is defined individually for each Operational System and will be specified as of:

**(a)** For Operational System where the Offshore Start-up Processes does not apply: Warranty Start Date will be the later of the Handover date or the System Transfer Certificate date; and

**(b)** For Operational System where the Offshore Start-up Processes is applicable: Warranty Start Date will be the later of the conclusion date of the Offshore Start-up Processes or the conclusion date of all Punch Item Impeditive (Type A) identified during Offshore Start-up Processes.

* + - 1. In the event the Warranty Start Date suffers a delay attributable to Buyer that exceeds **1 (one) month** (upon notification from Seller and acceptance from Buyer), the Warranty Period shall be the original period minus the delay period plus **1 (one) month**. The adjustment of the delay period as per the forementioned rule shall only be applied if **(i)** the delay attributable to Buyer exceeds **1 (one) month** and **(ii)** the results of the Offshore Start-up Processes t are approved immediately after it is performed.
			2. Notwithstanding the provisions in Section 17.3.1.1, the “Warranty Period” may be extended in accordance with the terms and conditions set out in this Section 17.3.1.2. Any rectification, repairment, replacement or installation furnished by Seller to correct any Defect or any part of the Unit or other property which is damaged or affected by Defective parts, pursuant to Section 17.3.1, shall be guaranteed for an additional **twelve (12) month** warranty period (the “Additional Warranty Period”) starting as of the date that the correction, repair or replacement is completed; provided, however, that the Additional Warranty Period shall terminate at Final Acceptance. All works performed in the Additional Warranty Period shall be performed under the same terms and conditions as the initial warranty period. Nothing contained in this Section 17.3.1 shall be construed to establish a period of limitation with respect to other obligations which Seller might have under this Agreement. For the avoidance of doubt, the Warranty Period relates only to the specific obligation of Seller to cure Defects covered by the Warranty andit has no relationship to the time during which the obligation to comply with this Agreement may be sought to be enforced, nor to the time during which proceedings may be commenced to establish Seller’s liability with respect to Seller’s obligations other than specifically to cure Defects.
		1. **Assignment and enforcement of Subcontractor warranties**. Seller shall, without additional cost to Buyer, obtain warranties from Subcontractors that meet the requirements of this Agreement; provided, however, that Seller shall not in any way be relieved of its responsibilities and liability to Buyer under this Agreement, regardless of whether such Subcontractor warranties meet the requirements of this Agreement, as Seller shall be fully responsible and liable to Buyer for its warranty obligations and liability under this Agreement for the entire Scope of Supply. All such warranties shall be deemed to run to the benefit of Buyer and Seller. Such warranties, with duly executed instruments assigning the warranties to Buyer, shall be delivered to Buyer upon Handover, it being understood that Buyer shall not accept any such assignment until one of the circumstances provided in Section 19.4.7 occurs. All warranties provided by any Subcontractor shall be in such form as to permit direct enforcement by Seller, Buyer or Operation Contract contractor against any Subcontractor whose warranty is called for, and Seller agrees that:

**(i)** Seller’s warranty, as provided under this Article 17, shall apply to the whole of the Scope of Supply regardless of the provisions of any Subcontractor warranty, and such Subcontractor warranties shall be in addition to, and not a limitation of, such Seller warranty;

**(ii)** Seller’s warranty may be enforced by Buyer or by any member of the Operation Contract contractor;

**(iii)** Seller is jointly and severally liable with such Subcontractor with respect to such Subcontractor warranty; and

**(iv)** service of notice on Seller that there has been a breach of a Subcontractor warranty shall be sufficient to invoke the terms of such Subcontractor warranty. This Section 17.3.2 shall not in any way be construed to limit Seller’s liability under this Agreement for the entire Scope of Supply or its obligation to enforce Subcontractor warranties. Seller agrees to use all reasonable efforts to obtain warranties that meet the requirements of this Agreement from Subcontractors.

* + 1. **Remedy.** Buyer or Operation Contract representative shall provide notice to Seller of the discovery of any Defects as soon as practicable after such discovery. Seller shall cure, repair or replace such Defects, and any other portions of the Unit damaged or affected by such Defects, as promptly as practicable and on an expedited basis, at no cost to Buyer. Buyer shall provide Seller with access to the Unit sufficient to perform its warranty obligations under this Agreement, so long as such access does not unreasonably interfere with operation of the Unit and subject to any reasonable security or safety requirements of Buyer. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Buyer in accordance with the terms of Section 17.1.2 hereof.
		2. Repair by Buyer. Should Seller, after notification of a breach of a warranty under Section 17.3.3, fail to commence remedial action within **seven (7) Days** or a reasonable period of time agreed between Parties, or delay in continuing or completing such remedial action, Buyer may, in addition to any other remedies that it has under this Agreement, at law or in equity, upon written notice to Seller, take steps to cure or have such Defect(s) cured in accordance with the provisions of this Agreement, at Seller’s risk. In such case, upon receipt of an invoice from Buyer, Seller shall be liable for all reasonable costs, charges and expenses incurred by Buyer in connection therewith.
		3. **Further tests.** If the repair or replacement is such that it may affect the execution of the Scope of Supply or any part thereof, Buyer may require that tests of the executed part of the Scope of Supply (including a repeat of any Performance Tests), or any part thereof, be conducted at Seller’s expense and repeated to the extent reasonably necessary. Such requirement shall be made by notice within **thirty (30) Days** after the Defect, or resultant damage is remedied. Such tests verify that the Scope of Supply or any portion thereof, as the case may be, is at the same level of performance as existed prior to the need for repair or replacement.
		4. **Painting and coating warranty**
			1. Related to painting/coating performed on Unit under this Agreement, the warranty period is defined on Exhibit IV and shall follow Exhibit IV guidelines. The painting/coating warranty period starts immediately after “Substantial Completion” milestone.
			2. Assignment and enforcement of Subcontractor and Vendor warranties: Related to painting/coating performed on Unit by Subcontractors and Vendors, the warranty conditions shall follow Exhibit IV guidelines.
			3. The same conditions mentioned in Section 17.3.4 (repair by Buyer) apply to painting/coating and Exhibits I, IV and V requirements shall also be followed.
		5. **Limitations on Seller’s warranty obligations**.
			1. Seller’s liability for its warranty obligations under this Article 17 shall be subject to the monetary limitation set forth in Section 22.8.1 during the first **twelve (12) months** of the Warranty Period.
			2. After the first **twelve (12) months** of the Warranty Period, Seller’s liability for the performance of its warranty obligations under this Article 17 shall be limited to direct damages in an aggregate amount not to exceed **US$ 10,000,000.00**.
			3. After the Handover of the Unit, none of Seller or any member of the Seller Group shall be liable to Buyer for the costs associated with offshore transportation to or from the Unit or the offshore operation of any heavy lift barge or vessel which may be required to correct, repair or replace any Defects or any part of the Unit or other property which is damaged or affected by Defective parts during the Warranty Period.

**ARTICLE 18**

**ASSIGNMENT AND GUARANTEE**

1.

Assignment. This Agreement shall not be assigned or transferred by Seller in whole or in part without Buyer’s prior written consent, which Buyer may grant or withhold at its sole discretion, by evaluating, among other qualifications of the assignee, the fulfillment of the requirements to be a seller set in the Bid Documents.

* 1. **Assignment**. This Agreement shall not be assigned or transferred by Seller in whole or in part without Buyer’s prior written consent, which Buyer may grant or withhold at its sole discretion, by evaluating, among other qualifications of the assignee, the fulfillment of the requirements to be a seller set in the Bid Documents.
		1. Notwithstanding the provisions of any assignment, Seller shall, together with any assignee, remain jointly and severally liable to Buyer for the due performance of all of Seller’s obligations under this Agreement. For the avoidance of any doubt, the assignee shall assume all warranties, liabilities, and responsibilities owed by Seller to the Buyer before the assignment, including the obligations regarding any Claim or Change Order Buyer may have against Seller.
	2. **No security interest.** Seller may not establish or authorize the establishment of any security interest, including any collateral assignment, over any of Seller’s right, title and interest in, to and under this Agreement, nor agree with legal acts to the same effect, except by prior written authorization from Buyer.
	3. **Seller not to be released.** The assignment or establishment of any security interest permitted above does not release Seller from any of its contractual obligations hereunder.
	4. **Assignment by Buyer.** At its sole discretion and without any previous consent from Seller, Buyer may pledge or assign, without recourse, its rights and obligations in and to this Agreement in whole or in part to any entity in which Buyer or an Affiliate of Buyer has an equity interest, or to any Lender or creditor upon written and prior notice to Seller. Seller also agrees and undertakes, if so, requested by Buyer, Lender or creditor, to execute a specific agreement or agreements with Buyer, Lender or creditor, under terms deemed satisfactory to Seller and Buyer or such Lender or creditor, including an amendment and/or replication of this Agreement to reflect such whole or partial assignment. Such specific agreement may also provide for Seller’s obligation to furnish financial and accounting information, as well as any other information of any nature relating to this Agreement and the performance of the Scope of Supply and for customary post-breach Lender cure periods, step-in/step-out rights and replacement in the event of a Buyer insolvency. Except as set forth above, such assignment shall not impose on Seller any material additional obligation or materially adversely affect any right or remedy available to Seller hereunder.
		1. Buyer may, after obtaining prior written consent of Seller (which consent shall not be unreasonably withheld), assign its rights under this Agreement provided that the assignee undertakes in writing to Seller to be bound by Buyer’s obligations under this Agreement. Notwithstanding the foregoing, Buyer shall not be required obtain any prior written consent from the Seller in the event it assigns its rights under this Agreement to any member of the Buyer Group.
	5. **Change in capital composition**. Except with the prior written consent of Buyer, Seller shall not permit any material change in its direct or indirect capital composition which reduces the economic participation of the companies relied upon in the bidding process to satisfy the technical, financial or project development requirements set forth in the Bid Documents. If a material change in Seller’s capital composition is proposed to occur, Seller shall promptly notify Buyer of the change and request its consent thereto. Buyer shall have the absolute discretion to withhold its consent to any such material change prior to the Handover Date. Thereafter, Buyer shall not withhold or delay its consent to any such material change, so long as Seller demonstrates that such change shall not adversely affect Seller’s ability to comply with its obligations under the Agreement.
	6. Right of termination. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; any assignment not in accordance with the provisions of this Article 18 shall be void and without force or effect. Any attempt to assign this Agreement or to change in capital composition of Seller in violation of Article 18 shall grant the other Party and Seller, as the case may be, the right, but not the obligation, to terminate this Agreement at its sole option in accordance with Article 21.
	7. No assignment under this Agreement shall be made to any person or entity that is the target of, or otherwise subject to, any applicable government sanctions, including but not limited to those administered by the United States, European Union, or Brazil. Any such attempted assignment shall be deemed void.

**ARTICLE 19**

**SUBCONTRACTING**

* 1. **Qualification of Subcontractors**. All Subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. All contracts with Subcontractors shall be consistent with the terms or provisions of this Agreement. No Subcontractor is intended to be or shall be deemed to be a third-party beneficiary of this Agreement. Seller shall only subcontract the Scope of Supply with Subcontractors meeting the requirements of this Article 19.
		1. Subcontractor shall comply with the requirements of technical qualification presented by Seller in the bid in relation to the Scope of Supply of the Agreement.
		2. No company or consortium which participated in the bid that originated this Agreement, or which directly or indirectly took part in the GTD, may be a Subcontractor under this Agreement.
		3. No Subcontract shall be concluded, nor Buyer’s authorization sought to subcontract, with any company listed in “Empresas Impedidas de Transacionar com a Petrobras” or listed as disreputable in "Portal da Transparência da Controladoria Geral da União" or which have any impediment for contracting as provided for in applicable legislation. Before Seller enters into any subcontract, Seller shall obtain and provide to Buyer a certificate signed by the proposed subcontractor in the form of Exhibit XXVIII. Seller shall indemnify and hold each member of the Buyer Group free and harmless from and against any and all claims, losses and/or liabilities (including the cost and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction that may be filed against any member of the Buyer Group and related attorneys’ fees) suffered or incurred by any member of the Buyer Group arising out of or resulting from a misrepresentation by the Subcontractors providing such certification.
			1. Seller shall submit their proposed subcontractors to Buyer in order to be approved if their corresponding GRI status is “high”. Buyer may, at its sole discretion, disapprove any subcontractor with a corresponding GRI status as “high”. The right of Buyer to not approve proposed subcontractors with a corresponding GRI status as “high” does not in any manner limit the other rights of Buyer under this Agreement with respect to Subcontractors.
				1. Seller is responsible for verifying with their proposed subcontractors’ corresponding GRI status.
		4. Additionally, engineering and yards Subcontractors shall comply with the following criteria:
			1. **Detailed engineering**
				1. TOPSIDE – The Seller or the proposed Subcontractor shall prove to have performed within the last **five (5) years**, the topside’s detailed engineering for at a minimum one (1) production unit of the FPSO, semi-submersible, TLP or SPAR type, constructed and delivered, with an oil production capacity equal to or higher than 100,000 (one hundred thousand) barrels per day and a gas production capacity above 2,000,000 (two million) cubic meters of gas per day.

For the avoidance of doubt, the topsides’ detailed engineering mentioned in Section 19.1.4.1.1 shall include the previous experience of Seller or the proposed subcontractor on the issuance of the documents such as but not limited to: drainage system sizing calculation; relief and blow down calculation; utility consumption calculation; integrated mechanical handling studies; 3D model and database and interface engineering management between topside modules and hull.

 **Modules**. The Seller or proposed subcontractor shall be required to have performed at the minimum one (1) module detailed engineering with similar complexity for at least one (1) offshore production unit of FPSO, semi-submersible, TLP or SPAR type, constructed and delivered.

* + - * 1. **Hull** - The proposed subcontractor shall prove to have performed within the **last 5 (five) years** the detailed engineering for at least 1 (one) new hull (ship shaped or barge) for a production unit of the FPSO type, and/or an oil tanker, constructed and delivered, of 130,000 (one hundred and thirty thousand) or greater dwt (i.e. Suezmax or larger).
			1. **Hull Construction** (Facilities and Experience).
				1. The proposed subcontractor shall prove to have performed within the last **10 (ten) years** the construction, assembly and commissioning of at least 1 (one) new hull (ship shaped or barge) for a production unit of the FPSO type, or the hull of a floating production (SS, TLP or Spar) with a displacement of 40,000 (forty thousand) tons or greater.
				2. The proposed subcontractor shall prove to own a shipyard able to carry out the construction of the Hull and equipped with, at a minimum, the following facilities:
1. A dry or floating dock suitable for the construction of a vessel with breadth, length and enough depth accordingly to proposed constructability strategy, in addition to the appendices (lower riser balcony and sea water lift pumps balcony)
2. Pier for mooring the new hull
3. Lifting facilities that meet the deck and pier area with the capacity to lift the heaviest and tallest Module/item of Equipment to be installed in the Hull.
	* + 1. **Modules construction** (facilities and experience).
				1. The proposed subcontractor shall prove to have carried out, within the past **15 (fifteen) years**, the construction, assembly and commissioning of modules for production units of the FPSO, semi-submersible, TLP, SPAR type or Drilling Units.
				2. The proposed subcontractor shall prove to have available infrastructure and lifting facilities capable of lifting the heaviest and tallest structure/item of equipment to be manufactured on the site and facilities to allow the load out of the module for transport barges or vessels.
			2. **FPSO Integration and Commissioning** (Facilities and Experience).
				1. The proposed subcontractor shall prove to have carried out, within the past **15 (fifteen) years**, and for at least two customers from different economic groups, the integration and commissioning (onshore/offshore) of at least 1 (one) production unit of the FPSO type, with an oil production capacity equal to or higher than 100,000 (one hundred thousand) barrels per day and gas production capacity above 2,000,000 (two million) cubic meters of gas per day.
				2. The proposed subcontractor shall prove to have a shipyard able to carry out the Integration and commissioning of the FPSO and equipped with, at a minimum, the following facilities:
4. Facilities for mooring the FPSO and a basin for maneuvers with a minimum 11 m draft to allow the mooring and unberthing of the FPSO from both sides. If inclining experiment will be performed at quayside, minimum draft shall be around 12m;
5. Lifting facilities that abut the wharf area with the capacity to lift the heaviest and tallest Module/item of Equipment to be installed on the Hull, in accordance with the Module lifting strategy, and a minimum of two 40 (forty) ton cranes to carry out the load in/out of material on board.
	* + - 1. Offshore commissioning Subcontractors that have worked, as a contractor or subcontractor, for Buyer in offshore commissioning in the last **fifteen (15) years** are exempt from the requirement of presenting a second customer from different economic group as stated in Section 19.1.4.4.1. but is still required to comply with all other applicable requirements from this Agreement and its Exhibits.
			1. **HSE analysis for detailed engineering design**

19.1.4.5.1. The Subcontract entered into by Seller shall contain an express provision acceptable to Buyer to oblige proposed subcontractor to abstain from performing HSE management system audits, requested by any regulator or private third parties, regarding any aspect of this Agreement or the Scope of Supply.

* 1. **Seller liability for Subcontractors**. Seller shall be fully responsible to Buyer for the acts and omissions of Subcontractors and of persons directly or indirectly employed by them, as it is for the acts or omissions of persons directly employed by Seller. Any Subcontractor shall be subject to inspection by Buyer to the same extent as the Seller. All Subcontractors and personnel of Subcontractors are to be instructed in the terms and requirements of, and expected to comply with, the Seller HSE Management Plan and Buyer approved safety and environmental protection regulations, including Buyer Policies. In the event Subcontractor’s personnel does not adhere to such regulations, then they shall be removed by Seller. In no event shall Seller be entitled to any adjustment of the Contract Price or Project Schedule, or to present a Claim, as a result of any increase in cost due to compliance with such regulations or due to the removal of personnel. Nothing contained herein shall **(i)** create any contractual relationship between any Subcontractor and Buyer or **(ii)** obligate Buyer to pay or cause the payment of any amounts to any Subcontractor.
	2. **Major Subcontractors**. In the event that Seller is considering the selection of a Subcontractor for a Major Subcontract (such Subcontractor hereinafter referred to as “Major Subcontractor”), Seller shall submit to Buyer’s approval its proposed Major Subcontractor as soon as possible during the selection process and furnish Buyer all information reasonably requested by Buyer with respect to Seller’s selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and the qualifications of the proposed Major Subcontractors), or in no event less than **thirty (30) Days** prior to the execution of a Major Subcontract, whichever is earlier. Buyer shall undertake in good faith to review expeditiously the information provided by Seller in accordance with this Section 19.3 and shall notify Seller of its decision to accept or reject a proposed Major Subcontractor as soon as practicable after such decision is made. Approval by Buyer of any Subcontractor or their receipt or review of any Subcontract shall not **(a)** relieve Seller of any of its obligations under this Agreement or **(b)** constitute any approval of the Scope of Supply undertaken by such Person.
		1. **Same requirements.** The Major Subcontractors shall comply with and perform for the benefit of Buyer all requirements and obligations of Seller to Buyer under this Agreement, as such requirements and obligations are applicable to the execution of the Scope of Supply under the Major Subcontract, including but not limited to an indemnity identical in substance to that included in Section 22.1 and the insurance requirements specified in Article 14. Any exception shall apply only if expressly approved in writing by Buyer, at its sole discretion.
	3. **Subcontracts**
		1. Seller shall submit a subcontracting plan as per Exhibit VI requirements. Such plan shall set out, at a minimum, the strategy and rationale for Subcontracting and the associated detailed scope and shall indicate if any given Subcontractor qualifies as a Major Subcontractor as per the criteria specified above.
		2. Seller shall furnish Buyer with a copy of all Major Subcontracts within ten (**10) Days** after execution thereof. Without prejudice to other applicable provisions of this Agreement, each Major Subcontract shall provide that:
		3. It is the responsibility of Seller to fully disclose this Agreement and the contents thereof, except for commercial terms, to any Subcontractor. Seller shall undertake all necessary action to prevent Buyer from becoming liable directly to any claims by Subcontractors and shall defend, indemnify and hold each member of Buyer Group free and harmless from and against any claims, losses and/or liabilities (including the costs and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction that may be filed against any member of Buyer Group and related attorneys’ fees) suffered or incurred by any member of Buyer Group as a result of any such claim by any Subcontractor. All Subcontracts shall expressly and clearly specify that the contractual relationship with the Subcontractor is exclusive to the Seller and that the Subcontractor waives any and all rights to demand any payment directly from Buyer.
		4. No Subcontract, supply contract, purchase order or other agreement entered into by Seller for the purpose of executing the Scope of Supply shall bind or purport to bind Buyer. Seller shall ensure that each such Subcontract, supply contract, purchase order or other agreement contains a provision permitting assignment thereof to Buyer as further set forth in Section 19.4.7.
		5. All Subcontracts, supply contracts, purchase orders or other agreements shall provide for the right of unilateral termination by Seller of all or a portion of such Subcontract, supply contract, purchase order or other agreement without any penalties to Buyer. If so, requested by Buyer, following any termination of this Agreement for convenience, or by reason of Default by Seller, Seller shall terminate any such agreements, Subcontracts, supply contracts, purchase orders or other agreement. Each Subcontract, supply contract, purchase order and other agreement shall also provide that, in the event of termination, title to Equipment or partially completed Scope of Supply for which Buyer has paid (whether directly or indirectly) shall pass to Buyer. After such title has passed, Seller shall, at the direction of Buyer, instruct the Subcontractor with respect to the disposition of such part or Equipment. At a minimum, all Subcontracts shall also require the Subcontractors to comply with Applicable Law, shall provide that Buyer have the right of inspection as provided hereunder and require such Subcontractors to provide guarantees and warranties with respect to its portion of the Scope of Supply, provide certificates of insurance as set forth herein and be subject to the Seller’s insurance requirements set forth herein. In addition to the requirements set forth above, Seller shall include in each Subcontract the following language to make Buyer an express third-party beneficiary of such Subcontract:

“*The parties hereto agree and acknowledge that the portion of the Scope of Supply to be provided hereunder by [Subcontractor’s name] will be incorporated into the Floating Production Storage Offloading being developed by Buyer. As such, the parties expressly agree that Buyer is a third-party beneficiary of this [Agreement] entitled, in its own name or in the name of [Seller], to enforce this [Agreement] against [Subcontractor]. This provision shall not be amended without the prior written consent of Buyer*”

* + 1. Nothing contained herein or in any such Subcontract, supply contract, purchase order or other agreement shall **(i)** create or constitute any contractual relationship between Buyer and any Subcontractor, **(ii)** create any obligation on the part of Buyer to a Subcontractor or **(iii)** obligate Buyer to pay any amount to any Subcontractor.
		2. Subject to the following sentence, Seller hereby irrevocably assigns to Buyer (and to Buyer’s permitted assigns hereunder) all of Seller’s rights, title and interests in any Subcontracts (or any portion thereof to the extent such Subcontracts also relate to other projects of Seller) now existing or hereinafter entered into by Seller for the execution of any part of the Scope of Supply, which assignment shall become effective, without any further action of Seller, upon acceptance of such assignment by Buyer in a written notice delivered to Seller in accordance with this Agreement, and only as to those Subcontracts which Buyer shall have designated in such notice as being assumed by Buyer. Buyer hereby agrees not to exercise its right to assume any Subcontract pursuant to this Section 19.4.7 unless and until:

**(a)** any obligation by any Subcontractor under any Subcontract extends beyond the expiration of this Agreement, including the Warranty Period;

**(b)** Buyer has elected to terminate this Agreement in accordance with the terms hereof; or

**(c)** Seller has failed to perform any of its material obligations under this Agreement, and provided that Buyer shall not take any action that would release or otherwise compromise any right or claim of Seller against any such Subcontractor under the applicable Subcontract.

Each Subcontract entered into by Seller shall contain an express provision acceptable to Buyer permitting the unconditional assignment of all of Seller’s rights, title and interests thereunder to Buyer, Buyer’s permitted assigns hereunder, and the Lenders, and clearly stating that such assignment shall become effective without the prior consent or the taking of any other action by Seller or such Subcontractor upon Buyer’s written notice to such Subcontractor designating such Subcontract as being assumed by Buyer in accordance with the provisions of this Section 19.4.7.

**ARTICLE 20**

**LIQUIDATED DAMAGES**

* 1. **Liquidated Damages for Delay**. The Milestone events indicated in the Project Schedule shall be attained by Seller in sufficient time to allow Handover to occur on or before the Guaranteed Handover Date, and for the Ready for First Oil to occur on or before the Guaranteed Ready for First Oil Date.
		1. If, for reasons attributable to Seller Group, **(i)** the Handover Date of the Unit does not occur on or before the Guaranteed Handover Date, or **(ii)** the Unit is not Ready for First Oil on or before the Guaranteed First Oil Date, or **(iii)** there is a delay in the First Oil Date, then, subject always to Section 21.1.4, Seller shall pay to Buyer, as liquidated damages for each and every such delay solely attributable to Seller Group (“Liquidated Damages for Delay”), the amount corresponding to the percentages of the Lump Sum Price as per Schedule A of Exhibit XXI indicated below, for each day of delay, until the Unit is Ready for First Oil:

|  |
| --- |
| Failure to achieve Handover |
| Day(s) from the Guaranteed Handover Date | % of the Lump Sum Price per Day |
| 1 to 28 | (0.0625  / 7)% |
| 29 to 70 | (0.0875 / 7)% |
| 71 to 112 | (0.140 / 7)% |
| 113 and up | (0.175 / 7)% |

or

|  |
| --- |
| Failure to Achieve Ready for First Oil / First Oil Date delay |
| Day(s) from Handover Date | % of the Lump Sum Price per Day |
| 1 to 60 | 0% (no liquidated damages payable) |
| 61 to 98  | (0.020  / 7)% |
| 99 to 147  | (0.075 / 7)% |
| 148 and up | (0.175 / 7)% |

* + - 1. For the avoidance of doubt, Seller shall not be required to pay any Liquidated Damages for Delay in connection with Ready for First Oil during the **60 Days** following the Handover Date.
			2. It is expressly understood, however, that if there is an overlap in the delays in any of the dates referred to in **(i), (ii)** or **(iii)** above, Seller shall only be required to pay to Buyer one amount of liquidated damages for each single day of delay included within the overlap period, which amount shall be the highest in value among the available liquidated damages for such day of delay. The foregoing without prejudice to the fact that during the **60-day** period following the Handover Date, Seller is not required to pay any Liquidated Damages for Delay to Buyer, as indicated in Section 20.1.1.1.
		1. Not applicable.
		2. The maximum total amount of Liquidated Damages for Delay payable under Section 20.1 in respect of the Unit shall be equal to **five percent (5%)** of the Lump Sum Price. If the total amount is exceeded, without limiting any other rights which Buyer may have under Article 21, including Section 21.1.1, Buyer may at its option terminate this Agreement.
		3. Liquidated Damages for Delay payable in accordance with Section 20.1 shall be paid by Seller by direct payment in arrears upon the earlier to occur of **(a)** the final Business Day of any week in which Liquidated Damages for Delay are due to Buyer or **(b)** **two (2) Days** following the day Handover has occurred, as applicable. Alternatively, Buyer may, at Buyer’s sole discretion, withhold from Seller amounts that are otherwise due and payable to Seller in the amount of such Liquidated Damages for Delay or collect on the Performance Security in the amount of such Liquidated Damages for Delay. Buyer will have the right to offset any liability of Seller under this Article 20 against any amount due or to become due from Buyer to Seller under this Agreement. The liquidated damages payable under Section 20.1 shall not limit Buyer’s other rights or remedies available under this Agreement or Applicable Law for claims or causes of action other than for a delay in the performance of the Scope of Supply.
		4. In addition to any payment obligation pursuant to this Section 20.1, Seller shall continue to expeditiously perform, repair, replace and fix any Defective part of the Scope of Supply until such time as **(a)** Final Completion of a Unit, or **(b)** Buyer terminates this Agreement. The provisions of this Article 20 shall affect neither Seller’s obligations to complete any other requirement herein nor Buyer’s right to withhold amounts retained under Section 10.10.
	1. **Liquidated Damages are not a penalty**. The Parties acknowledge and agree that because of the unique nature of the Unit, the unavailability of substitute facilities, and the effects of delay, it would be impracticable or extremely difficult to determine the actual damages resulting from **(i)** Seller's failure to achieve Handover or Ready for First Oil of the Unit, **(ii)** any delays in the First Oil Date attributable to Seller. It is understood and agreed by the Parties that **(a)** Buyer shall be damaged by the failure of Seller to meet such obligations, and such damages can and will include any losses which may result from lost oil production incurred by Buyer or any of its subsidiaries or Affiliates or partners as end users of the Unit, **(b)** it would be impracticable or extremely difficult to fix the actual damages resulting therefrom, **(c)** any sums that would be payable under this Article 20 are in the nature of liquidated damages, and are not a penalty or consequential damages, and **(d)** such payment represents a reasonable and appropriate estimate of fair compensation for the losses that may reasonably be anticipated from such failure.
	2. **Sole compensation for delay**. Except as provided in Article 21, and subject always to Section 21.1.4, the Liquidated Damages for Delay shall be Buyer’s sole and exclusive compensation for loss or damage it may suffer due to:

**(i)** Seller’s failure to achieve **(A)** Handover of the Unit on or before the Guaranteed Handover Date or **(B)** Ready for First Oil of the Unit on or before the Guaranteed Ready for First Oil;

**(ii)** a delay in the First Oil Date for reasons attributable to Seller Group, or

**(iii)** Seller’s failure to comply, in a timely manner, with any of its obligations under this Agreement;

**(iv)** termination of this Agreement as a result of delay, and

**(v)** delay as a result of Seller’s tortious acts or omissions, including negligence and recklessness. Seller agrees, however, that Liquidated Damages for Delay are intended only to cover losses or damages suffered by Buyer as a result of delay.

Liquidated Damages for Delay are not deemed to cover the cost of completion of the Scope of Supply or any other losses or damages that may be suffered by Buyer or Buyer Group, and Buyer shall also be entitled to rely on its other remedies under this Agreement for all Defaults, further to those allowed in law or equity, should Buyer opt to terminate the Agreement in accordance with Section 21.1.

* 1. **No challenge**. Each of the Parties agrees not to challenge the enforceability of the liquidated damages provisions contained herein. If the enforceability of the amount of liquidated damages under this Agreement is successfully challenged by Seller, or by a third party acting in its place and stead, as being a penalty or unreasonable in amount, Seller shall instead be liable to Buyer for all direct and consequential damages, costs and losses incurred by Buyer in connection with such breach, together with all costs incurred by Buyer in proving or enforcing the same, without regard to any limitations whatsoever specified in this Agreement, including waiver of consequential damages.

**ARTICLE 21**

**DEFAULT, TERMINATION AND SUSPENSION**

* 1. **Default by Seller**
		1. **Events of Default.** Seller shall be in default of this Agreement in the event that any of the following events (each a “Default”) occurs and is continuing:

**(i)** Seller shall fail in any material respect to follow the Critical Path Schedule or the Project Schedule, it being understood that any delay solely attributable to Seller Group which exceeds **two hundred and ten (210) Days** shall be considered a material failure;

**(ii)** Seller fails to pay its Subcontractors or to pay its debts as they become due in accordance with the relevant contract, Subcontract or Subcontractor’s undisputed invoice;

**(iii)** Seller becomes insolvent or has a receiver appointed, in which case the cure period described below shall not apply;

**(iv)** Seller violates the assignment or change in control provisions of Article 18 or makes a general assignment for the benefit of its creditors, in which case the cure period described below shall not apply;

**(v)** the amount due as Liquidated Damages for Delay exceeds the maximum amount allowed under Section 20.1.3;

**(vi)** Seller fails to perform any Change Order in accordance with Section 12.1;

**(vii)** Seller procures non-compliant Equipment in contravention of Section 17.1.2;

**(viii)** any Performance Security, **[the parent guarantee pursuant to Section 3.38]** or the Advanced Payment Security is not delivered to Buyer in accordance with this Agreement, or if delivered to Buyer, is terminated or repudiated, or is not replaced within **thirty (30) Days** in advance of its scheduled expiration (if required to be maintained in full force and effect thereafter), except in accordance with the express terms of this Agreement or the issuer thereof fails to meet the requirements therefor in accordance with the express terms of this Agreement and it has not been replaced within **thirty (30) Days** with Performance Security, as applicable, issued by an issuer meeting such requirements;

**(ix)** Seller abandons and ceases to execute the Scope of Supply (except due to a termination or suspension permitted by this Agreement);

**(x)** Seller, after a delay in or suspension permitted by this Agreement, fails or refuses, for reasons attributable to any member of Seller Group, to commence sustained execution of the Scope of Supply in accordance with the terms of this Agreement after the cessation of such delay or suspension;

**(xi)** Seller commits a material violation of Applicable Law or Applicable Codes and Standards;

**(xii)** Seller fails to develop a Recovery Schedule in accordance with Section 11.5;

**(xiii)** any representation or warranty made by Seller herein, or by any Subcontractor pursuant to Section 19.1.3, was materially incorrect or misleading when made;

**(xiv)** Seller fails to maintain in full force and effect insurance policies of such types, in such amounts and with such deductibles, as are required pursuant to this Agreement or

**(xv)** Seller, its agents (or Affiliates (including Guarantor)), workers, Subcontractors or suppliers or the employees of any of the foregoing, is in breach of Section 3.2.18 through Section 3.2.23, Article 27, Article 28 and/or Section 29.1.3.c).

If upon notice by Buyer, in accordance with Section 26.5, specifying the nature and origin of the alleged Default, and provided that Seller shall not have cured such condition within **thirty (30) Days** after Buyer’s notice of the occurrence of such event, or if such cure cannot reasonably be completed in such time, Seller shall fail promptly to commence and diligently **(a)** pursue remedial action within such period and **(b)** conclude such action as soon as practicable and in any event within **sixty (60) Days** after the occurrence of such event (provided, however, that no such grace period shall be allowed as to clauses (iii), (iv), (v), (viii), (ix), (x), (xiii), and (xiv) of this Section 21.1.1), then, at Buyer’s option, without prejudice to the other rights it may have under this Agreement or under Applicable Law, and without further notice to any Party, Buyer may:

* + - 1. Take such steps as are necessary to overcome the condition, including, without limitation, make such payments or perform such obligations as are required to cure such Seller Default, draw on or make a claim against any Performance Security or other security provided pursuant to this Agreement and/or offset the cost of such payment or performance against payments otherwise due to Seller under this Agreement, provided that Buyer shall be under no obligation to cure any such Seller Default or seek damages as provided in Section 21.1.4 including proceeding against any bond, guarantee, letter of credit or other security given by or for the benefit of Seller for its performance under this Agreement;
			2. Terminate this Agreement or Seller’s performance of all or any part of the Scope of Supply, seeking any legal remedies as it may be entitled to under this Agreement; or
			3. Seek interlocutory, equitable or injunctive relief requiring performance of Seller’s obligations by Seller or Guarantor, it being understood that Seller hereby agrees that such relief may be necessary to avoid irreparable harm to Buyer.
		1. Under no circumstances shall Buyer be responsible for any payments to Seller hereunder during a Default by Seller. Notwithstanding any of the foregoing, Buyer shall not have any affirmative obligation to terminate this Agreement, in the event of a Default.
		2. Additional rights of Buyer upon termination. In the event that Buyer terminates this Agreement in whole or in part by reason of Seller’s Default, Buyer may, at its sole option, **(i)** enter the Site and take possession either by itself or through others, at its sole discretion, of all of the Equipment, the Hull, Modules, materials, tools, supplies, documents, and information of Seller, including the Unit, for the purpose of completing the execution of the Scope of Supply **(ii)** assume any or all of the Subcontracts, at its sole discretion, and **(iii)** either by itself or through others, complete the execution of the Scope of Supply in the most cost-efficient and reasonably practicable manner. To the extent Buyer exercises any of its additional rights upon termination, Seller shall cooperate fully with and provide all reasonable assistance to Buyer. Seller shall not be entitled to receive any further payment from Buyer unless Buyer accepts, at Buyer´s sole option, partially performed or partially completed Payment Milestones, and any Disputes in connection with such completion are resolved. Buyer’s rights under this Section 21.1.3 are in addition to any other rights provided for under this Agreement. Buyer agrees to act reasonably and use its best efforts to mitigate any costs it might incur in connection with any termination for Default by Seller.
		3. **Damages**. In the event of any Default by Seller under Section 21.1.1 and termination by Buyer of this Agreement pursuant to Section 21.1.1.2, Seller shall be liable to Buyer for any reasonable costs incurred by Buyer or any person acting on Buyer’s behalf in completing the Scope of Supply (including reasonable costs of expedited or accelerated construction actually performed (in order to meet the deadlines in the Project Schedule) and other expenses and fees related thereto in an attempt to achieve Handover by the Guaranteed Handover Date, or if such date has already passed, at the earliest possible date), but only to the extent such costs plus the aggregate amount paid or payable to Seller under this Agreement exceed the Lump Sum Price. Seller acknowledges that its liability pursuant to the foregoing sentence of this Section 21.1.4 is distinct and separate from, and shall not be deemed to limit or otherwise reduce, any liability it may incur hereunder with respect to the payment of liquidated damages. Any amounts paid by Seller pursuant to this Section 21.1.4 shall not be considered to be consequential damages. Buyer shall be entitled to withhold further payments to Seller until Buyer determines or it is determined pursuant to the dispute resolution provisions set forth in Article 24 that Seller is entitled to further payments. Upon Final Completion, the total cost of the Scope of Supply incurred shall be determined, and Buyer shall notify Seller in writing of the amount, if any, that Seller shall pay Buyer or Buyer shall pay Seller, which amount shall be paid within **thirty (30) Days** of notice from Buyer. Seller’s aggregate liability pursuant to this Section 21.1.4 is included in the aggregate limitation of liability set forth in this Agreement.
	1. **Termination for convenience by Buyer**. Buyer shall have the right to terminate for convenience this Agreement or Seller’s performance of all or any part of the Scope of Supply by providing Seller with a written notice of termination, to be effective **thirty (30) Days** after the receipt by Seller of such notice. Upon termination for convenience, Seller shall:

**(i)** as soon as practicable discontinue the execution of the Scope of Supply on the date and to the extent specified in such notice;

**(ii)** place no further orders for Subcontracts, Equipment, materials or services except as may be necessary for completion of such portion of the Scope of Supply currently being undertaken so as to avoid the impact of any remobilization;

**(iii)** promptly make every reasonable effort to procure cancellation or transfer/assignment of the Subcontracts and rental agreements to Buyer, or to any of its appointees, upon terms satisfactory to Buyer to the extent they relate to the execution of the Scope of Supply then discontinued and to the extent requested by Buyer;

**(iv)** cooperate with Buyer for the efficient transition of the Scope of Supply execution; and

**(v)** thereafter execute only that portion of the Scope of Supply as may be necessary to preserve and protect activities already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Codes and Standards and Applicable Law.

Seller shall be paid the reasonable value of the activities approved by Buyer and actually carried out by Seller prior to termination, plus **(X)** its reasonable and documented overhead and associated profit on such activities, **(Y)** its reasonable, documented and direct demobilization and dismantling costs, and **(Z)** its reasonable, documented and direct associated close-out costs, it being understood that in no event shall Seller be entitled to receive any amount for overhead or anticipatory profit with respect to any activity which was not actually carried out by Seller prior to termination.

* 1. **Suspension of Scope of Supply execution by Buyer**. Buyer may, for any reason, at any time and from time to time, by written notice to Seller, suspend the execution of the Scope of Supply or any part thereof, whereupon Seller shall suspend the Scope of Supply execution or any part thereof for such time or times and in such manner as Buyer may require. During any such suspension, Seller shall properly protect and secure the accomplished Scope of Supply in such manner as Buyer may reasonably require. Unless otherwise instructed by Buyer, Seller shall during any such suspension maintain its staff and labor on or near the Site and otherwise ready to proceed with the execution of the Scope of Supply upon receipt of Buyer’s further instructions. Buyer and Seller shall negotiate a Change Order to address the impact of such suspension on the Contract Price and on the Project Schedule. The Contract Price shall be adjusted for the reasonable costs (including actual overhead and reasonable profit) of such suspension, including demobilization and remobilization costs, if required, along with appropriate supporting documentation to evidence such costs, and the Project Schedule shall be equitably adjusted to reflect such suspension.
	2. Termination by Seller. Seller may terminate this Agreement or suspend the execution of the Scope of Supply in the following circumstances:
		1. Any undisputed amount due and payable to Seller by Buyer is not paid within **sixty (60) Business Days** after Seller’s notice of non-payment to Buyer; provided that Seller has in fact achieved the corresponding Payment Milestones specified in the Project Schedule;
		2. Buyer, by written notice to Seller, suspends the execution of the Scope of Supply in accordance with Section 21.3 for more than one hundred and **eighty (180) days**; or
		3. If this Agreement is terminated by Seller in accordance with the terms of Section 21.4.1 and Section 21.4.2, Buyer shall pay to Seller, within **sixty (60) Business Days** after the date of the termination notice, the reasonable value of the activities approved by Buyer and actually carried out by Seller prior to termination, plus **(X)** its reasonable and documented overhead and associated profit on such activities, **(Y)** its reasonable, documented and direct demobilization and dismantling costs, and (Z) its reasonable, documented and direct associated close-out costs, it being understood that in no event shall Seller be entitled to receive any amount for overhead or anticipatory profit with respect to any activity which was not actually carried out by Seller prior to termination. However, if there is a dispute with respect to the amount owed, Buyer shall guarantee the payment of all undisputed amounts on or before the due date hereof and the Parties may submit the dispute for resolution as specified in Article 24;
	3. **Suspension of Scope of Supply execution by Seller**. Seller may suspend its execution of the Scope of Supply, in whole or in part, by sending a suspension notice to Buyer, at least **5 (five) Business Days** in advance (which must contain the suspension start date and the reasons for such suspension), if any of the following events occurs and is continuing:
		1. Buyer fails to supply materials or Equipment that it is obligated hereunder to supply;
		2. For no reason solely attributable to Seller or its Subcontractors, Seller is prevented from executing the Scope of Supply due to any order or directive issued by any Governmental Authority; or
		3. Buyer fails to pay Seller any amount due and payable hereunder for a consecutive period of more than **sixty (60) days**.
		4. Buyer fails to obtain the Permits and Consents listed in Section 5.3.
	4. **Amendment following suspension**. If Seller validly suspends the Scope of Supply execution in accordance with Section 21.5, the Parties shall negotiate an amendment to address the impact of such suspension on the Contract Price and on the Project Schedule at such time as Seller’s execution of the Scope of Supply resumes.
	5. **Termination due to Total Loss**. If the Unit becomes a Total Loss, each of the Parties shall have the right to terminate this Agreement, which shall be immediately exercisable through notice given within **sixty (60) Days** following the later of the date on which the Total Loss occurs or is deemed to have occurred. For the purpose of ascertaining the date of the Total Loss, an actual total loss of the Unit shall be deemed to have occurred at noon [*Please insert local time of the Flag State*] on the actual date that the Unit is lost. If the date of the loss is unknown, the actual Total Loss shall be deemed to have occurred at noon *[local time of the Flag State]* on the date which it is acknowledged by the insurers to have occurred or, when the Unit was last heard from (as the context requires).
		1. The Parties agree that any termination of the Agreement due to Total Loss shall be without liability to the Parties in the event that the Total Loss is due to Force Majeure. In the event that the Total Loss is due to Seller’s negligent act or omission, Seller shall be responsible for the direct damages caused to Buyer unless the insurance company recognizes and covers the loss. If Seller is responsible for damages pursuant to this Section 21.7, Buyer shall be able to recover all or part of the damages from the Performance Security. Buyer shall have the preferential right to receive any proceeds, payments or other economic resources payable or resulting from the insurance policies.
		2. If the Unit becomes a Total Loss, the Buyer is relieved of its obligations to pay further sums due to the Seller under this Agreement, save:

**(i)** for any previously performed obligation by the Seller and accepted milestones that have not been paid by the Buyer provided always that the Buyer had accepted said milestone **thirty (30) days** prior to the Total Loss; or

**(ii)** for any partially performed obligation by the Seller and accepted milestones in accordance with Section 21.1.3.

**ARTICLE 22**

 **INDEMNITIES; LIMITATIONS OF LIABILITY**

1. 1. **Mutual indemnification obligations**. Subject to the other provisions of this Agreement, each Party agrees to defend, indemnify and hold harmless each member of the other Party’s Group from and against any and all claims, losses and/or liabilities (including the cost and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction and related attorneys’ fees) suffered or incurred by any member of the other Party’s Group arising out of or resulting from the negligence or willful misconduct of, or the violation of any Applicable Codes and Standards or Applicable Law by, or the breach of this Agreement by, any member of the indemnifying Party’s Group.
	2. **Third Party Claims**. Subject to the other provisions of this Agreement, each Paty further agrees to defend, indemnify and hold harmless each member of the other Party’s Group from and against any and all claims, losses and/or liabilities (including the costs and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction and related attorneys' fees) suffered or incurred by any member of the other Party’s Group due to a claim or action made by any third party (which third party shall not include any member of the indemnifying Party’s Group) to the extent caused by or arising directly from the negligence or willful misconduct of, or the violation of any Applicable Codes and Standards or Applicable Law by, or the breach of this Agreement by, any member of the indemnifying Party’s Group.
	3. **Patent indemnification**. Each member of the Seller Group shall defend, indemnify and hold each member of the Buyer Group free and harmless from and against any and all Intellectual Property Claims, Intellectual Property Losses and/or liabilities (including the costs and expenses related to any administrative, judicial, and arbitration procedures before any court or in any level of jurisdiction that may be filed against any member of the Buyer Group and related attorneys’ fees) suffered or incurred by any member of the Buyer Group arising out of any actual or alleged infringement of patents, trademarks, or other intellectual property rights, or the improper use of other proprietary rights that may occur in connection with any member of the Seller Group’s execution of the Scope of Supply or the purchase or use of the Equipment by any member of the Seller Group or any member of the Buyer Group. Subject to Section 22.4, Seller shall have sole authority for the control of the defense of any such Intellectual Property Claims. Furthermore, should any such Intellectual Property Claims materially impair the execution of the Scope of Supply by any member of the Seller Group or the continuity of operations, Seller shall, at its own expense, promptly procure such intellectual property or other rights as may be necessary for such member of the Seller Group to continue its execution of the Scope of Supply so as not to materially impair the Project Schedule or the continuity of operations. Seller’s obligations under this Section 22.3 are not subject to or included in the calculation of any limitations of liability contained in this Agreement.
	4. **Intellectual Property indemnification**
		1. Each member of the Seller Group shall indemnify, hold harmless and defend each member of Buyer Group from and against any and all claims, losses, damages, liabilities, judgments, fines, costs and expenses (including arbitration and court procedures costs in any level of jurisdiction and experts’ and attorneys’ fees) (collectively, “Intellectual Property Losses”) and claims, demands, proceedings, actions, causes of action and suits (collectively, “Intellectual Property Claims”) that assert, arise out of or are related to any actual or alleged infringement of patents, trademarks, copyrights, trade secrets or other intellectual property rights or the improper use of other proprietary rights that may occur, directly or indirectly, in connection with the execution of the Scope of Supply, the use of the Scope of Supply and the use of the Equipment, it being understood that Seller Group shall not be required to indemnify, defend and hold harmless any member of Buyer Group to the extent that the infringement in question is wholly attributable to any member of Buyer Group or to the extent that the infringement in question is materially and specifically attributable to Buyer’s Specifications.
		2. If an Intellectual Property Claim is made against any member of Buyer Group, Seller shall be promptly notified thereof and Seller shall, at its own expense, conduct all negotiations for the settlement of such Intellectual Property Claim and any litigation that may arise therefrom, to preserve the execution of the Scope of Supply so as not to materially impair the Project Schedule, and to maintain the regular operation of the Unit and the offer for sale, sale or export its products. Seller shall provide Buyer a reasonable opportunity to review and pre-approve any settlement or other disposal of such Intellectual Property Claim handled by Seller, where such pre-approval shall not be unreasonably withheld or delayed.
		3. If any Intellectual Property Claim results in a legal action against any member of Buyer Group, Seller shall have sole charge and direction thereof on its behalf, so long as Seller diligently prosecutes such legal action in good faith. The member of Buyer Group shall have the right to be also represented in such legal action by counsel of its own choice and at its own expense. Notwithstanding the foregoing, Buyer may, at its sole discretion, decide to take over the defense at any time at Seller’s expense. Seller shall provide Buyer a reasonable opportunity to review and pre-approve any settlement or other disposal of such legal action handled by Seller where such pre-approval shall not be unreasonably withheld or delayed.
		4. If the Buyer is enjoined from completion of the Unit or any part thereof, or from the use, operation or enjoyment of the Unit or any part thereof, or from the offer for sale, sale, export of its products, as a result of any Intellectual Property Claim, Seller shall promptly endeavor to have such injunction removed at no cost to Buyer.
		5. The members of the Buyer Group shall use reasonable efforts to mitigate the Intellectual Property Losses for which they are indemnified hereunder.
		6. The Buyer’s acceptance of any of a Seller’s Payment Milestones shall not be construed to relieve Seller of the obligation under Sections 3.3.3 and 3.7.5.3.
		7. Except as provided in Section 17.3.7 hereof, Seller obligations under Section 3.3.3 are not subject to or included in the calculation of any limitations of liability contained in this Agreement.
	5. **Lien indemnification.** Should any Subcontractor or any other Person acting through or under Seller or any Subcontractor file a Lien or other encumbrance against all or any portion of the Scope of Supply or the Unit, Seller shall, at its sole cost and expense, remove and discharge, by payment, bond or otherwise, such Lien or encumbrance within the amount of Days set forth in Section 3.14.1 after the filing of such Lien or encumbrance, provided that, Buyer has made payment to Seller of all undisputed amounts owed to Seller in accordance with the terms of this Agreement. If Seller fails to remove and discharge any such Lien or encumbrance within such the amount of Days set forth in Section 3.14.1 period, then Buyer may, at its sole discretion and in addition to any other rights that it has under this Agreement, at law or equity, take any one or more of the following actions:
		1. Remove and discharge such Lien and encumbrance using whatever means Buyer, at its sole discretion, deems appropriate, including the payment of settlement amounts that it determines at its sole discretion as being necessary to discharge such Lien or encumbrance (in such circumstances, Seller shall be liable to Buyer for all damages, costs, losses and expenses (including all attorneys’ fees, consultant fees and litigation expenses, and settlement payments) incurred by Buyer arising out of or relating to such removal and discharge. All such damages, costs, losses and expenses shall be paid by Seller no later than **thirty (30) Days** after receipt of each invoice from Buyer); or
		2. Seek and obtain an order granting specific performance from a court of competent jurisdiction, requiring that Seller immediately discharge and remove, by bond, payment or otherwise, such Lien or encumbrance. The Parties hereby expressly agree that Buyer shall be entitled to such specific performance and that Seller shall be liable to Buyer for all damages, costs, losses and expenses (including all attorneys’ fees, consultant fees and litigation expenses) incurred by Buyer arising out of, or relating to, such specific performance action. Seller agrees that the failure to discharge and remove any such Lien or encumbrance will give rise to irreparable injury to Buyer and Buyer’s Affiliates, and further, that Buyer and such Buyer Affiliates will not be adequately compensated by damages.
	6. **Notice.** The Parties shall give reasonably prompt written notice to the other of any and all injuries to Persons or damage to property (including any claim with respect thereto) of which such Party has notice or knowledge and which in any way arises from the Scope of Supply execution or this Agreement. The indemnifying Party shall not settle any suit for which it is providing indemnity under this Article 22 without the prior written consent of the indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.
	7. **Survival and duration**. The indemnification provisions contained in this Agreement shall survive after Seller's completion of the Scope of Supply hereunder and the termination of this Agreement. Claims for indemnification may be made here under so long as any claim may be advanced in respect of such matters under any applicable statute of limitations; provided, however, that the foregoing shall not affect any claim made in good faith prior to the date of such expiration.
	8. **Limitation of liability**
		1. Except as otherwise expressly provided in this Agreement, Buyer’s and Seller’s liability for losses or damages arising as a result of the performance of the Scope of Supply or otherwise hereunder is limited to direct damages in and aggregate amount not to exceed **10% (ten percent)** of the total Contract Price; provided, that, notwithstanding the foregoing, the limitation of liability set forth in this Section 22.8.1 shall not:

**(a)** apply in the event Seller ceases at will to carry out this Agreement;

**(b)** apply to Seller’s indemnification obligations resulting from Pollution caused by Gross Negligence of Seller’s Group Senior Personnel or Willful Misconduct from any member of Seller Group;

**(c)** apply to Seller’s obligation to transfer to Buyer full legal title to, and deliver possession of, all or any portion of the Scope of Supply and/or the Unit as required under this Agreement, free and clear of any and all Liens;

**(d)** include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Seller or any of its Subcontractors under this Agreement;

**(e)** apply in the event of the intentional breach of this Agreement, Gross Negligence of Seller’s Group Senior Personnel or Willful Misconduct of Seller, its agents (and Affiliates (including Guarantor)), workers, Subcontractors and suppliers or the employees of each (or in connection with a breach by any such Persons of a breach of Section 3.2.18 through Section 3.2.23, Article 27, Article 28 and/or Section 29.1.3.c) and

**(f)** include the payment of Liquidated Damages for Delay by Seller under Section 20.1, or the payment of the sanctions provided for in Article 82 of law 13.303/2016;

**(g)** not applicable; and

**(h)** include any amount owed to Buyer for the Advance or under the Advanced Payment Security.

In no event shall the limitation of liability set forth in Section 22.8 be in any way deemed to limit Seller’s obligation to execute the full Scope of Supply required to achieve Handover of the Unit, and the costs incurred by Seller in executing the Scope of Supply shall not be counted against the limitation of liability set forth in Section 22.8. Seller acknowledges and agrees that its obligation to achieve Mechanical Completion, Substantial Completion and Handover are absolute obligations not subject to any cap on liability or reduction by the payment of liquidated damages or otherwise.

* + - 1. The limitations of liability or damages set forth in Section 22.8 (or in any other provision of this Agreement) shall not apply to violations, infringement or misappropriations of Buyer Intellectual Property by Seller or by Seller’s Subcontractors, employees or representatives.
		1. Seller undertakes, when it causes damages to third parties, except to those damages third parties caused by Pollution, to indemnify them up to the limit of US $ 10,000,000.00 (ten million United States Dollars), converted to Reais. (R$) by PTAX for sale of the United States Dollar in local currency, published by the “Central Bank of Brazil”, on the Business Day immediately preceding the payment of the damage. This constitutes the aggregate limit of indemnification irrespective of the number of events triggering the indemnification obligation.
			1. Damages to third parties caused by Pollution are limited, in aggregate, to ten percent (10%) of the total Contract Price, and to a maximum of US$ 10.000.000,00 (ten million US dollars) per occurrence. This limitation shall not apply to damages to third parties resulting from Pollution caused by Gross Negligence of Seller’s Group Senior Personnel or Willful Misconduct from any member of Seller Group.
			2. Buyer undertakes to indemnify the same damages in the amount that exceeds the Seller’s liability limit.
			3. Each Party shall have its right of recourse, in the form of the applicable legislation to this Agreement, in respect of amounts paid to third parties, by virtue of a final and unappealable judicial decision, which are a contractual obligation of the other party, subject to the limit set forth in Section 22.8.2.
	1. **Consequential damages**. Notwithstanding any other provision of this Agreement to the contrary, neither Party shall be liable to the other Party or any member of the other Party’s Group for any indirect, special, incidental, or consequential damages including but not limited to loss or deferral of production, loss of product, loss of profits, anticipated profit or revenue, loss of opportunity, loss of use, or loss of contract, whether direct or indirect and whether or not foreseeable at the time of contracting; except that this limitation does not apply to **(i)** Seller’s liability for infringement of third-party intellectual property rights, or **(ii)** Liquidated Damages set forth in Article 20. Each Party shall release, defend, indemnify, and hold harmless the other Party and its Group from such damages.
	2. **Remedies not exclusive**. The rights of indemnity shall not be exclusive with respect to any other right or remedy provided for in this Agreement.
	3. The Seller waives all rights of recourse against the Buyer Group and shall defend, indemnify and hold harmless the Buyer Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of any:
		1. Illness, personal injury to or loss of life of any personnel of the Seller Group. This waiver and indemnity applies regardless of whether such illness, personal injury, loss of life is caused or contributed to by any member of the Buyer Group including due to any breach of duty (statutory or otherwise), negligence or strict liability, in whatever form, on the part of the Buyer Group. The Seller undertakes to ensure that other entities in the Seller Group waive their right to make any claim against the Buyer Group when such claims are covered by the Seller's obligation to indemnify pursuant to the provisions of this Section 22.11.1.
		2. The Buyer waives all rights of recourse against the Seller Group and shall indemnify and hold harmless the Seller Group from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses) to the extent arising out of any.
			1. Illness, personal injury to or loss of life of any personnel of the Buyer Group, and This waiver and indemnity applies regardless of whether such illness, personal injury, loss of life is caused or contributed to by any member of the Seller Group including due to any breach of duty (statutory or otherwise), negligence or strict liability, in whatever form, on the part of the Seller Group. The Buyer undertakes to ensure that other entities in the Buyer Group waive their right to make any claim against the Seller Group when such claims are covered by the Buyer's obligation to indemnify pursuant to the provisions of this Section 22.11.2.
	4. Except as expressly provided otherwise in this Agreement, each Party's duty to release, defend, indemnify, and hold harmless with respect to individuals, property, pollution, or consequential losses shall:

**(a)** apply exclusively to matters arising from, related to, or connected with the performance or nonperformance of this Agreement; and

**(b)** be enforceable to the fullest extent allowed under Applicable Law.

**ARTICLE 23**

**FORCE MAJEURE**

* 1. **No liability.** Neither Seller nor Buyer shall be liable to the other for any damages, claims or suits of any nature arising out of delays or noncompliance of its obligations under this Agreement in cases where such delay or noncompliance is due to Force Majeure.
		1. The Party invoking Force Majeure shall give written notice to the other Party in accordance with Section 26.5 within **seventy-two (72) hours** following **(i)** the occurrence of such event of Force Majeure or **(ii)** the date on which the Party alleging Force Majeure first learned of the occurrence of the event constituting Force Majeure. Such written notice shall specify any and all available details that the affected Party possesses at the time of notification, the anticipated duration of such event of Force Majeure and what actions the affected Party is taking to mitigate the effects of such Force Majeure event. Once the affected Party is no longer prevented from performing its obligations under this Agreement as a result of an event of Force Majeure, it shall promptly notify the other Party of this fact. In the event that an unaffected Party does not acknowledge the occurrence of an event of Force Majeure, the Party invoking Force Majeure shall bear the burden of proof.
		2. A Force Majeure event shall be deemed to have commenced not earlier than **seventy-two (72) hours** prior to the giving of such notice. The affected Party shall further provide the other Party with **(i)** periodic supplemental written notices during the period of the Force Majeure event regarding any change, development, progress, or other relevant information concerning the Force Majeure event and **(ii)** written notice promptly after the termination of the Force Majeure event.
	2. **Prevention and reduction**. The affected Party shall: **(i)** make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any delay of its obligations caused by an event of Force Majeure or its consequences; and **(ii)** use its reasonable efforts to ensure resumption of its obligations promptly after termination of the relevant event of Force Majeure.
	3. **Mutual consultation**. If an event of Force Majeure has occurred, the Parties shall consult with one another as to the effect, if any, of such event of Force Majeure, and if such effect is to delay the completion of the Scope of Supply. In such a case, only the Project Schedule shall be equitably adjusted, pursuant to a Change Order in accordance with this Agreement, to take into account the effect that the Party invoking an event of Force Majeure demonstrates is actually and necessarily attributable to such event of Force Majeure. Any such adjustment shall take into account rescheduling or other actions, as Seller or Buyer may reasonably be expected to undertake, in order to minimize the adverse effect of such event of Force Majeure on the Project Schedule. Each Party shall bear its own increased costs arising from each event of Force Majeure.
	4. **Definition**. For the purposes of this Agreement, “Force Majeure” will be considered as any act, event or condition that will actually, demonstrably, adversely and materially affect a Party’s ability to perform when due its obligations in accordance with this Agreement (excluding obligations to pay money due) or will actually, demonstrably, adversely and materially affect the Critical Path Schedule, in each case only to the extent that such act, event or condition:

**(i)** renders it impossible for the affected Party to perform its obligations under this Agreement in general and/or in accordance with the Critical Path Schedule;

**(ii)** is either: **(A)** unforeseeable, unanticipated and beyond the reasonable control of the affected Party and not due to its fault or negligence (or the fault or negligence of any third Person over whom such Party has control, including any Subcontractor), or **(B)** foreseeable but has effects that are unforeseeable, unanticipated and beyond the reasonable control of the affected Party and not due to its fault or negligence (or the fault or negligence of any third Person over whom such Party has control, including any Subcontractor)

**(iii)** could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price;

**(iv)** is not an act, event or condition, the risks or consequences of which such Party has expressly agreed to assume hereunder.

It is understood and agreed that Force Majeure is in no event a cause or justification for an increase in the Contract Price, and an increase in a Party’s cost of performance as a result of Force Majeure should not be considered in determining whether a Force Majeure has occurred. Force Majeure includes, but is not limited to, catastrophic storms or floods, lightning, earthquakes and other typical acts of God, wars (whether declared or not), invasions, civil disturbances, revolts, insurrections, sabotage, commercial embargoes, international sanctions, acts of terrorism, fires, explosions, or actions of a Governmental Authority that were not requested, promoted or caused by the affected Party, that prevent a Party from timely discharging its duties and obligations hereunder.

Notwithstanding the foregoing, Force Majeure shall not include any of the following:

**(a)** changes in market conditions or other events arising on or after the Proposal Submission Date that have rendered performance of this Agreement more onerous or less commercially or financially advantageous to it than could reasonably have been anticipated at the Proposal Submission Date;

**(b)** late delivery, failure or breakages of Equipment, unless otherwise caused by Force Majeure hereunder;

**(c)** any strike, lockout or other labor dispute affecting Seller or any Subcontractor or any supplier to any Seller or Subcontractor, unless such strike, lockout or labor dispute is an industry-wide or national event and otherwise meets the conditions above for Force Majeure;

**(d)** nonperformance or delay by Seller or any Subcontractor or any supplier to any Seller or Subcontractor, unless such nonperformance or delay is otherwise caused by Force Majeure;

**(e)** weather conditions which could reasonably be anticipated by experienced contractors (and any Site conditions arising therefrom);

**(f)** any Site conditions or other conditions described in Section 3.25;

**(g)** robbery or theft experienced of warehoused, stored or in-transit Equipment, materials or any other effects under Seller’s responsibility, whether or not owned by Seller;

**(h)** any difficulty in obtaining or maintaining sufficient, or appropriately skilled personnel to execute the Scope of Supply;

**(i)** failure to obtain or retain approval, permit or consent of any government authority; and

**(j)** shortages, cost increases, financial hardship, inability to pay debts as they fall due or unavailability of Equipment, except with respect to transportation accidents affecting delivery of Equipment occurring prior to the delivery of such Equipment to the Site to the extent such event otherwise meets the conditions above for Force Majeure.

* 1. **Termination for Force Majeure**. In the event a Force Majeure event makes the execution of the Scope of Supply impossible for a continuous period of **120 (one hundred twenty) days** or more, either Party may terminate this Agreement. In the event of such termination, neither Party shall have further obligation to the other hereunder and Seller shall not be entitled to any portion of the Contract Price which has not been paid prior to the occurrence of the event of Force Majeure unless Buyer accepts partially performed or partially completed Payment Milestones, in which event Seller shall be paid the reasonable value of said partially performed or completed Payment Milestones.

**ARTICLE 24**

**DISPUTE RESOLUTION**

* 1. **Amicable resolution**
		1. In the event of any dispute, claim, or controversy arising out of, relating to, or in connection with this Agreement, including any dispute as to the breach, validity, or existence of this Agreement (a “Dispute”), the Parties agree in the first instance to submit the Dispute to a joint negotiation between two senior management officers, one from each Party. Each Party shall nominate its respective senior management officer within **fifteen (15) Days** from the earliest date on which a Party shall be deemed to have given notice of a Dispute, in accordance with Section 26.5, (the “Dispute Notice”). The two senior management officers shall meet at a mutually agreeable time and location within **thirty (30) Days** after the Dispute Notice is given to try to resolve the Dispute in an equitable and good-faith manner. If the Parties cannot agree on a time and location for the senior officers meeting, then they may proceed directly to proceedings under Section 24.2 or Section 24.3, as applicable. The Parties expressly acknowledge and agree that Buyer’s right to terminate this Agreement in accordance with Article 21 is not limited in any way by the Dispute resolution provisions of this Article 24.
		2. Notwithstanding anything in this Article 24, the Parties may at any time, without prejudice to any other proceedings, seek to settle any Dispute through mediation before one neutral mediator who shall be fluent in the English language and who shall be qualified by experience and education to mediate disputes concerning international commercial agreements. If the Parties elect to settle a Dispute through mediation but cannot agree on a neutral mediator and a method to conduct the mediation, the Parties agree to submit the matter to mediation to be conducted in English under the “International Chamber of Commerce Amicable Dispute Resolution Rules” in force on the date of the Dispute. The Parties agree that the neutral mediator cannot serve as the Expert, as that term is defined in Section 24.2, or as an arbitrator under Section 24.3.
	2. **Disputes of a technical nature**
		1. Any other than Disputes arising, relating to, or in connection with the imposition of any administrative sanction as provided for in Article 82 of law 13.303/2016 that concerns a technical matter which can be reasonably settled by empirical studies and which relates primarily to technical issues, rather than commercial, economic, financial, or accounting issues, shall be deemed a Technical Dispute.
		2. If a Technical Dispute exists and is not amicably resolved under Section 24.1, the Parties agree to submit the Technical Dispute to an independent petroleum industry engineering expert (the “Expert”), who shall be fluent in the English language. If the Parties cannot mutually agree on the Expert within **fifteen (15) Days** after the senior officers' meeting under Section 24.1, the Parties agree that the International Chamber of Commerce’s Centre for Expertise (the “Centre”) shall appoint the Expert in accordance with the “Rules of Expertise of the International Chamber of Commerce” that are in effect on the date of the Dispute. The Parties request that the Centre shall endeavor to appoint the Expert within **fifteen (15) Days** following receipt of a request to appoint the Expert.
		3. Within **fifteen (15) Days** after the Expert is agreed to or appointed under Section 24.2.2, each Party shall provide the Expert and the other Party with a written notice in English detailing the issues in the Technical Dispute, along with copies of all supporting documentation on which the Party is relying to support its position. The Expert shall complete all proceedings regarding the Technical Dispute and issue a written decision (the “Decision”) in English as soon as reasonably possible, but in no event later than **forty five (45) Days** after the Expert is agreed to or appointed under Section 24.2.2. If the Expert needs additional time to issue the Decision, the Expert shall notify the Parties in writing and shall be entitled to an additional period not to exceed **fifteen (15) Days**, unless the Parties agree otherwise.
		4. The Decision shall be final and binding on the Parties, unless a Party provides the other Party and the Expert with written notice of dissatisfaction (the “Dissatisfaction Notice”) with the Decision within **fifteen (15) Days** after the issuance of the Decision. If a Party provides Dissatisfaction Notice, the Technical Dispute shall be finally resolved through arbitration under Section 24.3.
	3. **Binding arbitration**
		1. Subject to the requirements of Section 24.1 and Section 24.2, the Parties agree that any Dispute other than Disputes arising, relating to, or in connection with the imposition of any administrative sanction as provided for in Article 82 of law 13.303/2016 shall be finally resolved by binding arbitration before three (3) arbitrators in New York City, New York, U.S.A., in accordance with the Rules of Arbitration of the International Chamber of Commerce (the “ICC Rules”) in force on the date of the Dispute, except as those rules may be modified by this Article 24.
		2. Except as specified in this Article 24, the Parties agree that Arbitration shall be the exclusive means of resolving a Dispute. Except as specified in this Article 24, no Party shall refer or attempt to refer a Dispute to any court or other tribunal for resolution.
		3. The Arbitration shall be conducted in the English language. Unless agreed otherwise, all documents submitted in connection with the arbitration shall be in the English language or, if submitted in any other language, shall be accompanied by an English translation.
		4. The Party filing the Request for Arbitration (the “Request”) under the ICC Rules shall deliver a copy of the Request to the other Party at the same time and in the same manner as it delivers the Request to the Secretariat of the International Court of Arbitration of the International Chamber of Commerce (the “International Court of Arbitration”). The Request shall be made within a reasonable time after the Dispute arises.
		5. The arbitral tribunal (the “Tribunal”) shall consist of three (3) arbitrators who shall be qualified by experience and education to arbitrate disputes concerning international commercial agreements and who shall be chosen as follows:
			1. Each Party shall nominate one arbitrator. The request to the secretariat shall include the nomination of the Party initiating the procedure. The other Party shall have **sixty (60) Days** to make its nomination. If a Party does not timely nominate an arbitrator, that Party’s arbitrator shall be appointed by the International Court of Arbitration in accordance with the ICC Rules; and
			2. Within **twenty (20) Days** after the latest date on which one of the co-arbitrators has been confirmed or appointed by the International Court of Arbitration, or within the time period extended by agreement of the Parties, the Parties in consultation with the two co-arbitrators selected under Section 24.3.5.1 shall jointly nominate the third arbitrator, who shall act as chairman of the Tribunal after being confirmed by the International Court of Arbitration. If the Parties cannot agree on the third arbitrator, the International Court of Arbitration shall appoint the third arbitrator in accordance with the ICC Rules.
		6. The Tribunal’s award shall be denominated and made payable in US Dollars, exclusive of any tax or other deduction. If the Tribunal finds a breach of a payment obligation, the award may include interest thereon at a reasonable simple commercial rate until the date of the award. The Tribunal may also fix an appropriate reasonable commercial rate of interest from the date of the award until the award is paid in full.
		7. The Parties agree that judgment upon the Tribunal’s award may be entered in any court having jurisdiction thereof, and may not be challenged in any court, either at the place of arbitration or elsewhere. Each Party hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such enforcement proceeding and to the proceeding being brought in an allegedly inconvenient forum. Each Party also hereby agrees to accept service of process in any such enforcement proceeding.
		8. The Parties agree that each Party shall bear the fees and expenses of the arbitrator nominated by it (or on its behalf) and its share of the ICC administrative expenses assessed by the International Court of Arbitration. The fees and expenses of the third arbitrator shall be borne by the Parties in equal parts. Any other arbitration fees and expenses, including attorneys’ and experts’ fees, shall be allocated by the Tribunal in its award. The Parties agree to instruct the Tribunal to allocate such fees and expenses to the Parties in proportion to their relative success on the merits (including the successful assertion of any defense).
		9. The Tribunal shall have the authority to enter interim, conservatory, injunctive, and declaratory relief, if appropriate under applicable substantive law. The Tribunal shall also have the power to determine whether a Dispute is appropriate for arbitration. The Tribunal shall not, however, have the power to award punitive or exemplary damages. Notwithstanding anything in this Section 24.3.9, each Party retains the right to apply for injunctive relief in any court having jurisdiction thereof prior to or during the arbitration, and any such application shall not be deemed to be an infringement or waiver of the ability to arbitrate under Section 24.3 and shall not affect the relevant powers reserved to the Tribunal.
		10. In accordance with and subject to Section 26.8, the substantive law of the State of New York, without regard to its conflict-of-laws principles, shall apply to the arbitration. The Tribunal shall not have the power of an amiable compositeur.
		11. Unless the Parties agree otherwise, the arbitration shall be completed within the time limit under the ICC Rules.
		12. Unless this Agreement is terminated in accordance with its terms, each Party shall continue to perform its obligations under this Agreement during the course of any of the dispute resolution procedures specified in this Article 24.
		13. This Article 24 shall survive termination of all or any part of this Agreement, as indicated in Section 26.15.
	4. The Parties agree to the exclusive jurisdiction of Brazilian courts to finally resolve any Dispute arising, relating to, or in connection with the bid process or the imposition of any administrative sanction as provided for in Article 82 of law 13.303/2016, pursuant the rules set forth in Exhibit XXV.

**ARTICLE 25**

 **FOREIGN TRADE**

* 1. In accordance with Sections 3.2.3 and 3.2.3.1, the customs clearance for the importation of the Unit shall be the responsibility of Buyer.
	2. Regarding the materials, Equipment and any other goods supplied or provided in connection with the Scope of Supply execution, the following shall apply:
		1. **Compliance with Brazilian law.** In connection with the execution of the Scope of Supply, Seller shall accept, as detailed below and in accordance with Brazilian Applicable Law as of the date hereof, the materials, Equipment and any other goods provided under this Agreement by Buyer, and/or other goods previously authorized or requested in writing by Buyer.
		2. **Seller responsibility for export/import costs.** Seller shall be solely responsible for any and all costs and charges arising or resulting from the export, import, and transport of all materials, Equipment and any other goods supplied by it or purchased in Brazil or abroad by Buyer or by any Person authorized by it in connection with the Scope of Supply execution.
		3. **Seller responsibility for custom duties**. Seller shall be responsible for the payment of any and all customs duties or any other amounts imposed in respect of the management, processing or approval of any grant claims, discharges, write-offs or amendments before the responsible or consenting Governmental Authority, and any other action that may be necessary in respect of the materials, Equipment and any other goods that are needed by Seller for the execution of the Scope of Supply under this Agreement. Seller further agrees that it shall be responsible for any fines, sanctions or penalties, of any nature, imposed or levied by any Governmental Authority in connection with this.
		4. **Seller customs compliance with obligations**. Seller shall comply with and respect all customs requirements, particularly those set out in Brazilian Applicable Law with regard to the presence in Brazil of materials, Equipment and any other goods under its responsibility in connection with the execution of the Scope of Supply under this Agreement and admitted into the “Special Custom Regime”. Seller is also directly and exclusively responsible for the breach of any rules related to the “Special Custom Regime”, including its termination or expiration.
		5. **Seller responsibility for transportation costs**. Seller will be solely responsible for all costs of transport and insurance of materials, Equipment (in case Seller decides on supplementary insurance besides that provided in Section 14.13), and any other goods in connection with the Scope of Supply execution by Seller that are purchased or supplied by it, as well as those materials, Equipment or goods purchased and supplied by Buyer or any company authorized by it that are returned or sent for repair or replacement from the Site to the supplier, in Brazil or abroad, and from the supplier, in Brazil or abroad, to the Site.
			1. The costs of storage, stowage, rental of containers, demurrage, and any other costs resulting from this Agreement shall be exclusively under Seller’s responsibility.
			2. Seller shall transport the materials, Equipment and other goods to be imported by air, land or sea in accordance with the Applicable Law and shall be responsible for any loss or damage resulting from the noncompliance with Applicable Law.
		6. **Proper packaging of materials**. Seller shall arrange the proper packaging of materials, Equipment and any other goods, in order to avoid damage or deterioration during the transport to the final destination, as well as its compliance with the national and international requirements related to the appropriate packaging, markings and labor, in particular with regard to dangerous products or pollutants that can cause environmental damage. The packages shall be resistant and able to endure, with no limits, rough handling and exposure to extreme temperatures, sun and rain during transit. The appropriate package size and weight shall be determined taking into consideration the distance to the final destination of the goods, the kind of transportation to be used and the difficulty in handling the material during transit. In case of wooden packaging Seller is responsible for the fumigation in accordance with local legislation of the importer, especially in Brazil which requires the IPPC (International Plant Protection Convention) stamp on the package and the certificate of fumigation.
			1. Seller shall be responsible for the integrity of materials, Equipment and any other goods referred to in this Article 25, as well as any loss or damage from the transportation or handling during import or export stages, or during the construction and assembly of the Unit using such materials, Equipment and other goods.
		7. **Seller to maintain control.** Seller shall maintain control of all materials, Equipment and any other goods supplied by it or acquired in Brazil or abroad by Buyer or any Person authorized by it, in the performance of its obligations under this Agreement. All charges or costs resulting from this control are Seller’s exclusive responsibility.
			1. Within **thirty (30) days** before Substantial Completion of the Unit, Seller shall provide a complete inventory of materials, Equipment and other goods referred to in this Article 25 for the Unit, in accordance with the model presented by Buyer that shall contain, at minimum, the following information: full description of each good specifying an identification number (part number or serial number), quantity and the classification indicating the corresponding “MERCOSUR Common Nomenclature” (NCM) as per the “Common External Tariff” (Tarifa Externa Comum – TEC).
			2. Seller shall comply with Brazilian Applicable Law with regard to the Term of Responsibility (*Termo de Responsabilidade*) and the Customs Regime Extinction (*Extinção de Regime*) for materials, Equipment and any other goods admitted into Brazil pursuant to the Special Customs Regime.
		8. **Seller responsibility for notifications.** Seller will be responsible for any notification or charge resulting from errors or omissions in the import/export/transfer process of materials, Equipment and any other goods admitted into Brazil pursuant to the “Special Customs Regime”, as well as for any “Customs Clearance Re-examination by the Federal Revenue of Brazil” (*Revisão Aduaneira da Receita Federal*).
		9. **Seller submission of proof of compliance.** Seller shall submit to Buyer, upon request, proof of its compliance with regard to the operations, requirements and recommendations related to the import, export and transfer processes set forth in this Article 25.
		10. **Non-exclusive nature of obligations**. The list of obligations and responsibilities of this Article 25 is not exclusive and Seller remains obligated to comply with its other obligations under this Agreement and under all Applicable Law.
	3. Notwithstanding the provisions in Section 3.2.3.1.1, in the event that materials, Equipment or other goods are supplied afterwards and independently from the Unit’s customs clearance, in connection with the Scope of Supply execution, for reasons imputable to Seller:
		1. Import customs clearance of such materials, Equipment or goods shall be the responsibility of Buyer.
		2. Additional costs borne by Buyer pursuant to customs clearance, taxes and fees related to the late delivery of such materials, Equipment or goods shall be reimbursed by Seller in accordance with Section 10.10.4.
		3. Additional information and specific rules for categories of goods, customs regime, customs clearance characteristics and transportation and delivery characteristics are available in Exhibit I and Appendix 3 of Exhibit I.

**ARTICLE 26**

 **MISCELLANEOUS PROVISIONS**

* 1. **Entire Agreement**. This Agreement, together with all Exhibits, schedules, and attachments, contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, which is not contained in this Agreement.
	2. **Opportunity to review.** Seller agrees and acknowledges that it has had a full and complete opportunity to examine this Agreement and understands the obligations contained herein. Seller represents that it has carefully examined the documents listed or referenced in the Scope of Supply and all Exhibits attached hereto and has fully acquainted itself with the data and information contained therein (including any and all designs, specifications and estimates). Any failure of Seller to review such information and data shall not release Seller of its responsibilities under this Agreement nor shall it give rise to an increase in the Contract Price or an adjustment to the Project Schedule or the Critical Path Schedule or to present a Claim pursuant to Exhibit XIV. Without limiting the generality of the foregoing, it shall be Seller’s responsibility to determine the accuracy, adequacy and completeness of such information and data as Buyer makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of such information.
	3. **Amendments.** No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification is in writing and duly executed by both Parties.
	4. **Captions.** The captions and section headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.
	5. **Notice.** Any notice, demand, offer, or other written instrument required or permitted to be given in accordance with this Agreement shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by overnight courier, messenger, e-mail (with confirmation of receipt) or certified mail, return receipt requested, to the other Party at the address set forth below.

**(a)**      If delivered to Buyer:

[Buyer’s address]

**(b)**      If delivered to Seller:

[Seller’s address]

* + 1. Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party informing of such change. Notices shall be deemed to have been duly given on the date they are **(i)** delivered personally; **(ii)** sent by e-mail; or **(iii)** sent by a recognized overnight delivery service to the Party to whom the notice is to be given. All other notices shall be deemed given when received. Notwithstanding the foregoing, if a notice is delivered or sent after the close of regular business hours, it shall be deemed to have been given on the first (1st) Business Day following receipt, unless it if acknowledged on the same day.
		2. All communications between the Parties in connection with this Agreement will be in the English language. Portuguese may be used, as an alternative, only when expressly allowed by Buyer.
	1. **Severability.** The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement, or Exhibits, Schedules or other attachments incorporated into this Agreement by reference, shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.
	2. **No waiver.** Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision.
	3. **Governing law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the state of New York, without giving effect to its conflicts of law rules (except New York General Obligations Law Section 5-1401, which is expressly made applicable hereto). All issues arising, relating to, or in connection with the imposition of any administrative sanction as provided for in Article 82 of law 13.303/2016 shall be governed by Brazilian law.
		1. The “United Nations Convention on Contracts for the International Sale of Goods” shall not apply to this Agreement or to the performance thereof or to any aspect of any dispute arising therefrom.
		2. Without prejudice thereto, Seller understands that, while operating in Brazil, it will be bound to abide by the Applicable Law of Brazil.
		3. Without prejudice thereto, Seller understands and agrees that, while operating in any country different from its country of origin, it will be bound to abide by the Applicable Law of that country.
	4. **Successors and assigns.** This Agreement shall be binding upon the Parties, their **successors and permitted assigns.**
	5. **Exhibits.** All Exhibits, Schedules or other attachments referenced in this Agreement are incorporated into this Agreement by reference and shall be deemed an integral part of this Agreement.
	6. Limitations on third party beneficiaries; No joint venture. Except as provided in Article 22 and any other provision of this Agreement providing for the indemnification of a Person who is not a party to this Agreement, this Agreement is for the sole and exclusive benefit of the Parties and is not intended to stipulate any benefit in favor of any third party. This Agreement establishes no joint venture or partnership between the Parties.
	7. **Further assurances**. Seller and Buyer agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.
	8. **Restrictions on public announcements.** Without the prior written consent of Buyer, neither Seller nor its Subcontractors shall publicly refer to the Scope of Supply or any part of the Unit in any manner, including the issuance of a press release, advertisement, publication of photographs, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Scope of Supply or any part of the Unit.
	9. **Confidentiality.** Each Party shall keep all Confidential Information provided to it by the other Party strictly confidential and shall not disclose, permit to be disclosed, use, transfer or divulge any Confidential Information except as expressly permitted by the terms of this Agreement. Each Party shall be permitted to disclose Confidential Information provided to it by the other Party to:
		1. Its Affiliates and its Affiliates’ respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Confidential Information and will agree to keep such Confidential Information confidential); provided that any Party that discloses the Confidential Information of the other Party shall remain liable for any breach of the terms hereof by such Person, as if itself had committed such breach;
		2. Its Subcontractors and suppliers that need to have access to any part of the Confidential Information in order to adequately perform the works that they are required to perform (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Confidential Information and will agree to keep such Confidential Information confidential); provided that any Party that discloses the Confidential Information of the other Party shall remain liable for any breach of the terms hereof by such Person, as if itself had committed such breach;
		3. Persons with whom such Party is contemplating the formation of a joint venture and any Lenders (as well as their respective officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Confidential Information and will agree to keep such Confidential Information confidential)); provided that **(a)** the original disclosing Party is notified of the other Party’s intention to so disclose such Confidential Information, and **(b)** such Party will cause any such Person to execute and deliver to the Parties a confidentiality agreement substantially in the form of this Section 26.14; and
		4. A Governmental Authority, to the extent compelled by any Governmental Authority having jurisdiction over it, and only as may be required by Applicable Law or by any subpoena or similar legal process; provided that if it shall be compelled by any such Governmental Authority to disclose Confidential Information, it shall provide the original disclosing Party with sufficient advance notice of such disclosure as would permit such Party to intervene in any such process, or to initiate a process to prevent the disclosure of such Confidential Information.
		5. None of the Parties shall use, or shall permit the use by their Affiliates, successors, assigns, directors, employees, agents, subcontractors, or suppliers of, any Confidential Information for any purpose whatsoever other than in connection with this Agreement.
		6. All Confidential Information disclosed by a Party to the other Party shall remain the sole property of the disclosing Party. Each Party shall take any and all reasonable precautions to prevent any unauthorized disclosure of any Confidential Information to any other Person.
		7. Upon the termination of this Agreement, or upon a Party’s earlier request, the other Party shall, within **thirty (30) Business Days** of such request: **(i)** return, or cause any Person to whom it disclosed Confidential Information to return, all Confidential Information in its possession or control, or **(ii)** destroy, or cause any Person to whom it has disclosed Confidential Information to destroy, all Confidential Information in its possession or control, and deliver a certificate signed by its legal representative, acceptable in substance and form to the original disclosing Party, certifying that all such Confidential Information has been so destroyed. Nothing in this Section 26.14.7 shall require the other Party to return or destroy any documents and materials containing or based on the Confidential Information that the other Party is required to retain by Applicable Law. The provisions of this Agreement shall continue to apply to any documents and materials retained by the other Party pursuant to this Section 26.14.7.
		8. Each of the Parties acknowledges that the business operations of other Party in the jurisdictions where this Agreement is to be performed are highly competitive, and that each Party’s strategies, methods, business relationships, and commercial contractual and financial information concerning such jurisdiction comprise Confidential Information and trade secrets of the respective Party, which may enable the Party to obtain a competitive advantage over competitors that do not know or use such Confidential Information. Each Party further acknowledges that protection of the Confidential Information and trade secrets against unauthorized disclosure and use is of critical importance in maintaining its competitive position.
		9. Each Party shall be entitled to enforce the provisions of Section 26.14 by appropriate judicial action, including orders for specific performance or injunctive relief compelling the other Party’s compliance with these restrictions.
	10. **Termination and survival.** Unless earlier terminated pursuant to its terms, this Agreement and all of its terms (except as provided herein) shall terminate automatically on the later of **(i)** Final Acceptance Date and **(ii)** the date on which Seller has delivered to Buyer its fully executed Release of Claims and Lien Waiver. The provisions of Sections 3.2.14, 3.2.16, 3.2.21, 3.3.9, 3.10, 3.11, 3.14, 3.21, 3.22, 3.27, 5.3, 13.5, 13.6, 16.5, 17.3, 18, 18.3, 18.4, 20.1, 20.2, 20.3, 20.4 and 26.5, Article 24 and Exhibits I, IV, V, VI, VII, XVII, XX, XXI, XXII and XXVI shall survive the termination or expiration of this Agreement, except that Article 22 and Section 26.14 shall survive the termination or expiration of this Agreement for a period of **five (5) years** or for such longer period as set forth therein.

[Section 26.15.1 will be included in case the Contract is signed by a Joint Venture (SPE – Special Purpose Enterprise)]

[26.15.1. In the event the “Joint Venture” or “Special Purpose Enterprise” is extinguished after the termination of this Agreement, the Parent Company Guarantee signatory shall be deemed responsible for the enforcement of the Sections listed in Section 26.15.]

* 1. **Negotiation**. Each of the Parties acknowledges and agrees that they have had the opportunity to have their respective legal counsel review this Agreement and participate in the joint negotiation and documentation of this Agreement, and the Parties are fully familiar with each of the provisions of this Agreement and the effect thereof.
	2. **Compliance with laws and ethics**
		1. Not applicable.
		2. **Commercial acts**: Seller agrees and undertakes, on behalf of itself, its directors, officers, employees, agents, or Affiliates, not to pay any fees, commissions or rebates to any employee, officer or agent of its Affiliates or shareholders nor provide or cause to be provided to any of them any gifts or entertainment of significant cost or value in connection with this Agreement or in order to influence or induce any actions or inactions in connection with the commercial activities of the Seller hereunder. Seller shall include this requirement in all Subcontracts and “Purchase Orders”.
		3. **Records and Indemnification**: Seller shall keep all records necessary to confirm compliance with Sections 28.1 and 26.17.2. Seller shall indemnify and hold Buyer harmless from and against any and all claims and losses brought by any Person which arise out of, are incident to, or result from any breach of Sections 28.1 and 26.17.2.
		4. **Representation and warranty**: Seller represents and warrants, on the date hereof, that it has not taken any actions that would, if such actions were undertaken after the date hereof, conflict with the obligations under Sections 28.1 and 26.17.2.
		5. Seller shall notify Buyer immediately on receipt of notification or otherwise becoming aware of any such violation.
	3. Seller has no right to prevent delivery of the Unit and/or any part of the Unit, or to seek to do so, in order to support any Claim, counterclaim, Dispute, demand, action, debt, right, controversy, liability, damage or cause of action Seller may have against Buyer now or in the future.
		1. Seller hereby declares, irrevocably and unconditionally, that it has all means to gather all the information and evidence it may need at any time in the future in relation to any Claim, counterclaim, Dispute, demand, action, debt, right, controversy, liability, damage or cause of action, and that Seller will not suffer any damage (*periculum in mora*) if the Scope of Supply is executed and completed in another location and/or by another entity from and after the Termination of this Agreement by any reasons whatsoever.
		2. Seller also acknowledges that **(i)** it has no need to preserve any evidence associated with the Scope of Supply and will not object to or interfere with the taking of possession of the Unit by Buyer or its designee from and after the termination of this Agreement by any reasons whatsoever, **(ii)** all information and evidence it may need at any time in the future in relation to any Claim, counterclaim, Dispute, demand, action, debt, right, controversy, liability, damage or cause of action, can be gathered from the Seller's documents, measurement and progress reports and any other documented information produced periodically by the Parties in relation to the Agreement; and **(iii)** no inspections, visits, monitoring, examination or review of the Unit, the Scope of Supply, or any other Site are required for gathering or preserving any such evidence or information Seller may need.
		3. For the avoidance of doubt, Section 26.18.1 shall not be construed to limit the gathering of evidence and/or information strictly and exclusively during and as part of any technical dispute initiated and conducted in accordance with Article 24 of the Agreement, provided, that Seller affirms that Section 26.18.2 shall apply to all other Disputes.

**ARTICLE 27**

 **COMPLIANCE**

* 1. With regard to the Scope of Supply in connection with this Agreement, Seller represents and warrants that Seller and the members of its Group:

**(i)** have not made, offered, promised, or authorized any payment, gift, promise, entertainment or any other advantage, whether directly or indirectly, to or for the direct or indirect use or benefit of any authority, public official or civil servant, any political party, political party official, or candidate for office, or any other public or private individual or entity, where such offer, promise, payment gift, entertainment or any other advantage would violate the applicable Anti-Corruption Laws;

**(ii)** will comply with the Anti-Corruption Laws and will not practice any of the conducts described in item **(i)** above;

**(iii)** have not used and will not use assets, rights or values proceeding, directly or indirectly, from illicit activities, nor have they hidden or dissimulated the nature, origin, location, disposition, transfer or ownership of such assets, rights or values; and will comply with the further provisions of Law no. 9,613/98 and other Applicable Law concerning money laundering;

**(iv)** have complied and will comply with Compliance Sanctions;

**(v)** have complied and will comply with Petrobras Ethical Conduct Guide for Suppliers.

* 1. Seller represents and warrants that neither it nor any of its Affiliates **(i)** is targeted by any Compliance Sanctions; **(ii)** is owned or controlled by a person or entity targeted by any Compliance Sanctions; or **(iii)** is located on, have been incorporated in, or is resident in a country targeted by any Compliance Sanctions.
		1. Notwithstanding anything to the contrary elsewhere in this Agreement, Buyer shall not be obliged to act in any way or to perform, and nothing in this Agreement is intended, or should be interpreted or construed as requiring or inducing Buyer to act in any way or to perform, any obligation otherwise required by this Agreement (including without limitation an obligation to **(i)** perform, deliver, accept, sell, purchase, pay or receive monies to, from or through a person or entity, or **(ii)** engage in any other acts) if this would be in violation of, inconsistent with, penalized or prohibited by, or expose Buyer to punitive measures under Compliance Sanctions.
		2. Where any performance by Seller would be in violation of, inconsistent with, or expose the Buyer to punitive measures under Compliance Sanctions, the Buyer shall, upon prior written notice to Seller, be entitled to **(i)** immediately suspend the performance of the obligation (whether a payment or performance obligation) until such time as such obligation is lawfully discharged; and/or **(ii)** where the inability to discharge the obligation continues until the end of the contractual time for discharge thereof or a period of **thirty (30) days** (whichever is the shorter), to a full release from the obligation without any liability whatsoever (including but not limited to any damages for breach of contract, penalties, costs, fees or expenses); provided that where the obligation relates to payment, the obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the Buyer may lawfully resume payment.
	2. Seller shall immediately notify Buyer in writing of any investigation or proceeding initiated by any Governmental Authority relating to any alleged violation of the Anti-Corruption Laws and/or any breach by Seller Group of the obligations under this Article 27. Seller shall make all efforts to keep Buyer informed as to the progress and disposition of such investigation or proceeding, furnishing all the information requested by Buyer.
	3. Seller represents and warrants that Seller and each member of the Seller Group are fully aware of their obligations hereunder in relation to the Anti-Corruption Laws and have adequate policies and procedures in place in relation to business ethics and conduct and Anti-Corruption Laws. The existence and substance of such policies and procedures may be verified by Buyer at any time.
	4. Seller shall defend, indemnify and hold Buyer harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from or related to any breach of this Article 27.
	5. Seller shall promptly respond in reasonable detail and with adequate documentary support to any notification from Buyer concerning the obligations, warranties and representations set out in this Section.
	6. Regarding the matters related to this Agreement, Seller shall:

**(i)** maintain adequate internal controls concerning Seller’s compliance with Sections 27.1 and 27.2;

**(ii)** prepare and keep its books and records in accordance with generally accepted accounting practices applicable to Seller;

**(iii)** properly record and report Seller’s transactions in a manner that accurately and fairly reflects in reasonable detail Seller’s assets and liabilities;

**(iv)** retain such books and records for a period of at least five (5) years after termination or expiration of this Agreement; and

**(v)** comply with the Applicable Law.

* 1. From the date of the signature of this Agreement until **five (5) years** after the termination of the Agreement, on a **five (5) Business Days'** notice in advance, Seller shall give Buyer or its representatives access to the books, records, policies and proceedings referred to in this Agreement, as well as to all available documents and information, and allow Buyer to interview the shareholders, directors, officers and employees of Seller deemed necessary by Buyer in order to verify Seller’s compliance with Sections 27.1 and 27.2.
	2. Seller agrees to cooperate with and to assist with the audit, verification or investigation conducted by Buyer, concerning any alleged, suspected or proven non-compliance with the obligations set out in this Agreement or contravention of the Anti-Corruption Laws or of Compliance Sanctions by Seller or by any member of the Seller Group.
	3. Seller shall, on the request of Buyer, furnish a written certificate signed by an authorized representative to the effect that Seller is in compliance with Sections 27.1, 27.2 and 27.4.
	4. Seller will report to Buyer any explicit or implicit request or offer of any personal advantage made by Buyer or its Group to Seller or its Group with regard to the activities, operations, services, and works in connection with this Agreement. Such requests shall be reported in writing to the following address: https://www.contatoseguro.com.br/petrobras.
	5. For the purposes of this Article 27:

**(i)** "Anti-Corruption Laws" shall mean, collectively, and each as amended, Brazilian federal law 12,846/2013, the United States Foreign Corrupt Practices Act of 1977 and the United Kingdom Bribery Act;

**(ii)** “Group” shall mean, with respect to each Party, its controlling and controlled companies, companies under common control, successors, permitted assigns, officers, directors, employees, representatives, agents and Subcontractors;

**(iii)** “Compliance Sanctions” shall mean applicable laws, regulations, decrees, ordinances, orders or rules, including, but not limited to those of the European Union, the United Kingdom, the Netherlands, Brazil, the United Nations or the United States of America relating to international boycotts, trade sanctions, foreign trade controls, export controls, nonproliferation, anti-terrorism or similar laws.

* 1. Seller shall provide, upon request of Buyer, with a written certificate in the form of Exhibit XIX, signed by an authorized representative regarding the full performance by the Seller of Article 27.
	2. Seller acknowledges that, in addition to the “United Nations Security Council” sanctions, which shall be observed as per Law 13,810/2019, Buyer shall comply with laws, regulations, prohibitions, orders and restrictive measures implemented by the United States of America, European Union and United Kingdom, including their institutions and governmental agencies, which establish economic sanctions or export / import controls directed at prohibiting or restricting dealings with individuals, entities, governments, countries or territories (“Sanctions”).
	3. Seller represents and warrants that Seller, the individuals or entities that control Seller either directly or indirectly, its Subcontractors and professionals engaged in the performance of this Agreement are not included in Sanctions lists; and neither are nor will be nationals of or residents in countries subject to Sanctions.

**ARTICLE 28**

**ANTI-BRIBERY**

* 1. **No violation of Applicable Law**: Seller agrees that in connection with this Agreement and the activities contemplated herein, that neither it nor any of its directors, officers, employees, agents, or Affiliates shall **(a)** take action, or omit to take any action that would violate any Applicable Law related to the business practices of the Seller, **(b)** make, promise to make, or authorize the making of any payment, gift or transfer of anything of value, directly or indirectly, to any official or employee of any government or instrumentality of any government or to any political party or official thereof or any candidate of any political party for the purpose of influencing the action or inaction of such official, employee, political party or candidate, or **(c)** otherwise take any action, or omit to take any action that would cause in violation of any Applicable Law related to the business practices of the Seller, including UK and Brazilian anti-bribery laws, the principles described in the “Organization for Economic Co-operation and Development” (OECD) “Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” signed on 17 December 1997 and the “U.S. Foreign Corrupt Practices Act”. Seller shall include this requirement in all Subcontracts and “Purchase Orders”.
	2. **Records and indemnification**: Seller shall keep all records necessary to confirm compliance with Article 28. Seller shall indemnify and hold Buyer harmless from and against any and all claims and losses brought by any Person which arise out of, are incident to, or result from any breach of Article 28.
	3. **Representation and warranty**: Seller represents and warrants, on the date hereof, that it has not taken any actions that would, if such actions were undertaken after the date hereof, conflict with the obligations under Sections 28.1 and 26.17.2.
	4. **Notice:** Seller shall notify Buyer immediately on receipt of notification or otherwise becoming aware of any such violation.

**ARTICLE
29
HUMAN RIGHTS AND SOCIAL RESPONSIBILITY**

* 1. **Human rights.**
		1. The Parties commit to respect human rights, as established at “International Bill of Human Rights”, at “International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work” and at other international and national instruments, to act with due diligence, according to “UN Guiding Principles on Business and Human Rights”, and to promote and protect human rights, ensuring that there is no violation of civil, political, economic, social and cultural rights of people involved, directly or indirectly, in the execution of this Agreement.
		2. In alignment with the commitments undertaken by Buyer, Seller declares to:
1. Respect human rights, adopting practices and policies that guarantee nationally and internationally recognized human rights, training its employees and disseminating those policies to Subcontractors;
2. Provide a safe and healthy work environment that promotes diversity, equity and inclusion, respect for differences and equal opportunities in access, remuneration and advancement in employment, including equal pay between men and women;
3. Respect the right of all employees to form or join trade unions, as well as to bargain collectively, ensuring that there will be no reprisals;
4. Respect and comply with environmental legislation when performing services or supplying goods, adopting the best environmental practices, preventing risks and mitigating environmental impacts arising from its activities and from its Subcontractors; and
5. Respect the rights of indigenous peoples and traditional communities, their self-determination, access to land, to their livelihoods and their cultural and social principles.
	* 1. In alignment with the commitments undertaken by Buyer, Seller, in the execution of this Agreement, undertakes and declares that:
6. Do not practice or tolerate any act of prejudice or discrimination, harassment and/or sexual violence;
7. Do not practice and/or compact any form of sexual exploitation of children and adolescents, sensitizing employees and Subcontractors to combat this violence;
8. Do not use child labor, nor subject your employees to conditions similar to slavery or degrading working conditions, ensuring adequate food, accommodation and sanitary conditions, as well as including this provision in the agreements celebrated with Subcontractors. Non-compliance with such requirements shall be subject to liquidated damages and termination pursuant to Article 21, without prejudice to the other rights Buyer may have under this Agreement .
9. Do not practice and/or compact with acts that constitute threats or intimidation against human rights defenders of any nature, in the free exercise of their activities, in respect for freedom of expression, association and manifestation, requiring a similar behavior from their Subcontractors; and
10. Do not practice acts that constitute illegal or abusive behavior when interacting with security forces, communities and workers, avoiding the use of lethal weapons, providing assistance to victims.
	* 1. At the signature of the Agreement and whenever requested, Seller must provide a declaration of compliance with Sections 29.1.2 and 29.1.3, pursuant to the attached template.
		2. In order to ensure the investigation of allegations of human rights violations or violence at work, Seller must:
		3. Maintain and disclose a communication channel and establish objective procedures to receive, forward, treat and respond manifestations from its employees, employees of Subcontractors, surrounding communities, supply chain and other interested parties impacted by the execution of the object of the Agreement;
		4. Ensure that all manifestations will be responded and that there is no retaliation of any type related to manifestations received; and
		5. Cooperate fully with Buyer in any audit or investigation related to allegations of human rights violations, violence at work, including sexual violence, harassment, abuse or inappropriate behavior, providing the necessary information, documents, work instruments and assistance, including ensuring the access to the places where the contracted services are provided, even on its premises, as well as making efforts to ensure that the employees involved attend interviews with Buyer, in order to allow verification of compliance with the provisions contained in this clause.
		6. In order to promote the inclusion of underrepresented groups, Seller must make efforts to maintain, in the team designated to execute this Agreement, professionals from underrepresented groups (female, black people, brown people or people with disabilities), ensuring, whenever possible, their presence at all levels of hierarchy or function.
			1. Seller must prepare and provide to Buyer, no later than **90 day**s after the Effective Date, an updated diversity extract of the team, to the extent permitted by Applicable Laws, without nominal identification of personal data, containing the segmentation of team employees by hierarchy and function, gender, color/race/ethnicity, age and people with disabilities (PwD), highlighted by academic background.
		7. In the event that non-compliance with items 29.1.2, 29.1.3, 29.1.5, and 29.1.6.1 is identified during the execution of the Agreement, Seller shall provide a justification, accompanied by an action plan approved by Buyer, within **15 (fifteen) Days**, to address the non-compliance.
			1. Considering the pedagogical purpose of item 29.1.6, in case of its non-compliance Seller shall present to Buyer an action plan in order to achieve affirmative measures in an educational character.
			2. In the event of non-compliance by Seller of its obligations under Article 29, Seller’s delivery of a justification accompanied by an action plan shall trigger a commercially reasonable cure period set forth by mutual written agreement of the Parties. Such non-compliance shall be considered cured after Seller’s implementation of the action plan, and when Seller has met the standards set out in Sections 29.1.2, 29.1.3, 29.1.5, and 29.1.6.1.
			3. If such non-compliance is not cured within the period agreed upon by the Parties under Section 29.1.7.2, or is incapable of being cured, Buyer may exercise any of its remedies under Sections 29.1.7.4 and 29.1.7.5, or Applicable Law.
			4. Upon non-compliance by Seller, Buyer may exercise remedies to the extent provided in this Section 29.1.7.4 and 29.1.7.5. Prior to the exercise of any remedies pursuant to Sections 29.1.7.4 and 29.1.7.5, Buyer shall notify Seller in accordance with Section 29.1.7. Such notice, if with respect to an actual violation, constitutes notice of non-compliance under this Agreement.
			5. **Remedies shall be cumulative.** Any remedy shall not be exclusive of, and shall be without prejudice to, any other remedies provided hereunder, at law or in equity. Buyer’s exercise of remedies and the time period in which it exercises such remedies shall not be construed in any circumstance as constituting a waiver of its rights under this Agreement. Buyer’s remedies include, without limitation:
			6. Demanding adequate assurances from Seller of due performance in conformity with Article 29.
			7. Suspending payments until Buyer determines, in Buyer’s reasonable discretion, that Seller has taken appropriate remedial action following the expiration of the cure period indicated in Section 29.1.7.2.
			8. Obtaining damages caused by the Seller’s non-compliance with Sections 29.1.2, 29.1.3, 29.1.5, and 29.1.6.1.
		8. The Parties agree that the procedures set forth in Section 24.3 shall be the sole and exclusive remedy in connection with any dispute arising in whole or in part from or relating to Article 29 of this Agreement.
	1. **Social Responsibility**
		1. Seller, with regard to the activities under this Agreement, states and warrants that Seller complies with the guidelines contained in the Petrobras Ethical Conduct Guide for Suppliers, and that Seller states and warrants that it respects other applicable legislation, and that Seller:
11. Has human rights management practices in its supply chain;
12. Communicates to the surrounding communities the activities pursuant to this Agreement that impact their daily lives, in order to minimize impacts / risks, disorders and conflicts arising from the execution of the Scope of Supply;
13. Commits efforts to hire local labor;
14. Evaluates the social risks of its activities pursuant to this Agreement in the surrounding communities, developing actions to identify, prevent and mitigate adverse impacts on human rights issues;
15. Disseminate, whenever possible, the local reporting channels, especially the “Municipal Guardianship Councils” and the “Human Rights Dial”;
	* 1. If, during the execution or after the termination of this Agreement, a breach of any of the obligations or the truthfulness of the information contained in the declarations and guarantees provided by the Seller in this act or when requested by Buyer, pursuant to Article 29, is found, Seller will be responsible for compensating the damage eventually caused to Buyer due to this breach, including the fees, costs, attorney fees, interest, escrow deposits and administrative, civil or criminal sanctions to which Buyer is subject, with the consequent payment, reimbursement or compensation of the amounts disbursed by Buyer in its defense or with eventual conviction.

**ARTICLE 30**

 **ADDITIONAL CONSIDERATIONS**

* 1. Duty to perform. Each Party agrees that it is bound to perform its contractual duties hereunder even if events arising on or after the Proposal Submission Date have rendered performance of this Agreement more onerous or less commercially or financially advantageous to it than could reasonably have been anticipated at the Proposal Submission Date.

**ARTICLE 31**

 **PROTECTION OF PERSONAL DATA**

* 1. In the processing of personal data for the performance of this Agreement, Parties shall comply with the provisions of the General Law of Personal data protection (Law No. 13.709/18) - LGPD and other applicable data protection laws, in addition to the obligations hereunder in this Agreement.
		1. For the performance of this Agreement, Buyer will process personal data related to the identification of the following category(ies) of subjects: Seller’s employees and service providers.
		2. For the performance of this Agreement, Seller will process personal data related to the identification of the following category(ies) of subjects: Buyer’s employees and service providers.
		3. Seller shall inform its employees and service providers, in case their personal data are processed under this Agreement, about:

**a)** the fact that their personal data will be processed under this Agreement;

**b)** if their data will be shared with Buyer

**c)** the possibility for the data subject to obtain more information regarding the processing of their personal data and exercise their rights by acessing the following address: https://petrobras.com.br/en/privacy-and-protection-of-personal-data/?q=protection-of-personal-data.

* 1. The processing of personal data by the Parties shall observe legitimate, explicit and specific purposes, strictly related to the performance of the Scope of Supply.
	2. The Parties represent that they have a data governance program for privacy in accordance with LGPD and an effective response plan to address any security incident involving personal data.
	3. The Parties shall adopt technical, legal and administrative security measures capable of protecting personal data from unauthorized access or any form of inappropriate or unlawful processing, considering the nature of the information processed, the specific characteristics of the processing and the current state of technology, observing the standards defined by the National Data Protection Authority (ANPD) and the provisions of applicable data protection and privacy laws, without prejudice to the obligations related to information security and the duty of confidentiality applicable to the Parties as a result of this Agreement.
	4. The Parties are liable for the misuse of personal data by the professionals at their service, as well as for any failure in the systems used by them for the processing of personal data.
	5. The Parties shall record their personal data processing activities, as required by article 37 of the LGPD. Such record must identify and categorize each type of personal data processed, as well as, if applicable, Section 31.8.7, complying with the applicable standards defined by ANPD.
	6. Any international personal data transfer by the Parties shall comply with the provisions of Chapter V (INTERNATIONAL DATA TRANSFER) of the LGPD.
	7. In the processing of personal data in which one of the Parties acts as processor for the other Party, the provisions of this Section shall be observed, in addition to Sections 31.1 to 31.7.
		1. The Party acting as the controller (“Controller”) is entirely liable for the decisions regarding the processing of personal data by the Party acting as the processor (“Processor”), as well as for defining the appropriate lawful basis, and shall instruct in writing the Processor about the processing, in accordance with the provisions of data protection and privacy laws in force, especially the General Law of Personal data protection (Law nº 13.709/18) – LGPD.
		2. Processor shall comply with the instructions and limits established by the Controller for the processing of personal data. If Processor considers that the processing of personal data based on the instructions given by the Controller does not comply with LGPD, as well as any applicable data protection and privacy laws, it shall immediately notify the Controller.
		3. Processor shall include, in any Agreement with a subcontractor, clauses whereby the subcontractor undertakes to comply with the obligations set forth in this Article 31, as well as to collaborate with the full compliance with the other obligations assumed by the Processor. Processor shall inform Controller as to which personal data processing will be carried out by each subcontractor and about any subsequent changes in this relationship.
			1. Controller may oppose the subcontracting of a company that deems to be in breach of LGPD, notwithstanding the Processor’s liability for its subcontractors.
		4. Processor may only share, grant access to or perform any other processing of personal data by employees or service providers who need to process such data for the purposes strictly necessary for the performance of the Agreement.
			1. This item does not apply if the Processor shares personal data related to the performance of this Agreement based on explicit written instructions from Controller, or to comply with a judicial and/or administrative authority order. In such cases, the Processor must inform Controller of the data sharing within 24 (twenty-four) hours after receiving the order from the judicial and/or administrative authority. In case of legal provisions of confidentiality, in which confidential processing has been expressly required by the judicial and/or administrative authority, Processor shall be exempt from communicating to the Controller.
		5. Processor shall allow and adopt ways for Controller to verify compliance of the practices adopted for the protection of personal data and cooperate, if necessary, to prepare the data protection impact assessment (DPIA) or the investigation of security incidents.
		6. Processor shall inform Controller, in writing, within **one (1) Business Day** of the receipt of any request related to the processing of personal data under this Agreement. Controller will be responsible for addressing requests from data subjects and Processor will assist Controller, if necessary, in addressing these requests.
		7. Record of processing activities (RoPA) mentioned in Section 31.6 must contain the following information:

a) identification of this Agreement, of the Controller and of the Data Protection Officers (DPO) designated by Controller and, if applicable, by Processor;

b) description of the processing performed by the Processor (whether it is collection, production, reception, transfer, etc.) and the category of the data subjects and their personal data;

c) in the event that the processing involves international data transfer(s), identification of the countries or international organizations involved in said processing, as well as the appropriate transfer safeguards, in the form of the article 33 of the LGPD;

d) security measures adopted by Processor for the protection of personal data.

* + 1. Any security incidents, including but not limited to attacks by hackers and/or invasions of any nature and/or technical vulnerabilities that expose or have the potential to expose personal data processed because of this Agreement, shall be immediately communicated in writing by the Processor to the Controller, even if it is mere indications. Processor shall keep all records (including logs, metadata, and other evidence of the incidents), inform about the actions taken and about any personal data affected, as well as collaborate fully and provide the necessary documentation with any investigation or audit that may be performed.
		2. Processor shall cease the processing of personal data under this Agreement within **10 (ten) Business Days** after the termination of the Agreement and, at the sole discretion of Controller, delete, destroy or return the personal data it has obtained.
			1. This Section does not apply to the cases in which LGPD authorizes Processor to continue processing personal data, but, in such case, the Processor shall be considered as an independent Controller and will be solely and exclusively responsible for the processing.
		3. Failure to comply with the provisions of this Article 31 will subject Processor to the applicable legal and contractual consequences.
	1. In the processing of personal data in which the Parties act as independent or joint controllers, the provisions of this Section 31.9 shall be observed, in addition to Sections 30.1 to 31.7.
		1. Each Party shall inform the other Party, within a reasonable time, about any sharing of personal data with third parties, whenever the relevant personal data is obtained from the other Party.
		2. The offending Party shall be solely and exclusively responsible for any breach of personal data and privacy laws arising from processing it performs, directly or through third parties, with or without the participation of the other Party, and must reimburse any jointly and severally liability imposed on the innocent Party.
		3. If both Parties have contributed to the breach of data protection and privacy laws, each Party will be liable, proportionally, to the extent of its liability.
		4. Each Party undertakes to address the requests of the personal data subjects directed to it, in accordance with the LGPD, and to cooperate with the other Party in the event of the need to carry out the data protection impact assessment (DPIA), investigation of security incidents or addressing demands of the subjects of personal data or the ANPD.

**ARTICLE 32**

 **JOINT AND SEVERAL LIABILITY**

* 1. The Buyer and Seller agree that, upon the execution of this Agreement, Seller agrees to be liable for all pecuniary obligations arising from or in connection with the operation and maintenance of the Unit during the period between the start of the Pre-Operation Stage (as defined in Section 1.3) and the point in time at which all liabilities and obligations of the Seller pursuant to, under and in accordance with this Agreement have been discharged in full, to Buyer’s satisfaction, and that such liability of Seller will be joint and several with [INSERT NAME OF OPERATOR/SERVICE PROVIDER COMPANY], provided that [INSERT NAME OF OPERATOR/SERVICE PROVIDER COMPANY] agrees by separate agreement or amendment to this Agreement, to bear such liability with Seller and likewise it agrees to be bound by this Agreement, including, but not limited to the arbitration clause herein.
	2. Neither the Seller nor [INSERT NAME OF OPERATOR/SERVICE PROVIDER COMPANY] will be subject to any penalties for the same event, if such penalties arise from this Agreement and the Operation Contract.

[A Tripartite Contractual Amendment (Seller + Operator + Petrobras) shall be signed at the same time as this Contract, with the following wording:

"The Operator] agrees to be jointly and severally liable with the Seller pursuant to Article 32, and is aware of and agrees to be bound to the terms of the PSA, including the arbitration provision” ].

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

[Place], [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PETRÓLEO BRASILEIRO S.A. – PETROBRAS

Name: [Name PB]

Title: [Title PB]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Seller]

Name: [Name Seller]

Title: [Title Seller]

**WITNESSES:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Identity:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Identity: