



## 1 Definitions

“Affiliate” means any legal entity which controls, is controlled by, or is under common control with, another legal entity. “Control” and “controlled” means:

- (i) holding beneficially at least fifty per cent (50%) of the issued share capital of such other entity; or
- (ii) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
  - (a) cast, or control the casting of, at least fifty per cent (50%) of the maximum number of votes that might be cast at a general meeting of such other entity; or
  - (b) appoint or remove all, or the majority, of the directors or other equivalent officers of such other entity; or
  - (c) give directions with respect to the operating and financial policies of such other entity with which the directors or other equivalent officers of such entity are obliged to comply.

“Buyer” means the Sparrows entity issuing the Purchase Order to the Seller and shall include their successors in title and permitted assigns.

“Buyer Group” means the Buyer and its Client and its and their respective co-venturers, subcontractors, Affiliates, directors, officers and employees (including agency personnel), but shall not include any member of Seller Group.

“Client” means any third party with whom the Buyer has a contractual obligation to provide work which includes the Work and/or is the end user of such Work.

“Consequential Loss” means (i) any and all special, indirect, incidental or consequential losses and damages, and (ii) any and all loss of use (including, without limitation, loss of use or the cost of use of property, equipment, materials and services including without limitation, those provided by contractors or subcontractors of every tier or by third parties: loss of revenue; loss of production or product; loss of profits; loss of or interruption to business; facilities downtime; or wasted overheads, in each case whether direct or indirect to the extent not included in (i), sustained by the indemnifying party in connection with or arising out of this contract, howsoever the same may arise, whether under contract, tort (including negligence of any form such as sole, concurrent, joint, sole, active passive) gross negligence, wilful misconduct, strict liability or otherwise.

“Contract” means the contract entered into between Buyer and Seller for the purchase of Goods and/or Services formed in accordance with these General Terms and Conditions.

“Customs Duties” means all existing or future duties, payments, fees, charges, levies, taxes, or contributions payable to or imposed by any authority as a result of import or export, whether permanent or temporary of any personnel, plant, procured items, goods, tools or equipment.

“General Terms and Conditions” means these General Terms and Conditions of Purchase (USA).

“Goods” means any and all goods being purchased by Buyer from Seller as part of the Work including all components and materials to be incorporated therein or ancillary thereto and all articles, materials, supplies, drawings, data, documentation specified or required and carried out with respect to Contract.

“Hire Equipment” means any equipment, goods and materials provided by Seller to Buyer on a hire basis as part or forming the whole of the Work.

“Hire Period” means the period commencing from the day of delivery when Buyer has completed a satisfactory inspection of the Hire Equipment and accepted the Hire Equipment as delivered until return of the Hire Equipment by Buyer on the specified redelivery point on such date and times as agreed between the Parties.

“Intellectual Property” means any invention, patent or application for a patent, design (registered or unregistered), trademark (registered or unregistered), name, copyright, circuit layout, design drawing and other technical information (including software), trade secret, know-how, proprietary information or other right in respect of any information, process, work, material or method.

“Party” means each of the Buyer and Seller as appropriate, and “Parties” means both the Buyer and Seller.

“Proposal” means any proposal, quotation, tender or similar documentation issued by Seller to Buyer in contemplation of or forming part of the performance of the Work.

“Purchase Order” means the Buyer’s purchase order, instructing or outlining the Work which incorporate these General Terms and Conditions by reference thereto.

“Sales Tax” means any transfer tax, gross receipts tax, compensating use tax, use taxes, sales tax, value added tax, goods and services taxes, business tax, consumption tax or other similar transactional taxes arising or payable as a result of the performance of the Work.



"Seller" means the entity named on the Purchase Order as performing the Work].

"Seller Group" means Seller, its Sub-Contractors (of any tier), its and their Affiliates, its and their respective directors, officers and employees (including agency personnel) but shall not include any member of Buyer Group.

"Services" means any and all services to be performed by Seller for Buyer as part or forming the whole of the Work.

"Special Condition" means any amendment(s) to these General Terms and Conditions agreed in writing by the Buyer.

"Sub-Contractor" means any party (other than Seller) to a sub-contract entered into by Seller for the performance of any part of the Work in accordance with Clause 19.

"Tax" & "Taxes" means all existing or future taxes, corporate income tax or gross revenue taxes, personal income tax, employment taxes and social charges, national insurance, sales taxes, property taxes, impost, duties, customs duties, levies, withholding taxes and fees, stamp duties, charge and other assessments in the nature of taxes, including any fines, penalties or interest, assessed or levied by the appropriate authority.

"Variation" means a written instruction or direction for an increase, decrease or change to the scope, schedule, specification, design, nature, extent, delivery, quantities or quality of the Work or any change in law, rule or regulation and/or safety requirements which have a direct impact on the Work.

"Work" means all work, including the provision of Goods, Services and/or Hire Equipment, which the Seller is required to perform for Buyer under the Contract including manufacture, modification, delivery, installation, testing and commissioning as required by Buyer.

"Worksite" means any place where the Work is to be performed including offshore installations, floating construction equipment, vessels (including the area covered by approved anchor patterns), workshops and places where equipment, materials or supplies are being obtained, stored or used for the purposes of the Contract.

## 2 General

2.1 All documentation relating to the Contract shall be in the English language.

- 2.2 All instructions, notices, agreements, authorisations, approvals and acknowledgements relating to the Contract shall be in writing. Nevertheless, if for any reason Buyer requires to give instructions to Seller verbally in the first instance, Seller shall comply with such instruction. Any such oral instructions shall be confirmed in writing as soon as possible under the circumstances, provided that, if the Seller confirms in writing any such oral instruction which is not contradicted in writing by Buyer without undue delay, it shall be deemed to be an instruction in writing by Buyer. References to writing include fax, email and similar means of communication.
- 2.3 Unless the context otherwise requires, words importing the singular shall include the plural and vice versa.
- 2.4 Any reference to a statute, statutory instrument or statutory provision shall include any re-enactment or amendment thereof for the time being in force.
- 2.5 The words "include(s)" or "including" are to be construed without limitation.
- 2.6 Any headings used in these General Terms and Conditions are for convenience and shall not be used for the purposes of construction or interpretation.

## 3 Engagement

- 3.1 Subject to Clause 33, Contract will automatically terminate on completion of the Work.
- 3.2 Unless specifically waived, or otherwise agreed in writing between the Parties, these General Terms and Conditions shall apply to any and all Work being provided by Seller to Buyer and any other terms and conditions proposed by Seller as governing Work shall be expressly excluded.
- 3.3 Buyer may engage Seller to carry out Work based on these General Terms and Conditions by issuing a Purchase Order referencing these General Terms and Conditions to Seller, which shall constitute an offer by Buyer to purchase the Work from Seller in accordance with these General Terms and Conditions.
- 3.4 The Purchase Order shall be deemed to be accepted on the earlier of the Seller issuing written acceptance of the Purchase Order, or any act by the Seller which is consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence.
- 3.5 Each Purchase Order shall constitute a separate Contract between Buyer and Seller.
- 3.6 The execution of the Contract by the Parties shall not be construed as an obligation of Buyer to order any future Work in any manner from Seller whatsoever. Buyer gives no guarantee as to a minimum workload for the Seller.



#### 4 Order of Precedence

In the event of any ambiguity or contradiction between any documents issued or forming part of the Contract, they shall be given priority in the following order:

- (i) Variation
- (ii) Special Condition
- (iii) Purchase Order
- (iv) General Terms and Conditions
- (v) Proposals, schedules, appendices and other documentation issued in accordance with and forming part of the Contract the later in time taking precedence over the earlier.

#### 5 Quantity, Quality and Description

All Work shall conform to the quantity, quality and description specified in the Contract.

#### 6 Hire Equipment

- 6.1 Where the Work involves the provision of Hire Equipment the provisions of this Clause 6 shall apply.
- 6.2 Title and risk in Hire Equipment shall at all times remain with Seller (or its Sub-Contractors as applicable).
- 6.3 Seller shall maintain full insurance coverage for its Hire Equipment during the Hire Period. Where Seller requires Buyer to have any additional insurance to cover the Hire Equipment, Seller must notify Buyer in writing prior to entering into the Contract.
- 6.4 Seller shall deliver Hire Equipment to Buyer in accordance with Clause 7.1 below. Unless otherwise agreed between the Parties, the daily hire rate of Hire Equipment shall be deemed to be fully inclusive of all costs for delivering and collecting the Hire Equipment to and from the specified delivery and redelivery points.
- 6.5 The daily hire rate shall apply for twenty-four (24) hours a day (or prorate thereof), seven (7) days a week.
- 6.6 The hire shall commence at the beginning of the Hire Period when the Hire Equipment will be delivered in fully operating condition, to the specified delivery with all documentation (including up to date operating and instruction manuals) together with any specialist safety items required to operate the Hire Equipment in a safe manner prior to or upon delivery of the Hire Equipment and any spares at the specified time.
- 6.7 Compensation shall cease at the end of the Hire Period. For any time period of lack of availability of use of the Hire Equipment by Buyer due to routine maintenance/repair or breakdown or unsatisfactory performance of the Hire Equipment, Seller shall not be entitled to compensation by Buyer either on a daily hire rate or hourly part thereof for this period.
- 6.8 Buyer shall issue forty-eight (48) hours advance notice of intention to cease all or any part of the hire and make the relevant Hire Equipment available for collection by Seller at the specified redelivery point at the end of that period. Buyer has no responsibility for the Hire Equipment after the notified time of redelivery and Seller is liable for any costs incurred (including storage costs) in the event Seller fails to collect the Hire Equipment at the specified time and place.
- 6.9 Upon cancellation of all or any part of the hire, Seller should issue Buyer with a written report confirming contractual redelivery of the relevant Hire Equipment or detail any deficiencies. If no report is provided, it will be considered that the relevant Hire Equipment has been contractually redelivered. Seller is responsible for any costs related to inspection of the relevant Hire Equipment at redelivery.
- 6.10 Seller warrants to Buyer that the Hire Equipment shall at all times during the term of the Contract:
  - (i) Comply with all applicable laws and statutory regulations;
  - (ii) Have all approvals, certificates and permits required for use and operation;
  - (iii) Comply with the Buyer's specifications and requirements;
  - (iv) Be free from defects in design, materials and workmanship; and
  - (v) Be of satisfactory quality, in proper working order and fit for its intended purpose.
- 6.11 Seller shall not interfere with Buyer's quiet possession of the Hire Equipment during the Hire Period.
- 6.12 Unless otherwise agreed, Seller is responsible for the maintenance and repair and supply or spare parts during the Hire Period. The spares shall satisfy the same or higher technical conditions as those applying to the Hire Equipment. If agreed between the Parties, Buyer may carry out agreed routine maintenance on the Hire Equipment in accordance with Seller's instructions, the costs of such maintenance shall be agreed between the Parties prior to completion of same.
- 6.13 Defective Hire Equipment shall be replaced or repaired as soon as possible. In case Seller cannot or refuses to rectify the defective Hire Equipment, or allow Buyer to do so within a reasonable period of time, then Buyer shall have the right to cancel the part of the Contract relating to the defective Hire Equipment or where the Hire Equipment is the whole or a substantial part of the Work terminate the whole Contract.
- 6.14 In the event of cancellation or termination in accordance with Clause 6.13 above, Buyer shall pay Seller up to the date of cancellation or termination but shall not be liable for any other costs for the Hire



Equipment from the date of formal notification of the defect to the Seller including redelivery.

## 7 Delivery

- 7.1 Seller shall deliver the Work at such place(s), time(s), and dates as specified in the Contract.
- 7.2 Unless otherwise indicated in the Contract, any Goods supplied as part of the Work shall be:
  - 7.2.1 Delivered DDP (as defined in INCOTERMS 2010) at the Buyer's premises on the delivery date(s) as indicated in the Contract;
  - 7.2.2 Properly packed and secured in such manner as to enable them to reach their destination in good condition and in accordance with any applicable Legislation;
  - 7.2.3 Accompanied by a delivery note which shows the Purchase Order number, the type and quantity of the Goods, special storage instructions (if any) and, if the Goods are being delivered by instalments pursuant to clause 7.4 (below), the Seller shall specify the outstanding balance of Goods remaining to be delivered along with their estimated delivery date; and
  - 7.2.4 Marked for any requirement to return any packaging material clearly on a delivery note. Any such packaging material shall be returned to the Seller at the expense of the Seller.
- 7.3 If the Seller delivers more than the quantity of Goods ordered Buyer shall not be obliged to pay for any quantities in excess of those stated on the Purchase Order. Any such excess shall be and shall remain at the Seller's risk and expense and shall be returnable at the Seller's risk and expense.
- 7.4 The Seller shall not deliver the Work in instalments without prior written consent of the Buyer. Where it is agreed that the Work is to be delivered by instalments, the Contract shall be construed as a single contract in respect of each instalment and the Work may be invoiced and paid for separately. Nevertheless, failure by Seller to deliver any one instalment shall entitle the Buyer, at its option, to treat all the Contracts in respect of the instalments as repudiated.
- 7.5 Buyer considers time to be of the essence and unless otherwise agreed between the Parties, Buyer reserves the right to apply liquidated damages for late delivery of the Work at the rate specified in the Contract. Where no such rate is specified in the Contract the rate of one percent (1%) of the Contract price for each day or part thereof for which the Work is delayed shall apply. Where liquidated damages are payable these shall be deemed to be a genuine pre-estimate of the Buyer's losses as a result of such delay and as shall not be construed as penalties.

- 7.6 Subject always to the Buyer's right to terminate the Contract, the payment of liquidated damages shall not relieve Seller from its obligations to diligently perform the Work or from any other obligation and liability under the Contract.

## 8 Inspection and Testing

Buyer, Client and their representatives shall, upon giving reasonable notice and at their cost, be entitled to access any premises (including those of Sub-Contractors) to inspect and test the Work prior to acceptance or delivery, whichever is later.

## 9 Offshore Transportation

Where any Work is required to be performed offshore, Buyer shall, where Buyer receives such benefit from the Client under the main contract, provide, at no extra cost to Seller, all routine and medi-vac transportation for Seller provided personnel, and transportation for Seller provided equipment and/or material, including Hire Equipment, which are capable of transportation by helicopter or supply boat between Buyer or Client designated heliport and/or supply base and the offshore part of the Worksite.

## 10 Tax and Customs Procedures

- 10.1 Unless otherwise agreed, Seller shall be responsible for the payment of all Taxes, duties levies, charges and contributions (and any interest or penalties thereon) connected with the work for which Seller is liable as imposed by any appropriate government authority whether of the United States or elsewhere.
- 10.2 Where under the provisions of any laws, regulations or directives in force, Buyer is required to deduct any amount, whether as a Tax or howsoever called, Buyer shall without further notification to Seller deduct the specified amount from any amount payable to Seller. Buyer shall pay over or deal with any amount so deducted in accordance with the provisions of the relevant laws or regulations providing for the deductions.
- 10.3 In the event Seller claims to be exempted from any statutory deductions, it shall inform Buyer and provide necessary documentation to support its case, including a valid certificate of exemption from relevant authority, if applicable. Buyer shall proceed to deduct Tax or howsoever called until the provision of such exemption certificate by Seller.
- 10.4 Seller is deemed to have taken into account in its rates, sums and prices all Taxes other than Sales Taxes. For



the avoidance of doubt rates shall not be increased for any Taxes other than Sales Taxes.

- 10.5 The Seller shall supply to Buyer all such information, in connection with activities under the Contract as is necessary to enable Buyer to comply with the lawful demands for such information by any appropriate government authority whether of the United States or elsewhere.
- 10.6 When applicable, the Seller shall pay and make payment at such times when due and payable, all Customs Duties on materials, goods, tools, equipment and supplies required for the Contract and imported or exported by the Seller. Where required, the Seller will be responsible for ensuring that it holds the necessary import/export licences issued by the relevant authorities prior to the commencement of the Work.
- 10.7 Where the Contract requires the Buyer to import or export materials, goods, tools, equipment or supplies Seller shall assist Buyer in complying with any and all applicable laws, regulations, guidelines or policies. Seller shall provide any information as is necessary or deemed necessary by Buyer to ensure compliance with aforementioned laws, regulations, guidelines or policies. If as a result of Seller's act or omission Buyer incurs Customs Duties, including fines, penalties and interest, or other costs which otherwise would not have been due, Seller indemnifies and keeps indemnified Buyer in respect of such Customs Duties.
- 10.8 Where Goods are sold to Buyer under the Contract, the Seller shall:
- (i) Prepare and provide to the Buyer full documentation to show and certify all information regarding items subject to customs control, including the origin, customs status and customs commodity code number as may be necessary for the Buyer to minimise or nullify the effect of Customs Duty on such items; and
  - (ii) Apply all tax benefits, reductions and reliefs by all legally available means conferred by applicable legislation and applicable double tax conventions; and
  - (iii) Inform the Buyer without delay in the event that the Seller is unsuccessful in any application for reliefs. In such event, the Buyer shall have the option to import or export or re-import any times affected under its own authorised procedure.

## 11 Title, Risk and Liens

- 11.1 Except as otherwise provided for in the Contract, risk of damage to or loss of the Work, including for the purpose of the mutual indemnifications and liabilities provided for herein, shall pass to Buyer upon delivery.

- 11.2 Except as otherwise provided for in the Contract, title in the Work and/or title in the materials to be used in the manufacture of the Work (unless already property of the Buyer) shall pass to the Buyer upon said materials being identified as being required for the Work or in proportion to the payments made or delivery to the Worksite, whichever is the earlier.
- 11.3 All items to be incorporated into the Work or related to the Work and where title has passed to the Buyer shall be clearly marked as the Buyer's property and stored separately.
- 11.4 Seller agrees that it shall not allow any liens to attach to the Work or any property of the Buyer and that it shall furnish, upon request, receipts and releases with respect to the Work showing that all related costs and expenses have been paid (and thus, that no third-party claims, liens, or rights of liens exist against the Buyer or its property or the Work). Seller shall be responsible for and shall save, indemnify, defend and hold harmless Buyer Group against any such lien or attachment.

## 12 Price and Payment

- 12.1 In consideration of the satisfactory performance and completion of the Work in accordance with the Contract, Buyer shall pay or cause to be paid to Seller undisputed amounts provided for in the Contract at the times and in the manner specified in the Contract. Unless otherwise agreed, the Contract price shall be the full compensation for all costs whatsoever for complete performance of the Work.
- 12.2 Except where it is expressly provided that the Buyer shall carry out an obligation under the Contract at its own cost, the Contract price shall be fixed and unless otherwise agreed in writing between the Parties shall encompass all costs associated with the performance of the Work including but not limited to materials, labour packaging, inspections, tests, certificates and transportation.
- 12.3 All prices quoted are exclusive of Sales Tax and, unless otherwise stated in the Contract, are deemed to be in US Dollars (USD).
- 12.4 Within ninety (90) days after receipt by Buyer of Seller's correctly prepared and adequately supported invoice to the address stated in the Contract, Buyer shall effect payment of the invoice to a bank account nominated by Seller.
- 12.5 If Buyer fails to pay any sums due to the Seller when due then Seller may charge interest on any overdue sums at a rate of 2% per annum above the Federal Funds Rate from the due date until payment.
- 12.6 All invoices for the Work must be submitted to Buyer within sixty (60) days of completion of the Work. If



Seller fails to submit invoices within the aforementioned period, Seller rights to receive further payment from Buyer and Buyer's obligations to make further payments to Seller shall be extinguished.

12.7 If Buyer disputes any item on an invoice, in whole or in part, or if the invoice is prepared or submitted incorrectly in any respect, Buyer shall notify Seller of the reasons and request Seller to issue a credit note for the unaccepted part or whole of the invoice as applicable. Upon receipt of such credit note the Buyer shall be obliged to pay the undisputed part of a disputed invoice.

12.8 If any dispute exists between the Parties, the Buyer may withhold or off-set from any money which becomes payable under this Contract the amount which is subject of dispute.

12.9 On settlement of any dispute, the Seller shall submit an invoice for sums due and the Buyer shall make the appropriate payment in accordance with the provisions of Clause 12.4.

12.10 Neither the presentation nor payment or non-payment of an individual invoice shall constitute a settlement of a dispute, an accord and satisfaction, a remedy of account state, or otherwise waive or affect the rights of the Parties hereunder. In particular the Buyer may correct or modify any sum previously paid in any or all of the following circumstances:

- (a) Any such sum was incorrect;
- (b) Any such sum was not properly payable to the Seller;
- (c) Any work in respect of which payment has been made and which does not comply with the terms of the Contract.

12.11 If the Buyer at any time incurs costs which, under the provisions of the Contract, the Buyer is entitled to recover from the Seller, the Buyer may invoice the Seller for such costs, provided always that the Buyer may deduct the amount of such costs from any amount due, or that may become due to the Seller under the Contract. Where Buyer invoices Seller in respect of any such costs, Seller shall pay such costs within thirty (30) days of receipt.

12.12 Seller may be required by Buyer to provide a parent company guarantee, bonds and/or other financial guarantees as part of the Contract.

### 13 Variations

13.1 All Variations must be agreed in writing in accordance with Clause 2.2 above.

13.2 The Parties shall use their best endeavours to agree to the existence and effects of a Variation prior to the commencement of any Work affected by that Variation,

including the impact, if any, on the Contract price and/or delivery date(s).

13.3 If at any time the Parties do not agree as to the existence and/or effects of a Variation, such dispute shall be resolved in accordance with the Dispute Resolution Procedure set out in Clause 24 below

13.4 Seller must notify Buyer immediately if it believes it is entitled to a Variation. Where Seller believes such Variation would result in an increase to costs and/or change to the delivery dates/times then Seller must submit to Buyer documentation in order to justify such claim within seven (7) days of the event which gave rise to the Variation. If Seller does not notify Buyer within the seven (7) days above Seller shall not be entitled to a Variation.

### 14 Liability and Indemnity

14.1 SELLER SHALL BE RESPONSIBLE FOR AND SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER GROUP FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, COSTS (INCLUDING LEGAL COSTS) EXPENSES AND LIABILITIES IN RESPECT OF:

- (i) LOSS OF OR DAMAGE TO PROPERTY OF SELLER GROUP WHETHER OWNED, HIRED OR LEASED OR OTHERWISE PROVIDED BY SELLER GROUP ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT; AND
- (ii) PERSONAL INJURY INCLUDING DEATH OR DISEASE TO ANY PERSON EMPLOYED OR ENGAGED ON BEHALF OF SELLER GROUP ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT; AND
- (iii) SUBJECT TO ANY OTHER EXPRESS PROVISIONS OF THE CONTRACT, PERSONAL INJURY INCLUDING DEATH OR DISEASE OR LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PARTY TO THE EXTENT THAT ANY SUCH INJURY, LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE) OF SELLER GROUP; AND
- (iv) POLLUTION OCCURRING ON THE PREMISES OF SELLER GROUP OR ORIGINATING FROM THE PROPERTY AND EQUIPMENT OF SELLER GROUP ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT.

14.2 BUYER SHALL BE RESPONSIBLE FOR AND SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER GROUP FROM AND AGAINST ALL CLAIMS,



ISSUES, DAMAGES, COSTS (INCLUDING LEGAL COSTS) EXPENSES AND LIABILITIES IN RESPECT OF:

- (i) LOSS OF OR DAMAGE TO PROPERTY OF BUYER GROUP WHETHER OWNED BY BUYER GROUP OR LEASED (EXCEPT WHERE LEASED FROM SELLER GROUP) OR OTHERWISE PROVIDED BY BUYER GROUP WHICH IS LOCATED AT A WORKSITE ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT; AND
- (ii) PERSONAL INJURY INCLUDING DEATH OR DISEASE TO ANY PERSON EMPLOYED BY OR ENGAGED BY BUYER GROUP ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT; AND
- (iii) SUBJECT TO ANY OTHER EXPRESS PROVISIONS OF THE CONTRACT, PERSONAL INJURY INCLUDING DEATH OR DISEASE OR LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PARTY TO THE EXTENT THAT ANY SUCH INJURY, LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE) OF BUYER GROUP; AND
- (iv) WITH THE EXCEPTION OF THE ABOVE INDEMNITY GIVEN BY SELLER AT CLAUSE 14.1(IV), ANY CLAIM RELATING TO POLLUTION AND/OR CONTAMINATION ORIGINATING FROM ANY EQUIPMENT OR PROPERTY OF BUYER GROUP ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT.

14.3 For the purposes of this Clause 14, "third party" shall mean any party which is not a member of Seller Group or Buyer Group.

14.4 For the purposes of the indemnities under Clause 14.2 and 15, Buyer can only (in respect of the Client) extend to Seller the benefit and protection of the indemnities given by Client to Buyer under the main contract.

14.5 The indemnities given by the Parties under this Clause 14 are full and primary and shall apply irrespective of whether the indemnified Party has or does not have insurance in place relating to any claims, losses, damage or costs in respect of the subject matter of any indemnity given under this Contract.

14.6 ALL EXCLUSIONS AND INDEMNITIES GIVEN UNDER THIS CLAUSE (SAVE FOR THOSE UNDER CLAUSES 14.1(III) AND 14.2(III)) AND CLAUSE 15 SHALL APPLY IRRESPECTIVE OF CAUSE AND NOTWITHSTANDING THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT) OR BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE) OF THE

INDEMNIFIED PARTY OR ANY OTHER ENTITY OR PARTY AND SHALL APPLY IRRESPECTIVE OF ANY CLAIM IN TORT, UNDER CONTRACT OR OTHERWISE AT LAW.

14.7 Each Party expressly agrees that the indemnities set out in this Clause 14 do not extend to criminal sanctions imposed upon it, arising from, relating to or in connection with the performance of the Contract.

## 15 Consequential Loss

NOTWITHSTANDING ANY PROVISION OF THE CONTRACT TO THE CONTRARY AND EXCEPT TO THE EXTENT OF ANY LIQUIDATED DAMAGES UNDER CLAUSE 7 AND SUBJECT TO CLAUSE 14.4, BUYER SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER GROUP FROM BUYER GROUP'S OWN CONSEQUENTIAL LOSS AND SELLER SHALL SAVE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER GROUP FROM SELLER GROUP'S OWN CONSEQUENTIAL LOSS ARISING FROM, RELATING TO OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE CONTRACT.

## 16 Warranty

16.1 Seller warrants to Buyer that the Work shall:

- (i) Be performed by appropriately qualified and trained personnel, with due care and diligence; and
- (ii) Be of sound materials and workmanship, in accordance with the requirements set out in the Contract and the normal usage of such Work; and
- (iii) Be free from defects in material and workmanship; and
- (iv) Correspond with all specifications, drawings or samples if any referred to in the Contract.

16.2 If the Work is not supplied or performed in accordance with the Contract, Buyer shall give notice to Seller of such failure in writing within the below noted warranty periods, and shall be entitled, at Buyer's sole discretion, to either request Seller to promptly repair, replace or re-perform the Work in order to meet the requirements of the Contract or Buyer can effect the repair or obtain replacement Work itself where it is necessary for the proper execution or safety of the Work or where the carrying out of the work by the Seller will be prejudicial to Buyer's interests.

16.3 The warranty periods for the Work are as follows:

- (i) Goods: twelve (12) months from installation or eighteen (18) months from delivery (in accordance with Clause 7 above), whichever occurs later.
- (ii) Services: twelve (12) months from completion of the relevant Services.



(iii) Hire Equipment: see Clause 6.

16.4 Should Seller fail or refuse to repair, replace or re-perform the Work in accordance with Clause 16.2 above, within a reasonable period, Buyer shall be entitled to effect the repair or obtain replacement Work itself or by means of others at the Seller's cost.

16.5 Replacements, repairs and corrective work shall be warranted for the periods set out in Clause 16.3.

## 17 Insurance

Seller shall, at its own cost, obtain and maintain, in full force and effect throughout the duration of the Contract, with a reputable insurance company, levels of insurance set out below to cover its liabilities, indemnities and obligations under the Contract and at law.

- (i) Employer's Liability and/or Workmen's Compensation Insurance at an amount not less than One Million Dollars (\$1,000,000).
- (ii) General Third Party Liability Insurance at an amount not less than One Million Dollars (\$1,000,000).
- (iii) Auto Liability Insurance at an amount of not less than One Million Dollars (\$1,000,000).
- (iv) Professional Indemnity Insurance (if applicable) at an amount not less than Five Million Dollars (\$5,000,000).

All policies shall include waivers of subrogation against Buyer, and all policies other than Workmen's Compensation shall name Buyer as an additional insured under the policy.

## 18 Force Majeure

18.1 Neither Party shall be considered in breach of its obligations under the Contract for reasons of Force Majeure. For the purposes of this Contract only the following occurrences shall be considered "Force Majeure":

- (i) Riot, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power; and
- (ii) Ionizing radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; and
- (iii) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

(iv) Earthquake, flood, fire, epidemics, explosion and/or other natural physical disaster, including severe weather conditions; and

(v) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected party its subcontractors or its suppliers and which affect a substantial or essential portion of the Work; and

(vi) Maritime or aviation disasters; and

(vii) Changes to any general or local statute, ordinance, decree, or other law, or any regulation or by-law of any local or other duly constituted authority or the introduction of any such statute, ordinance, decree, law, regulation or by-law.

18.2 Force Majeure shall not include economic or market conditions affecting the Parties, or failure to obtain credit by a Party.

18.3 Announcement and documentation of a Force Majeure situation must be provided to the other Party without undue delay.

18.4 The occurrence of a Force Majeure event shall not excuse the Buyer from making any payments due to Seller for Work satisfactorily completed prior to the event of Force Majeure and/or agreed standby time/rates and/or any demobilisation costs incurred as a result of the said event of Force Majeure.

18.5 Should the Force Majeure event continue for longer than seven (7) days, the Parties shall meet to discuss the impact on and future performance of the Contract.

## 19 Audit and Storage of Documents

19.1 Seller and its subcontractors shall keep full and accurate records pertaining to the Work and shall retain such records for a period of three (3) years from completion of each individual piece of the Work performed under the Contract or such longer period as is specifically required by law.

19.2 Buyer shall be entitled, at its cost and on giving reasonable notice, to audit the documentation within the period noted in Clause 19.1 above.

19.3 Notwithstanding the generality of the foregoing, Buyer shall not be entitled to investigate the make-up of rates and lump sums included in the Contract and Seller shall not be obliged to disclose any information to Buyer which is commercially sensitive and/or would cause Seller to breach any confidentiality obligations it owes to a third party.

19.4 Both Parties shall be entitled to audit the other Party at any time to ensure compliance with Clause 25.





## 20 Assignment, Novation and Subcontracting

20.1 Seller shall not assign, novate or sub-contract any or all of its rights and/or obligations under the Contract without the prior written consent of Buyer, which shall not unreasonably be withheld or delayed.

Notwithstanding the generality of the foregoing, Seller shall be entitled to sub-contract parts of the Work to its Affiliates in its normal course of business without having to obtain prior written consent.

20.2 Seller shall be fully responsible for the work, acts, omissions, defaults and neglects of any of its Sub-Contractors as if they were work, acts, omissions, defaults or neglects of the Seller. No sub-contract shall bind or purport to bind the Buyer or any member of Buyer Group.

20.3 Buyer shall be entitled to assign and/or novate any or all of its rights and/or obligations under the Contract to its Affiliates or Client. In addition, Buyer may make such assignment and/or novation to any other third party, but only with the prior written consent of Seller, which shall not unreasonably be withheld or delayed.

## 21 Intellectual Property

Unless otherwise agreed, Buyer shall be entitled to the sole benefit and exclusive ownership of all Intellectual Property arising out of or in connection with the Work and Seller shall be responsible for and shall save, indemnify, defend and hold harmless Buyer Group against any infringement of any Intellectual Property arising out of or in connection with the performance of the obligations of Seller under this Contract.

## 22 Confidentiality

Each Party shall protect from disclosure information of the other Party to which it receives access under the Contract which is marked as "Confidential" or which is confidential in nature (including pricing and trade secrets) and shall not disclose same to any third party without the prior written consent of the other Party.

## 23 Termination

23.1 Buyer shall be entitled, by giving notice to Seller, to terminate the Contract in whole or in part at any time prior to full delivery, acceptance and/or completion of the Work. Upon receipt of such notice, Seller shall immediately cease performance of its obligations to the extent instructed in the notice and shall take all reasonable steps to mitigate liabilities arising from the termination.

23.2 If Buyer terminates the Contract out of convenience, Seller shall be entitled to receive:

- (i) Payment in full for all Work performed up to the date of termination; and
- (ii) Reimbursement of all documented, direct and reasonable charges incurred by Seller prior to and/or incurred as a direct result of the termination; and
- (iii) Any and all stand-by rates and/or demobilisation costs where applicable.

23.3 If Buyer terminates the Contract due to Seller's default or an insolvency event, Buyer shall only be liable to Seller for payment of Work satisfactorily performed up to the date of termination together with any demobilisation costs where applicable.

## 24 Governing Law and Dispute Resolution

24.1 The formation, existence, construction, performance, validity and all other aspects of the Contract shall be governed by Texas law (excluding its choice of laws principles) and the Parties submit to the exclusive jurisdiction of any court of competent jurisdiction in Harris County, Texas.

24.2 The Parties shall endeavour to settle by negotiation any dispute arising out of or in connection with the Contract. Any dispute shall be duly notified by the claiming Party to the other Party and the Parties shall endeavour to settle such dispute in good faith within thirty (30) days from receipt of said notice between their respective representatives.

24.3 In case of failure to settle the dispute in accordance with Clause 24.2 above, the dispute shall then be passed to the respective managing directors of the Parties to resolve within a further thirty (30) day period.

24.4 If the Parties fail to reach agreement in accordance with Clauses 24.2 and 24.3 above, either Party shall then be entitled to submit the dispute to the exclusive jurisdiction of the courts. It shall be a condition precedent to the referral of a dispute to the courts that the Party which intends to commence proceedings first uses the procedures outlined in Clauses 24.2 and 24.3 above.

## 25 Business Ethics, Anti-Bribery and Corruption and Anti-Slavery

25.1 Both Parties shall uphold the highest standards of business ethics in the performance of the Contract and warrants that it shall have in place and maintain for the duration of the Contract adequate anti-bribery and corruption and anti-slavery policies and procedures of which the other Party in turn warrants it shall comply.



25.2 In the event of a breach of Clause 25.1 above and/or any applicable anti-bribery and anti-slavery legislation to which either Party is subject, including the UK Bribery Act 2010, US Foreign Corrupt Practices Act of 1977, Modern Slavery Act 2015, the non-defaulting Party shall be entitled to suspend and/or terminate the Contract in whole or in part with immediate effect. The Parties shall meet within seven (7) days of such suspension or termination to agree the effects of such suspension or termination.

25.3 A copy of Buyer's current Business Ethics Policy can be located at [www.sparrowsgroup.com](http://www.sparrowsgroup.com).

## 26 Legal and Safety Obligations

Both Parties shall comply with all applicable laws in the performance of the Work and shall comply with any and all applicable safety rules, regulations or procedures applicable to the Work.

## 27 Data Protection

27.1 Each Party may in the course of performance of the Contract provide each other with Personal Data (which is defined in the General Data Protection Regulation (Regulation (EU) 2016/679 ("GDPR")). Any processing of Personal Data will be done in accordance with the terms of this Contract and GDPR.

27.2 Each Party will implement appropriate technical and organisational measures to protect Personal Data against unauthorized or unlawful processing and accidental loss or destruction.

27.3 Prior to any transfer of Personal Data by a Party to their respective Group, that Party will impose all obligations on their Group as required by the Contract and GDPR.

27.4 Any person acting under the authority of Contractor or Company must not process the data except on instructions from Contractor or Company (as applicable).

27.5 Where a Party consents to the other Party transferring its Personal Data to any country outside the European Economic Area, the transferring Party will ensure an adequate level of protection for Personal Data by either entering into standard contractual clauses approved by the European Commission or binding corporate rules.

## 28 Contracts (Rights of Third Parties) Act

With the exception of the provisions contained within Clauses 14, 15, 16, 17 and 20, the Parties intend that no provision of the Contract shall, by virtue of the Contracts (Rights of Third Parties) Act 1999, confer any benefit on nor be enforceable by any person who is not a Party to the Contract. For the purposes of this Clause

28, "third party" shall mean any member of the Buyer Group (other than the Buyer) or Seller Group (other than the Seller).

## 29 Non-Solicitation

29.1 During the term of the Contract and for a period of twelve (12) months thereafter, the Seller agrees not to solicit, recruit or induce, directly or indirectly through third parties, any of the Buyer's employees, consultants or representatives involved in the performance of the Contract to leave, terminate or otherwise end his/her association with the Buyer in order to become an employee, consultant or representative of the Seller.

29.2 In the event of a breach of Clause 29.1 above, Buyer shall, in addition to any other rights or remedies available to it under Contract or at law, be entitled to claim from Seller a sum equivalent to the annual salary of each affected employee, consultant or representative as compensation for such breach.

## 30 Notices

30.1 All formal notices in respect of the Contract shall be given in writing and delivered by hand, by fax or by first class post to the relevant address specified in the Contract for notices or where no such address is specified the addresses set out in the Purchase Order.

30.2 Such notices shall be effective:

- (i) If delivered by hand at the time of delivery; or
- (ii) If sent by fax, on the first working day at the recipient address following the date of sending; or
- (iii) If sent by first class post, forty-eight (48) hours after the time of posting.

30.3 Subject to any specific administrative instructions agreed between the Parties, any standard business correspondence associated with the Contract or the Work can be made by either email or letter.

## 31 Waiver

None of the terms and conditions of the Contract shall be considered to be waived by either Party unless a waiver is given in writing by one Party to the other. No failure on the part of either Party to enforce any of the terms and conditions of the Contract shall constitute a waiver of such terms.

## 32 Invalidity and Severability

If any court or competent authority decides that any of the provisions of the Contract are invalid, unlawful or unenforceable to any extent, the invalidity or unenforceability shall not affect the other provisions of



this Contract and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties agree to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

### 33 Entire Agreement

The Contract constitutes the entire agreement between the Parties hereto with respect to the Work and supersedes all prior negotiations, representations or agreements relating to the Contract either written or oral.

These General Terms and Conditions apply to the Contract to the exclusion of any other terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any terms of Seller's attached to any of its quotes, purchase order acceptances, work tickets, invoices or other documentation are hereby rejected by Buyer and shall be of no force or effect.

### 34 Continuing Obligations

Termination of the Contract and/or Buyer's acceptance of Work, or any part thereof, shall not release the Parties from obligations, which expressly or by their nature survive the Contract or extend beyond Contract termination and any acceptance of the Work.