

**ITB No. BAPCO/14/26-859 for  
Provision of Oil Waste Treatment and Land Restoration for  
BV-22 and BV-26**

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Bashayer Pipeline Company (BAPCO)  
Almugran District – PETRODAR Tower  
P.O. Box 11778, Khartoum, Sudan,  
Tel : +249 183 790501 Fax: +249 183 790550

Date: 13 April 2026

To: All Bidders

Attn: General Manager

Dear Sir,

**Invitation To Bid No: BAPCO/ 14/26-859 for Provision of Oil Waste Treatment and Land Restoration for BV-22 and BV-26**

Bashayer Pipeline Company Limited (BAPCO) is hereby pleased to invite your company (BIDDER) to submit a sealed Bid Proposal for the above-mentioned tender. The tender shall be governed by, and your Bid Proposal submission shall be in accordance with the attached Instruction to Bidders (ITB) documents.

Before you submit your Bid Proposal, please read and understand clearly the content of all the ITB. The format of Bid Proposal submission shall be as per the attachment to this letter.

All costs incurred in preparing and submitting your Bid Proposal including presentations if required shall be solely at your own expense and will not be reimbursed by BAPCO under any circumstance.

Furthermore, BAPCO shall not be responsible for any loss and/or delay in delivering your proposals. BAPCO reserves the right to reject any or all BIDDERS or select BIDDER(s) of its choice without assigning any reasons.

**Your sealed Bid should be sent by hand to BAPCO HQ at Almugran District or mail to the address :quotations@bashayerpl.com only without copying any other email. Tender Document shall be submitted between 10:00 am to 1:00 pm (Sudan Local Time) 27, 04, 2026 (Bid Closing Date). Late bids will be rejected.**

Bid Proposal shall be valid for 120 days.

BIDDERS ARE HEREBY FOREWARNED TO FOLLOW STRICTLY ALL THE INSTRUCTIONS GIVEN IN THE ITB IN COMPLETING, PACKAGING AND SUBMISSION OF YOUR BID PROPOSAL, OTHERWISE YOUR BID PROPOSAL WILL BE CONSIDERED NONCOMPLIANCE / INVALID AND THEREFORE REJECTED.

Please acknowledge receipt by advising BAPCO via fax of your interest to participate within 7 days upon receipt of this invitation. All invited BIDDERS are to advise BAPCO should BIDDERS declined from participation, and to state reasons for such decision. Failure to do so may result BIDDERS being dropped from future bidders list.

Thank you,

Yours Faithfully

**Secretary, Tender Committee**



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**ATTACHMENT TO INVITATION TO BID LETTER**  
**BID PROPOSAL FORMAT**

BIDDERS are required to submit Bid Proposal in the format as described below. BIDDERS are reminded that the Technical Proposal Package **MUST NOT** contain any prices.

**TECHNICAL PROPOSAL PACKAGE**

The Technical Proposal Package shall include, but not limited to, the following:

Sub-Section (T1) Covering Letter

- 1) BIDDER shall list the contents of BIDDER's proposal and qualify any special additions not specifically requested for.
- 2) BIDDER shall state whether the company, if awarded this CONTRACT, will actually undertake the SERVICES or it will be undertaken by affiliated company, principal, associate, subsidiary, subcontractor, third party or other.

Sub-Section (T2) Proposal Form

As per the format in ATTACHMENT B.

Sub-Section (T3) BIDDER's Profile

BIDDER is required to provide information about its company as specified for in ATTACHMENT D, which shall include: -

1. Background of company
2. Main activity/business
3. Equity/shareholders/Directors
4. Affiliates/principal/subsidiaries company

Sub-Section (T4) Capability and Experience

BIDDER is required to provide details of its experience as per the format in ATTACHMENT E

Sub-Section (T5) CONTRACTOR's Proposal for the SERVICES

BIDDER shall submit the following: -

- Description of the proposed SERVICES – methodology and resources
- Proposed personnel for the SERVICES

BIDDER shall be responsible for all necessary arrangements required in connection with the SERVICES – e.g. statutory permits, issuance of work permits/visas etc for its personnel engaged for the SERVICES, etc.

Sub-Section (T6) Safety Program

BIDDER shall describe its HSE Management System, safety track record and safety award achievement(s) if available.

Sub-Section (T7) Exceptions

BIDDER must have one of the following statements prominently displayed in capital letters under this section:-



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**"THIS BID PROPOSAL COMPLIES WITH ALL TERMS AND CONDITIONS OF THE CONTRACT"**

*or*

**THE BASE BID PROPOSAL COMPLIES WITH ALL TERMS AND CONDITIONS OF THE CONTRACT. ALTERNATIVELY, THE SUBMISSION INCLUDES PROPOSED EXCEPTIONS/ALTERNATIVES WHICH ARE LISTED IN THIS SECTION."**

BIDDER must submit a complete and detailed listing of all exceptions to the tender documents (TERMS & CONDITIONS of CONTRACT and/or exhibits) in the format provided in ATTACHMENT C, and as per the instruction in ATTACHMENT A.4.

The following instructions must be observed:

1. Complete new proposed wording must be provided for each exception (i.e. complete sentences with no reference to deletion or insertion of words).
2. No prices or cost reduction are to be shown for the exceptions submitted in the TECHNICAL PROPOSAL Exceptions with cost implication must be marked with an asterisk (\*) under the column "Reduction in Bid Price if BAPCO accepts the Exception".

*or*

**THIS BID PROPOSAL IS BASED ON CERTAIN EXCEPTIONS TO TERMS AND CONDITIONS OF THE CONTRACT, AND BIDDER CAN NOT ACCEPT AT ANY COST TO ENTER INTO CONTRACT WITH BAPCO BASED ON RESPECTIVE ORIGINAL WORDINGS"**

BIDDER must submit a complete and detailed listing of all exceptions to the Tender Documents (TERMS & CONDITIONS of CONTRACT and/or exhibits) in the format provided in ATTACHMENT C and a statement "will not accept BAPCO's wordings at any cost" under the column "Reduction in Bid Price if BAPCO accepts the Exception".

### **COMMERCIAL PROPOSAL PACKAGE**

The Commercial Proposal Package shall include, but not limited to, the following:-

Sub-Section (C1) Covering Letter

As per Attachment B 2.

Sub-Section (C2) CONTRACT Price Schedule

As per the format in EXHIBIT IV

Sub-Section (C3) Exceptions

BIDDER must submit a complete and detailed listing of only the exceptions that have cost and/or time impact in the format provided in ATTACHMENT C.



P.O. Box 11778, Khartoum, Sudan,

Bashayer Pipeline Company (BAPCO)  
Almugran District – PETRODAR Tower

Tel : +249 183 790501 Fax: +249 183 790550

### FORM OF CONTRACT

This Contract is entered into

Between

BASHAYER PIPELINE COMPANY LTD

A company incorporated under the Laws of Dubai, having a restarted branch under the laws of the Republic of Sudan and address Al-Mugran district, Petrodar Tower, B.O.Box 11778, Khartoum-Republic of Sudan (hereinafter referred to as "BAPCO"). OF THE FIRST PART

And

A company incorporated under the Laws of \_\_\_\_\_, having a restarted office at \_\_\_\_\_, (hereinafter referred to as "Contractor") OF THE SECOND PART

(Hereinafter the parties of the first and second parts shall be referred to singularly as "Party" and collectively as "Parties").

**Whereas:** BAPCO is engaged in the transportation of crude oil, and requires for such operations specialized equipment, services and personnel of the type offered by CONTRACTOR, and CONTRACTOR desires to furnish such services and personnel (hereinafter referred to as "SERVICES").

**Whereas:** CONTRACTOR represents that it is able and willing to provide the aforementioned SERVICES and that it has the experience and capability to do so expeditiously.

Now, therefore, for and in consideration of the mutual covenants and agreements set forth herein, the Parties hereto agree as follows:

1. In this CONTRACR, words and expressions shall have the same meaning as are respectively assigned to them in the TERMS & CONDITIONS OF CONTRACT herein referred to.
2. The following document together constitute this contract
  - FORM OF CONTRACT.
  - GENERAL TERMS & CONDITION.
  - PARTICULAR TERMS & CONDITIONS.

EXHIBITS:

- EXHIBIT I- Scope of Work Requirements and Technical Specifications.
- EXHIBIT II- Price Schedule.
- EXHIBIT III- Administrative Procedure.
- EXHIBIT IV- Health, Safety and Environmental Format.
- EXHIBIT V- Procedure Performance Bank Guarantee.
- EXHIBIT VI- Contract Expenses Report.

3. In consideration of the payments to be made by BAPCO to CONTRACTOR, CONTRACTOR hereby covenants to execute and complete the SERVICES in Conformity in all respects with the provision of the CONTRACT.



P.O. Box 11778, Khartoum, Sudan,

Bashayer Pipeline Company (BAPCO)  
Almugran District – PETRODAR Tower

Tel : +249 183 790501 Fax: +249 183 790550

- 4. In consideration of the execution and satisfactory completion of the SERVICES by CONTRACTOR, BAPCO hereby covenants to pay CONTRACTOR the CONTRACT PRICE at the time and in the manner prescribed by the CONTRACT.

IN WITNESS WHEREOF. the parties hereto have caused this Contract to be executed in their respective names and by their duly authorized representatives as the Effective Date.

For and on behalf of

For and on behalf of Contractor

BASHAYER PIPELINE COMPANY LTD

\_\_\_\_\_  
Name:

Designation: General Manager

Date:

\_\_\_\_\_  
Name:

Designation:

Date:

ID NO:

**Witnesses:**

Witness 1

Name .....

Designation .....

ID No. ....

Signature .....

Date .....

Witness 1

Name .....

Designation .....

ID No. ....

Signature .....

Date .....

**GENERAL TABLE OF CONTENTS**  
**Tender No. BAPCO:31/25-755**  
**Provision of Pits Crude Oil Lifting & Transportation-Recovery**

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## ATTACHMENT A

### INSTRUCTIONS TO BIDDERS

#### A.1 INTRODUCTION

- A.1.1 Bashayer Pipeline Company (**BAPCO**) (hereinafter referred to as "BAPCO"), is hereby soliciting competitive bid proposals ("Bid Proposals") from your company (hereinafter referred to as "BIDDER") for the SERVICES as specified in this tender documents.

The Scope of SERVICES (referred to as "" SERVICES") and details on requirements are specified in the CONTRACT and its exhibits. Please study these carefully.

- A.1.2 To enable BAPCO to assess the relative merits of each bid, BIDDER is requested to furnish BAPCO with any and all relevant and complete information as set forth in this ATTACHMENT A.

- A.1.3 BIDDER is urged to comply strictly with each and every one of the provisions of this tender document and must submit Bid Proposal strictly in accordance with the terms of the tender documents, which consist of the following:

ATTACHMENT A	- INSTRUCTIONS TO BIDDERS
ATTACHMENT B	- PROPOSAL FORM
ATTACHMENT C	- EXCEPTIONS FORM
ATTACHMENT D	- BIDDER'S PROFILE
ATTACHMENT E	- BIDDER'S EXPERIENCE
ATTACHMENT F	- BIDDER'S FINANCIAL CAPABILITY
ATTACHMENT G	- TERMS & CONDITIONS OF CONTRACT (including its exhibits)

- A.1.4 BAPCO will accept and encourage proposals made jointly by two or more BIDDERS who wish to combine their resources. However, BAPCO will not accept and will disqualify any BIDDER who submitted more than one proposal.

- A.1.5 **As a base case, Bidder's proposal shall be in full conformity with the requirements as set out in this tender document.** Nothing shall be deemed to change or supplement this basis except revisions to the tender documents issued to all BIDDERS in writing by BAPCO as Tender Clarifications or Tender Addendum. **If BIDDER wishes to present alternatives, BIDDER may do so only after having duly complied with the requirements of this tender document as its primary bid.**

**FAILURE TO COMPLY WITH THIS REQUIREMENT OF SUBMITTING A FULLY CONFORMANCE BASE BID WILL RISK BIDDER'S PROPOSAL BEING DROP FROM FURTHER EVALUATION, BEING A NON-CONFORMANCE BID.**

- A.1.6 Any query concerning preparation of Bid Proposal is to be directed in writing to the address given in Section A-7.3. All relevant questions, along with BAPCO's reply, will be sent to all BIDDERS.
- A.1.7 Bid Proposal shall be binding for a period of time stated in the Invitation to Bid letter. BIDDER may assume that award for this CONTRACT will be made within the bid validity period.
- A.1.8 BIDDER shall also provide quotation(s) for any adjustment(s) required by BIDDER to extend the bid validity for each two (2) consecutive 30-day period up to an additional sixty (60) days beyond the validity period specified in Section A-1.7 above, if requested by BAPCO.
- A.1.9 All Bid Proposals must be signed and certified by an officer duly authorized by BIDDER.
- A.1.10 Any amendments appearing in the he Bid Proposal must be signed by the BIDDER's authorized officer.
- A.1.11 BIDDER is encouraged to consider maximizing Sudan resources and facilities in the execution of the SERVICES and to be highlighted in the Bid Proposal.
- A.1.12 FAILURE TO STRICTLY COMPLY WITH THE INSTRUCTIONS SET FORTH IN THIS ATTACHMENT A WILL RESULT IN THE BID PROPOSAL BEING DEEMED TO BE NON-COMFORMING, IN WHICH CASE IT WILL BE EXCLUDED FROM FURTHER CONSIDERATION.

## A.2 INTENTION TO BID

- A.2.1 BIDDER is requested to check the tender documents upon receipt and to advise BAPCO if there is any omission or pages missing, or if there are any conflicting requirements.
- A.2.2 BIDDER is required to acknowledge receipt and to confirm within the time stipulated in the Invitation to Bid letter, upon receipt of tender documents:-
- BIDDER's intention to submit Bid Proposal
  - Address and name of representative to whom BAPCO shall address all communications pertaining to the tender.
- A.2.3 BIDDER is required to confirm BIDDER's understanding of the tender documents and agreement to bid by executing the Proposal Form as per ATTACHMENT B, to be submitted together with the Bid Proposal. An officer duly authorized by BIDDER must sign the Proposal Form, without making any changes to the form.
- A.2.4 Should BIDDER decline to submit a proposal, BIDDER shall state in writing the reasons for declining to submit a proposal. BIDDER is required to promptly return all tender documents to BAPCO and, in all such cases, this shall be done not later than the Bid Closing Date as stated in the Letter of Invitation to Bid.

The tender documents returned shall be forwarded to the address given in Section A-9.3 and the following shall be clearly marked on the cover/envelop:

1. DECLINE TO BID – DOCUMENT RETURNED
2. TENDER (Number and Title)
3. BIDDER's Name

### A.3 PRICE QUOTATIONS

- A.3.1 All rates proposed by BIDDER shall be quoted in US Dollars (USD) and shall be firmed throughout the duration of the CONTRACT.
- A.3.2 Price quoted shall prevail throughout the duration of this CONTRACT and shall not be subject to revision by reason of cost escalation nor currency fluctuation.
- A.3.3 The CONTRACT Price Schedule must be entirely completed by BIDDER as required. Every page of CONTRACT Price Schedule must be stamped by BIDDER's official company logo and properly initialed by BIDDER's authorized officer.
- A.3.4 Payments under the terms of this CONTRACT shall be in accordance with the relevant articles of the CONTRACT.

### A.4 CONTRACT EXCEPTIONS

- A.4.1 If BIDDER has any change that is considered of mutual benefit or if there is any exception to the terms and conditions of the CONTRACT or any other part of the tender document, BIDDER must state the changes or exceptions proposed by using the format in ATTACHMENT C and giving specific reasons thereof. BIDDER must indicate clearly the effect, if any, these changes or exceptions may have on BIDDER's price quotation if the changes or exceptions are accepted by PDOC.

**BIDDER shall ensure that BIDDER's base quotation excludes such change(s) or exception(s).**

- A.4.2 Change(s) or exception(s) to the CONTRACT expressed after the Bid Closing Date shall not be considered.
- A.4.3 BAPCO reserves the right to accept or reject any or all of the proposed change(s) or exception(s). BAPCO will review each change or exception on a case-by-case basis.
- A.4.4 If BIDDER cannot accept BAPCO's wording at any price , and is willing to take risk having its Bid Proposal rejected on this bases, then BIDDER must make the following statement under the " CHANGE IN BID PRICE " column in ATTACHMENT C :

" FIRM - Will not accept BAPCO's wording at any price " .

### A.5 TAXES AND DUTIES

- A.5.1 BIDDER is responsible to seek clarification through their tax advisor on the applicability of tax provisions prior to submitting the Bid Proposal.
- A.5.2 BIDDER shall ensure that all applicable taxes and duties are incorporated in the Bid Proposal.

A.6 PROPOSAL FORMAT

BIDDER shall submit the Bid Proposal as per the format and content as set out in the appendix to this ATTACHMENT A.

A.7 SUBMISSION OF PROPOSAL

A.7.1 BIDDER is requested to submit the Technical and Commercial Packages in two (2) copies, including one (1) original set of each. The original set of each package must be wrapped separately from the other copies and clearly marked with the word "ORIGINAL-COMMERCIAL" or "ORIGINAL-TECHNICAL" on the cover of the respective package. Copies of the Technical Proposal shall also be wrapped separately from the Commercial Proposal and marked with the word "COPY-TECHNICAL PROPOSAL" or "COPY-COMMERCIAL PROPOSAL" on the cover of the respective package.

In the event of discrepancy between the original set and the copies, the original shall prevail.

In case of submission as soft copies, BIDDER is requested to submit the Technical and Commercial Packages in two separate PDF files. These files shall be named "TECHNICAL, BIDDER Name, Tender NO" and "COMMERCIAL, BIDDER Name, Tender NO".

A.7.2 BIDDER shall ensure that all proposals or submissions to BAPCO pertaining to the tender are properly wrapped, sealed and labeled accordingly as follows:

"ORIGINAL-COMMERCIAL"

"ORIGINAL-TECHNICAL"

"COPY-COMMERCIAL PROPOSAL"

"COPY-TEHCNICAL PROPOSAL"

BIDDER shall ensure that BIDDER's name and address and the tender number and title are indicated on the cover of each package.

A.7.3 All communications/correspondence with regard to bid preparation/clarification shall be made to the following address: **zeinab@bashayerpl.com** and offer to be submitted to: **quotations@bashayerpl.com** only without coping any other email.

Or submission of BIDs shall be made to the following address:  
To: BAPCO, Almugran District, Khartoum.

A.7.4 All correspondences with regard to tender clarifications shall be in writing and must indicate the tender number and title and sent to the address given in Section A.7.3.

A.7.5 BIDDER is strongly advised to deliver the proposal by hand in order to assure timely receipt by PDOC. If BIDDER elects to mail the proposal, BIDDER is advised to use a fast and reliable delivery service (e.g., courier). BIDDER should advise BAPCO by fax the date and details of the delivery services.

A.7.6 Responsibility for timely delivery of the proposal to the correct address rests fully with BIDDER. BAPCO does not accept late bids. Delivery to the wrong address shall not be an excuse for late delivery.

A.7.7 **BIDDER must ensure that the proposal is delivered to the address given in Section A.7.3 above not later than the Bid Closing Date specified in the Invitation to Bid letter.**

A.8 ACCEPTANCE

A.8.1 BAPCO may, at its option, reject all bids received or may accept any bid which, in BAPCO's sole judgment, is the most advantageous to BAPCO. BAPCO reserves the right to accept or reject all or part of the proposal at BAPCO's discretion and will be under no obligation to explain the reasons thereof.

A.8.2 BAPCO reserves the right to award the contract at its own discretion.

A.8.3 BAPCO shall not be deemed to have accepted all or any parts of a proposal unless and until written acceptance is issued.

A.8.4 The successful BIDDER will be invited to enter into an agreement with BAPCO (reference is made to the CONTRACT FORM of the Bid Document). Prior to such an invitation, BAPCO may send the successful BIDDER a letter or telex of intent.

**ATTACHMENT – B 1**

**TECHNICAL PROPOSAL FORM**

Date :

To : Bashyer Pipeline Company.  
Petrodar Tower  
Almugran Al Gaba Street, Khartoum  
Sudan

ATTN : SECRETARY, TENDER COMMITTEE

Dear Sir,

**BID PROPOSAL FOR TENDER NO. \_\_\_\_\_ FOR PROVISION OF \_\_\_\_\_**

We, the undersigned, certify that we have read and understood the subject Invitation to Bid tender document for **Provision of \_\_\_\_\_** for BAPCO.

We acknowledge that we have thoroughly reviewed the tender document and hereby submit our Technical Bid Proposal for the CONTRACT and therefore we shall be solely responsible for the SERVICES which shall be in accordance with good contractual practice.

We offer to perform the SERVICES as detailed in the tender document as stated in our technical proposal attached hereto.

If our technical proposal is accepted, we undertake that, pending the execution of a formal contract, this Bid Proposal, together with BAPCO's written acceptance shall constitute a binding contract between us.

Yours truly,

Signature:

Name:

Position:

ATTACHMENT – B 2

COMMERCIAL PROPOSAL FORM

Date :

To : SECRETARY, TENDER COMMITTEE  
Bashyer Pipeline Company  
(PROCUREMENT DEPT, 1st Floor)  
PETRODAR TOWER  
Almugram District, P.O. Box 11778,  
Khartoum  
Sudan

TEL : 249 187008160

FAX : 249 183 790530

ATTN : SECRETARY, TENDER COMMITTEE

Dear Sir,

COMMERCIAL BID PROPOSAL FOR TENDER NO. \_\_\_\_\_ FOR PROVISION OF

We, the undersigned, certify that we have read and understood the subject Invitation to Bid tender document for Provision of \_\_\_\_\_ for BAPCO.

We acknowledge that we have thoroughly reviewed the tender document and hereby submit our Commercial Bid Proposal for the CONTRACT and therefore we shall be solely responsible for the SERVICES which shall be in accordance with good contractual practice.

We offer to perform the SERVICES as detailed in the tender document for the prices stated in our proposal attached hereto. This offer is valid for \_\_\_\_\_ days from the date fixed for Bid Closing (i.e., until \_\_\_\_\_) and shall be binding to us if accepted by BAPCO at any time before expiration of the aforesaid validity date.

For extension of bid validity period beyond the date specified above, the price adjustment, if any, shall be as follows:

For the first 30 day extension of bid validity -----

For the second 30 day extension of bid validity -----

If our proposal is accepted, we undertake that, pending the execution of a formal contract, this Bid Proposal, together with BAPCO's written acceptance shall constitute a binding contract between us.

Yours truly,

Signature:

Name:

Position:

ATTACHMENT C  
EXCEPTIONS FORM

Article No.	Exact New Wording Proposed by BIDDER	Reason (s) for Exception.	Reduction in Bid Price if BAPCO accepts the Exception	Effect on SERVICES

**ATTACHMENT D**

**BIDDER'S PROFILE**

BIDDER'S NAME : ..... TENDER No. ....

No.	ITEM	(BIDDER shall fill in the spaces below)
1	Background of BIDDER	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
2	Business Registration/License/ No. of (Company, Firm, partnership)	No..... (BIDDER shall submit a copy of the Business Registration/License document)
3	Registered Business Address .	
4	Company Directors	<p>i) Name : ..... Title : .....</p> <p>ii) Name : ..... Title : .....</p> <p>iii) Name : ..... Title : .....</p> <p>iv) Name..... Title.....</p>
5	Major Company Shareholders	<p>i) Name : ..... Equity share : .....%</p> <p>ii) Name : ..... Equity share : .....%</p> <p>iii) Name : ..... Equity share : .....%</p> <p>iv) Name : ..... Equity share : .....%</p>

( BIDDER shall fill in the spaces below )	
No.	Item
6	Company's Authorized and Paid-Up Capital i) Authorized Capital* : ..... ii) Paid-up Capital* : .....
7	Name/Address of Company's Banker(s) : .....
8	Name/Address of Company's Principal (s)/Subsidiaries/ Affiliate(s) : .....
<ul style="list-style-type: none"> <li>Please, state whether this in USD ( \$ ) .</li> </ul> Note: i) BIDDER may provide additional relevant information in separate write-up(s) or brochures. ii) BIDDER may use his own software to format this ATTACHMENT for submission of Proposal. The format must be identical to this ATTACHMENT	

We, (name of BIDDER) ..... hereby give BAPCO the right to verify the information herewith provided for tender evaluation are true to the best of our knowledge and hereby give BAPCO the right to verify the information herewith provided for tender evaluation purpose .

Signature ( for and on behalf of the BIDDER ) : .....

Name :

Designation :

Date :



**ATTACHMENT F**

**BREAKDOWN OF FINANCIAL STATUS OF COMPANY FOR EACH MEMBER OF JOINT-VENTURE / CONSORTIUM**

BIDDER and / or each member of its joint-venture /consortium shall submit the following:

- (a) Audited financial statements for the last three (3) years;
  - (b) Credit references from banks and / or other credit references
- BIDDER shall complete details of its financial status in Attachment F

No.	Items	Company or JV / Consortium			Company or JV / Consortium Member		
		Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
1.	<b>Current Asset</b>						
2.	Current Liabilities						
3.	Working Capital (1-2)						
4.	Long Term Assets						
5.	Total Assets (1+4)						
6.	Shareholder Equity						
7.	Net Profit after Tax						
8.	Liquidity Ratios:						
	a) Current Ratio (1/2)						
	b) Acid Ratio ((1-Stock)/2)						
9.	Return on Equity (Net Profit Before Tax / Equity)						
10.	Current Liabilities to Total Assets Ratio (2/5)						
11.	Cash Flow, i.e. Sources and Application of Funds for WORK						
12.	Banking and Financing Facilities						
13.	Equity / Net worth						

**ATTACHMENT G**

**TERMS & CONDITIONS OF CONTRACTS**

**(INCLUDING THE EXHIBITS)**

**General Terms & Conditions  
& Particular Conditions**

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## GENERAL TERMS AND CONDITIONS

### ARTICLE 1: INTERPRETATIONS

- 1.1 The exhibits forming part of this CONTRACT are to be taken as mutually explanatory and complementary to one another.
- 1.2 Should any actual conflict or conflicts exist between or among the CONTRACT documents, it shall be resolved in the following order of priorities:
- 1.2.1 FORM OF CONTRACT
  - 1.2.2 GENERAL TERMS & CONDITIONS
  - 1.2.3 PARTICULAR TERMS & CONDITIONS
  - 1.2.4 EXHIBITS
- 1.3 In the case of discrepancies between the exhibits, CONTRACTOR shall notify BAPCO of such discrepancy and BAPCO's Representative and CONTRACTOR's Representative shall agree on which exhibits shall prevail over the others.
- 1.4 All standards, codes, instructions, specifications, drawings and other documents which are referred to in the exhibits shall be deemed incorporated herein by reference and made a part hereof. If any discrepancies exist between any of the aforementioned documents or parts of any of them, CONTRACTOR shall immediately notify BAPCO and BAPCO and CONTRACTOR shall agree on which document shall prevail in regard thereto.
- 1.5 Should CONTRACTOR fails to notify BAPCO as required by this article or fail to discover such discrepancies as should reasonably have been discovered by CONTRACTOR, all costs directly resulting from such failure shall be borne by CONTRACTOR.
- 1.6 The fact that any one part of this CONTRACT shall specify SERVICES or acts to be done in more particularity, or shall require more SERVICES or acts to be done in connection with any particular operation, than is required by another part of this CONTRACT, is not and shall not be considered as an ambiguity, discrepancy or conflict. It is the Parties' intention that the provisions of this CONTRACT shall be cumulative and any additional detail or requirement provided in one part of this CONTRACT but not in others shall be read as applicable to and required for all references to that particular SERVICES or operation.
- 1.7 In the event that CONTRACTOR is a partnership, consortium, joint venture or other such association of companies acting together for the purpose of entering into the CONTRACT, then it is hereby agreed that members of the partnership, consortium, joint venture or other such association shall be jointly and severally liable to BAPCO for the proper and timely performance of the CONTRACT, notwithstanding any agreement between themselves to the contrary.
- The composition and legal status of the CONTRACTOR (in the event it is a partnership, consortium, joint venture or other association) shall not be changed without the prior written approval of BAPCO. Failure to obtain such written approval shall, at BAPCO's option, be treated as a breach of the CONTRACT
- 1.8 The headings and subheadings in this CONTRACT are used for convenience and ease of reference only and shall not affect or limit the meaning, interpretation or construction of this CONTRACT.
- 1.9 In this CONTRACT, words importing the singular shall include the plural and vice versa and words importing one gender shall include other genders and words importing individuals shall include firms and corporations and vice versa, as the context may require.
- 1.10 In this CONTRACT, the term "shall" denotes a mandatory requirement of this CONTRACT.

1.11 Unless otherwise provided:

- "this CONTRACT", "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this CONTRACT in its entirety and not to any particular article, clause, sub clause, paragraph or other portion thereof; and
- Reference to an article, clause, sub clause or a paragraph refers to an article, clause, sub clause or paragraph of the CONTRACT Form.

1.12 All references to months or years in this CONTRACT shall be computed in accordance with the Gregorian calendar.

## ARTICLE 2: DEFINITIONS

1.13 The following capitalized words and terms shall have the following definitions throughout this CONTRACT except where the context otherwise requires:

**"Affiliate"** shall mean any BAPCO or other entity that directly or indirectly through one or more intermediary companies or entities controls, is controlled by, or is under common control with a Party to this CONTRACT and in the case of BAPCO, shall include the Co-Venturers.

**"Control"** shall mean ownership of more than fifty percent (50%) of the voting stock of the controlled BAPCO or the direct or indirect right to determine its actions by contract or otherwise;

**"Applicable Laws"** shall include all laws (national, state, municipal, local or others) and any requirement, by-law, ordinance, rule, regulation, enactment, order or decree of any governmental authority or agency (national, state, municipal, local or other) having jurisdiction over the SERVICES or Worksite or other locations where the SERVICES will be performed including, but not limited to, those laws related to health, safety and the environment. "Applicable Laws" shall include all of the former items which exist at the Effective Date as well as any which may be enacted during the term of this CONTRACT;

**"Approval"** shall mean printed or handwritten documentation evidencing the BAPCO Representative's consent or approval, and shall include, but not be limited to, faxes, e-mail and similar forms of written communication;

**"Approved"** shall mean an Approval is required and must have already been issued with respect to the item, action or matter described;

**"Change Order Request"** shall mean a document prepared by BAPCO to request that CONTRACTOR prepare a Change Order Proposal on any matter related to the SERVICES;

**"Change Order"** shall mean a document issued by BAPCO setting forth a change to the SERVICES, the adjustment to the CONTRACT Price and Rates, if any, and the basis on which CONTRACTOR will be compensated for the change;

**"Change Order Proposal"** shall mean a document prepared by CONTRACTOR when CONTRACTOR wishes to propose a change to the SERVICES or when requested by BAPCO pursuant to a Change Order request and

**"Consequential Loss"** shall mean any indirect or other consequential loss, which shall be deemed to include, but not be limited to:

- loss of production, failure or inability to produce, process, use, take delivery of, transport or deliver or delay or interruption in producing, processing, using, taking delivery of, transporting or delivering hydrocarbons;
- Any failure, loss, damage, cost or expense directly or indirectly consequent upon any of the foregoing including but not limited to any loss or damage incurred or liquidated or pre-estimated damages or sums of any kind whatsoever borne or payable under any contract;
- Any loss of or anticipated loss of profit, any loss or anticipated loss or deferment or anticipated deferment of revenue or income, loss or anticipated loss of or failure to obtain any contract or other business opportunity; and
- Any loss or anticipated loss, damage, cost or expense arising out of any action, claim, suit, demand, or judgment resulting from or arising out of any of the foregoing, howsoever arising,

whether under contract, tort (including negligence), equity, and/or breach of duty (statutory or otherwise);

**"CONTRACT"** shall mean recitals and the terms and conditions of the FORM OF CONTRACT, GENERAL TERMS AND CONDITIONS, PARTICULAR TERMS AND CONDITIONS, and the exhibits attached hereto, as amended from time to time;

**"CONTRACT Price"** shall mean the considerations to be paid by BAPCO for CONTRACTOR's SERVICES under this CONTRACT;

**"CONTRACTOR"** shall mean the person or persons, firm or company whose tender has been accepted by the BAPCO and includes the CONTRACTOR's personnel, representatives, and successors and permitted assigns.

**"CONTRACTOR Representative"** shall mean a competent and experienced representative appointed by CONTRACTOR pursuant to ARTICLE 19;

**"Customs Duties"** shall mean all import licenses, duties, surtax, sales tax, and other statutory taxes levied on imported equipment;

**"Demobilization"** shall mean the departure of CONTRACTOR's Personnel, materials and equipment from the Worksite upon completion of assignment or suspension or termination of the SERVICES by BAPCO. For greater clarity CONTRACTOR's Personnel are considered as demobilized when they leave the Worksite at which time all charges will cease unless otherwise stipulated herein;

**"Drawings and Documentation"** shall mean drawings and documentation associated with the SERVICES whether provided by BAPCO or created by CONTRACTOR in conjunction with the SERVICES and shall include, but not be limited to, plans, sketches, drawings, reports, calculations, manuals, procedures, schedules, recommendations, timesheets, specifications,, requisitions, patent documents, technical information, computer programs and raw data;

**"Effective Date"** shall mean effective date stated in the PARTICULAR TERMS AND CONDITIONS.

**"Mobilization"** shall mean the initial arrival of CONTRACTOR's Personnel and equipment at the Worksite for the commencement of the SERVICES. For greater clarity, CONTRACTOR shall be considered mobilized when CONTRACTOR's Personnel and equipment have arrived at the Worksite as designated by BAPCO and are ready to begin the SERVICES, at which time charges as described herein shall commence unless otherwise stipulated;

**"BAPCO"** shall mean BASHAYER PIPELINE COMPANY LIMITED

**"BAPCO Indemnified Persons"** shall mean BAPCO, Co-Venturers and its and their Affiliates and Personnel and the stockholders, directors and officers of each;

**"BAPCO Representative"** shall mean the representative appointed by BAPCO pursuant to ARTICLE 18;

**"Personnel"** shall mean employees, agents, consultants, representatives, directors, officers and servants, and, when the term is used to mean CONTRACTOR's employees, agents, consultants, representatives, directors and servants, the term shall also include Subcontractors and their employees, agents, consultants, representatives, directors, officers and servants;

**"Rates"** shall mean the rates, lump sum payments and reimbursement costs to be paid to CONTRACTOR by BAPCO as set out in EXHIBIT IV;

**"SERVICES"** shall mean all obligations, activities, work and services to be performed and rendered by CONTRACTOR pursuant to the terms of this CONTRACT and also all CONTRACTOR's activities that are reasonably inferable from the description of such activities and work and also all deliverables that may be required to be provided by CONTRACTOR pursuant to this CONTRACT. "SERVICES" shall include the activities, work and other deliverables set out in EXHIBIT I hereto and any Change Orders that may be issued to CONTRACTOR from time to time and such work shall become part of the scope of this CONTRACT;

**"Senior Managerial Personnel"** shall mean any Personnel employed by BAPCO as a director or other corporate officer or who occupies a senior managerial position with direct responsibility for the conduct of the SERVICES under this CONTRACT;

**"Subcontract"** shall mean any contract between CONTRACTOR and any Approved third party or parties for the performance of the SERVICES or any part thereof;

**"Subcontractor"** shall mean an Approved third party to a Subcontract;

**"United States Dollars", "U.S. Dollars" or "\$"** shall mean the lawful currency of the United States of America;

**"Wilful Misconduct"** shall mean an intentional, conscious or reckless disregard by Senior Managerial Personnel of good and prudent international petroleum industry practice of any of the terms of this CONTRACT in utter disregard of avoidable and harmful consequences but shall not include any act, omission or error of judgement or mistake made in the exercise in good faith of any function, authority or discretion vested in or exercisable by such Senior Managerial Personnel and which in the exercise of such good faith is justifiable by special circumstances, including but not limited to safeguarding of life, property or the environment and other emergencies;

**"Worksite or SITE"** shall mean the locations in the Republic of Sudan designated by BAPCO at which the SERVICES is to be performed;

### **ARTICLE 3: DURATION**

3.1 The duration of the CONTRACT shall be from the Effective Date until the achievement of Final Acceptance, including a Defects Liability Period of 12 months.

### **ARTICLE 4: DEFECTS LIABILITY PERIOD**

4.1 In this CONTRACT the expression "Defects Liability Period" shall mean a period of twelve (12) months from the date of issuance of a Certificate of Provisional Acceptance of the SERVICES.

### **ARTICLE 5: MAINTENANCE AND DEFECTS**

5.1 The CONTRACTOR shall, if required by the BAPCO in writing, search under the direction of the BAPCO for the cause of any defect, imperfection or fault appearing during the progress of the SERVICES or in the Defects Liability Period. Unless such defect, imperfection or fault shall be one for which the CONTRACTOR is liable under the CONTRACT, the cost of the work carried out by the CONTRACTOR in searching as aforesaid shall be borne by the BAPCO. If such defect, imperfection or fault shall be one for which the CONTRACTOR is liable as aforesaid, the cost of the work carried out in searching as aforesaid shall be borne by the CONTRACTOR and he shall in such case repair, rectify and make good such defect, imperfection or fault at CONTRACTOR's own expense.

### **ARTICLE 6: COMPENSATION**

6.1 For the satisfactory performance of the SERVICES and in accordance with this CONTRACT, BAPCO shall pay CONTRACTOR the Rates, which shall be deemed to be all-inclusive billing rates. Payment of the Rates shall be full and final payment for the SERVICES and no additional amounts shall be payable by BAPCO to CONTRACTOR unless expressly so stated in this CONTRACT.

6.2 Except as expressly provided in this CONTRACT, the Rates shall be firm throughout the duration of this CONTRACT and shall not be revised for any reason whatsoever including, but not limited to, cost escalation or currency fluctuations.

### **ARTICLE 7: INVOICING AND PAYMENT**

7.1 Unless otherwise provided for herein, at the beginning of each calendar month, CONTRACTOR shall invoice BAPCO based upon the Rates set out in this CONTRACT for SERVICES performed during the previous month together with a separate cumulative statement of account for BAPCO. The cumulative statement of account shall set out the total amount previously billed, the current month billing and the total cumulative amount billed to date. Invoicing for SERVICES performed shall be kept current at all times. Each invoice shall include details of the SERVICES performed during the previous month and shall separately identify any SERVICES performed in previous months but not previously invoiced, including the amount charged for such SERVICES.

7.2 All invoices shall be rendered to BAPCO in United States Dollars.

- Where CONTRACTOR is not a Sudanese CONTRACTOR, BAPCO shall make payment in United States Dollars or, at BAPCO's option, in any other convertible currency.

- Where CONTRACTOR is a Sudanese CONTRACTOR, BAPCO shall make payment to CONTRACTOR in the official currency of Sudan unless CONTRACTOR has provided BAPCO with evidence acceptable to BAPCO that it has satisfied the legal requirements in the Republic of the Sudan to be paid in foreign currency. If CONTRACTOR provides such evidence, BAPCO shall make payments to CONTRACTOR in United States Dollars or, at BAPCO's option, in any other convertible currency.
- The rate of exchange to be applied by the payer's bank when converting United States Dollars to a different currency of payment shall be the exchange rate available for the transaction at or about seven (7) a.m. GMT on the day that funds are wired by payer's bank to the Party receiving the payment and if such day is not a banking day for the payer's bank, on the following banking day for the payer's bank.
- The rate of exchange to be applied to an invoice when converting United States Dollar to the currency of the Republic of Sudan or vice versa shall be the Bank of Republic of Sudan exchange rate at or about seven (7) a.m. GMT on the date BAPCO processes the invoice for payment, and if such day is not a Banking Day, on the last preceding Banking Day.
- BAPCO shall not be liable and responsible for any foreign exchange gain or loss incurred by the CONTRACTOR. Such gain or loss shall be at CONTRACTOR's account.

7.3 All invoices shall be verified and signed by the CONTRACTOR'S Representative and the BAPCO'S Representative prior to submission to BAPCO for payment.

7.4 Any Approved charges made by CONTRACTOR for items reimbursable at actual cost under this CONTRACT shall be fully supported by sufficient original documentation to permit verification thereof by BAPCO.

7.5 If man/hour costs are provided for in this CONTRACT, man/hour costs invoiced to BAPCO shall be supported by original timesheets.

7.6 All invoices shall include the following reference: "BAPCO CONTRACT No., CONTRACT Title:." One (1) original invoice shall be submitted together with the supporting documentation, BAPCO shall be entitled to withhold payment if any of CONTRACTOR's invoices do not include appropriate supporting documentation or do not conform in any other way with the requirements of this article.

7.7 Invoices shall be addressed to:

Bashayer Pipeline Company Limited  
 Port Sudan  
 P.O. Box 11778, Republic of Sudan  
 Tel: 00249-83-790501/ Fax: 00249-83-790550  
 Attention: F&A Manager

7.8 Payment due to CONTRACTOR may be withheld by BAPCO on account of:

- Unsatisfactory performance of this CONTRACT;
- The filing of claims against BAPCO caused by acts or omissions of CONTRACTOR or the existence of evidence indicating the probability of imminent filing of such claims;
- The failure of CONTRACTOR to pay amounts due for labour or material or equipment used by CONTRACTOR in doing SERVICES or amounts due to CONTRACTOR's Subcontractors on the SERVICES;
- CONTRACTOR's failure to remedy defective portions of the SERVICES where BAPCO has given CONTRACTOR notice of any such defective SERVICES; or
- The failure of CONTRACTOR to provide adequate evidence of its compliance with the insurance and performance guarantee requirements contained in this CONTRACT.

7.9 Payment of undisputed invoice items shall be remitted within thirty (30) days after receipt thereof by BAPCO. If the thirtieth day falls on a Friday, Saturday or an official public holiday in the Republic of Sudan, the next working day shall be deemed to be the due date for payments. Payments made by BAPCO shall not preclude the right of BAPCO to thereafter dispute any of the items invoiced.

- 7.10 Subject to ARTICLE 11, if BAPCO has a bona fide dispute concerning any item on an unpaid invoice, BAPCO shall inform CONTRACTOR of the disputed items within thirty (30) days of the receipt by BAPCO of the particular invoice and BAPCO shall be entitled to withhold the actual amount in dispute from its payment. In respect of disputed items, payments may be withheld by BAPCO until settlement of the dispute. The Parties shall confer in good faith to resolve any such dispute within a reasonable time.
- 7.11 Any payments withheld by BAPCO pursuant to the terms of this CONTRACT shall be without prejudice to any other rights or remedies available to BAPCO.
- 7.12 When the cause or causes for withholding payment have been remedied or removed by CONTRACTOR and satisfactory evidence of such remedy or removal has been presented to BAPCO, the payments withheld shall be made forthwith by BAPCO. If CONTRACTOR fails to take appropriate remedial action or refuses to remedy or remove any cause for withholding such payments after delivery of notice to CONTRACTOR by BAPCO, BAPCO shall be entitled to cause the same to be remedied or removed on its own and may deduct the cost including the expenses thereby incurred by BAPCO from any amounts due or owing or which may become due or owing to CONTRACTOR under this CONTRACT provided always that this provision shall not affect any other remedy to which BAPCO may be entitled to for the recovery of such sums. Notwithstanding the foregoing, BAPCO shall have the right to remedy any and all defects that may arise in the SERVICES and the right to retain without limitation any amounts due or owing or which may become due or owing to CONTRACTOR under this CONTRACT, up to the full amount of such monies.
- 7.13 Upon notification of any erroneous payment made to CONTRACTOR by BAPCO and subject to CONTRACTOR's verification thereof, CONTRACTOR shall within thirty (30) days make appropriate adjustments and reimburse to BAPCO any amounts of overpayment still outstanding. If the adjustments indicate an underpayment by BAPCO, BAPCO shall pay CONTRACTOR the amount of underpayment subject to verification thereof. Notwithstanding the foregoing, BAPCO shall be entitled to deduct any amounts of overpayment from payments due to CONTRACTOR.
- 7.14 As a condition precedent to BAPCO making payments to CONTRACTOR, CONTRACTOR shall, if requested by BAPCO, provide satisfactory evidence that the costs of all labour, materials, equipment and other obligations arising out of the performance of this CONTRACT have been fully satisfied and discharged by CONTRACTOR.
- 7.15 Payment made under this CONTRACT shall not constitute an admission by BAPCO as to the performance by CONTRACTOR of its obligations hereunder and in no event shall any such payments affect the warranty obligations of CONTRACTOR.
- 7.16 All invoices, financial statements and billings by CONTRACTOR to BAPCO shall reflect properly the facts relating to all activities and transactions handled for BAPCO's account.
- 7.17 Any item drawn from a BAPCO warehouse that is chargeable to CONTRACTOR shall be charged at cost plus freight plus such administrative charges as BAPCO is charging at the time the item is drawn.
- 7.18 BAPCO shall have the absolute right to recover any amounts whatsoever owed by CONTRACTOR to BAPCO from any payment or monies otherwise due to CONTRACTOR.
- 7.19 5% Retention amount of the estimated total CONTRACT Price will be retained by BAPCO from the amount due to be paid to the CONTRACTOR pursuant to the invoices. This amount will be released to the CONTRACTOR upon issuing of the Provisional Acceptance Certificate for the whole of the work without any outstanding issues. **(Deleted)**

ARTICLE 8: PERFORMANCE GUARANTEES / BANK GUARANTEE

- 8.1 CONTRACTOR shall within thirty (30) days of the execution of this CONTRACT furnish BAPCO with Performance Bank Guarantee in the format set out in EXHIBIT VIII by way of guarantee for the due performance of CONTRACTOR's obligations under the CONTRACT. The Performance Bank Guarantee is to be maintained in full force and effect until the date of Final Acceptance Certificate, and its value shall be ten percent (10%) of the estimated total CONTRACT Price. This Performance Bank Guarantee shall be binding on the guarantor notwithstanding such variation, alterations or extensions of time as may be made, given, conceded or agreed under this CONTRACT. The expenses of preparing, completing and stamping such instrument shall be borne by CONTRACTOR.
- 8.2 If a Performance Bank Guarantee to be furnished pursuant to this article, is not duly furnished to BAPCO within thirty (30) days of the execution of this CONTRACT, BAPCO may at its own option and without prejudice to any rights or claims it may against CONTRACTOR by reason of CONTRACTOR's non-compliance with any of the provisions of this article, terminate this CONTRACT by giving notice to

CONTRACTOR. BAPCO shall thereupon not be liable for any claims or demands from CONTRACTOR under the provisions of this CONTRACT in respect of any other matter or thing whatsoever in connection with or relating to this CONTRACT, whether or not already completed or furnished, and BAPCO shall further be entitled to be repaid by CONTRACTOR for all reasonable out of pocket expenses incurred by BAPCO in obtaining a new CONTRACTOR to perform the SERVICES. Notwithstanding the foregoing and subject to setoff, BAPCO shall compensate CONTRACTOR for SERVICES performed prior to the date of termination hereunder provided such SERVICES are unrelated to the reason of termination.

- 8.3 BAPCO reserves the right to instruct CONTRACTOR to revise the Performance Bank Guarantee amount to correspond to any increase in the estimated total CONTRACT Price. Failure to revise the Performance Bank Guarantee amounts as required shall be deemed to be a default under this CONTRACT and BAPCO may invoke the Performance Bank Guarantee without prejudice to all its other rights under this CONTRACT or law or equity.
- 8.4 As a condition precedent to the award of this CONTRACT and in addition to any Bank Guarantee, CONTRACTOR shall, if requested by BAPCO, furnished BAPCO with a third party Performance Guarantee duly executed by an Approved third party of CONTRACTOR. Failure to provide a third party Performance Guarantee, if requested shall be deemed to be a default under this CONTRACT and BAPCO may without prejudice to all its other rights under this CONTRACT or in law, invoke the Performance Bank Guarantee.
- 8.5 If an advance payment is required to be made under this CONTRACT, the CONTRACTOR shall furnish BAPCO with an advance payment Bank Guarantee in the format set out in EXHIBIT X as precondition for the payment of the advance amount.
- 8.6 Failure of CONTRACTOR to provide the Performance Bank Guarantee or failure of CONTRACTOR to continue to provide the required Performance Bank Guarantee throughout the term of this CONTRACT shall entitle BAPCO to withhold of CONTRACTOR's invoice(s) until such time as the equivalent amount required for the Bank Guarantee has been duly withheld by BAPCO. This withheld amount shall not be released until the required Performance Bank Guarantee is furnished to BAPCO by CONTRACTOR or until the required Performance Bank Guarantee is furnished to BAPCO by CONTRACTOR or until all CONTRACTOR obligations related to this CONTRACT are satisfactory completed.

#### **ARTICLE 9: TAXES AND DUTIES**

- 9.1 CONTRACTOR shall be responsible for and shall pay or cause to be paid any taxes levied by the Government of the Republic of Sudan related to any employee of the CONTRACTOR.
- 9.2 CONTRACTOR shall be responsible for, and shall pay at its own expense when due and payable, all taxes related to the SERVICES and this CONTRACT including but not limited to:
- Taxes, which are levied by the Government of the Republic of Sudan and governments other than the Government of the Republic of Sudan, if any.
  - All excise, storage, consumption and use taxes, licenses, permit and registration fees, business profits tax, capital profits tax, individual income tax, excess profit, franchise and personal property taxes;
  - All employment taxes and contributions imposed or that may be imposed by Applicable Laws or trade union contracts, including without limitation, taxes ,social insurance, welfare funds, pensions and annuities, disability insurance and similar items; and
  - Customs Duties and Value Added Tax (VAT) on equipment and material imported by CONTRACTOR except for equipment and material that are imported by Approval in BAPCO's name.
- 9.3 Notwithstanding anything else contained in this CONTRACT, CONTRACTOR shall not be authorized to pay, and shall not be reimbursed for, any Customs Duties related to equipment imported in BAPCO's name unless CONTRACTOR has received prior Approval.
- 9.4 CONTRACTOR shall be responsible for all equipment imported by CONTRACTOR that is in CONTRACTOR's custody. CONTRACTOR shall indemnify BAPCO from and against any claims, demands and causes of action, which may arise as a result of damage to such equipment, or shortages or overages in, the inventory of such equipment.
- 9.5 Upon completion of the SERVICES or that portion of the SERVICES involving the use of equipment imported by CONTRACTOR in BAPCO's name or upon termination of this CONTRACT, whichever occurs first, CONTRACTOR shall take immediate steps to remove such equipment from the Republic of Sudan

other than equipment that has been used and consumed in the performance of SERVICES. Unless CONTRACTOR has obtained an Approval to do otherwise, CONTRACTOR shall comply with all directions and procedures required by BAPCO to cause such equipment to be removed as expeditiously as possible.

- 9.6 In the event that equipment imported in BAPCO's name has to be sold, transferred, disposed of or otherwise dealt with prior to its removal from the Republic of Sudan, CONTRACTOR shall give sufficient notice to BAPCO of its intention and such action shall only be taken after CONTRACTOR receives an Approval and the necessary approvals from the relevant authorities in the Republic of Sudan for such action.
- 9.7 CONTRACTOR shall be responsible for, and liable to, and shall indemnify, and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for:
- Income, excess profits, royalty or other taxes assessed or levied by the Government of the Republic of Sudan or by any relevant authorities thereof or by the government of any other country against CONTRACTOR or Subcontractor or against BAPCO Indemnified Persons for or on account of any payment made to or earned by CONTRACTOR hereunder;
  - Any and all taxes assessed or levied against or on account of wages, salaries or other benefits paid to or enjoyed by CONTRACTOR's Personnel; and
  - All Customs Duties and taxes assessed or levied against, on or for account of any property or equipment imported by CONTRACTOR or Subcontractor.
- 9.8 Notwithstanding anything else contained in this CONTRACT, CONTRACTOR shall be responsible for, and liable to, and shall indemnify, and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for taxes, duties, surcharges, fines, or penalties of whatsoever nature for which BAPCO Indemnified Persons shall be or become liable as a result of CONTRACTOR's or Subcontractors' failure to comply with the directions and procedural requirements of BAPCO or the relevant government authority with respect to the removal of equipment imported by CONTRACTOR or Subcontractors or as a result of CONTRACTOR's or Subcontractors' acts in selling, transferring, disposing, or otherwise dealing with such equipment prior to its removal from the Republic of Sudan or as a result of CONTRACTOR's or Subcontractors' failure to furnish proper and accurate information for import or export of such equipment.
- 9.9 All taxes levied on CONTRACTOR's corporate income or profit shall be for the account of CONTRACTOR and shall not be reimbursed by BAPCO.
- 9.10 BAPCO shall have the right to withhold royalty, income, excess profits and other taxes from payments due to CONTRACTOR under this CONTRACT to the extent that such withholding may be required by the Government of the Republic of Sudan or any relevant authority thereof or by the government of any other country. Payment by BAPCO to the respective governmental office of the amount of money so withheld will relieve BAPCO from any further obligation to CONTRACTOR with respect to the amount so withheld.
- 9.11 Notwithstanding anything else contained in this CONTRACT, CONTRACTOR shall be responsible for, and liable to, and shall indemnify, defend, and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for claims, demands, causes or causes of action of whatever kind or nature based on any actual or alleged failure by CONTRACTOR or Subcontractors to make timely tax payments or any actual or alleged failure by CONTRACTOR or Subcontractors to comply with applicable reporting, return, or other procedural requirements with respect to tax payments. This indemnity shall include without limitation all costs, penalties, awards, damages and judgment; court and arbitration costs; counsel and witness fees; and all other reasonable expenses incurred by or assessed against BAPCO Indemnified Persons and associated with such claims, demands, and causes of action.
- 9.12 CONTRACTOR shall give prompt notice to BAPCO of all matters pertaining to non-payment, payment under protest or claim for immunity or exemption from any taxes and duties on the part of CONTRACTOR.

## ARTICLE 10: INSURANCE

- 10.1 CONTRACTOR shall carry and maintain in full force for the duration of the CONTRACT at least the following insurance with companies or entities satisfactory to BAPCO:
- **Workmen's Compensation and/or Employer's Liability Insurance** or similar statutory social insurance, as required by Applicable Laws and which may be applicable and/or accidental death or dismemberment insurance, covering all CONTRACTOR's Personnel engaged in accomplishing the SERVICES. The Employer's Liability Policy shall provide an indemnity based on the statutory limit for any one occurrence;

- in the event that CONTRACTOR provides any automobiles in association with its performance of the SERVICES, **Automobile Liability Insurance** covering owned, non-owned, hired, operated or licensed automobiles by CONTRACTOR providing unlimited coverage for injury or death and a minimum limit per occurrence for property damage;
- **Comprehensive General Third Party Liability Insurance** covering all operations hereunder against bodily injury, death, loss or property damage with minimum limits of for any one occurrence. Such insurance shall include the following extensions of cover commonly known as Products and Completed Operations, Sudden and Accidental Pollution, Blanket Contractual Liability, Personal Injury, Occurrence Property Damage, Broad Form Property Damage and Cross Liability;
- **Course of Construction Insurance**; and
- Any other insurances which may be relevant and/or which may be required by any Applicable Laws to which the CONTRACTOR and/or Subcontractors are subject to.

The primary portion of this insurance shall be carried with a fully licensed insurer in the Republic of the Sudan.

- 10.2 CONTRACTOR shall cause BAPCO Indemnified Persons to be included as additional insured and to be covered by all insurances stipulated in ARTICLE 10.1 with respect to the operations conducted under this CONTRACT and shall cause the insurers thereof to waive all expressed or implied rights of subrogation against BAPCO Indemnified Persons. CONTRACTOR shall further cause insurance to contain a "severability-of-interests" (Cross-liability) clause, providing that in the event of one insured Party incurring liability to any of the other insured Parties, the insurance shall apply for the benefit of the Party against whom claim is or may be made in the same manner as if separate policies had been issued to insure each Party.
- 10.3 All premiums, deductibles, exceptions and exclusions applicable to the foregoing insurances shall be for the account of and be paid by the CONTRACTOR. Any breach of conditions and/or warranties contained in such policies of insurances shall also be the account of the CONTRACTOR.
- 10.4 Upon request by BAPCO, CONTRACTOR shall furnish BAPCO with certified copies of policies of insurance provided for in ARTICLE 10.1 accompanied by certified copies of official receipts evidencing full payment of premiums thereof. No insurance shall be canceled or materially discharged while the SERVICES is in progress without prior Approval. Policies and/or extension certificates or documents shall be furnished to BAPCO as and when requested by BAPCO.
- 10.5 CONTRACTOR shall be responsible for, and liable to, and indemnify and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for loss or damage arising out of any failure to obtain or maintain such insurances specified by this CONTRACT or out of any act or omission which invalidates the said insurances.
- 10.6 Should CONTRACTOR at any time neglect or refuse to provide or renew any insurance required herein, or should any insurance be canceled, BAPCO shall have the right to procure such insurance and, in such event, any sum so paid by BAPCO shall immediately become due and payable to BAPCO by CONTRACTOR. BAPCO shall be entitled to deduct such sums from any monies due or which may become due to CONTRACTOR under this CONTRACT in addition to any other remedies BAPCO may have under this CONTRACT.
- 10.7 CONTRACTOR shall notify BAPCO immediately upon receipt of any notice of claims, incidents or demands or of any situation which may give rise to such claims or demands being made with respect to this CONTRACT under the said policies. Written notice of any accident shall be given not later than two (2) working days after the occurrence of the accident. However, for serious accidents (including but not limited to death or serious injuries) CONTRACTOR shall advise BAPCO immediately and then, provide written confirmation within two (2) working days.
- 10.8 CONTRACTOR shall ensure that Subcontractors maintain similar insurance coverage as specified herein and that Subcontractors similarly indemnify and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for loss or damage arising out of any failure by Subcontractors to obtain or maintain such insurances specified by this CONTRACT or out of any act or omission which invalidates the said insurances. Any deficiencies in the coverage or policy limits of any Subcontractor's insurance shall be the sole responsibility of CONTRACTOR.

- 10.9 The amounts of CONTRACTOR furnished insurance called for herein shall be the minimum and not the maximum limits of liability. CONTRACTOR may provide other insurance coverage or higher limits of coverage. BAPCO will bear no financial liability attributable to deficient insurance coverage by CONTRACTOR.
- 10.10 In the event the CONTRACTOR is self-insured and BAPCO has consented to such self-insurance as to any one or more of the risks as to which coverage is required, CONTRACTOR shall obtain an Approval evidencing BAPCO's consent.
- 10.11 CONTRACTOR shall not commence the SERVICES and shall not allow Subcontractors to commence the SERVICES until all the insurances and Approvals for self-insurance required by this article are in force.
- 10.12 Nothing in this article shall serve in any way to limit or waive CONTRACTOR's responsibility under this CONTRACT.

#### **ARTICLE 11: AUDIT**

- 11.1 CONTRACTOR shall maintain and shall cause its Affiliates and Subcontractors to maintain true and correct records of charges, including gift and entertainment expenses, and accounts in connection with the SERVICES and all transactions related thereto and shall retain all such records and accounts for a period of not less than thirty-six (36) months after termination or completion of this CONTRACT. Notwithstanding the foregoing if any dispute remains unresolved at the end of the aforesaid thirty-six (36) months, CONTRACTOR shall maintain and cause its Affiliates and Subcontractors to maintain such records available to BAPCO until all such disputes are resolved.
- 11.2 From the Effective Date and within the time period mentioned in ARTICLE 11.1, BAPCO, upon twenty four (24) hours notice, shall have the right, during regular scheduled business hours, to inspect and audit the procedures, plans, instructions, controls, records, including gift and entertainment expenses, and accounts of CONTRACTOR, its Affiliates and Subcontractors, which are deemed to be pertinent to the correctness of any invoice presented for payment in connection with the performance of this CONTRACT and to verify compliance with the terms and conditions of this CONTRACT. Such audit may also cover the application of CONTRACTOR's Rates in determining the value of SERVICES performed and records connected with a dispute between the Parties. Accounting records shall be sufficiently adequate so as to allow BAPCO to conduct an audit in conformance with generally accepted accounting principles. BAPCO shall have the right to photocopy or otherwise reproduce any documents that have been inspected.
- 11.3 To the extent reasonably possible, CONTRACTOR shall make available such knowledgeable Personnel at their assigned locations as are necessary to permit BAPCO and BAPCO's Personnel to efficiently conduct the audits.
- 11.4 As a result of such audits, BAPCO may claim for omissions, corrections, overpayments and other errors in charges and credits for BAPCO's account as billed by CONTRACTOR, its Affiliates and Subcontractors. These claims may be presented at any time during the course of the SERVICES and before expiry of thirty-six (36) months after termination or completion of this CONTRACT. CONTRACTOR shall make a written response to such claims as soon as possible, and in no event, not later than sixty (60) days from the date it receives notice of such claims.
- 11.5 CONTRACTOR shall ensure that the foregoing provisions of this article are included in all Subcontracts it may enter into with its Affiliates and Subcontractors who will supply any of the labor, equipment, materials or SERVICES to be provided under this CONTRACT.

#### **ARTICLE 12: ACCEPTANCE OF WORK**

- 12.1 All SERVICES shall be performed in accordance with this CONTRACT and subject to the acceptance provisions contained throughout this CONTRACT.
- 12.2 BAPCO shall issue the Certificate of Mechanical Completion when the work has been mechanically completed in accordance with the CONTRACT and is fully ready for commissioning.
- 12.3 BAPCO shall issue the Certificate of Provisional Acceptance when the work has been completed and is ready for taking over and has satisfactorily passed commissioning in accordance with the CONTRACT. The Defects Liability Period shall commence from the date of the Certificate of Provisional Acceptance.
- 12.4 BAPCO shall issue the Certificate of Final Acceptance after the expiration of the Defects Liability Period when the CONTRACTOR has completed all its obligations and requirements which are stated in the CONTRACT as being required for the work to be considered complete for the purposes of the Final

Acceptance. The date stated on the Certificate of Final Acceptance will be the date upon which all the CONTRACTOR'S obligations have, in the BAPCO'S opinion, been completed.

12.5 Notwithstanding this ARTICLE 12, neither acceptance of the work or part thereof or approval of CONTRACTOR's activities for the SERVICES or Approval or partial payments made to CONTRACTOR shall relieve CONTRACTOR of any of its obligations or liabilities in this CONTRACT.

### **ARTICLE 13: WARRANTY**

13.1 CONTRACTOR warrants that:

- it has the experience and capability, including sufficient and competent Personnel and equipment, to perform the SERVICES and that it shall continuously furnish such equipment and skilled and experienced Personnel to perform the SERVICES efficiently, expeditiously and economically;
- it shall not employ or otherwise use Personnel under the age of sixteen (16) years, directly or indirectly, in performance of the SERVICES;
- it shall perform the SERVICES with skill and diligence and in a professional and careful manner and shall adopt a standard for the SERVICES that is no less than the generally accepted international industry standards;
- it shall abide by all Applicable Laws including any relevant regulatory requirements associated with any software that might be provided to BAPCO pursuant to this CONTRACT;
- it shall abide by all health, safety and environment standards as set out in this CONTRACT and as updated and communicated to CONTRACTOR from time to time;
- the SERVICES shall be performed in accordance with the requirements and conditions of this CONTRACT including but not limited to the Drawings and Documentation as per EXHIBIT I, EXHIBIT II and any applicable Change Order;
- any product, equipment, component or service comprising the SERVICES or part of the SERVICES shall at the date a Certificate of Provisional Acceptance is issued by BAPCO, and for a period of twelve (12) months thereafter, be fit for the purposes set forth in this CONTRACT and any applicable Change Order; and capable of performing the functions for which it is intended;
- There shall not be any defect, shrinkage or faults of materials or workmanship in the Works at the date a Certificate of Provisional Acceptance is issued by BAPCO and for a period of twelve (12) months thereafter; and

13.2 Without prejudice to all its other rights under this CONTRACT or law or equity, should CONTRACTOR fail to perform the SERVICES or part thereof as aforesaid or, within a reasonable period, fail to make good any defect after receiving notice from BAPCO, BAPCO shall be entitled to have the SERVICES or part thereof, as the case may be, carried out by its own Personnel or by another CONTRACTOR appointed by BAPCO. BAPCO shall be entitled to recover from CONTRACTOR the total cost to BAPCO thereof and in addition to its right to invoke any Bank Guarantee which may have been furnished by CONTRACTOR, BAPCO may deduct the same from any monies due or which may become due to CONTRACTOR. If there are no or insufficient monies available, CONTRACTOR shall reimburse BAPCO within thirty (30) days after receiving BAPCO's invoicing for all such costs.

### **ARTICLE 14: INSPECTION**

14.1 BAPCO may appoint a third party for the purpose of auditing and advising BAPCO in matters pertaining to safety and quality assurance. BAPCO and its authorized representative shall have access to and shall have the right to inspect and audit all records and matters relating to or bearing upon the SERVICES.

14.2 BAPCO or its authorized representative(s) shall have the right to inspect CONTRACTOR's tools and equipment, if applicable, at any time during the progress of the SERVICES. If any tool or item of equipment is, in the opinion of BAPCO or its authorized representative, unsafe or incapable of doing the SERVICES, CONTRACTOR shall repair or replace it with a safe and capable tool or item of equipment at CONTRACTOR's expense. The foregoing shall not relieve CONTRACTOR of its responsibility for safety related to tools and equipment.

## ARTICLE 15: CONTRACTOR'S OBLIGATION

- 15.1 CONTRACTOR shall perform the SERVICES in strict adherence to this CONTRACT and shall comply with and adhere strictly to BAPCO's instructions and directions on any matter concerning the SERVICES. The foregoing shall not however be construed to exclude CONTRACTOR's duty to exercise care and diligence, or in any way relieve CONTRACTOR of its obligations and liabilities as expressed in this CONTRACT.
- 15.2 CONTRACTOR shall employ sufficient Personnel and equipment, to complete the SERVICES efficiently, expeditiously and economically at the times established under this CONTRACT.
- 15.3 CONTRACTOR shall maintain, repair and replace CONTRACTOR's equipment in good working order so as to provide complete and timely performance of the SERVICES.
- 15.4 CONTRACTOR shall keep sufficient spare parts and supplies for CONTRACTOR's equipment at the Worksite.
- 15.5 CONTRACTOR shall keep and maintain complete and current records of all CONTRACTOR's equipment dedicated to the SERVICES including details such as the quantity and condition of such equipment.
- 15.6 CONTRACTOR shall use only competent and skilled Personnel to undertake the SERVICES.
- 15.7 Subject to all other provisions of this CONTRACT, CONTRACTOR shall use its best efforts to ensure that all such Personnel continue in the functions and responsibilities to which they are assigned for as long as is necessary to achieve proper completion of the SERVICES. When a change in CONTRACTOR's key Personnel assigned to perform the SERVICES is legitimately required, CONTRACTOR shall obtain an Approval prior to assigning replacement Personnel.
- 15.8 Without prejudice to all its other rights under this CONTRACT or law or equity and notwithstanding any Approval, BAPCO shall be entitled to object to and require CONTRACTOR to remove from the SERVICES any Personnel who, in BAPCO's sole opinion, is incompetent, incapacitated, misconducts himself, is negligent in the proper performance of his duties, or does not demonstrate a sufficient level of English fluency for reading, writing, speaking and listening. In such an event CONTRACTOR shall forthwith remove such Personnel from the SERVICES and such Personnel shall not again be employed for the SERVICES without Approval. CONTRACTOR shall forthwith replace, at CONTRACTOR's sole expense, any such discharged Personnel with a suitable, qualified and experienced Approved Personnel.
- 15.9 CONTRACTOR shall use its best efforts to ensure that CONTRACTOR's Personnel conform in all matters with the Applicable Laws and are familiar with and conform to all rules, procedures and policies of BAPCO relating to and governing the conduct, health, safety at work, environmental protection, security, confidentiality and secrecy, fire, accident, risk and any other specific matters as may affect CONTRACTOR's Personnel at the Worksite or any other locations to which CONTRACTOR's Personnel may be assigned.
- 15.10 CONTRACTOR shall be responsible for ensuring that CONTRACTOR's Personnel are fully aware of and abide by all the terms and conditions of this CONTRACT.
- 15.11 CONTRACTOR shall ensure that all written and oral representations and facts relating to CONTRACTOR's Personnel that are provided by CONTRACTOR shall be materially correct and that all qualifications and experience that CONTRACTOR's Personnel are stated to possess have been investigated thoroughly by CONTRACTOR. Upon request by BAPCO, CONTRACTOR shall show satisfactory proof of the qualifications, work history and references of CONTRACTOR's Personnel. If after Mobilization, the qualification and experience of CONTRACTOR's Personnel are subsequently found to be false, CONTRACTOR shall remove such Personnel from the Worksite immediately at CONTRACTOR's expense. CONTRACTOR shall forthwith replace, at CONTRACTOR's sole expense, any such Personnel removed from the Worksite with suitable, qualified and experienced Approved Personnel.
- 15.12 CONTRACTOR shall, at its own expense, arrange Mobilization and Demobilization of CONTRACTOR's Personnel and equipment as and when required by BAPCO including but not limited to any Mobilization or Demobilization that may be required as a result of the SERVICES not being completed prior to the coming of the rainy season at the Worksite. Such arrangements shall include travel, transport, visa, work permits, passports, health certificates and all other things, of whatever nature, necessary for the successful Mobilization or Demobilization of CONTRACTOR's Personnel and equipment. CONTRACTOR shall also ensure that all such documentation remain at CONTRACTOR's offices for the whole period of assignment of CONTRACTOR's Personnel. BAPCO shall be permitted reasonable access to review such documentation from time to time. If after Mobilization of CONTRACTOR's Personnel, CONTRACTOR is

subsequently unable to obtain a work permit for any such Personnel, they shall be considered not suitable and shall be removed and replaced if so required by BAPCO.

- 15.13 CONTRACTOR shall be responsible for compassionate leave, emergency leave and sick leave for CONTRACTOR's Personnel. Such leave shall be at no cost to BAPCO.
- 15.14 CONTRACTOR shall at no cost to BAPCO be responsible for the medical welfare of its Personnel and their dependents including, but not limited to, periodic medical examinations, arrangements for medical attendance, treatment or hospitalization if and when necessary, and CONTRACTOR will arrange suitable insurance coverage for such contingencies. BAPCO shall allow CONTRACTOR to use, at no cost to CONTRACTOR, whatever first aid or other medical facilities it may have at the Worksite. In case of emergency at the Worksite, BAPCO shall, at no cost to CONTRACTOR, arrange transport to move the CONTRACTOR's injured or ill Personnel to Khartoum using the resources available in the area. Upon arrival in Khartoum, CONTRACTOR shall assume full care of the individual.
- 15.15 CONTRACTOR shall ensure that all CONTRACTOR's Personnel are medically examined at their point of origin before departure and that a copy of the certificate of health is given to BAPCO on arrival at the Worksite.
- 15.16 CONTRACTOR's Personnel who in BAPCO's sole opinion are no longer fit due to frequent and prolonged sickness shall be replaced by CONTRACTOR at no cost to BAPCO.
- 15.17 CONTRACTOR shall make every effort to ensure that CONTRACTOR and its Personnel settle their personal debts before final departure from the Worksite.
- 15.18 Except for payments required pursuant to this CONTRACT, BAPCO accepts no liability whatsoever for unsettled debts incurred by CONTRACTOR or its Personnel howsoever arising. In the event CONTRACTOR or its Personnel become a debtor to BAPCO for any reason directly or indirectly related to this CONTRACT and the SERVICES, BAPCO shall have the absolute right, without prejudice to all its other rights under this CONTRACT or law or equity, to recover such unpaid debts from any payments due to CONTRACTOR or from the Bank Guarantee.
- 15.19 In the event of default of wages by CONTRACTOR or Subcontractor and without prejudice to all its other rights under this CONTRACT or law or equity, BAPCO shall have the right to deduct any monies due to CONTRACTOR or enforce the Bank Guarantee under this CONTRACT for settlement of such claim. Payments by BAPCO for such settlement shall be deemed to be a payment made to CONTRACTOR by BAPCO and by virtue of this CONTRACT.
- 15.20 CONTRACTOR shall advise BAPCO immediately in writing of any labour dispute or anticipated labour dispute that may be expected to affect CONTRACTOR's performance of the SERVICES.
- 15.21 As the SERVICES progress, CONTRACTOR shall continually review and control its scheduling plan to meet the timing objectives set out in this CONTRACT and/or the timing objectives communicated to CONTRACTOR by BAPCO from time to time. CONTRACTOR shall advise BAPCO of the status of the SERVICES from time to time.
- 15.22 CONTRACTOR shall at all times during performance of the SERVICES cooperate with BAPCO's Personnel.
- 15.23 CONTRACTOR shall adhere to BAPCO's quality assurance program and inspection requirements.
- 15.24 Notwithstanding any involvement by BAPCO in the selection and review of CONTRACTOR's Personnel who are to provide the SERVICES, or a part thereof, the CONTRACTOR shall be solely responsible for the suitability of each individual it appoints, including suitability of education, work experience and character.
- 15.25 CONTRACTOR shall furnish, at no cost to BAPCO, the following to CONTRACTOR's Personnel:
  - Reasonable accommodation, meals and laundry service required by CONTRACTOR's Personnel engaged in the SERVICES from time to time; and
  - Reasonable transportation to and from the accommodation to the Worksite and while at the Worksite.
- 15.26 CONTRACTOR shall furnish, at no cost to BAPCO, transportation for CONTRACTOR's equipment, materials and supplies from their point of origin to the Worksite and around the Worksite.

## **ARTICLE 16: BAPCO'S OBLIGATIONS**

- 16.1 BAPCO may but is not obliged to provide assistance to CONTRACTOR in securing necessary permits or data from national and local governmental authorities and/or agencies when required under this CONTRACT. The failure by BAPCO to obtain and provide such assistance shall not relieve CONTRACTOR from the obligation to secure the same at its own costs.
- 16.2 BAPCO shall provide CONTRACTOR's Personnel and equipment such reasonable right of entry to BAPCO Worksites as CONTRACTOR requires to perform the SERVICES. BAPCO shall promptly advise CONTRACTOR's Personnel of any restrictions, conditions or limitations affecting the right of entry or operation of CONTRACTOR's Personnel at the Worksite.

## **ARTICLE 17: NOTICES**

- 17.1 All approvals, requests and notices required herein shall be given or made by handwritten or printed documentation including, but not limited to, faxes, e-mail, and similar forms of written communication and shall be deemed to have been properly given or made if given to the either CONTRACTOR Representative or BAPCO Representative, as applicable, or if sent prepaid to the other respective Party at the address stated in the PARTICULAR TERMS AND CONDITIONS.
- 17.2 All mailings of letters / correspondences and transmittals to BAPCO shall be by prepaid courier service unless instructed otherwise by BAPCO.
- 17.3 Either Party may change the person or address to which notices shall be sent by giving the other Party written notice of such change.
- 17.4 Notices or instructions shall be deemed to have been received at the time of:
- Delivery if delivered by hand;
  - Transmission if sent by fax;
  - Receipt or recorded delivery if sent by courier service; and
  - Receipt if sent by e-mail.
- 17.5 If the time of such deemed receipt is not during customary hours of business at the receiving location, notice shall be deemed to have been received at 10.00 a.m. on the first customary day of business thereafter at the receiving location.
- 17.6 Subject to this article, the date of receipt of any notice shall be the date notice is first received at the office of the addressee or by the addressee, whichever is earlier.

## **ARTICLE 18: BAPCO REPRESENTATIVE**

- 18.1 BAPCO shall appoint a competent and experienced BAPCO Representative to be responsible for administering this CONTRACT on BAPCO's behalf and for issuing any instructions hereunder. BAPCO Representative may also appoint an alternate BAPCO Representative who shall function as the BAPCO Representative when BAPCO Representative is absent or unavailable. Within five (5) days of executing this CONTRACT, BAPCO shall advise CONTRACTOR in writing of the name of the BAPCO Representative. BAPCO may change the BAPCO Representative from time to time and shall notify CONTRACTOR of such changes in writing. BAPCO Representative may from time to time designate or appoint a nominee to carry out certain functions and such nominee shall have all the power of the BAPCO Representative with respect to those certain functions.
- 18.2 BAPCO Representative shall at all times have access to the SERVICES and all documents pertaining to the SERVICES including, but not limited to, Drawings and Documentation.
- 18.3 BAPCO Representative shall be responsible for and is duly authorized to receive and act on all matters pursuant to this CONTRACT including, but not limited to, receipt on behalf of BAPCO of all notifications, information and decisions of CONTRACTOR pursuant to the provisions of this CONTRACT. CONTRACTOR shall be entitled to rely on all decisions and positions of the BAPCO Representative as those of BAPCO.

- 18.4 BAPCO Representative shall decide all questions that arise relating to the performance of the SERVICES. BAPCO Representative shall have the right to reject or disapprove any part of the SERVICES that does not conform to this CONTRACT.
- 18.5 BAPCO Representative shall have the right but not the obligation to prohibit the commencement of SERVICES or to stop any SERVICES in progress if equipment, Personnel or work conditions are considered to be unsafe or not in compliance with BAPCO's rules and regulations.
- 18.6 Notwithstanding anything contained in this CONTRACT, Approval or the presence of and the inspection, supervision and approval by the BAPCO Representative shall not relieve CONTRACTOR from its obligation and duties and shall not otherwise prejudice BAPCO's rights under this CONTRACT.

#### **ARTICLE 19: CONTRACTOR REPRESENTATIVE**

- 19.1 CONTRACTOR shall appoint a competent and experienced CONTRACTOR Representative to be responsible for administering this CONTRACT on CONTRACTOR's behalf and to be in charge of the SERVICES. CONTRACTOR may also appoint an alternate CONTRACTOR Representative who shall function as the CONTRACTOR Representative when CONTRACTOR Representative is absent or unavailable. Within five (5) days of executing this CONTRACT, CONTRACTOR shall advise BAPCO in writing of the name of the CONTRACTOR Representative. The CONTRACTOR Representative shall be satisfactory to BAPCO. CONTRACTOR may change the CONTRACTOR Representative from time to time and shall notify BAPCO of such changes in writing. The CONTRACTOR Representative may from time to time designate or appoint a nominee to carry out certain functions and such nominee shall have all the power of the CONTRACTOR Representative with respect to those certain functions.
- 19.2 CONTRACTOR Representative shall have CONTRACTOR's full authority concerning the supply of materials, equipment and CONTRACTOR's Personnel and shall also have CONTRACTOR's full authority to proceed with the SERVICES and every part thereof in conformity with this CONTRACT. CONTRACTOR Representative shall be responsible for and duly authorized to receive and act on all matters related to this CONTRACT including, but not limited to, receipt on behalf of CONTRACTOR of all notifications, information and decisions of BAPCO pursuant to the provisions of this CONTRACT. BAPCO shall be entitled to rely on all decisions and positions of CONTRACTOR Representative as those of CONTRACTOR.
- 19.3 CONTRACTOR Representative shall supervise, coordinate and ensure the quality of all aspects of CONTRACTOR's obligations under this CONTRACT. All contacts with CONTRACTOR with respect to the SERVICES may be through the CONTRACTOR Representative.

#### **ARTICLE 20: LIABILITY / INDEMNITY**

- 20.1 CONTRACTOR shall be responsible for and liable to and shall indemnify, and hold harmless BAPCO Indemnified Persons for any loss of, loss of use of, recovery of, damage to or destruction of the property of BAPCO Indemnified Persons if such loss, loss of use, recovery, damage or destruction arises out of the negligence or breach of duty (statutory or otherwise) of CONTRACTOR or CONTRACTOR's Personnel. For the purposes of this clause, the property of BAPCO Indemnified Persons shall be deemed to include property owned, hired, leased or otherwise provided by BAPCO Indemnified Persons. CONTRACTOR's liability and responsibility to indemnify hereunder shall not be reduced even if the negligence or breach of duty (statutory or otherwise) of BAPCO Indemnified Persons contributed to such damage, destruction or loss except where, and then only to the extent that, the loss, loss of use, recovery, damage or destruction has been contributed to by Wilful Misconduct.
- 20.2 CONTRACTOR shall be responsible for and liable to and shall indemnify, defend, and hold harmless BAPCO Indemnified Persons, from and against any and all claims, demands, causes and causes of action which are brought by CONTRACTOR or any third parties including, but not limited to, CONTRACTOR's Personnel and Personnel of BAPCO and Co-Venturers, and which are in respect of any personal injury, death, disease, or any loss of, loss of use of, recovery of, damage to or destruction of property, arising out of the negligence or breach of duty (statutory or otherwise) of CONTRACTOR or CONTRACTOR's Personnel. This indemnity shall include all costs, penalties, awards, damages and judgment; court and arbitration costs; counsel and witness fees; and all other reasonable expenses incurred by or assessed against the BAPCO Indemnified Persons and associated with such claims, demands, causes and causes of action. CONTRACTOR's liability and responsibility to indemnify hereunder shall not be reduced even if the negligence or breach of duty (statutory or otherwise) of BAPCO Indemnified Persons contributed to such personal injury, death, disease, or such loss of, loss of use of, recovery of, damage to or destruction of the property except where, and then only to the extent that, the personal injury, death, disease, or loss of, loss of use of, recovery of, damage to or destruction of such property has been caused by Willful Misconduct.

- 20.3 CONTRACTOR shall be responsible for and liable to and shall indemnify and hold harmless BAPCO Indemnified Persons from and against any and all claims, demands, causes and causes of action brought against BAPCO Indemnified Persons in respect of pollution and/or contamination of sea, water, land or air, including clean-up costs, if such pollution or contamination arises as a result of the negligence or breach of duty (whether statutory or otherwise) of CONTRACTOR or CONTRACTOR's Personnel. This indemnity shall include all costs, penalties, awards, damages and judgment; court and arbitration costs; counsel and witness fees; and all other reasonable expenses incurred by or assessed against the BAPCO Indemnified Persons and associated with such claims, demands, causes and causes of action. CONTRACTOR's liability and responsibility to indemnify hereunder shall not be reduced even if the negligence or breach of duty (statutory or otherwise) of BAPCO Indemnified Persons contributed to such pollution or contamination except where, and then only to the extent that, the pollution or contamination has been caused by Willful Misconduct.
- 20.4 If a claim is asserted in circumstances which do or may give rise to an indemnity under this Contract, BAPCO shall forthwith give notice thereof to CONTRACTOR and the Parties shall consult and cooperate in respect thereof and in determining whether the claim and any legal proceedings relating thereto should be resisted, compromised or settled. Each Party shall make available to the other all information in its possession or to which it has access that is or may be relevant to the particular claim. No such claim shall be settled or compromised without the written consent of CONTRACTOR, which consent shall not be unreasonably withheld.
- 20.5 CONTRACTOR shall notify BAPCO immediately of any damage to, loss of, loss of use of, recovery of or destruction of property used in connection with the SERVICES, any personal injury or death or disease of persons occurring in connection with the performance of the SERVICES and any incident, claim or litigation affecting the provisions of this article, and CONTRACTOR shall furnish to BAPCO adequate written reports pertaining to same.
- 20.6 Notwithstanding anything else in this CONTRACT, CONTRACTOR shall be solely responsible for all damage or destruction or loss from any cause whatsoever, of tools, equipment and other property owned or leased by CONTRACTOR or Subcontractors, which are used or intended for use in performing the SERVICES.
- 20.7 CONTRACTOR's liabilities and indemnities in this CONTRACT shall not be reduced by reason of any omission, negligence or breach of duty (statutory or otherwise), by BAPCO Indemnified Persons in failing to supervise or control CONTRACTOR's Personnel or methods of working or to detect or prevent or remedy defective SERVICES or to ensure proper performance of any other obligations of CONTRACTOR under this CONTRACT.
- 20.8 CONTRACTOR acknowledges that there are certain risks, including personal security risks, in traveling to and working within locations in the Republic of Sudan. For the avoidance of doubt, CONTRACTOR acknowledges and agrees that ARTICLE 20.1 and ARTICLE 20.2 shall be deemed to include harm and loss associated with such risk and that BAPCO bears no responsibility for any such risks to CONTRACTOR during the course of CONTRACTOR's travel to and from and within the Republic of Sudan or during its performance of the SERVICES.
- 20.9 For the limited purpose of extending the benefit of the indemnities contained in this article and throughout this CONTRACT, BAPCO Contracts on its own behalf and as agent and trustee on behalf of BAPCO Indemnified Persons, and each member of BAPCO Indemnified Persons shall be deemed to be a party of this CONTRACT for this limited purpose.

## **ARTICLE 21: LIENS AND CLAIMS**

- 21.1 CONTRACTOR shall be responsible for and shall indemnify, defend and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for claims, demands, causes or causes of action of whatever kind or nature based on any liens, claims assessments, fines and levies created, caused or committed by CONTRACTOR or its Personnel. This indemnity shall include without limitation all costs, penalties, awards, damages and judgment, court and arbitration costs, counsel and witness fees, and all other reasonable expenses incurred by or assessed against the BAPCO Indemnified Persons and associated with such claims, demands, and causes of action. CONTRACTOR shall immediately notify BAPCO of such liens and claims when CONTRACTOR becomes aware of such claims.
- 21.2 BAPCO shall have the right to retain out of any payment to be made under this CONTRACT an amount sufficient to offset such liens or claims that CONTRACTOR fails to discharge promptly, until such liens or claims are proven to be invalid or are satisfied, discharged or settled.
- 21.3 Should there be any such lien or claim made after all payments hereunder have been made, CONTRACTOR agrees to refund BAPCO upon demand, all monies that BAPCO may be compelled to pay

to discharge any such lien or claim in consequence of CONTRACTOR's default including all costs, legal and professional fees.

- 21.4 Upon completion or early termination of this CONTRACT, CONTRACTOR shall submit to BAPCO within thirty (30) days thereof, a full and complete statement stating that all debts, taxes, liens, privileges, claims, charges and obligations to CONTRACTOR's Personnel and suppliers, for the purchase or lease of equipment, materials, and supplies in connection with the performance of the SERVICES hereunder have been fully paid to the date of such statement. In the event of any dispute, CONTRACTOR shall post a bond or any other form of security acceptable to BAPCO to secure BAPCO against any such liens or claims.
- 21.5 BAPCO shall be empowered and shall have the option to enforce the Bank Guarantee for any amounts outstanding pursuant to this ARTICLE 21.

## **ARTICLE 22: CONTRACTOR'S DEFAULT**

- 22.1 The occurrence of any of the following events shall be deemed a default by CONTRACTOR under this CONTRACT:
- Any attempted transfer or assignment by CONTRACTOR of its rights or duties under this CONTRACT without prior Approval; or
  - The failure of CONTRACTOR to satisfy within thirty (30) days of its entry any final judgement upon which execution is possible or the attachment of any general lien against all or a substantial part of the real or personal property of CONTRACTOR and the continued existence thereof for more than thirty (30) days; or
  - If BAPCO, acting reasonably, determines that CONTRACTOR or CONTRACTOR's Personnel have failed to comply with the requirements of this CONTRACT, are incompetent, have acted in manner prejudicial to BAPCO's best interest, or have failed to comply with BAPCO's health, safety, environment or other rules or regulations and procedures; or
  - If CONTRACTOR is otherwise in default under this CONTRACT.
- 22.2 If CONTRACTOR is in default as aforesaid, BAPCO shall give CONTRACTOR notice of such default and require CONTRACTOR to take appropriate corrective action at CONTRACTOR's expense and without prejudice to all BAPCO's other rights under this CONTRACT or law or equity.
- 22.3 Should CONTRACTOR fail or refuse to remedy or fail to commence remedying the matters complained of within ten (10) days after notice is received by CONTRACTOR, or if once commenced, CONTRACTOR does not continue and bring the matter to a conclusion satisfactory to BAPCO in a reasonable period of time, BAPCO shall have the right to terminate the SERVICES, any part of the SERVICES, or this CONTRACT by giving notice of termination to CONTRACTOR.
- 22.4 If BAPCO terminates the SERVICES, any part of the SERVICES or this CONTRACT pursuant to this article, CONTRACTOR agrees that CONTRACTOR shall not be entitled to claim compensation from BAPCO in respect to such termination, provided however that, subject to setoff for amounts provided for herein, and matured, unmatured, or contingent amounts due to BAPCO, BAPCO shall pay CONTRACTOR for SERVICES performed up to the date of termination.

## **ARTICLE 23: CHANGES**

- 23.1 The Parties anticipate that as the work progresses, changes in the SERVICES may be required. These changes may affect the cost of or the time required for the SERVICES. Such changes may include without limitation:
- Revisions to Drawings and Documentation supplied by BAPCO or administration procedures that affect the SERVICES;
  - Performance of work not related to or reasonably inferable to the SERVICES; or
  - Revisions required by BAPCO to the SERVICES already accomplished in accordance with the specifications;

- However, revisions required to achieve compliance with specifications or to correct errors, omissions or poor workmanship or engineering on the part of CONTRACTOR shall not be considered as changes.
- 23.2 Changes in the SERVICES shall be made by a Change Order issued in accordance with the provisions of this CONTRACT.
- 23.3 BAPCO shall have the unfettered right to issue a Change Order for:
- The suspension or termination of all or part of the SERVICES pursuant to the provisions of this CONTRACT or
  - Changes to the SERVICES that do not have a significant impact on the anticipated costs or anticipated timing of the SERVICES;
  - And no CONTRACTOR's consent or agreement shall be required for such Change Order.
- 23.4 Either Party may request a Change Order to change the SERVICES or a portion thereof and if the Parties together agree to the change, BAPCO shall issue a Change Order and CONTRACTOR shall indicate its agreement to the change by signing the Change Order. If the Change Order changes the reasonable and direct costs of the SERVICES, the Change Order shall outline the anticipated changed costs, which BAPCO shall be obligated to pay when actually incurred by CONTRACTOR as a result of the change. The Change Order will normally be priced on the basis stipulated in EXHIBIT IV. In the event that specific rates are not incorporated in EXHIBIT IV, such rates shall be mutually agreed by the Parties. All provisions of this CONTRACT and the specifications shall apply to the Change Order.
- 23.5 No adjustment to the CONTRACT Price or the Rates shall be made except by issuance by BAPCO of a Change Order.
- 23.6 If CONTRACTOR believes that any act or omission of BAPCO affects or will affect the cost of or time required for the SERVICES, then CONTRACTOR shall promptly notify BAPCO by submitting an Extra Work Notice (EWN) before proceeding with the part of the work in question. BAPCO may issue a Change Order based on CONTRACTOR's EWN but will not necessarily be bound by such notification, and in no event will BAPCO be obligated to adjust the CONTRACT Price or Rates if CONTRACTOR proceeds with the part of the work in question before giving notification to BAPCO in accordance with this article.
- 23.7 Change Orders shall be administered in accordance with the detailed requirements of this contract.
- 23.8 Notwithstanding anything else contained herein, if there are actual changes in the laws of the Republic of Sudan after the Effective Date that materially affect the CONTRACTOR's costs and if the CONTRACTOR advises BAPCO of such changes and the impact thereof on CONTRACTOR's costs in a timely manner, the CONTRACTOR shall be entitled to make a written request to BAPCO for a Change Order. CONTRACTOR's written request shall detail the change in the law and the impact of the change in such laws on CONTRACTOR's costs. The Parties shall then meet together to discuss the impact on the compensation and what changes are appropriate, if any. In the event of such a request by CONTRACTOR, BAPCO shall be entitled to audit any of CONTRACTOR's records that BAPCO deems relevant to the issue of the requested change and have the same rights associated with other audits provided for under the CONTRACT.

#### **ARTICLE 24: SUSPENSION OF SERVICES**

- 24.1 BAPCO may, at any time, suspend all or any part of the SERVICES for any reason whatsoever by giving notice to CONTRACTOR specifying the part of the SERVICES to be suspended and the effective date of the suspension. CONTRACTOR shall cease performance of said suspended part of the SERVICES on the effective date of suspension. CONTRACTOR shall continue to perform the unsuspended part of the SERVICES. CONTRACTOR will be given sufficient time for orderly removal of CONTRACTOR's Personnel and items not required during suspension.
- 24.2 CONTRACTOR shall comply with BAPCO's instruction with respect to all activities in connection with any suspension of the SERVICES or part thereof. Such compliance will be a factor in determining reasonableness of costs incurred. Compensation for suspension shall only be payable in cases where the suspension is not attributable to the actions or inactions of CONTRACTOR and shall be limited to reasonable 'out of pocket' expenses actually incurred and directly resulting from the suspension, including related reasonable Demobilization costs. Nothing in this clause shall be interpreted as changing BAPCO's obligation to pay amounts properly due for SERVICES performed prior to the date of suspension.

- 24.3 BAPCO may, at any time authorize resumption of all or any part of the suspended SERVICES by giving at least ten (10) days notice to CONTRACTOR specifying the SERVICES to be resumed and the effective date of the withdrawal of suspension. CONTRACTOR shall resume the SERVICES on the effective date of the withdrawal of suspension. BAPCO shall pay reasonable actual re-Mobilization costs for Personnel and equipment actually demobilized pursuant to ARTICLE 24.2 after a suspension that is not attributable to the actions or inactions of CONTRACTOR.

#### **ARTICLE 25: TERMINATION OF SERVICES**

- 25.1 BAPCO may at any time, terminate all or any part of the SERVICES without cause by giving fourteen (14) days prior notice to CONTRACTOR specifying that BAPCO intends to terminate the SERVICES, the SERVICES to be terminated, and the effective date of termination. BAPCO shall pay CONTRACTOR, upon receipt and verification of CONTRACTOR's invoice, all amounts properly due for the SERVICES performed prior to the date of termination plus reasonable expenses actually incurred and directly resulting from the termination.
- 25.2 Subject to the requirements of ARTICLE 22 hereof, BAPCO shall have the right to immediately terminate all or any part of the SERVICES for cause, by giving notice in writing and this shall not prejudice all its other rights under this CONTRACT or law or equity including, but not limited to, the right to sue for damages. BAPCO shall retain all amounts which are then due and payable to CONTRACTOR less reimbursements due to CONTRACTOR for its reasonable and auditable costs incurred in the performance of the SERVICES to the extent such SERVICES was authorized in advance by BAPCO and not related to the cause of termination.
- 25.3 Notwithstanding ARTICLE 22 or other provisions of this ARTICLE 25, in the event CONTRACTOR:
- Fails to provide proof of an acceptable insurance program; or
  - Makes an assignment for the benefit of creditors; or
  - Is judged bankrupt or has a petition in bankruptcy filed by or against CONTRACTOR; or
  - Has a receiver or a receiver-manager appointed; or
  - Has any steps taken to liquidate or voluntarily wind up its operations; or
  - Has a winding-up petition presented against it; or
  - Is wound up by the courts; or
  - Is responsible for any theft or misappropriation of BAPCO's property; or
  - Undergoes a corporate reorganization; or
  - Commits a material breach as described in ARTICLE 27.9.

then this CONTRACT shall, at the sole option of BAPCO, be immediately terminated by BAPCO serving such notice on CONTRACTOR and CONTRACTOR agrees that it shall not be entitled to claim compensation from BAPCO in respect to such termination; provided however, that subject to setoff for amounts provided for herein, and matured, immature, or contingent amounts due to BAPCO, BAPCO shall pay CONTRACTOR for SERVICES performed up to the date of termination.

- 25.4 Upon receipt of a notice of termination, CONTRACTOR shall ensure no further commitments with respect to the effected SERVICES are made, and CONTRACTOR shall take all reasonable steps necessary to minimize any costs arising from commitments made prior to receipt of the notice of termination. On the effective date of the notice of termination, CONTRACTOR shall stop performance of the effected SERVICES
- 25.5 If this CONTRACT is terminated and unless BAPCO directs otherwise, CONTRACTOR shall immediately make every reasonable effort to cancel existing Subcontracts, purchase orders or other obligations entered into by CONTRACTOR with Subcontractors, suppliers or others upon terms satisfactory to BAPCO.
- 25.6 If this CONTRACT is terminated, BAPCO may direct CONTRACTOR to execute and deliver to BAPCO all Drawings and Documentation related to this CONTRACT and required by BAPCO and to take all necessary steps to fully vest in BAPCO the rights and benefits of CONTRACTOR under existing Subcontracts or other obligations with Subcontractors, suppliers and others. In addition, CONTRACTOR

shall take all reasonable steps to preserve and protect the SERVICES already in progress, to protect materials, Drawings and Documentation, equipment and supplies in transit or at the Worksite and to minimize all costs to BAPCO and CONTRACTOR resulting from the suspension or termination.

- 25.7 Except as otherwise provided in this CONTRACT, in the event of termination hereunder, the Parties shall each be released and discharged from any claims by one Party against the other in connection with the terminated SERVICES.
- 25.8 If the SERVICES, any part of the SERVICES or this CONTRACT is terminated by BAPCO pursuant to ARTICLE 22.3 or ARTICLE 25.2 or ARTICLE 25.3, BAPCO shall have the option to thereafter enforce the Bank Guarantee for monies owed or reasonably anticipated to be owed to BAPCO by CONTRACTOR without prejudice to all its other rights under this contract or law or equity.
- 25.9 After giving notice of termination pursuant to ARTICLE 22.3 or ARTICLE 25.2 or ARTICLE 25.3, BAPCO shall have the right to locate a suitable alternative contractor and CONTRACTOR shall cooperate to ensure a stable transition of the terminated matters to the alternative CONTRACTOR.
- 25.10 If the SERVICES, any part of the SERVICES or this CONTRACT, is taken over by an alternative CONTRACTOR as described in ARTICLE 25.9, any additional cost arising out of the change and borne by the alternative contractor or by BAPCO, shall be deducted from the amounts due or that may become due to CONTRACTOR. If such additional cost is greater than the amounts due to CONTRACTOR, BAPCO shall notify CONTRACTOR and CONTRACTOR shall forthwith pay BAPCO amount of additional costs that exceeds the amount due to CONTRACTOR.
- 25.11 If BAPCO terminates the SERVICES, any part of the SERVICES or this CONTRACT pursuant to ARTICLE 22 or this ARTICLE 25, CONTRACTOR agrees that CONTRACTOR shall not be entitled to claim compensation from BAPCO in respect to such termination, provided however that, subject to setoff for amounts provided for herein, and matured, immature, or contingent amounts due to BAPCO, BAPCO shall pay CONTRACTOR for SERVICES performed up to the date of termination.

#### **ARTICLE 26: SUB-CONTRACTS AND CONTRACT ASSIGNMENT**

- 26.1 CONTRACTOR shall not subcontract the SERVICES or any part thereof without prior Approval. Subcontract documents and selection of Subcontractor(s) related to the SERVICES or any part thereof shall require Approval prior to award of each Subcontract.
- 26.2 CONTRACTOR shall ensure that all BAPCO's rights under this CONTRACT including, but not limited to, audit rights are incorporated in all Subcontracts hereunder.
- 26.3 For all purposes under this CONTRACT, CONTRACTOR shall be fully responsible for any acts, defaults and omissions of any Subcontractor, and any and all of their directors, officers, and Personnel that directly or indirectly work for or are retained by Subcontractors to the same extent as CONTRACTOR is for the acts and omissions of Personnel directly or indirectly working for or retained by CONTRACTOR.
- 26.4 Approvals of a Subcontract granted pursuant to this article shall not release or relieve CONTRACTOR of any of its obligations under this CONTRACT or create any Contractual relationship between any Subcontractor and BAPCO. CONTRACTOR shall be responsible for such Subcontractor's due observance of all the terms, stipulations and conditions under this CONTRACT.
- 26.5 BAPCO may assign any or all of this CONTRACT including all rights and obligations hereunder to any or all of the Co-Venturers or any of its or their Affiliates at any time without the prior consent of CONTRACTOR, and such assignment shall be binding upon CONTRACTOR upon delivery of notice of the assignment to CONTRACTOR.
- 26.6 Excluding assignment dealt with in ARTICLE 26.5 and ARTICLE 25.6, BAPCO may assign this CONTRACT including all rights and obligations hereunder at any time with the prior consent of CONTRACTOR, which consent shall not be unreasonably withheld. Failure by CONTRACTOR to reply to a request for consent within 10 days of its receipt by CONTRACTOR shall be deemed to be the consent of the CONTRACTOR to such assignment. After obtaining consent or deemed consent, the actual assignment shall be binding upon CONTRACTOR upon delivery of notice of the assignment to CONTRACTOR.
- 26.7 Without the prior written consent of BAPCO, an assignment by CONTRACTOR of any of the rights accruing to it under the CONTRACT or any delegation of duties to be performed by CONTRACTOR under this CONTRACT shall be void and shall not be binding on BAPCO. The granting of such consent by BAPCO shall not relieve CONTRACTOR or its sureties of their responsibilities and obligations under this

CONTRACT. After obtaining Approval, the actual assignment by CONTRACTOR shall be binding upon BAPCO upon delivery to BAPCO of a notice of the assignment signed by CONTRACTOR and the assignee.

- 26.8 Without receiving Approval, CONTRACTOR shall not mortgage, hypothecate, encumber or convey title to any of the equipment or materials or deliverables or other items associated with the performance of this CONTRACT to a third party.

#### **ARTICLE 27: HEALTH, SAFETY & ENVIRONMENTAL REGULATION**

- 27.1 CONTRACTOR shall perform the SERVICES in such a manner that the environment including air, water, and land as well as animal and plant life is protected from adverse effect from CONTRACTOR's activities.
- CONTRACTOR shall pay the cost of remediation of environmental damage caused by CONTRACTOR's activities
- 27.2 CONTRACTOR and its Personnel shall strictly comply with all relevant BAPCO requirements as stipulated in EXHIBIT VII, statutory and local authorities' rules, regulations, requirements and procedures, as amended from time to time, that apply to the location where the SERVICES is being performed and that pertain to health, safety, environmental protection, fire protection and security regulations and shall ensure that, in any event, the standards applied are no less than the generally accepted international petroleum industry standards.
- 27.3 CONTRACTOR shall ensure that all materials and equipment to be used in the performance of the SERVICES comply with all relevant BAPCO, statutory and local authorities' rules, regulations, requirements and procedures, as amended from time to time, that apply to the location where the SERVICES is being performed and that pertain to health, safety, environmental protection, fire protection and security regulations and shall ensure that the standards applied are no less than the generally accepted international petroleum industry standards. All such material and equipment requiring BAPCO certification shall be so certified before it is brought onto BAPCO's premises or the Worksite. All material safety data sheet (MSDS) shall be submitted to BAPCO for evaluation and approval.
- 27.4 CONTRACTOR shall be solely responsible for the safety of its Personnel and all of its equipment at the Worksite, and shall be solely responsible for the necessary training of its Personnel on safety and safe working practices. CONTRACTOR shall ensure that CONTRACTOR's Personnel are adequately trained in safety precautions and safe working practices and aware of the work activity hazards before they are involved in the SERVICES and that they are competent to undertake their required duties in a safe and efficient manner.
- 27.5 Failure of CONTRACTOR's Personnel to follow regulations and safety procedures shall be considered a default under this CONTRACT.
- 27.6 CONTRACTOR shall allow BAPCO access at any reasonable time to any equipment, Personnel, materials and records supplied by CONTRACTOR and involved in the SERVICES to enable BAPCO to:
- Ensure that CONTRACTOR complies with the provisions of this article;
  - conduct, if required, HSE audit/inspection and independent investigations into any accident and/or incident arising out of or in connection with performance of the SERVICES; and
  - verify material safety data sheets for chemical used in BAPCO premises by CONTRACTOR.
- 27.7 In the event of SERVICES being carried out by CONTRACTOR or any Subcontractor in an unsafe manner with respect to health, safety, environmental protection, fire protection or security, or if equipment requires modification or replacement to meet BAPCO or statutory safety requirements, BAPCO reserves the right to immediately suspend all or parts of the SERVICES and to apply any penalty as stated in BAPCO HSE regulations.
- 27.8 A suspension notice issued pursuant to this article shall include reasons for BAPCO issuing such notice and shall outline the steps required to be taken by CONTRACTOR to rectify the hazard. CONTRACTOR shall be considered to be in default of its obligations under this CONTRACT until either the hazardous working practice with respect to health, safety, environmental protection, fire protection or security is remedied or required modification or replacement of CONTRACTOR's equipment is made to the satisfaction of BAPCO.

- 27.9 The refusal or inability of CONTRACTOR to remedy any hazardous working practice or to perform the required modification or replacement to its equipment within ten (10) calendar days shall constitute a material breach of this CONTRACT and BAPCO shall have the right to immediately terminate this CONTRACT in accordance with ARTICLE 23.3.
- 27.10 While at the Worksite or other BAPCO sponsored premises or during travel in BAPCO sponsored transport, CONTRACTOR shall use its best efforts to ensure that its Personnel do not indulge in practical jokes, boisterous behavior, horseplay, scuffling and the like and shall not permit the use, possession or sale of alcoholic beverages or illegal drugs. CONTRACTOR's Personnel who breach this provision shall be subject to immediate dismissal.
- 27.11 For that part of the SERVICES that is to be performed at BAPCO's Worksite, CONTRACTOR shall furnish, at no cost to BAPCO, adequate safety gear to be worn by CONTRACTOR's Personnel and all necessary safety equipment including, but not limited to, fire extinguishers.
- 27.12 CONTRACTOR shall ensure that personal protective clothing and equipment are always maintained in good condition. Contractor shall ensure that such protective clothing and safety gear shall be worn on all relevant occasions as indicated by notices, instructions and good sense.
- 27.13 CONTRACTOR shall ensure that all CONTRACTOR's equipment, facilities and other items in any way associated with this CONTRACT or the SERVICES are maintained in a safe, sound and proper condition, comply with Applicable Laws and BAPCO's requirements.
- 27.14 CONTRACTOR shall ensure that all its Personnel maintain a neat, clean and safe SERVICES environment at the Worksite and the operations areas of BAPCO including any equipment and machinery associated or utilized in the performance of the SERVICES.
- 27.15 CONTRACTOR shall immediately report to BAPCO any accident or safety incident that involves any equipment or person or the environment, whether or not any injury to person or damage to property or the environment occurred. In cases of injurious and non-injurious incidents judged to be serious by BAPCO, CONTRACTOR shall, without additional costs to BAPCO, duly submit to BAPCO within 24 hours brief accident report, and shall be followed by carrying out full investigations and submit a detailed report of the incident to BAPCO in a BAPCO acceptable format within fourteen (14) calendar days setting out the events relating to the incident.
- 27.16 CONTRACTOR shall take steps to maintain and increase the safety consciousness of its Personnel by means of immediate correction of unsafe acts and by means of periodic safety meetings and discussions and emergency drills. CONTRACTOR shall ensure that safety meetings shall be attended by CONTRACTOR's Personnel for the purpose of improving safety of the working environment and enhancing safety awareness.
- 27.17 In accordance with BAPCO's policy, CONTRACTOR's Personnel are required to possess an official pass card while on any BAPCO premises and Worksite.
- 27.18 Where the CONTRACTOR, acting reasonably, considers that the equipment, Personnel or work conditions are not safe or in compliance with BAPCO's rules and regulations, it shall notify BAPCO immediately and BAPCO and CONTRACTOR shall meet and agree on what action, if any, is required and whether the SERVICES or a portion of it should be suspended.
- 27.19 No persons other than BAPCO's and CONTRACTOR's Personnel shall be allowed to be at the Worksite without Approval.
- 27.20 CONTRACTOR shall dispose off all solid and liquid wastes in accordance with Sudanese Environmental Regulations and as instructed by BAPCO.
- 27.21 CONTRACTOR shall assign one of its Personnel to carry out HSE responsibilities in all CONTRACTOR's activities. If the number of CONTRACTOR's Personnel at the Worksite exceeds fifty persons, CONTRACTOR shall provide a health unit run by a medical officer or a medical assistant.
- 27.22 If CONTRACTOR is providing the accommodation for its Personnel at the Worksite, the CONTRACTOR shall abide with international standards in the catering and cleanliness of the facilities to ensure the welfare of its Personnel is safeguarded.
- 27.23 In the event BAPCO carry out emergency medical evacuation for CONTRACTOR's personnel from the Worksite, the eventual cost shall be borne by CONTRACTOR. If the emergency treatment for

CONTRACTOR's Personnel is conducted in BAPCO's panel hospitals, CONTRACTOR shall pay for the cost.

#### **ARTICLE 28: PROCUREMENT**

28.1 In the procurement of equipment, facilities, goods, materials, supplies and transportation for the portion of the SERVICES that is to be performed in the Republic of Sudan, CONTRACTOR shall use its best reasonable endeavours to give first priority to Sudanese suppliers, transporters and manufacturers provided that in CONTRACTOR's opinion, acting reasonably, such goods, materials, supplies or transport are good quality and available at reasonable cost.

#### **ARTICLE 29: EMPLOYMENT OF PERSONNEL**

29.1 During the term of this CONTRACT, a Party shall not hire the other Party's employees who have been assigned to do a portion of the SERVICES, unless the hiring Party has obtained prior consent from the other Party, which consent shall not be unreasonably withheld.

#### **ARTICLE 30: CONFIDENTIALITY**

30.1 CONTRACTOR's use of any information and data which it receives or has access to as a result of this CONTRACT shall be restricted to use for the purpose of providing the SERVICES to BAPCO's operations in the Republic of Sudan.

30.2 All materials and information that BAPCO provides to CONTRACTOR or that CONTRACTOR has access to during the course of providing the SERVICES shall be deemed to be confidential or proprietary. CONTRACTOR agrees to hold and protect such materials and information in confidence by using the same degree of care (but not less than a reasonable degree of care) to prevent the unauthorized use, dissemination or publication of such materials and information, as CONTRACTOR uses to protect its own confidential information of like nature. Without restricting the generality of the foregoing, both Parties agree that CONTRACTOR may disclose such materials and information to its Affiliates and Personnel who have a need to know such information for the purpose of performing the SERVICES.

30.3 CONTRACTOR shall not sell, assign, transfer, mortgage, charge, encumber or otherwise dispose of any information and data that it receives or has access to as a result of this CONTRACT.

30.4 CONTRACTOR shall ensure its Affiliates and Personnel comply with the provisions of this article and if required by BAPCO, shall cause its Affiliates and Personnel to enter into a direct written obligation to comply with the provisions of this article.

30.5 BAPCO shall give CONTRACTOR written notice if BAPCO becomes aware that CONTRACTOR has materially breached the provisions of this article. The Parties shall then endeavor in good faith to resolve the breach within a reasonable period of time. In the event that the Parties are unable to resolve the breach, the Parties shall proceed to arbitration as provided for herein, provided that insofar as the breach is on-going, BAPCO may seek for immediate injunctive relief for the on-going portion of the breach pending final resolution by arbitration.

30.6 Upon completion of the SERVICES or upon receipt by CONTRACTOR of BAPCO's notification of suspension or termination of the SERVICES or any part thereof, as the case may be, CONTRACTOR shall return to BAPCO all Drawings and Documentation, materials, information and data provided to CONTRACTOR by BAPCO together with any copies CONTRACTOR has made thereof and all Drawings and Documentation created by CONTRACTOR with respect to this CONTRACT.

30.7 The non-disclosure obligations of the CONTRACTOR set forth in this article shall not apply to any information which is:

- Already known by the CONTRACTOR prior to disclosure;
- Publicly available through no fault of the CONTRACTOR;
- Rightfully received by the CONTRACTOR from a third party who is not under a duty of confidence;
- Disclosed by BAPCO to a third party without a duty of confidentiality on such third party;
- Independently developed by the CONTRACTOR prior to or independent of the disclosure; or

- Disclosed under requirement of Applicable Laws or a court, administrative tribunal or agency, stock exchange or commission.

30.8 This article shall continue in force notwithstanding the completion, or earlier termination of this CONTRACT.

#### **ARTICLE 31: FORCE MAJEURE**

31.1 For the purpose of this CONTRACT, "Force Majeure" shall include acts of God, fire, unavoidable accidents, acts of war, or conditions arising out of or attributable to war (declared or not declared), civil war, sabotage, strikes and other labor disturbances, not attributable to the Party invoking the force majeure or blockade, floods, storms and other natural disturbances, insurrections, riots and other civil disturbances, breakages of or accident to machinery, equipment or lines of pipe, orders of any court, commission, board or other authority having jurisdiction or any other cause not due to the fault or negligence of the Party invoking Force Majeure and beyond the reasonable control of the Party invoking Force Majeure but not including:

- any event caused by the negligence of the Party invoking Force Majeure,
- any event caused by the failure to observe generally accepted good engineering and international business practices,
- any event caused by the negligence of CONTRACTOR's Personnel,
- any circumstance due to a default or failure of a Subcontractor or vendor unless such default or failure is due to Force Majeure, and

31.2 If either Party is prevented or hindered by Force Majeure from performing any of its obligations hereunder, the obligations of such Party, insofar as the obligations are affected by Force Majeure, shall be suspended while (but only so long as) Force Majeure continues to prevent or hinder, the performance of such obligations and only to the extent of the said prevention or hindrance. The Party prevented or hindered from carrying out any obligation by Force Majeure shall promptly give the other Party notice of the Force Majeure including reasonably full particulars in respect thereof and shall give notice to the other Party when such cause ceases to operate.

31.3 If Force Majeure results in the suspension of all or part of the SERVICES, the Parties shall meet, as soon as practicable given the nature of the Force Majeure, and determine the appropriate measures to be taken, including whether any or all of the SERVICES should be suspended or terminated.

31.4 Notwithstanding anything else contained in this CONTRACT, in the event that Force Majeure results in suspension of the SERVICES for twenty (20) consecutive days, BAPCO shall have the right to terminate this CONTRACT upon delivering notice to CONTRACTOR and shall pay CONTRACTOR, upon receipt and verification of CONTRACTOR's invoices, all amounts properly due for the SERVICES performed prior

31.5 to the date of termination. Neither Party shall be liable to the other for Consequential Loss related to such termination.

31.6 The Party claiming suspension of its obligations as aforesaid shall, where applicable, promptly remedy the cause and effect of the Force Majeure described in the said notice insofar as it is reasonably able so to do provided that the terms of settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Party hereby claiming suspension of its obligations hereunder by reasons thereof; and that Party shall not be required to accede to the demands of its opponents in any strike, lockout or industrial disturbances solely to remedy promptly the Force Majeure thereby constituted.

31.7 Notwithstanding anything contained in this article, lack of finances shall not be considered a Force Majeure nor shall any Force Majeure suspend any obligation for the payment of money due hereunder.

31.8 Any delays or failure in performance by either Party shall not give rise to any claims for damages or Consequential Loss if, and to the extent, such delay or failure is caused by Force Majeure.

#### **ARTICLE 32: CONFLICT OF INTEREST**

32.1 CONTRACTOR shall exercise reasonable skill; care and diligence to prevent any actions or conditions from arising that could result in a conflict with BAPCO's best interests. This obligation shall apply to the activities of CONTRACTOR's Personnel in their relations with BAPCO's Personnel and their families, and

with suppliers and third parties arising from this CONTRACT or related to the performance of the SERVICES.

- 32.2 CONTRACTOR shall establish precautions to prohibit its Personnel from making, receiving, providing or offering inappropriate gifts, entertainment, payments, loans or other considerations for the purpose of influencing individuals.

### **ARTICLE 33: WAIVERS**

- 33.1 The failure of either Party to exercise any option, right or privilege hereunder, or to demand strict compliance as to any obligation or covenant shall not constitute a waiver of any such right, privilege or option or the strict performance thereof unless an express waiver is properly executed and evidenced in writing.
- 33.2 A waiver that is in writing and properly executed shall not be deemed to amend or modify the terms of this CONTRACT, nor deemed to be a release of any past or future default unless expressly stipulated in such waiver.
- 33.3 Waivers by either Party of any breach or non-observance by the other Party or any of the terms and conditions of this CONTRACT shall not constitute or be construed as a waiver of any other terms or conditions.

### **ARTICLE 34: COMPLIANCE WITH LAW**

- 34.1 CONTRACTOR and Subcontractor shall be subject to and comply with all Applicable Laws in connection with the SERVICES. If CONTRACTOR or Subcontractors perform any part of the SERVICES contrary to Applicable Law, then CONTRACTOR shall bear any additional costs of the work resulting from said violation and correction thereof.
- 34.2 CONTRACTOR shall not enter into negotiations with any governmental authority or agency to seek exemption from any Applicable Laws in connection with this CONTRACT without prior Approval.
- 34.3 CONTRACTOR shall, at CONTRACTOR's own cost, obtain all necessary licenses for CONTRACTOR to do business in the country or countries wherein any part of the SERVICES is performed and shall obtain all permits and authorizations required by Applicable Laws that must be obtained in CONTRACTOR's name.
- 34.4 CONTRACTOR shall be responsible for, and liable to, and shall indemnify, defend, and hold harmless BAPCO Indemnified Persons from and against any and all claims or liability for claims, demands, causes or causes of action of whatever kind or nature based on any and all forms of penalty which may be imposed on a BAPCO Indemnified Persons by reason of any violation or alleged violation of Applicable Laws by CONTRACTOR or its Personnel and also from all claims, suits or proceedings that may be brought by or against a BAPCO Indemnified Person arising under, growing out of, or by reason of the SERVICES with respect to such violation or alleged violation of Applicable Laws whether brought by CONTRACTOR, its Personnel, third parties or by any governmental authority. This indemnity shall include without limitation all costs, penalties, awards, damages and judgment, court and arbitration costs, counsel and witness fees, and all other reasonable expenses incurred by or assessed against the BAPCO Indemnified Persons and associated with such claims, demands, and causes of action.
- 34.5 If CONTRACTOR discovers any discrepancies, inconsistencies or conflicts between this CONTRACT and any Applicable Laws, CONTRACTOR shall immediately notify BAPCO and the Parties shall agree on the amendments that need to be made to the this CONTRACT. Should CONTRACTOR fail to notify BAPCO as required by this clause or fail to discover such discrepancies, inconsistencies or conflicts as should reasonably have been discovered by CONTRACTOR, all costs directly resulting from such failure shall be borne by CONTRACTOR.

### **ARTICLE 35: PUBLICITY**

- 35.1 CONTRACTOR shall obtain Approval prior to making any public release or announcement regarding the SERVICES or CONTRACTOR's activities related to its participation in the SERVICES.
- 35.2 Without prior Approval, CONTRACTOR shall not use BAPCO's, Co-Venturers', or its or their Affiliates' names in any advertising, promotional material or publicity release relating in any way directly or indirectly, to the SERVICES or the results thereof. CONTRACTOR shall not publish or cause to be published any statement, or encourage or approve any advertising or practice that is or may reasonably be expected to be detrimental to the name, goodwill, reputation or trademarks of BAPCO, Co-Venturers, or its or their Affiliates.

## **ARTICLE 36: ARBITRATION**

- 36.1 Any dispute between the Parties as to the performance of this CONTRACT or the rights or liabilities of the Parties which cannot be settled amicably shall be finally settled by arbitration in accordance with Sudanese Arbitration Act 2016 or any statutory modification or reenactment thereof as may be in effect from time to time and as modified by this article.
- 36.2 Any arbitration pursuant to this CONTRACT shall be conducted before three (3) arbitrators who shall be comprised of one arbitrator nominated by each Party and the third arbitrator being the umpire selected as described in this ARTICLE 36.
- 36.3 The decisions of the majority of the arbitrators shall be final and binding and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.
- 36.4 The arbitration shall be conducted in the English language in Khartoum, Republic of Sudan.
- 36.5 The costs of the arbitration shall be borne by the Party whose contention was not upheld by the arbitration tribunal, unless otherwise provided in the arbitration award.
- 36.6 Notwithstanding the foregoing, the Parties may agree that an expert can most expeditiously settle any particular matter of dispute. In that event, the Parties shall jointly prepare and sign a statement setting out the issue to be determined by the expert before agreeing upon the person to be appointed as the expert. The Parties shall then agree upon the person to be appointed as the expert. The expert shall then make a determination on the said issue and the decision of the expert on that issue shall be final and binding on the Parties without further pursuing arbitration on the issue. If the Parties cannot agree upon the issue within fourteen (14) days or having agreed upon the issue, the Parties cannot agree on the person to be appointed as the expert within fourteen (14) days after the date the last Party signs the statement of the issue, then the dispute shall be referred to arbitration as indicated above.

## **ARTICLE 37: INDEPENDENT CONTRACTOR**

- 37.1 CONTRACTOR is an independent CONTRACTOR and neither CONTRACTOR nor its Personnel shall be employees, partners or joint venturer or agent of BAPCO. The entire performance, operation, management and control of CONTRACTOR's equipment and Personnel shall be under the exclusive control and command of CONTRACTOR. CONTRACTOR's primary purpose shall be to perform all acts necessary to execute the SERVICES consistent with safety and good international oil industry practice.
- 37.2 The presence of and the inspection and supervision by the BAPCO Representative on the Worksite shall not relieve CONTRACTOR from CONTRACTOR's obligations and responsibilities.
- 37.3 CONTRACTOR shall have no authority to make any statements, representations or commitments of any kind or to take any action which shall be binding upon BAPCO except as provided for herein or authorized by BAPCO.

## **ARTICLE 38: GOVERNING LAW AND LANGUAGE**

- 38.1 The validity and interpretation of this CONTRACT and the legal relations of the Parties to it shall be governed by and construed in accordance with the laws of the Republic of Sudan.
- 38.2 All documents, correspondence and communications between BAPCO and CONTRACTOR in connection with this CONTRACT shall be written in the English language which is hereby designated the governing language of this CONTRACT.

## **ARTICLE 39: TITLE**

- 39.1 All materials, equipment and Drawings and Documentation covered by this CONTRACT in respect of the SERVICES and each part thereof, and everything intended for incorporation therein including but not limited to all process and engineering designs, drawings and specifications which CONTRACTOR prepares or causes to be prepared related to the SERVICES, shall as soon as they are appropriated to the SERVICES, be the sole and unencumbered property of BAPCO. CONTRACTOR shall ensure that no lien or encumbrance shall arise on any of BAPCO's property.
- 39.2 When title in the materials, equipment and Drawings and Documentation or part thereof passes to BAPCO, CONTRACTOR shall, where practicable, clearly mark or identify same in an Approved manner stating that the said materials, equipment and Drawings and Documentation or part thereof are the property of BAPCO. BAPCO Representative shall be entitled at all reasonable times to inspect the said materials, equipment and Drawings and Documentation or part thereof at all areas where the SERVICES is being or

has been performed to ensure that this article has been observed and, if it has not been observed, to clearly mark or identify the materials, equipment and Drawings and Documentation at CONTRACTOR's cost.

39.3 CONTRACTOR hereby waives any liens or claims that it has or might have at any time on or against any materials, equipment and Drawings and Documentation that are or is to be incorporated into the SERVICES.

39.4 CONTRACTOR acknowledges and agrees that BAPCO has title to all Drawings and Documentation and information arising from the performance of the SERVICES.

#### **ARTICLE 40: ENTIRE AGREEMENT**

40.1 This CONTRACT constitutes the entire agreement between the Parties hereto and supercedes all prior negotiations, representations or agreements related to the subject matter of this CONTRACT, either written or oral, including BAPCO's bid document and CONTRACTOR's proposal(s) except to the extent they are expressly incorporated into this CONTRACT. No changes, alterations or modifications to this CONTRACT shall be effective unless in writing, and executed by the Parties.

#### **ARTICLE 41: TIME IS OF THE ESSENCE**

41.1 CONTRACTOR agrees that time is of the essence for this CONTRACT and that it shall complete the SERVICES and all portions or elements thereof within the time periods stipulated in this CONTRACT or within the approved time periods.

#### **ARTICLE 42: LIQUIDATED DAMAGES FOR DELAY**

42.1 Should the SERVICES be delayed for any reason, CONTRACTOR shall immediately notify BAPCO in writing and shall be responsible for any additional costs caused by such delay.

42.2 Such delay gives BAPCO the right for liquidated damages at the rate of one-tenth percent (0.1%) of the total value of the estimated CONTRACT Price for every day of delay to a maximum of ten percent (10%) of the total estimated CONTRACT Price. The liquidated damages shall be payable without the need for warning or notice or for proving the damage that in all cases shall be considered as having occurred.

42.3 BAPCO may, without prejudice to any other rights, deduct the amount of such liquidated damages from payment due or which may become due to CONTRACTOR. The payment or deduction of such damage shall not relieve the CONTRACTOR from its other obligations and liabilities under this CONTRACT.

#### **ARTICLE 43: NON-EXCLUSIVE AGREEMENT**

42.1 This CONTRACT is non-exclusive and BAPCO reserves the right to engage other contractor to perform similar or identical work. CONTRACTOR shall afford such other contractor adequate opportunity to carry out their contracts and shall accomplish the SERVICES in cooperation with those contractor and with BAPCO.

#### **ARTICLE 44: LIMITATION OF LIABILITY**

44.1 Neither Party shall be liable to the other for any Consequential Loss.

44.2 Notwithstanding anything else contained herein, any liability attributable to the Co-Venturers or individual parties comprising Co-Venturers pursuant to this CONTRACT shall be several, and not joint and not joint and several, in proportion to an individual party's percent interest as described in the definition of Co-Venturers.

#### **ARTICLE 45: SURVIVAL**

45.1 Any provision of this CONTRACT pertaining to confidentiality or any promise by one Party to indemnify the other or to limitations of liability shall survive any termination, repudiation, or other cancellation of this CONTRACT.

#### **ARTICLE 46: ENUREMENT**

46.1 This CONTRACT shall enure to the benefit of and be binding upon the Parties and their respective legal representatives, successors and permitted assigns.

#### **ARTICLE 47: SEVERABILITY**

47.1 If all or any part of one or more of the provisions of this CONTRACT is or becomes invalid, illegal or unenforceable in any relevant jurisdiction, the remaining parts or provisions of this CONTRACT shall be, as to such jurisdiction, severable and:

the validity, legality or enforceability of such remaining parts or provisions shall not in any way be affected or impaired by the severance of the parts or provisions severed; and

the invalidity, illegality or unenforceability of all or any part of any provision of this CONTRACT in any jurisdiction shall not affect or impair such part or provision or any other provisions of this CONTRACT in any other jurisdiction.

#### **ARTICLE 48: COUNTERPART EXECUTION**

48.1 This CONTRACT may be executed in as many counterparts as are necessary and, when a counterpart has been executed by each Party, all counterparts together shall constitute one CONTRACT.

#### **ARTICLE 49: APPROVALS**

49.1 The Parties acknowledge that this CONTRACT is subject to the approval of The Government of the Republic of the Sudan and the Co-Venturers.

## PARTICULAR CONDITIONS

The following Particular Terms & Conditions shall complement some of the General Terms and Conditions of this CONTRACT to specify data and contractual requirements linked to the special circumstances of the CONTRACT. Whenever there is a conflict, the provisions herein shall prevail over those in the General Terms and Conditions of this CONTRACT.

- **Reference General Terms and Conditions Article 3 Duration:**

The CONTRACT shall commence from the Effective Date of signing this contract by Contractor for a period of one year with one year as extension option.

**Contact address:**

Bashayer Pipe Line Company  
Almugran District  
P.O. Box 11778, Republic of Sudan  
Tel: 00249-83-790501/ Fax: 00249-83-790550  
Attention: HSE Manager

- **Reference General Terms and Conditions Article 5 Invoicing and Payment:**

- 1- If the **CONTRACTOR** is registered in Sudan, he shall submit its final invoice stamped by the Taxation Chamber.
- 2- If the **CONTRACTOR** is registered in Sudan and subject to Value Added Tax (VAT) all invoices must declare the VAT amount as a separate item in the invoice. **BAPCO** shall pay the total amount owed by **CONTRACTOR** except for the VAT amount which **BAPCO**, instead of payment, shall issue a VAT exemption certificate, approved by the Ministry of Petroleum and Gas, to be submitted by the **CONTRACTOR** to the Taxation Chamber for tax purposes.

- **Reference General Terms and Conditions Article 8 Performance and Warranty Guarantees/Bank Guarantees:**

Performance Guarantee  
Warrantee Guarantee

**Required**  
**Not Required**

- **Reference General Terms and Conditions Article 20 Damages for Delay:**

Damages for Delay shall be at the rate of a five-tenth percent (0.5%) of the maximum/total CONTRACT Price per one day of delay up to an aggregate maximum of ten percent (10 %) of the maximum/total CONTRACT Price.

- **Reference General Terms and Conditions Article 15 CONTRACTOR Responsibilities:**

Accommodation, Meals and Transportation are contractor responsibility.

- **MOBILISATION/DEMobilISATION POINT:**

**CONTRACTOR** shall mobilize their Personnel and material to **BAPCO** sites.