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| --- |
| DATE: 20[\*\*] |
| FRAMEWORK AGREEMENT FOR MUTUAL Cooperation and PERSONNEL ASSISTANCE |
|  |
| Between**[ ]****and****[ ]** |
|  |

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**This FRAMEWORK AGREEMENT FOR MUTUAL EMERGENCY PERSONNEL ASSISTANCE** is made and entered into on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20[ ]

**BETWEEN**

1. **[ ]**
2. **[ ]**

, each a “**Party**” and together the “**Parties**”; and

1. Any party using this template Agreement acknowledges and accepts that:
2. Oil Spill Response Limited (OSRL) in its role as RITAG Secretariat has assisted with the development of this template Agreement on behalf of RITAG Members and may hold this template Agreement, along with ancillary documents and information, on its electronic database management system (“EDMS”). “**EDMS**” means the RITAG website managed by OSRL in its role as RITAG Secretariat or such other document management system OSRL may store documentation in connection with the provision of this Agreement.
	* 1. Any Party which has chosen to enter into this Agreement with another Party (bilaterally), does so solely on the basis of its own commercial decision, and has made its own decision as to whether to seek appropriate legal advice;
		2. The Parties entering into this Agreement should modify the terms and condition contained in this Agreement to suit their specific bilateral needs.
		3. OSRL does not receive any benefit or consideration for any administration it may carry out in respect of or in connection with this template Agreement and, therefore, to the fullest extent permitted by Law, OSRL shall have no liability whatsoever (including any liability for negligence or other fault) arising out of or in connection with the administration of this template Agreement, from the holding of this template Agreement or any ancillary documents or information on its EDMS, or in respect of any information or data provided in respect of this Agreement or its Parties.
		4. Any Party which uses this templated Agreement unconditionally and irrevocably indemnifies OSRL from and against any and all claim, demand, action, proceeding or liability of whatsoever nature arising out of or in any way connected with the use of this this template Agreement.

**RECITALS**

The Regional Industry Technical Advisor Group (RITAG) is group of independent Oil Spill Response Organisations (OSROs) operating in Asia, which have come together under non-binding membership arrangement to collaborate and share technical knowledge. The mission of RITAG is to provide a platform OSROs in Asia to share technical knowledge, response experience, best practices, promote the industry’s Tiered Preparedness and Response Framework (as documented by the IPIECA/ IOGP Good Practice Guidance document for the oil and gas industry) and promote corporation between its members.

The purpose of this Agreement is to set out a template framework for the provision of mutual personnel assistance between any two RITAG Members (hereinafter referred to as “Member” or “Members” as the context so requires).

The Members recognise the role of the other Members as Tier 2 or Tier 3 OSROs, as the case may be, and the Members shall not in anyway use this Agreement to undermine the role of the other Members in responding to any oil spill incidents, whether directly with an incident owner/ government or as a subcontractor and furthermore all Members shall encourage all incident owners and governments to implement a tiered response capability commensurate with that incident owners or governments risk. Moreover, the Members shall facilitate cooperation between all responding OSRO’s at any tier level for the betterment of the incident owner, affected parties and the environment.

This Agreement provides a mechanism to be utilised in the event that one Member (the responding OSRO) requires personnel assistance from another Member or Members, in the course of responding to an oil spill for a third-party. The provision of personnel assistance under this framework is designed to provide limited assistance to the responding OSRO in cases where that OSRO requires particular expertise and/ or personnel to fulfil specific roles in the response team or backfill the responding OSRO on long duration responses. Since this Agreement does not provide any guarantee whatsoever regarding the number of personnel or expertise thereof, no Party to this Agreement shall define any potentially derived capability hereunder in any part of its capability statements, contracts, advertisements, marketing materials or the like. Members should not consider the potential capability derived under this Agreement in any of its calculations determining response capacity. Furthermore, should any of the Parties need to make reference to this Agreement or the provision or Personnel Assistance provided hereunder it shall first obtain approval from the other Party.

Mutual personnel assistance in the context of this Agreement should not be confused with “mutual aid” which in the event of oil spills is typically exchanged between incident owners or between governments. As OSROs the Members provide oil spill response services in the course of their normal business duties. This Agreement should not place any financially burdened on the provider of Personnel Assistance nor the receiver of Personnel Assistance.

**WHEREAS**

1. The Parties are Oil Spill Response Organisations (OSROs) and wish to cooperate, work together and make available to each other Personnel Assistance (as defined below).
2. Notwithstanding anything herein to the contrary, neither Party, by virtue of its execution of this Agreement is incurring any obligation to provide any Personnel Assistance to any other Party.

The Parties hereby agree as follows:

* 1. DEFINITIONS AND INTERPRETATION
		1. In this Agreement, unless the context otherwise requires, the following definitions apply:
1. “**Affiliate**” means in respect of any Party, any company which is owned by, which owns, or is under common ownership with, that Party. For this purpose “ownership” may be direct or indirect; direct ownership being through holding fifty per cent or more of the shares carrying rights to vote at a general meeting of the company (or its equivalent) or holding ordinary shares carrying a majority of votes at a general meeting (or its equivalent) of the company and indirect ownership being through a series of companies each being directly owned by one or (by aggregate shareholdings) more of the previous companies in the series. Any Affiliate which shall at any time cease to own, be owned by, or be under common ownership with the company concerned as aforesaid shall cease at such time to be an Affiliate of that company;
2. “**Agreement**” means this agreement (including its Schedules), as amended from time to time.
3. “**Business Day**” means any day apart from Saturday, Sunday or a public or bank holiday in England.
4. “**Claims**” means any and all claims, losses, damages, costs (including legal costs), expenses, liabilities, fines, penalties or causes of action or other imposition of whatever nature
5. “**Controller**” (or data controller), “**Processor**” (or data processor), “**Data Subject**”, “**International Organisation**”, “**Personal Data**” and “**Processing**” all have the meanings given to those terms in DP Laws (and related terms such as “Process” shall have corresponding meanings).
6. “**Data Subject Request**” means a request made by a Data Subject to exercise any rights of Data Subjects under DP Laws.
7. “**DPIA**” means a Data Protection Impact Assessment, as defined in DP Laws.
8. “**DP Laws**” means any applicable law relating to the processing, privacy, and use of Personal Data, as applicable to a Party including:
9. (a) the Regulation of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (“GDPR”), and/or any corresponding or equivalent national laws or regulations;
10. (b) any judicial or administrative interpretation of them, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Governmental Authority with responsibility for DP Laws.
11. “**Emergency Contact List**” means list of names and locations complete with phone numbers, fax numbers (if available) and e-mail of Parties’ Single Points of Contact and their alternates used for the provision of Personnel Assistance (as updated from time to time).
12. “**Foreign Corrupt Practices Act**” means the United States federal law known as the Foreign Corrupt Practices Act of 1977.
13. “**Governmental Authority**” means the government of any sovereign nation or of any state, province, territory, county, municipality or locality, any governmental, regulatory or administrative authority, agency or commission or any court, tribunal, arbitrator or judicial body, in each case acting for, with or by empowerment of such government, and any supranational organization of sovereign nations exercising any of such functions for such sovereign nations.
14. “**Gross Negligence**” means any act or failure to act (whether sole, joint or concurrent) in reckless disregard of or with wanton indifference to harmful consequences such act or failure to act could have on the safety or property of another Person or entity.
15. “**Incident**” means an oil spill which one of the Parties is contracted to respond to on behalf of a third party, excluding any such situation which occurs in US Waters.
16. “**Law**” means any statute, law, ordinance, regulation, rule, common law, civil law, treaty, order, or other instrument having binding effect of any Governmental Authority.
17. **“Personnel Assistance**” means the provision by way of Secondment by a Responding Party (or its Affiliate) to a Requesting Party of personnel specialized in fields relevant to Incident response.
18. “**Notice of Termination**” has the meaning given in Clause 3.2.
19. “**Person**” means any human being, organization, general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, association, Governmental Authority or other legal entity.
20. “**Privacy Officer**” means a Party’s Data Protection Officer (if applicable) or other person that a Party notifies to the other Party as being that Party’s point of contact for data protection matters for this Agreement. In the event that no person is so notified, the Privacy Officer shall be the Party’s Representative.
21. “**Protected Data**” means Personal Data received from or on behalf of a Party, or otherwise obtained in connection with the performance of a Party’s obligations under this Agreement.
22. “**Requesting Party**” shall mean a Party requesting Personnel Assistance from a Responding Party in accordance with this Agreement.
23. “**Responding Party**” means a Party providing (whether directly or through an Affiliate) any Personnel Assistance to a Requesting Party in accordance with this Agreement.
24. “**Routine Operations**” means all operations by a Party (or its Affiliate) which are not associated with an Incident.
25. “**Secondee**” means an employee of Responding Party (or its Affiliate) who is seconded to Requesting Party.
26. “**Secondment**” means the secondment pursuant to this Agreement to Requesting Party of a Secondee from Responding Party (or its Affiliate).
27. “**Secondment Agreement**” means an agreement between the Requesting Party and the Responding Party (or its Affiliate) for the provision of Personnel Assistance in the form set out in Schedule 3
28. **“Single Point of Contact”** means a representative appointed by each Party who will receive and co-ordinate on behalf of such Party responses (whether positive or negative) to requests received for Personnel Assistance to be provided by such Party or its Affiliates.
29. “**Sub-Processor**” means another Processor engaged by a Party for carrying out Processing activities in respect of the Protected Data on behalf of a Party, and authorised by a Party in accordance with Clause 14.7.
30. “**Transmittal Notice**” means a written notice setting out information in relation to a Parties Emergency Contact List or other information as required by this Agreement.
31. “**US Waters**” means the territorial waters and continental shelf of the United States of America and other waters within the jurisdiction of the United States of America (howsoever arising) or over which the United States of America claims jurisdiction, including any territory that has submitted to the jurisdiction of the United States of America.
32. “**Wilful Misconduct**” means a conscious wilful act or conscious wilful failure to act which is deliberately committed with the intent to cause harm or injury to property or any person or entity.
	* 1. The table of contents, headings and captions used in this Agreement are for convenience only and shall not be deemed to be of a substantive nature in construing this Agreement.
		2. Except as otherwise expressly provided in this Agreement or as the context otherwise requires, the following rules of interpretation apply to this Agreement:
			1. the singular includes the plural and the plural includes the singular;
			2. “or” is used in the inclusive sense (and/or) and the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation”;
			3. a reference to a Law, includes any amendment or modification to such Law or any Law that supersedes such first Law;
			4. a reference to a Person includes its permitted successors and permitted assigns;
			5. a reference to one gender shall include any other gender and the neuter;
			6. a reference in this Agreement to a Clause, Section, Exhibit, or Schedule is to the referenced Clause, Section, Exhibit, or Schedule of this Agreement;
			7. “hereunder,” “hereof,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Clause, Section or other provision;
			8. references to “dollars” or “$” shall be references to legal currency of the United States; and
			9. references to this Agreement and to agreements and contractual instruments will be deemed to include all exhibits, schedules, appendices, annexes, and other attachments thereto and all subsequent amendments and other modifications to such instruments, to the extent such amendments and other modifications are not prohibited by the terms of this Agreement.
		3. In the event of a conflict between the provisions of the main body of this Agreement and the provisions of an Exhibit or Schedule to this Agreement, the provisions of the main body shall control.
	1. CONDITIONS OF MEMBERSHIP
		1. Not used. ~~.~~
		2. Not used.
			1. Not used.
			2. Not used.
			3. Not used
		3. Not used.
			1. Not used.
			2. Not used.
			3. Not used..
			4. Not used.
	2. TERM OF AGREEMENT
		1. In accordance with clause 16.8, this Agreement shall be in effect from the date hereof and shall remain in effect for [\_\_\_\_\_\_\_\_\_] calendar years, upon which this Agreement shall automatically terminate.
		2. Subject to Clauses 10.1, 10.2 and 10.3, either Party may terminate its rights and obligations under this Agreement at any time by giving thirty (30) days’ notice to the other Party (“Notice of Termination”).
		3. Not used.
		4. Not used
	3. ADDITIONAL PARTIES
		1. Not used.
		2. Not used.
	4. PERSONNEL ASSISTANCE
		1. The Parties agree, subject to the terms and conditions contained herein (in particular Clause 5.4), to provide Personnel Assistance to each other for the purposes of providing specialised and skilled personnel in the event of Incidents.
		2. This Agreement is applicable only to Incidents. This Agreement is not intended to be used to support any Routine Operations. It is the responsibility of each Party to maintain, contract and procure sufficient and adequate resources to deliver its respective oil spill response services and obligations to its members/clients without regard to this Agreement. Notwithstanding the foregoing, a Party may request Personnel Assistance from the other Party pursuant to this Agreement in the course of a drill in order to test the administrative procedures under this Agreement, and the Party receiving such a request shall respond indicating what, if any, Personnel Assistance it is willing to provide, but no Secondment shall occur as a result of a request during a drill.
		3. Either Party shall have the right to request Personnel Assistance from the other Party, subject to the terms and conditions of this Agreement.
		4. Neither Party has any obligation to accept a request for Personnel Assistance, and may decline to do so without giving reasons, in its sole discretion, and with no liability whatsoever to the Requesting Party.
		5. This Agreement shall not take precedence over, amend modify or apply to the terms of any other agreement entered into between the Parties whether prior to, contemporaneous with or subsequent to this Agreement.
	5. AUTHORITY TO RESPOND TO PROVIDE ASSISTANCE
		1. The authority to request Personnel Assistance under this Agreement shall reside with the Requesting Party’s Single Point of Contact as documented in the Emergency Contact List
		2. The authority to respond to a request for Personnel Assistance under this Agreement shall reside with the Responding Party’s Single Point of Contact. For the avoidance of doubt, no request may be made directly to the Affiliate of a Party.
	6. Emergency Contact List INFORMATION
		1. Each Party shall provide to the other Party a Transmittal Notice containing information to populate its Emergency Contact List and shall maintain this list by providing further Transmittal Notices to the other Party from time to time as necessary.
		2. Each Party shall provide a Transmittal Notice the other Party updating its Emergency Contact List as soon as reasonably practicable upon any change.
		3. Not used.
		4. Not used
	7. REQUESTING ASSISTANCE
		1. Subject to Clause 5.4, a Party may request Personnel Assistance provided that such Personnel Assistance is required in connection with its response to an Incident.
		2. If a Responding Party (or its Affiliate) agrees to provide Personnel Assistance to a Requesting Party the extent and scope of such Personnel Assistance shall be as agreed between the Responding Party and Requesting Party in a Secondment Agreement.
	8. NOT USED
	9. TERMINATION AND CONSEQUENCES OF TERMINATION
		1. Upon the Termination of this Agreement under Clause 3.2, any related Secondments shall terminate with respect to such Party immediately, provided that if an Secondment for Personal Assistance is occurring at such time, then such termination shall not be effective until the end of such Secondment.
		2. A Party found to be in breach of its obligations under Clause 16.9 shall be required to correct such misrepresentation to the satisfaction of the other Party within FIFTEEN (15) days of receipt of notice of breach. If the objecting Party is not be satisfied with the correction or the breaching Party’s commitment to its obligations under Clause 16.9, acting reasonably (the Objecting Party), shall notify the breaching Party in writing and this Agreement will be terminated forthwith.
		3. Not used.
		4. Notwithstanding anything to the contrary express or implied elsewhere in this Agreement, either Party (without prejudice to their other rights) may at their sole discretion either terminate this Agreement forthwith or forthwith suspend the provision of services under this Agreement until further notice on notifying the other Party either orally (confirming such notification in writing) or by notice in writing in the event that the other Party or its Affiliate or any party for whom either is responsible (as therein contemplated) under the terms of Clause 16.2 or its sub-clauses, is in breach of Clause 16.2.
		5. Upon Termination in accordance with the provisions of Clause 10.1, 10.2 or 10.3 both Parties shall irrevocably and unconditionally release the other Party from performance of its obligations under this Agreement and from all liabilities and claims whatsoever and howsoever arising under or in connection with this Agreement save for:
			1. any liabilities or claims arising (or relating to the period) before such removal; and
			2. any rights or obligations expressed or intended to continue in force after and despite such removal.
		6. Clauses which by their nature are intended to survive the termination of this Agreement or the removal of a Party of this Agreement (including without limitation Clauses 10, 11, 12) shall continue as valid and enforceable obligations against any Party at all times, including against any Party following termination or their removal from this Agreement in accordance with Clause 2.2 or for any other reason.
	10. GOVERNING LAW
		1. This Agreement and any non-contractual obligations arising out of or in connection with it (and, unless provided otherwise, any document entered into in connection with it) shall be governed in accordance with the laws of England and Wales.
		2. For the purposes only of seeking conservatory or similar interim relief in accordance with Clause 12.10, but otherwise subject to Clause 12, each Party irrevocably waives any objection which it may now or later have to such proceedings being brought in the English courts (on the grounds that the English courts are not a convenient forum or otherwise).
		3. Nothing in this Agreement (or, unless provided otherwise, any document entered into in connection with it) shall prevent a Party from applying to the courts of any other country for injunctive or other interim relief.
	11. DISPUTE RESOLUTION
		1. Any dispute, controversy or claim arising out of or in connection with this Agreement, whether in tort, contract, under statute or otherwise, including any question regarding its existence, validity, interpretation, breach or termination (a “Dispute”), which cannot be amicably solved within thirty (30) days of the date that written notice of the Dispute is first given by one Party to another (or others), shall be finally and exclusively resolved by arbitration under the arbitration rules of the London Court of International Arbitration (“LCIA”) in force as at the date of this Agreement (the “Rules”), which Rules are deemed to be incorporated by reference into this Agreement, save as expressly amended by this Clause 12.
		2. The arbitration tribunal (the “Tribunal”) shall consist of one arbitrator, to be appointed in accordance with the Rules.
		3. The appointing authority shall be the LCIA which shall also administer any arbitration commenced under this Agreement, such administration to be in accordance with the Rules.
		4. Should a vacancy arise because any arbitrator dies, resigns, refuses to act or is otherwise unable to perform his functions, the vacancy shall be filled by the method by which the arbitrator was originally appointed. When a vacancy is filled, the newly established Tribunal shall have sole discretion to determine whether any hearings shall be repeated.
		5. If any Dispute raises issues which are substantially the same as or connected with issues raised in a Dispute which has already been referred to arbitration under this Agreement (an “Existing Dispute”) or arises out of substantially the same facts as are the subject of an Existing Dispute (a “Related Dispute”), then the Tribunal appointed or to be appointed in respect of any such Existing Dispute shall also be appointed as the Tribunal in respect of any Related Dispute, save where the Tribunal considers that such appointment would be inappropriate.
		6. Where, pursuant to the above provisions, the same Tribunal has been appointed in relation to two or more Related Disputes, the Tribunal may order that the whole or part of the matters at issue shall be heard together upon such terms or conditions as the Tribunal thinks fit. The Tribunal shall have power to make such directions and any interim, partial or final awards as it considers just and desirable.
		7. Upon the request of a party to a Dispute or a Party which itself wishes to be joined in any reference to arbitration commenced in accordance with this Clause 12, the Tribunal may join any Party to the reference to arbitration proceedings and may make a single, final award determining all Disputes between them. Each of the Parties hereby agrees to be joined to any reference to arbitration proceedings in relation to any Dispute at the request of a party to that Dispute, and to accept the joiner of a Party requesting to be joined pursuant to this Clause 12.7. This Clause 12.7 prevails over Clause 22.1(h) of the Rules.
		8. The seat of the arbitration shall be London, England.
		9. The language of the arbitration shall be English.
		10. Nothing in this Clause 12 shall be construed as preventing a Party from seeking conservatory or similar interim relief from any court of competent jurisdiction.
		11. Any award of the Tribunal shall be made in writing and shall be final and binding on the parties to the Dispute. The parties to the Dispute undertake to carry out the award without delay.
		12. Each Party hereby waives, to the fullest extent permitted by law, any right to apply to any court of law and/or other judicial authority to determine any preliminary point of law and/or review any question of law and/or the merits.
		13. Without prejudice to any confidentiality obligations included in any Secondment Agreement, all aspects of dispute resolution in connection with this Agreement shall be confidential. No aspect of the proceedings, documentation, or any (partial or final) award or any other matter connected with the arbitration shall be disclosed to any other person by any party to the Dispute or its counsel, agents or Affiliates without the prior written consent of all parties to the Dispute.
	12. ASSIGNMENT
		1. Neither Party may assign its rights or delegate its obligations under this Agreement, whether by operation of Law or otherwise, in whole or in part without the prior written consent of each other Party, which consent shall not be unreasonably withheld or delayed. Any attempted assignment or delegation in violation of this Clause shall be void ab initio.
	13. DATA PROTECTION
		1. Not used.
		2. Both Parties shall comply with DP Laws and its relevant obligations under this Agreement. Without prejudice to Clause 14.7, Each shall procure that any Sub-Processor that has access to Protected Data shall comply with the obligations under this Agreement.
		3. The Processing to be carried out under this Agreement is for the purpose of the creation and maintenance of contacts representing Parties to this Agreement who may be approached in the event of an Incident for details of specialist personnel of those Parties who may be available for secondment to the Requesting Party responding to the Incident. The processing involves the creation of a list of such contacts, making the list available to the other Party and updating it periodically. The Processing will continue for the duration of this Agreement. The types of Personal Data to be Processed are names and contact details and the categories of Data Subjects are employees of Parties to this Agreement.
		4. Where a Party Processes Protected Data on behalf of the other Party, that Party shall (and shall procure that any person acting under its authority who has access to Protected Data shall):
			1. Process the Protected Data only on and in accordance with a Party’s documented instructions as set out in this clause 14, (“Processing Instructions”); and
			2. immediately inform a Party of any legal requirement under applicable law that would require it to Process the Protected Data otherwise than only on and in accordance with the Processing Instructions, or if any Party instruction infringes DP Laws.
		5. Each Party shall implement and maintain, at its cost and expense, appropriate technical and organisational measures in relation to the Processing of Protected Data:
			1. such that the Processing will meet the requirements of DP Laws and ensure the protection of the rights of Data Subjects; and
			2. so as to ensure a level of security in respect of Protected Data Processed by it that is appropriate to the risks that are presented by the Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Protected Data transmitted, stored or otherwise Processed.
		6. Without prejudice to Clause 14.5.2, each Party shall, in respect of all Protected Data Processed by it under this Agreement comply with the requirements regarding security of Processing set out in DP Laws and in this Agreement.
		7. Either Party receiving Protected Data from the other Party shall not engage another Processor to perform Processing activities in respect of the Protected Data without the prior written consent of the other Party and, if the other Party gives their consent, the receiving Party shall appoint the Sub-Processor under a binding written contract (“Processor Contract”) which imposes the same data protection obligations as are contained in this Agreement on the Sub-Processor, in particular under Clause 14.5 and the conditions in this clause 14.7 for engaging another Processor. The receiving Party shall immediately cease using any Sub-Processor upon receiving written notice from the other Party requesting that the Sub-Processor ceases Processing Protected Data for security reasons or where that Party has concerns about the Sub-Processor’s compliance with DP Laws or the Processor Contract.
		8. Each Party shall ensure that its personnel Processing Protected Data have signed agreements requiring them to keep Protected Data confidential, and shall take all reasonable steps to ensure the reliability of their respective personnel Processing Protected Data and to ensure that their respective personnel Processing Protected Data receive adequate training on compliance with this clause14 and the DP Laws applicable to the Processing.
		9. Not used.
		10. Each Party shall provide reasonable assistance, information and cooperation to the other Party to ensure compliance with that Party’s obligations under DP Laws including with respect to: (i) security of Processing; (ii) notification by a Party of breaches to the applicable Governmental Authority or Data Subjects; (iii) DPIAs and prior consultation with the applicable Governmental Authority regarding high risk Processing; and (iv) Data Subject Requests.
		11. Each Party shall not transfer any Protected Data to any country outside the European Economic Area (“EEA”) or to any International Organisation (an “International Recipient”) without the prior written consent of the other Party. In relation to the transfer of Protected Data to an International Recipient, the Parties shall ensure that such transfer (and any onward transfer): (i) is pursuant to a written contract including provisions relating to security and confidentiality of the Protected Data; (ii) is effected by way of a legally enforceable mechanism for transfers of Personal Data as may be permitted under DP Laws from time to time (the form and content of which shall be subject to the Parties’ written approval); (iii) complies with Clause 14.4.1; and (iv) otherwise complies with DP Laws.
		12. Not used.
		13. Not used
		14. In respect of any personal data breach (actual or suspected) related to a Parties obligation under this Agreement, that Party shall notify the Privacy Officer of the other Party affected by the breach without undue delay and provide such Privacy Officer without undue delay (wherever possible, within twenty four (24) hours of becoming aware of the breach) with such details relating to the breach as such Privacy Officer reasonably requires. Clause 16.1 of this Agreement shall not apply to this clause 14.14.
		15. Each Party shall without delay, at the other Party’s written request, either securely delete or return all Protected Data provided by a Party to such Party in hardcopy or electronic form after the end of the provision of services under this Agreement or, and securely delete existing copies (unless storage of any data is required by applicable law, and if so shall notify the other Party of this).
	14. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT
		1. The Parties do not intend any third party to have the right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 (the “1999 Act”).
		2. This Agreement may be rescinded, amended or varied by the Parties or terminated without notice to or the consent of any third party even if, as a result, that person’s right to enforce a term of this Agreement may be varied or extinguished.
		3. The rights of any third party shall be subject to that person’s written agreement to submit to the choice of governing law and dispute resolution procedures set out in Clauses 11 and 12 in respect of all matters relating to such rights.
		4. No person shall be entitled to assign any benefit or right conferred on it under this Agreement by virtue of the 1999 Act.
	15. MISCELLANEOUS PROVISIONS
		1. All notices and invoices under the Agreement shall be in writing and delivered by hand, sent by e-mail, sent by recorded delivery post (or prepaid airmail, if the destination is outside the country of origin) to the relevant Party at its address or e-mail address as provided by the Party. Without evidence of earlier receipt, communications are deemed received: if delivered by hand, at the time of delivery; if sent by recorded delivery, at 9.00 am on the third day after posting (or 9.00 am on the seventh day after posting if sent by prepaid airmail); or, if sent by e-mail or, at the time of transmission, and in the case of post or e-mail it shall be sufficient to prove that the communication was properly addressed and posted or transmitted.
		2. No Party or any person acting on its behalf shall in the course of performing its obligations under this Agreement:
			1. pay or accept any commissions or fees, or make or accept any payments or rebates to or from any employee or officer of any other Party or of any subcontractor, or favour said persons with gifts or entertainment of unusual or substantial value, or enter into any business arrangements with said persons, that would result in a detriment to or a conflict of interest for the Parties with respect to matters contemplated by this Agreement;
			2. pay or give, offer to pay or give, promise to pay or give, or authorise the payment or giving of any money, fee, commission, remuneration or other thing of value to or for the benefit of any government official any other person in order to influence an act or decision of the government official in his, her or its official capacity, cause the government official or such other person to act or fail to act in violation of his, her or its lawful duty, or cause the government official to influence an act or decision of a governmental authority or other entity, for the purpose of assisting either Party or its Affiliates in obtaining or retaining business or for the purpose of securing an improper advantage with respect to matters contemplated by this Agreement;
			3. engage in any other conduct that would violate the Foreign Corrupt Practices Act, the UK Bribery Act 2010 or any other anti-corruption laws of the States in which such Party or its parent company is incorporated or registered, carries out most of its business activities, and/or is listed on a stock market, with respect to the matters contemplated by this Agreement.
		3. This Agreement is the entire agreement between the Parties with respect to the subject matter hereof and shall replace all written or oral statements, representations, and warranties that may have been made by or on behalf of the Parties prior to the date hereof. This Agreement may only be amended by a clear statement in writing signed by duly authorised representatives of the Parties.
		4. Nothing in this Agreement is intended to or shall operate to create an agency, employer-employee, partnership or joint venture of any kind between the Parties, Secondee or any combination of them. No Party or Secondee shall have the authority to bind any other Party or to contract in the name of, or create a liability against, any other Party in any way or for any purpose.
		5. If any covenant or provision hereof is determined by a court or other tribunal of competent jurisdiction to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision, each of which is hereby declared to be separate and distinct. Subject to this Clause, if any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable and if any provision of this Agreement is declared invalid or unenforceable for any reason other than overbreadth, the offending provision will be modified so as to maintain the essential benefits of the bargain between the Parties hereto to the maximum extent possible, consistent with Law.
		6. No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of both Parties.
		7. Both Parties shall bear their own costs in respect of the preparation of this Agreement.
		8. This Agreement may be executed in counterpart and all such counterparts shall be deemed to constitute a single Agreement and the execution by a Party shall have the same force and effect as if it had signed all the other counterparts. For purposes of executing this Agreement, electronic image transmissions of signatures will be considered as original documents. This Agreement shall come into force when executed by both Parties.
		9. This Agreement does not provide any guarantee whatsoever regarding the number of responder secondees or expertise thereof which may become available in for Secondment in the event of an Incident, neither Party to this Agreement shall define any potentially derived capability hereunder in any part of its capability statements, contracts, advertisements, marketing materials or the like, or to make reference to this Agreement or the provision or Personnel Assistance provided hereunder, without first obtaining written approval from the other Party.
		10. Not used.
		11. Each Party respects the other Parties business relationships and shall not seek to interfere with or block the other Party from providing response services to any company or organisation or government as it so chooses to work with save for the exclusions set out in Schedule 3, Clause 3.9

AS WITNESS the signatures of the parties or their duly authorised representatives on the date first above written.

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| --- | --- | --- |
| Signed by …………………………… | ) |  |
| for and on behalf of | ) |  |
|  | ) | ……………………………………. |
|  | ) | Director/Duly Authorised Signatory |
|  |  |  |
|  |  |  |
| Signed by …………………………… | ) |  |
| for and on behalf of | ) |  |
|  | ) | ……………………………………. |
|  | ) | Director/Duly Authorised Signatory |
|  |  |  |
|  |  |  |
|  |  |  |

1. SCHEDULE 1
Emergency Contact Lists

|  |  |  |
| --- | --- | --- |
| * 1. Company
 | * 1. Primary Point of Contact
 | * 1. Back up Point of Contact
 |
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1. SCHEDULE 2 – Not used

1. SCHEDULE 3
SECONDMENT AGREEMENT

|  |
| --- |
| 1.
2. **Dated** **20[●]**
 |
|  |
| 1. **[Party 1]**
2. **-and-**
3. **[Party 2]**
 |
|  |
| **Emergency Personnel Secondment Agreement** |
|  |

**Note: this document has been adapted from the template Emergency Personnel Secondment Agreement published by IPIECA/OGP as part of JIP13 - Mutual Aid Indemnification**

**and Liability and should be used in conjunction with the accompanying Guidance Notes which are available from the IPIECA website at http://www.ipieca.org/resources/awareness-briefing/mutual-aid-indemnification-and-liability-including-a-template-emergency-personnel-secondment-agreement/ .**

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**This EMERGENCY PERSONNEL SECONDMENT AGREEMENT** is made and entered into on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20[●]

**BETWEEN**

1. [**NAME**], a company having an office at [address] (hereinafter referred to as the “ **OSRO**”); and
2. [**NAME**], a company having an office at [address] (hereinafter referred to as the “**Responder**”).

The OSRO and the Responder may be referred to individually as a “**Party**” or together as the “**Parties**”.

**RECITALS**

**WHEREAS**

1. The OSRO and the Responder are parties to the Framework Agreement for Mutual Cooperation Personnel Assistance dated [ ] (“**MCPA Agreement**”).
2. The OSRO now requires the assistance of the Responder in the form of the secondment of personnel, in connection with an oil spill incident to which the OSRO is responding to for the OSRO’s Client (the “**Incident**”).
3. The Responder has agreed to make certain of its personnel available to the OSRO to perform duties in response to the Incident, and the Responder and the OSRO desire to set out the terms of such secondment of personnel on the terms set out herein.
4. This Agreement is based on the Emergency Personnel Secondment Agreement provided by IPIECA dated 2014

The Parties hereby agree as follows:

* + - 1. Definitions and Interpretation
				1. In this Agreement, unless the context otherwise requires, the following definitions apply:

“**Affiliate**” means in respect of either Party, any company which is owned by, which owns, or is under common ownership with, that Party. For this purpose “ownership” may be direct or indirect; direct ownership being through holding fifty per cent or more of the shares carrying rights to vote at a general meeting of the company (or its equivalent) or holding ordinary shares carrying a majority of votes at a general meeting (or its equivalent) of the company and indirect ownership being through a series of companies each being directly owned by one or (by aggregate shareholdings) more of the previous companies in the series. Any Affiliate which shall at any time cease to own, be owned by, or be under common ownership with the company concerned as aforesaid shall cease at such time to be an Affiliate of that company;

“**Agreement**” means this emergency personnel secondment agreement (including its Schedules), as amended from time to time.

“**Business Day**” means any day apart from Saturday, Sunday or a public or bank holiday in England

“**Claims**” means any and all claims, losses, damages, costs (including legal costs), expenses, liabilities, fines, penalties or causes of action or other imposition of whatever nature.

“**Confidentiality Undertaking**” shall have the meaning given to it in Clause 12.4.

“**Consequential Loss**” means any indirect or consequential loss howsoever caused or arising whether under contract, by virtue of any fiduciary duty, in tort or delict (including negligence), as a consequence of breach of any duty (statutory or otherwise) or under any other legal doctrine or principle whatsoever whether or not recoverable at common law or in equity, and without prejudice to the foregoing generality, the following to the extent to which they might not otherwise constitute indirect or consequential loss:

losses associated with business interruption including the cost of overheads incurred during business interruption;

loss of bargain, contract, expectation or opportunity;

any other loss or anticipated loss or damage whatsoever in the nature of or consequential upon the foregoing.

 **“Duties**” means the duties to be performed by the relevant Responder Secondees as specified in Schedule 1.

“**Effective Date**” means the date of execution of this Agreement.

“**Force Majeure Event**” means an event which is outwith the control of the Party affected including:

* + - * 1. riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
				2. Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radio-active, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
				3. Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
				4. Earthquake, flood, fire, explosion and/or other natural physical disaster, but excluding the Incident and weather conditions as such, regardless of severity;
				5. Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected Party its subcontractors or its suppliers and which affect a substantial or essential portion of the Duties;
				6. Maritime or aviation disasters;
				7. Changes to any legislation or the introduction of new legislation (such legislation being applicable to the Agreement), excluding any changes or new legislation which could reasonably have been foreseen at the Effective Date.

“**Home Country**” shall mean the country in which each respective Responder Secondee has an employment contract with the Responder

“**Incident”** means the incident as defined in recital (B).

“**OSRO Confidential Information”** means any information which is provided by or on behalf of the OSRO Group or provided by the OSRO’s Client to the Responder in connection with the performance of the Duties of a Responder Secondee under the Agreement**;**

“**OSRO Group**” means the OSRO,, its Affiliates, its and their other contractors (of any tier), its and their respective directors, officers, agents, employees and other personnel (including agency personnel), but shall not include any member of the Responder Group.

“**Location**” means any location at which Responder Secondees are required to perform the Duties as specified in Schedule 1, or as otherwise agreed between the Parties in writing from time to time (acting reasonably), which may be on land, waters or other places including offshore installations, floating construction equipment and vessels.

“**OSRO’s Client**” means a party with which the OSRO has a contract with and under that contract is providing oil spill response services related to the Incident.

“**Party**” means a party identified as such in the MCPA Agreement.

“**Payments**” means the payments, charges and/or costs payable by the OSRO to the Responder in accordance with Clause 4.

“**Responder Group**” means the Responder, its Affiliates, its and their other contractors (of any tier), its and their respective directors, officers, agents, employees and other personnel (including agency personnel) and any Responder Secondees, but shall not include any member of the OSRO Group.

“**Responder Secondees**” means the persons provided by the Responder to the OSRO under the conditions set out in this Agreement and as specified in Schedule 1 or as otherwise agreed between the Parties in writing from time to time.

“**Secondment Period**” means the period during which each Responder Secondee is to perform the Duties, as specified in Schedule 1.

* + - * 1. In this Agreement, unless the context otherwise requires, the following rules shall apply:
				2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
				3. A reference to a Party includes its successors or permitted assigns.
				4. A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
				5. Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
				6. Unless the context otherwise requires in this Agreement the singular shall include the plural and vice versa.
				7. A reference to a ‘Clause’ or a ‘Schedule’ shall be to a clause or schedule of the Agreement.
				8. To the extent that any applicable law or regulation offers any member of the Responder Group additional and/or more beneficial protections beyond those envisaged in this Agreement, such applicable law or regulation shall take precedence over the provisions of this Agreement.
			1. Commencement, Duration and Scope of Agreement
				1. The Agreement shall commence on the Effective Date and shall continue for the duration of the Secondment Period or if earlier, until terminated by either Party in accordance with Clause 13 (Termination).
				2. The Responder shall make available the Responder Secondees to perform the Duties at the Location for the Secondment Period unless the secondment of any Responder Secondee is terminated earlier in accordance with Clause 13.
				3. The OSRO shall have the right to specify the scope and nature of the duties to be performed by each Responder Secondee, and the Responder authorises the OSRO to instruct, supervise and direct each Responder Secondee in the performance of such duties, provided always that such specifications and directions generally fall within the description of the Duties relating to such Responder Secondee as specified in Schedule 1.
			2. Responder Secondees
				1. **Permits, visas and medicals**

The Parties shall co-operate and provide each other with any assistance reasonably requested by the other Party in connection with obtaining any documentation and/or authorisations relating to work permits, visas, medical certification and any other administrative authorisations as may be required to allow each Responder Secondee to perform the Duties at the Location, save that the OSRO or the Responder (as the case may be) shall be solely responsible for obtaining any such permits, visas, medical authorisations or other administrative authorisations which only the OSRO or the Responder (as the case may be) is authorised to apply for and obtain.

* + - * 1. **Work environment, facilities and equipment to be provided by the OSRO**

The OSRO shall provide the following items and services to Responder Secondees as reasonably required in order to perform the Duties at the Location and shall do so to the same extent that the OSRO provides such items and services to its own equivalent personnel:

accommodation and transportation;

facilities and equipment with which to perform the Duties including any personal protective equipment;

Where available access to health and safety data for the Location where the Responder Secondees are performing the Duties such as but not limited to gas monitoring results, WetBulb Globe Temperature readings, Safety data sheets and details of any hazardous materials.

a safe working environment in accordance with applicable regulations and the Health, Safety, Security and Environment (HSSE) or the like policy of the OSRO;

security, safety, crisis-management and first aid services and facilities; and

on-the-job training or programs needed to enable Responder Secondees to competently and effectively use the items and services referred to in this Clause 3.2.

* + - * 1. **Information and records**

Each Party shall endeavour to provide such other information or assistance to the other Party as is reasonably required regarding Responder Secondees.

The OSRO shall maintain complete records of the Duties provided by each Secondee (“Records”) and shall make the same available to the relevant Responder upon request.

The Responder and the OSRO and their respective Affiliates shall comply with all relevant data protection and privacy laws applicable to any Secondee’s personal data transmitted or processed under or in connection with this Agreement.

* + - * 1. **Annual leave and other absences**

Subject to the OSRO’s reasonable requirements, Responder Secondees shall be permitted to take annual leave according to the normal and relevant policies and practices of the Responder. The Responder shall notify and consult the OSRO in advance of any annual leave that will be taken by Responder Secondees.

Any annual leave planned and agreed between Responder Secondees and the Responder may, provided that the OSRO has been informed of the duration and timing of such annual leave prior to the OSRO accepting the relevant Responder Secondee, be taken by the Responder Secondee without further consultation with the OSRO.

Each Party shall inform the other Party of any accident or illness or other impairment of a Responder Secondee which occurs at the Location or otherwise (as the case may be) and which prevents such Responder Secondee from performing the Duties in accordance with the Agreement during the applicable Secondment Period.

* + - * 1. **Employment**

The Parties agree that it is not their intention that the commencement, termination, or expiry of this Agreement or all or any part of the Duties to be performed will constitute a relevant transfer for the purposes of [the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”)] ***[Insert relevant local employment law in place of TUPE if applicable].*** The Responder agrees that it shall remain the employer of all Responder Secondees at all stages during, on and after the expiry or termination of this Agreement or all or any part of performance of the Duties.

The Responder shall be responsible for all employer obligations to Responder Secondees, including (a) a Secondee’s salary and benefits, (b) payroll taxes, withholding taxes or any other form of cost or charge assessed by any Governmental Authority in respect of the employment of a Secondee; (c) health and medical insurance, or any other employment-related contributions for the benefit of a Secondee as an employee, whether statutory or otherwise; (d) Responder’s liability insurance, including insurance against claims for compensation by third parties, and all obligations arising under applicable workers’ compensation Laws in respect of a Secondee; and (e) any other direct costs, charges or expenses assessed against an employer under any applicable Law in relation to the employment of persons such as a Secondee. The Responder shall defend, indemnify and hold harmless the OSRO Group from and against any and all Claims arising from, out of or in connection with the failure of the Responder to make such payments.

The Responder shall defend, indemnify and hold harmless the OSRO Group from and against any and all Claims which may be suffered or incurred by the OSRO Group arising from, or in connection with, the employment and/or dismissal of (or other obligation relating to) any Responder Secondee who is or has been seconded to the OSRO Group at any stage whatsoever and howsoever, whether during, on or after the expiry or termination of this Agreement or all or any part of the Duties, pursuant to TUPE or otherwise.

If the OSRO has any concerns in relation to the performance or conduct of any Responder Secondee, it shall inform the Responder as soon as reasonably practicable and provide the Responder with all information and documentation reasonably requested by the Responder. Only the Responder shall have the authority to terminate the employment or change the terms of employment of any Responder Secondee or to administer disciplinary action. The OSRO shall have no such authority and shall only have the rights to terminate the secondment of Responder Secondees under this Agreement pursuant to Clause 13.

The OSRO shall not require any Responder Secondee to do anything that shall, or could reasonably be expected to, breach their contract of employment and shall have no authority to vary the terms of their contract of employment.

* + - * 1. **No recruitment**

The OSRO may not, without obtaining the prior written consent of Responder, solicit any Responder Secondee with a view to employment during the term of the Responder Secondee’s Secondment Period or for a period of TWENTY-FOUR (24) months following the end of such Secondment Period.

* + - * 1. **Substitution of Responder Secondees**

The Responder shall be entitled to request a substitution of a Responder Secondee at any time during the Agreement by providing a written notice of such request, provided that the Responder agrees to provide a substitute individual with equivalent skills and experience.

* + - * 1. **Representations**

The Responder represents that each Responder Secondee is an employee of the Responder or one of Responder’s Affiliates.

The OSRO represents that:

* + - * 1. it has received sufficient evidence of each Responder Secondee’s qualifications and suitability to perform the Duties; and
				2. it has verified the qualifications of each Responder Secondee and found those qualifications suitable and sufficient for the performance of the Duties.

The Responder does not give any representations or warranties, implied or express, other than those set forth in Clause 3.8.1.

* + - * 1. **Non-Solicitation**

The Responder Secondees shall not seek to solicit away or otherwise engage the OSRO’s Client for the purpose of the Incident or oil spill response services or any other service being provided by the OSRO to the OSRO’s Client.

However, if the OSRO’s Client is an existing client or member of the Responder, the Responder may choose to work with the Client however it chooses but shall not seek to engage the Client through the Secondee.

* + - 1. Charges
				1. The OSRO shall reimburse the Responder for the cost of utilising the Responder Secondees based on the day-rates set out in Schedule 1. In addition, the OSRO shall reimburse the Responder for any withholding taxes, payroll taxes and personal income taxes (“Additional Taxes”) incurred in the country where the Duties are performed unless those duties are performed in the Responder Secondees Home Country in which case such Additional Taxes shall not be payable.

Where Additional Taxes will be incurred by the Responder or the Responder Secondees at the Location, the Responder will assess the cost of properly settling those Additional Taxes with the relevant authorities (confirmed if required by using a reputable tax advisor) as soon as reasonably practicable following completion of the Secondment and submit to the OSRO the tax assessment, which the OSRO shall reimburse to the Responder based on such assessment on a cost pass-through (no profit, no loss) basis.

* + - * 1. The OSRO shall reimburse the Responder for all reasonable expenses properly and necessarily incurred by it or by the Responder Secondees in connection with the performance of the Duties, including costs attributable to transportation, sleeping accommodation, meals, other items and services, and living expenses in connection with travel to and from, and the providing of services at, the Location. Expenses shall be charged to OSRO on a cost pass-through (no profit, no loss) basis, subject to production of receipts or other appropriate evidence of payment.
				2. Subject to Clause 4.1, the OSRO shall, unless otherwise provided for in the Agreement, be responsible for the payment of all taxes, duties, levies, charges and contributions (any interest or penalties thereon) for which the OSRO is liable as imposed by any appropriate government authority arising from this Agreement.
			1. Payment
				1. At the end of each month during the term of the Agreement the Responder shall submit to the OSRO at the address in Clause 19 an invoice which gives details of any day-rates payable pursuant to Clause 4.1, the best estimate of personnel income taxes incurred in accordance with Clause 4.1.1 and details of any expenses payable pursuant to Clause 4.2.
				2. Within THIRTY (30) days of determining a final figure for Additional Taxes as outlined in Clause 4.1.1 hereof the Responder shall submit to the OSRO at the address in Clause 19 an final invoice (or credit) which gives details of any personnel income taxes incurred in accordance with Clause 4.1.1 taking account of any payment made against the best estimate invoiced under Clause 5.1 hereof.
				3. The OSRO shall pay each invoice submitted by the Responder in accordance with Clause 7.1, within ***THIRTY (30)*** days of receipt.
				4. If the OSRO disputes any invoice, in whole or in part, then the OSRO shall be liable to pay only the undisputed portion of such invoice until such time as the OSRO and the Responder have reached agreement as to what payment, if any, is due. The OSRO shall promptly notify the Responder of any disputed amount and the Parties shall endeavour to settle expeditiously and in good faith any dispute. Any agreed adjustment or subsequent payment shall be made within 30 days following the date of settlement.
				5. If the OSRO fails to pay the Responder on the due date (excluding sums reasonably in dispute) then, without prejudice to any other right or remedy that it may have, the Responder may:

charge interest on such sum from the due date for payment at the annual rate of two percent (2%) above the base rate from time to time of ***[full name of bank]***, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the OSRO shall pay the interest immediately on demand; and

suspend the provision of Responder Secondees and the performance of the Duties until payment has been made in full.

* + - 1. Indemnities
				1. The OSRO shall defend, indemnify and hold harmless the Responder Group from and against all Claims arising from, out of or in connection with this Agreement in respect of:

loss or recovery of or damage to property of the OSRO Group or Responder Group whether owned, hired, leased or otherwise;

personal injury including death or disease to any person employed by the OSRO Group or Responder Group,

personal injury including death or disease or loss of or damage to the property of any third party, and for the purposes of this Clause “third party” shall mean any party which is not a member of the Responder Group or OSRO Group;

pollution or contamination of any kind including, without limitation, the cost of control, removal and clean-up; or

damage to, or escape of any substance from, any pipeline, vessel, or storage or production facility,

in each case regardless of cause and irrespective of negligence and/or breach of duty (statutory or otherwise) of any member of the OSRO Group or the Responder Group save where such Claim has arisen as a result of the gross negligence or wilful misconduct of any member of the Responder Group.

* + - 1. Consequential Loss
				1. Notwithstanding any provision to the contrary elsewhere in the Agreement, the OSRO shall be liable for, and shall defend, indemnify and hold the Responder Group harmless from and against the OSRO Group’s own Consequential Loss, arising out of or in connection with the Incident and/or this Agreement.
				2. The OSRO shall have no liability to the Responder for any Consequential Loss suffered by the Responder arising out of the fact that the Responder Secondee is not available to perform work for the Responder due to the secondment of any Responder Secondee under this Agreement.
				3. Nothing in this Clause 7 is intended to affect any liability of the OSRO to the Responder Group arising out of or in connection with the Incident.
			2. Exclusion of Liability
				1. The OSRO hereby agrees that Secondees and the services performed by Secondees are being provided “as is, where is, with all faults” and that the Responder does not provide hereunder or otherwise any representation or warranty express or implied, written or oral, either in fact or by operation of law, by statute or otherwise, relating to the qualifications and skills of the Secondees and the services performed by the Secondees to the OSRO or to any other Person. The Responder hereby expressly disclaims any and all such representations and warranties, including any warranty of quality, merchantability or fitness for a particular use or purpose and any warranty as to the validity of any patents or the non-infringement of any intellectual property rights of third parties.
				2. Subject to Clause 8.3, the Responder shall have no liability to the OSRO for the performance, mis-performance, poor performance or non-performance of the Duties provided by Responder Secondees. The only remedy available to the OSRO for any performance, mis-performance, poor performance or non-performance shall be termination of the secondment of the individual Responder Secondee concerned in accordance with Clause 14.
				3. The exclusion described at Clause 8.2 shall be without prejudice to any indemnity given by the Responder pursuant to this Agreement.
			3. Insurance
				1. The OSRO shall effect and maintain, for the duration of the Agreement, appropriate insurance policies in respect of its liabilities and obligations arising under the Agreement. All insurance shall be placed with reputable and substantial insurers and the OSRO shall bear all excesses and deductibles incorporated therein. The Responder shall be entitled to request copies of such insurance policies and may, always acting reasonably, terminate this Agreement in the event that the OSRO does not provide evidence of adequate insurance to its reasonable satisfaction.
				2. The policy limits of insurance obtained by the OSRO in accordance with clause 9.1, or any failure of the OSRO to comply with such requirement, shall not relieve the OSRO from any of its obligations, nor limit its liability under the Agreement.
			4. Notification of Claims
				1. Each Party shall give the other prompt notice of any Claim with respect to the indemnities under the Agreement, accompanied by full details of the circumstances of any incident giving rise to such Claim. The indemnified Party shall fully co-operate with the indemnifying Party in the defence of any such Claims, including negotiations, appeals or any settlement or compromise.
			5. Intellectual Property Matters
				1. Responder agrees that all drawings, field notes, specifications, data, software, and any other documents and materials, whether written, audio, or video, developed by, provided to, or acquired by Responder or Secondee in connection with a Secondment (“Documents”) are the physical property of the OSRO or the OSRO’s Client as the case may be and the Responder hereby assigns to the OSRO or the OSRO’s Client according to the circumstances all copyright in the Documents; provided, however, that Documents developed by Responder prior to the commencement of a Secondment under this Agreement shall remain the property of Responder. Responder shall provide the original (including any native format) and all copies of the Documents to OSRO when the Secondment is completed or earlier upon OSRO’s written request.
				2. To the extent information developed by Responder prior to the commencement of the Secondment is relied upon or used by a Secondee during a Secondment Period, Responder hereby grants, for the purposes only of responding to the Incident, an revocable, non-transferrable, royalty-free license in and to any Responder intellectual property required for OSRO, any successor entity and any of their employees, contractors, or agents to use, modify, repair, or replace, any work product arising out of the services provided by Secondee.

11.3 Rights in any other intellectual property, including inventions, developed by the Secondee during a Secondment Period shall vest in the Responder or the Secondee in accordance with applicable Law and the Secondee’s employment contract but the Responder hereby grants, for the purposes only of responding to the Incident, an revocable, non-transferrable, royalty-free license in and to any such intellectual property owned by the Responder required for OSRO, any successor entity and any of their employees, contractors, or agents to use, modify, expand, repair, or replace, any work product arising out of the services provided by Secondee.

* + - 1. Confidentiality
				1. The Responder shall at no time during the term of the Agreement, and for a period of ***[ten (10)]*** years thereafter (or if shorter, until the termination by the OSRO any Confidentiality Undertaking given by the Secondee), without the prior written consent of the OSRO make any publicity releases or announcements concerning [the Incident or] the subject matter of the Agreement.
				2. The Responder shall at no time during the term of the Agreement, and for a period of ***[ten (10)]*** years thereafter (or if shorter, until the termination by the OSRO of any Confidentiality Undertaking given by the Secondee), without the prior written consent of the OSRO;

use, reproduce, copy, or disclose to its officers, employees, contractors, agents or professional advisors any OSRO Confidential Information or Confidential Information relating to the OSRO’s Client, except as may be strictly necessary to enable the Responder to perform its obligations under the Agreement, and where any such disclosure to any person is required pursuant to this clause 12.2.1, the Responder shall ensure such persons have signed a confidentiality undertaking substantially in the form set out at Schedule 2;

disclose to or place at the disposal of any other person, or enable any other person to use, peruse or copy any OSRO Confidential Information.

* + - * 1. The provisions of Clauses 12.1 and 12.2 shall not apply to information which the Responder can prove:

is part of the public domain; or

was in the possession of the Responder prior to execution of the Agreement and which was not subject to any obligation of confidentiality owed to the OSRO; or

was received from a third party whose possession is lawful and who is under no obligation not to disclose; or

is required to be disclosed in order to comply with the requirements of any law, rule or regulation of any governmental or regulatory body having jurisdiction over the Agreement, the Responder or the Responder Secondee.

* + - * 1. The OSRO may require each Responder Secondee to sign a confidentiality undertaking substantially in the form set out at Schedule 2 (“**Confidentiality Undertaking**").
			1. Termination of Secondment of Responder Secondees
				1. Either Party may terminate the secondment of an individual Responder Secondee under the Agreement immediately by notice to the other Party, if:

the Responder Secondee concerned ceases to be an employee of the Responder; or

necessary work permits, visas and any other administrative authorisations required to allow the Responder Secondee to perform the Duties are not obtained within a reasonable period of time, or are cancelled or withdrawn.

* + - * 1. The OSRO may terminate the secondment of an individual Responder Secondee under the Agreement upon ***ONE (1)*** days prior written notice to Responder if:

the Responder Secondee in question fails to act consistently with the OSRO’s workplace rules, or to comply with the regulations and policies (including the OSRO’s HSSE Policy), or the directions given by the OSRO; or

the Responder Secondee (following issue of notice on the Responder of unsatisfactory performance), continues to perform his or her Duties in a manner that is unsatisfactory to the OSRO; or

in the OSRO’s reasonable opinion, the Responder Secondee’s Duties are no longer required or

the Responder has not timeously provided a substitute individual to perform the Duties, acceptable to the OSRO as set out in Clause 3.4.3 or 3.7.

* + - * 1. The OSRO may terminate the secondment of an individual Responder Secondee under the Agreement immediately without prior written notice to Responder:

if the Responder Secondee engages in serious misconduct or violates any substantive or material laws, which in the OSRO’s reasonable opinion significantly impairs the Responder Secondee’s ability to perform his or her Duties; or

if the Responder Secondee materially breaches the confidentiality obligations agreed under the confidentiality undertaking executed in accordance with this Agreement.

* + - * 1. Immediately after any termination without notice, the OSRO shall notify Responder setting out the reasons for such termination.
				2. The Responder shall have the right to immediately terminate the secondment of an individual Responder Secondee under this Agreement:

in case of a personal emergency concerning the relevant Responder Secondee. The Responder shall promptly give notice setting out the general circumstances of such personal emergency; or

if, whilst the Responder Secondee in question is at the Location, the OSRO fails to comply with the any applicable health and safety laws and/or the HSSE Policy of the OSRO in respect of such Responder Secondee; or

the Responder requires the individual Responder Secondee in connection with an emergency incident affecting its own operations or those of its clients.

OSRO instructs Responder or a Secondee to act in any manner which Responder or such Secondee reasonably determines would be illegal, in violation of this Agreement, or in violation of Responder’s internal policies;

the termination of the MCPA Agreement in respect of OSRO (or the Party with which OSRO is affiliated) or withdrawal of the OSRO (or the Party with which OSRO is affiliated) from the MCPA Agreement or termination of the MCPA Agreement generally.

* + - * 1. Notwithstanding anything herein to the contrary, Responder shall not have any liability for any Claims suffered by OSRO in connection with or as a result of any termination of a Secondment.
				2. The Responder may terminate the secondment of an individual Responder Secondee under the Agreement:

on ***[five (5)]*** days prior written notice if the Responder requires the Responder Secondee itself in connection with another project and, due to extraordinary circumstances, has no other reasonably feasible alternative; or

for any reason by providing the OSRO ***[five (5)]*** Business Days prior written notice or such shorter period agreed by the OSRO.

* + - * 1. The secondment of all Responder Secondees will automatically terminate upon reaching the end of the Secondment Period and/or upon the termination of the Agreement.
			1. Termination of Agreement
				1. The OSRO may terminate the Agreement by providing prior written notice to the Responder if the Responder Secondee’ Duties are no longer required by the OSRO in connection with the Incident.
				2. Either Party may terminate the Agreement by providing prior written notice to the other Party, if:

there has been a material breach by any Party of its respective obligations under the Agreement which is not capable of being fully remedied or in the case of the Responder it may terminate the Agreement with immediate effect if in the sole opinion of the Responder, the Health and Safety conditions or the Security situation puts any of the Responder Secondees at an unacceptable risk: or

there has been a material breach by any Party of its respective obligations under the Agreement which has not been fully remedied within a period of 15 days from the affected Party’s notice of such breach; or

the performance of Duties by all Responder Secondees under the Agreement has ended or the secondment of all Responder Secondees has, pursuant to Clause 13 been terminated.

* + - * 1. In the event of termination of the Agreement:

The Responder Secondees shall cease performance of the Duties as soon as practicable;

The Responder shall be entitled to payment for the Duties performed up until the date of termination and until all Responder Secondees are returns to their home country of employment; and

The Responder shall, and shall procure that Responder Secondees shall, promptly return to the OSRO, or if requested by the OSRO destroy, all copies, extracts, drawings and other materials or records that contain or reflect, in whole or part, any OSRO Confidential Information.

* + - 1. Anti-Bribery
				1. The Parties shall:

comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977 and in addition any similar anti-bribery legislation in effect in the jurisdiction where the Incident has occurred (the “Anti-Bribery Legislation”);

have and maintain in place throughout the term of the Agreement its own policies and procedures to ensure compliance with the Anti-Bribery Legislation and enforce them where appropriate, including but not limited to adequate procedures under the Bribery Act 2010;

promptly report to the OSRO any request or demand for any undue financial or other advantage of any kind received in connection with the performance of the Agreement;

* + - * 1. In the event that the OSRO has any basis for good faith belief that the Responder is not acting in compliance with this Clause 15, the OSRO shall be entitled to terminate the Agreement on the provision of written notice pursuant to Clause 13 on the basis that failure to comply with this clause constitutes a material breach of the Agreement.
			1. Communications
				1. The OSRO Representative and the Responder Representative shall be as follows:

OSRO Representative:

***[Insert details]***

Responder Representative:

***[Insert details]***

* + - * 1. The OSRO Representative

The OSRO Representative shall have the authority to commit the OSRO in all matters under the Agreement and, subject to any delegation of such authority which shall be notified to the Responder in writing, shall be responsible for issuing to and receiving from the Responder all notices, information, instructions and decisions.

By notice to the Responder, the OSRO Representative may at any time delegate any of his authority to any nominated deputy. Such notice shall specify the precise authority of any such deputy and shall be sent to the Responder Representative.

The OSRO may change the OSRO Representative at any time and shall notify the Responder of any change.

Except as expressly stated in the Agreement, the OSRO Representative has no powers to amend the Agreement or to relieve the Responder from any of its obligations under the Agreement.

* + - * 1. The Responder Representative

The Responder Representative shall have the authority to commit the Responder to any course of action within the rights and obligations of the Responder under the Agreement and, subject to any delegation of such authority, shall be responsible for issuing to and receiving from the OSRO all notices, information, instructions and decisions.

The Responder Representative may delegate any of his authority to any nominated deputy, the terms of such delegation being subject to the prior approval of the OSRO which shall not be unreasonably withheld or delayed.

The Responder shall not change the Responder Representative or any nominated deputy without cause without the prior approval of the OSRO which shall not be unreasonably be withheld or delayed.

* + - * 1. The Responder Representative has no powers to amend the Agreement.

Notices

* + 1. All notices given in respect of the Agreement shall be in writing and delivered by hand, by fax, by email, by first class post or by courier to the addresses set out in this Clause or such other address as either Party may notify to the other in writing from time to time.

**OSRO**

Contact Name: [ ]

Address: [ ]

Copied to: [ ]

**Responder**

Contact Name: [ ]

Address: [ ]

Copied to: [ ]

* + 1. Notices shall be effective:
			1. if delivered by hand or email, at the time of delivery; or
			2. if sent by fax, at the time of completion of transmission by the sender, provided confirmation of delivery report is received;
			3. if sent by first class post, forty eight (48) hours after the time of posting,
			4. if sent by courier, at the time of delivery; or
			5. if the time of such deemed receipt is not during normal business hours in the time zone of the territory of the recipient, notice shall be deemed to have been received at 10:00am on the next working day in the territory of the recipient.

Further Investigation of the Incident

* + 1. Except as may be required by law, the Responder is under no obligation to make the Responder Personnel available to the OSRO or the OSRO’s Clients or any relevant authorities, as witness, expert or otherwise, for any investigation into the Incident, any dispute resolution proceedings, court hearing or otherwise after the termination of any Secondment Period. If nevertheless the Responder agrees to make the Responder Personnel available to the OSRO or any relevant authorities, the Parties will agree the need for the Responder Personnel to be assisted by external counsel, the need for access to all relevant information, the need for adequate preparation time, compensation to the Responder for the costs of the foregoing and any other matter that enables the Responder Personnel to support the investigation and protects the Responder against the impact of the unavailability of the Responder Personnel on the Responder’s own operations.

Force Majeure

* + 1. Neither Party shall be responsible for any failure to fulfil any term or condition of the Agreement (other than any obligation to make payment when due for Duties already performed) if and to the extent that fulfilment has been delayed or prevented by a Force Majeure Event. The affected Party shall use all reasonable endeavours to limit the effect of that delay or prevention on the other Party.
		2. If a Force Majeure Event occurrence continues to prevail, either Party shall have a right by giving notice to terminate the Agreement with immediate effect.
		3. The Secondment Period shall not be extended due to any Force Majeure Event, except as otherwise agreed by OSRO and Responder.

Costs

* + 1. Each Party shall be solely responsible for its own costs and expenses incurred in connection with the preparation, negotiation and execution of the Agreement

Assignment

* + 1. Neither Party shall, without the prior written consent of the other, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.

Relationship of Parties

* + 1. The Responder shall be an independent contractor engaged by the OSRO to make Responder Secondees available for the purposes of the performance of Duties in accordance with the Agreement.
		2. Nothing in the Agreement is intended to or shall operate to create a partnership, joint venture, association or trust between the Parties, or to authorise either Party to act as agent or representative for the other.

Third Party Rights

* + 1. Subject to Clause 23.2, the Parties intend that no provision of the Agreement shall, by virtue of the Contracts (Rights of Third Parties) Act 1999 (the “Act”), confer any benefit on, or be enforceable by any person who is not a Party to the Agreement.
		2. Subject to the remaining provisions of this Agreement, Clauses, 3.5.2, 7 and 8 are intended to be enforceable by any Third Party by virtue of the Act. For the purposes of this Clause 23, “Third Party” shall mean any member of the OSRO Group (other than the OSRO) or the Responder Group (other than the Responder).

Counterparts

* + 1. This Agreement may be executed in counterpart and by each Party in separate counterparts, each of which shall be deemed an original instrument but both such counterparts together shall constitute one agreement.

Waiver

* + 1. No failure or delay on the part of either Party at any time to enforce any of the terms and conditions of the Agreement shall constitute a waiver of such terms and conditions.
		2. No terms or conditions of the Agreement shall be considered to be waived by either the Party unless a waiver is given in writing by one Party to the other.

Severability

* + 1. If any provision or part-provision of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the Parties hereby agree to attempt to substitute such provision for a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision. If such modification cannot be agreed within a reasonable timeframe, the provision or part-provision concerned shall be deemed deleted. Any modification or deletion under this Clause shall not affect the validity or enforceability of the rest of the Agreement.

Variation

* + 1. No variation to the Agreement shall be effective unless evidenced in writing and signed by both Parties to the Agreement.

Entire Agreement

* + 1. The Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior negotiations, representations or agreements related to the Agreement, either written or oral.

Governing Law

* + 1. The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

Dispute Resolution

* + 1. Any dispute, controversy or claim arising out of or in connection with this Agreement, whether in tort, contract, under statute or otherwise, including any question regarding its existence, validity, interpretation, breach or termination (a “Dispute”), which cannot be amicably solved within thirty (30) days of the date that written notice of the Dispute is first given by one Party to another (or others), shall be finally and exclusively resolved by arbitration under the arbitration rules of the London Court of International Arbitration (“LCIA”) in force as at the date of this Agreement (the “Rules”), which Rules are deemed to be incorporated by reference into this Agreement, save as expressly amended by this Clause 30.
		2. The arbitration tribunal (the “Tribunal”) shall consist of one arbitrator, to be appointed in accordance with the Rules.
		3. The appointing authority shall be the LCIA which shall also administer any arbitration commenced under this Agreement, such administration to be in accordance with the Rules.
		4. Should a vacancy arise because any arbitrator dies, resigns, refuses to act or is otherwise unable to perform his functions, the vacancy shall be filled by the method by which the arbitrator was originally appointed. When a vacancy is filled, the newly established Tribunal shall have sole discretion to determine whether any hearings shall be repeated.
		5. The seat of the arbitration shall be London, England.
		6. The language of the arbitration shall be English.
		7. Nothing in this Clause 30 shall be construed as preventing a Party from seeking conservatory or similar interim relief from any court of competent jurisdiction.
		8. Any award of the Tribunal shall be made in writing and shall be final and binding on the parties to the Dispute. The parties to the Dispute undertake to carry out the award without delay.
		9. Each Party hereby waives, to the fullest extent permitted by law, any right to apply to any court of law and/or other judicial authority to determine any preliminary point of law and/or review any question of law and/or the merits.
		10. Without prejudice to any confidentiality obligations included in this Agreement, all aspects of dispute resolution in connection with this Agreement shall be confidential. No aspect of the proceedings, documentation, or any (partial or final) award or any other matter connected with the arbitration shall be disclosed to any other person by any party to the Dispute or its counsel, agents or Affiliates without the prior written consent of all parties to the Dispute.

**IN WITNESS WHEREOF** this Agreement has been duly executed by the Parties on the date first above written in accordance with their respective laws

|  |  |
| --- | --- |
| Signed by ………………………………… | ) |
| for and on behalf of  | ) |
| **[OSRO]** | ) | ……………………………………. |
|  |  |  |

|  |  |
| --- | --- |
| Signed by .................................................. | ) |
| for and on behalf of  | ) |
| **[Responder]** | ) | ……………………………………. |
|  |  |  |

Schedule 1
Responder Secondees, Duties, Location and Secondment Period

Include specification for each Responder Secondee. Details to be provided include:

|  |  |
| --- | --- |
| Name of Responder Secondee: |  |
| Position: |  |
| Location: |  |
| Scope of Secondment (the “Duties”) |  |
| Charge out day-rate payable from the day of departure from the Responder Secondees home country until the date of return to the Responder Secondees home  | US Dollars $xxxx |
| Rotation details: |  |
| Proposed Secondment Period: |  |
| Other additional information: |  |

Schedule 2
Form of Undertaking of Confidentiality

**UNDERTAKING OF CONFIDENTIALITY DATED\_\_\_\_\_\_\_**

BETWEEN

[**NAME**], a company having an office at [address] (hereinafter referred to as the “**OSRO**”); and

AND

[**NAME**], who resides at [address]

 (hereinafter referred to as the “**Responder Secondee**”).

WHEREAS

(A) The OSRO and the Responder Secondee’s employer, [*insert Responder name*] (the “**Responder**”), have entered into the Emergency Personnel Secondment Agreement dated [*insert date of agreement*] (the **“EPSA”**).

(B) Pursuant to Clause 12.1.3 of the EPSA, the Responder is required to ensure that its Responder Secondees (as defined in the EPSA) are aware of, and comply with, the obligations set out in Clause 12 of the EPSA.

(C) Accordingly, the Responder Secondee has agreed to enter into this Undertaking of Confidentiality in favour of the OSRO.

THE PARTIES NOW HEREBY AGREE AS FOLLOWS:

1. Words and expressions defined in the EPSA shall, unless otherwise defined below, or the context otherwise requires, have the same meanings in this Undertaking of Confidentiality as if they were set out herein.

2. The following definitions shall apply in this Undertaking of Confidentiality:

**“Confidential Information”**:means (i) any OSRO Confidential Information; and (ii) any information which the Responder Secondee prepares in connection with the performance of his Duties in accordance with the Agreement, and shall include (without prejudice to the foregoing) allinformation in whatever form (including written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the OSRO for the time being confidential to the OSRO and trade secrets including technical data and know-how relating to the business of the OSRO, whether or not such information (if in anything other than oral form) is marked confidential.

**“Duties”** means the duties to be performed by the relevant Responder Secondees as specified in Schedule 1 of the EPSA.

 **“OSRO Confidential Information”** means any information which is provided by or on behalf of the OSRO, its affiliates, its and their other contractors (of any tier), its and their respective directors, officers, agents, employees and other personnel (including agency personnel) to the Responder in connection with the performance of the Duties of a Responder Secondee under the Agreement;

**“OSRO Property”**: all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of the OSRO or its or their clients and business contacts, and any equipment, keys, hardware or software provided for the Responder Secondee’s use by the OSRO during the Secondment Period, and any data or documents (including copies) produced, maintained or stored by the Responder Secondee on the OSRO or the Responder Secondee’s computer systems or other electronic equipment during the Secondment Period.

 **“Responder Secondees”** means the persons provided by the Responder to the OSRO under the conditions set out in the EPSA.

**“Secondment Period”** means the period during which each Responder Secondee is to perform the Duties, as specified in Schedule 1 of the EPSA.

3. The Responder Secondee acknowledges that in the course of the Secondment Period he/she has had and will continue to have access to Confidential Information, and accordingly the Responder Secondee hereby agrees to accept the restrictions in this Undertaking.

4. Unless terminated earlier by written request of the OSRO pursuant to Article 7 below, the Responder Secondee shall (save in the proper course of the Responder Secondee’s Duties), during the Secondment Period and the period of ten (10 years) following the end of the Secondment Period:

1. not use or disclose to any third party (and shall use the Responder Secondee’s best endeavours to prevent the publication or disclosure of) any Confidential Information; and
2. not use, reproduce, transform, or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means whatsoever outside of the OSRO’s usual place of business; and
3. ensure that any document or other records containing Confidential Information shall be kept at the premises of the OSRO as appropriate and the Responder Secondee shall not remove or allow to be removed such document or records from such premises.

The above restrictions concerning Confidential Information do not apply to: (a) any use or disclosure authorised by the OSRO or required by law; or (b) any information which is already in or comes into (1) Responder’s or Responder Secondee’s lawful possession free of confidentiality obligations, or (2) the public domain otherwise than through the Responder Secondee’s unauthorised disclosure.

5. Within five (5) days of the date that the Secondment Period terminates (or upon request at any time during the Secondment Period) the Responder Secondee shall:

1. immediately deliver to the OSRO all OSRO Property in the Responder Secondee’s possession or under the Responder Secondee’s control; and
2. irretrievably delete any Confidential Information stored on any magnetic or optical disk or memory and all matter derived from such sources which may be in the Responder Secondee’s possession or under the Responder Secondee’s control outside the premises of the OSRO.

6. For the avoidance of doubt all OSRO Property shall remain at all times the property of the OSRO.

7. This Undertaking shall terminate only on the written request of the OSRO.

8. This agreement shall be governed by and construed in accordance with English Law

We, the undersigned, each a Party and together the Parties, each acknowledge and irrevocably agree to the terms of this Undertaking of Confidentiality set out above.

|  |  |
| --- | --- |
| Signed by .................................................. | ) |
| for and on behalf of  | ) |
| **[OSRO Name]** | ) | ……………………………………. |
| ...................................................**[Responder Secondee Name]** |  |  |