**CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (this “**Agreement**”) is made on Insert day of February 2024 (the “**Effective Date**”) between

**Kuwait Energy Basra Limited,** a limited liability company incorporated under the laws of British Virgin Islands and having its registered office at Kingston chambers, P.O. Box 173, Road Town, Tortola, British Virgin Islands, and an office at Block 9, Basra, the Republic of Iraq (the “**Disclosing Party**”); and

**[Full name of the Bidder]**, a company incorporated under the laws of [the Bidder’s jurisdiction of incorporation] having its registered office at [the Bidder’s registration office] (the “**Receiving Party”**)

The Disclosing Party and the Receiving Party shall each be referred to as a “**Party**”and together as the “**Parties**”.

**WHEREAS**

1. The Disclosing Party, in its capacity as the operator of the Block-9 Contract Area of Iraq, will issue an Invitation to Bid numbered [BLK9/IRQ-DR-ITB-1018-B] for [Provision of Turnkey Drilling Rigs and Services for 5 Mishrif wells] on [February 27, 2024] (the “**ITB**”), to facilitate its operations in the Contract Area in respect of exploration, appraisal, development and production of oil and gas.
2. The Receiving Party confirms its interest in participating in the tender contemplated under the ITB (the “**Tender**”), and acknowledges that as part of the Tender process, it may receive from the Disclosing Party certain data or information that is confidential or proprietary to the Disclosing Party.

**NOW THEREFORE**, to protect the confidentiality of any such information or data disclosed or to be disclosed by the Disclosing Party for the Tender, the Parties hereby agree as follows:

1. **Definitions**

In this Agreement,

“Affiliate” means, with respect to a Party, any Person controlling, controlled by, or under common control with such Party. For purpose of this Agreement, the term “control” (and other correlative terms) means the power by equity ownership to direct the policies or management of a Party.

“Confidential Information” means the existence and the content of, and any reference to the ITB and the Tender, any clarifications, bulletins, or other documents or information issued by the Disclosing Party, any discussions and correspondence between the Parties, and together with all other information in whatsoever form (written, verbal or otherwise) in connection with the ITB, the Tender, the Disclosing Party or its business, which is disclosed by the Disclosing Party directly or indirectly to the Receiving Party, before or after the Effective Date, regardless of whether such information is marked as confidential. For the avoidance of doubt, all reports, analyses, compilations, studies or other documents (in whatever form) prepared by or on behalf of the Receiving Party which contain or otherwise reflect the Confidential Information shall also be deemed to be part of the Confidential Information. However, the Confidential Information under this Agreement does not include any information that has been or become publicly available other than as a result of a breach of this Agreement by such Receiving Party.

“Copies” means copies of the Confidential Information including any document, electronic file, note, extract, analysis, study, plan, compilation, or any other way of storing information which contains or reflects any Confidential Information.

“Effective Date” means the date specified as such at the beginning of this Agreement, which is the date when this Agreement enters into effect.

“Purpose” means the purpose of performing activities in connection with the Tender, as are necessary for the solicitation and submission of a proposal against the ITB, namely the issuance of the ITB, submission and discussions of the proposal for the ITB, and if the Receiving Party is awarded the contract of the Tender, the notification and acceptance of the award, and the conclusion of the contract.

“Personnel” means with respect to each of the Parties or their respective Affiliates, its directors, officers, employees, representatives, agents or professional consultants. Except in the context of Article 2.2(a) below, any reference to the Disclosing Party under this Agreement shall be deemed to include its Affiliates and Personnel.

“Person” means an individual, corporate entity, partnership, trust or unincorporated organization.

1. **Confidentiality Obligations**

2.1 The Receiving Party must

(a) keep all the Confidential Information completely confidential and strictly secret;

(b) use the Confidential Information only in connection with the Tender and for the Purpose;

(c) not directly or indirectly disclose the Confidential information (or allow it to be disclosed), in whole or in part, verbally or in writing or in any other form, to any Person other than those contemplated under Article 2.2 of this Agreement, without the Disclosing Party’s prior written consent; and

(e) inform the Disclosing Party immediately on becoming aware, or suspecting, that an unauthorized Person has received or become aware of any Confidential Information.

2.2 Without prejudicing general requirements of clause 2.1, the Receiving Party may disclose the Confidential Information without prior written consent from the Disclosing Party only

(a) to its Affiliate(s) or Personnel, provided that (i) in each case such disclosure is made on a strictly need-to-know basis for the Purpose, (ii) the Receiving Party ensures that its Affiliate(s) or Personnel which receives any Confidential Information shall be subject to confidentiality obligations as if they were a Party to this Agreement, and (iii) the Receiving Party shall be held fully responsible and liable to the acts or omissions of its Affiliate(s) or Personnel; or

(b) to the minimum extent under any mandatory order of a court of competent jurisdiction or any competent judicial, governmental, or regulatory body, provided that before any such disclosure, the Receiving Party shall, to the fullest extent permitted by law, use its best efforts to (i) inform the Disclosing Party as soon as possible of the full circumstances of the disclosure and the information that is requested to be disclosed, and take all such steps as may be possible in the circumstances to confirm the correctness of the contents of such disclosure with the Disclosing Party; (ii) consult with the Disclosing Party as to the steps to avoid or limit disclosure and immediately take those steps if authorized or requested by the Disclosing Party; (iii) gain assurances as to confidentiality from the body to whom the Confidential Information is to be disclosed; and (iv) cooperate with the Disclosing Party in any action the Disclosing Party ma**y** take to challenge the validity of such disclosure requirement.

2.4 Upon the Disclosing Party’s written request, the Receiving Party shall, supply the Disclosing Party with a list showing to the fullest extent possible

(a) where all Copies supplied to the Receiving Party by the Disclosing Party are held; and

(b) all Copies that have been made by the Receiving Party or the Persons to whom it has disclosed the Confidential Information.

2.5 Upon the Disclosing Party’s written request at any time, the Receiving Party shall immediately

(a) return to the Disclosing Party all the Confidential Information received by the Receiving Party; and

(b) destroy or permanently erase all Copies supplied to it or made by it, or by the Persons who have received Confidential Information, including corporate documents of the Receiving Party which contain data derived from the Confidential Information, and records of Confidential Information in electronic form, including those retained on computer back-up systems.

2.6 Except as otherwise agreed, the Receiving Party shall not refer to the Tender or the Purpose, or in connection with the Tender or the Purpose refer to the Disclosing Party, or any of its Affiliates in any press, publishment, publicity release, advertising, or other publicly available material or information without the prior written consent of the Disclosing Party.

2.7 The obligations of the Receiving Party under this Agreement shall remain in effect for a period of ten (10) years after the Effective Date. For the avoidance of doubt, the obligations of the Receiving Party under this Agreement shall apply to all Confidential Information, including any information disclosed before the Effective Date that can be deemed to be part of the Confidential Information as defined under this Agreement.

1. **General Provisions**

3.1 The Receiving Party accepts that the Disclosing Party makes no express or implied representation or warranty, as to the accuracy or completeness of the Confidential Information or the state of affairs of the companies covered by the Confidential Information. The Confidential Information contains only selected information and does not purport to be all-inclusive or contain all information which the Receiving Party may need or desire. The Disclosing Party expressly disclaim any and all liability that may be based on the Confidential Information, errors therein or omissions from the Confidential Information or in any other written or verbal communications transmitted or made available to the Disclosing Party.

3.2 Any notices or other communications to be given or delivered under this Agreement shall be in writing and shall be effective if delivered personally or sent by courier or by facsimile to the relevant Party at the address shown below or to such other address as either Party may from time to time designate to the other by written notice:

(a) To the Disclosing Party

Attn. : PSCM Manager
Email : B9.Tendering@kec.com.kw
Address : Permanent Accommodation Camp, Block 9, Basra, Iraq

(b) To the Disclosing Party:

Attn. : [Name of the duly designated contact person]
Email : [Email of the duly designated contact person]
Phone : [Phone of the duly designated contact person]
Address : [The Bidder’s mailing address]

3.3 The Receiving Party acknowledges that all Confidential Information remains the absolute property of the Disclosing Party or where applicable, the Person that owns the information and discloses the information to the Disclosing Party. Nothing in this Agreement shall be construed as granting or conferring any proprietary right to Confidential Information to any of the Receiving Party.

3.4 The Parties accept that monetary damages may be an insufficient remedy for any breach of this Agreement by the Receiving Party and that the Disclosing Party is entitled to specific performance and injunctive relief as remedies for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement by the Receiving Party but shall be in addition to all other remedies available at law.

3.5 No amendment of or supplement to this Agreement shall be binding upon a Party unless made in writing and duly signed by that Party.

3.6 The Receiving Party shall not assign this Agreement without the prior written consent of the Disclosing Party.

3.7 No failure or delay of any Party to enforce or exercise any right under this Agreement shall be construed as a waiver of such right. No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the further exercise of any such right or remedy.

3.8 This Agreement shall in all respects be governed by and be construed in accordance with the law of England and Wales, and all disputes arising out of or in connection with this Agreement shall be referred to and finally resolved by arbitration under the Arbitration Rules of the LCIA, which Rules are deemed to be incorporated by reference into this clause. The venue of the arbitration shall be London, UK and the language to be used in the arbitration shall be the English language.

3.9 This Agreement may be executed in counterparts, each of which taken together shall be considered a single instrument.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the above date.

|  |  |
| --- | --- |
| **Kuwait Energy Basra Limited**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Song YuTitle: Branch Manager, Kuwait Energy Basra Limited Iraq Branch Asset President – Block 9 |  **[Full name of the Bidder]** By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Title:  |