

TRANSPORTATION, LOGISTICS AND INSURANCE SERVICES CONTRACT

Between

[Name of Contracted Supplier]

And

DAHER TRANSPORT

1. DEFINITIONS AND INTERPRETATION	5
2. APPOINTMENT AND SUBJECT MATTER. PRIOR ENDORSEMENT BY F4E OF THE TASK ORDERS RELATED TO HELS	12
3. OBLIGATIONS AND UNDERTAKINGS OF DAHER.....	14
4. OBLIGATIONS AND UNDERTAKINGS OF THE CONTRACTED SUPPLIER.....	16
5. TASK ORDER PRICE	20
6. INVOICING AND PAYMENT	22
7. NO LIEN.....	24
8. LIABILITY	24
9. TERMS OF DELIVERY AND DELAY DAMAGES	26
10. INSURANCE.....	26
11. FORCE MAJEURE AND ADVERSE CLIMATIC CONDITIONS	28
12. TERM AND TERMINATION	29
13. CANCELLATION AND POSTPONEMENT.....	31
14. CONFIDENTIALITY	32
15. CONTRACTED SUPPLIER'S RIGHTS OF INSPECTION	33
16. EXPORT CONTROL REGULATIONS	33
17. PROPERTY OF THE PARTIES.....	34
18. SUBCONTRACTING	34
19. MISCELLANEOUS	35
20. GOVERNING LAW AND DISPUTE RESOLUTION	37

This contract (hereinafter, the “**Transportation Contract**”) is entered into by and between:

_____, a company duly incorporated under the laws of, having its principal place of business at _____, registered with, represented by, in his capacity as (hereinafter, “**Contracted Supplier**”),

AND:

DAHER TRANSPORT, a company duly incorporated under the laws of France, having its headquarters located at 7, avenue de l’Union, 94310 Orly, France and, having a secondary establishment located at ITER Organization p/c DAHER Transport - Route de Vinon sur Verdon 13115 Saint-Paul-lès-Durance, France, registered under SIREN number 443 485 230, represented by its Director-General, Mr Pascal LAGUERRE, (hereinafter, “**Daher**” or the “**Contractor**”).

Daher and Contracted Supplier are also hereinafter referred to collectively, as the “**Parties**” and individually, as a “**Party**”.

WHEREAS:

A. The ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereinafter referred to as “**ITER Organisation**”) and the ITER Members (the Government of the People’s Republic of China, the European Atomic Energy Community, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America) intend to erect, test, commission, operate, maintain and decommission the ITER Tokamak and its associated plant systems at the ITER Site in Saint-Paul-lez-Durance, southern France (hereinafter referred to as “**ITER Project**”);

B. Each ITER Member has established a Domestic Agency to manage and provide the components for its in-kind contribution to the ITER Project and the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter referred to as “**Fusion for Energy**” or “**F4E**”) is the European Domestic

Agency;

C. ITER Organisation, on its own and on behalf of the Domestic Agencies, has retained the services of Daher in connection with the management of certain transportation, logistics, insurance and related services for the loads to be transported from each ITER Member and delivered to the ITER Site, and entered therefore into the Global Transport, Logistics and Insurance Services Framework Service Contract and its Annexes (ref. IO/CFT/12/6000000085) dated 10 February 2012, as amended (hereinafter referred to as the **"Framework Contract"**);

D. The Framework Contract provides that each Domestic Agency and Daher may enter into an implementation agreement detailing specific provisions of the general conditions of the Framework Contract, which shall be applicable to each Task Order (as defined in Article 1.1);

E. On 20 February 2015, F4E and Daher entered into the Agreement for the Implementation of Framework Contract ref. IO/CFT/12/6000000085 Relative to Global Transport, Logistics and Insurance Services, as amended (hereinafter referred to as **"Implementation Agreement"**) detailing specific provisions of the Framework Contract applicable to the Services (as defined in Article 1.1) to be performed by Daher;

F. [Name of Contracted Supplier] has been appointed as Contracted Supplier of F4E (as defined in Article 1.1) and has entered into the Supply Contract (as defined in Article 1.1) with F4E. As such, F4E has informed Daher of the name of the Contracted Supplier following signature of the Supply Contract;

G. Pursuant to the Implementation Agreement, the Contracted Supplier and Daher shall thereafter enter into a transportation contract detailing provisions of the Services, which shall be applicable to each Task Order launched by the Contracted Supplier for the delivery of the loads specified in the Supply Contract;

NOW THEREFORE, the Contracted Supplier and Daher have agreed to perform the Services subject to the following terms and conditions:

1. Definitions and Interpretation

1.1 The following capitalised terms shall have the meanings set forth below:

“Adverse Climatic Conditions”	means any climatic conditions which do not qualify as Force Majeure, but which delay or prevent the implementation of a Task Order related to an HEL.
“Call for Tenders Documentation”	means the documentation prepared by F4E in relation to procurement procedure [Procedure reference number attributed by F4E for the Supply Contract] including, without limitation: <ul style="list-style-type: none"> a) Invitation to Tender (General and Special Conditions, together with its annexes), and b) Model Supply Contract (including its annexes).
“Commencement Date”	means the date of signature of this Transportation Contract by the last Party to sign.
“Confidential Information”	means any information or document disclosed by a Party (the “Disclosing Party”) to the other Party (the “Recipient Party”) in relation to this Transportation Contract, whether prior to or after the Commencement Date
“Contracted Supplier”	means [name], Party to this Transportation Contract.
“Contractor”	means DAHER TRANSPORT as the Logistic Service Provider, Party to this Transportation Contract.
“Contractor’s Staff”	means those directors, officers, employees, agents and servants employed by the Contractor from time to time in the performance of its duties and obligations in relation to the Services, including, without limitation, the Senior Manager with ongoing responsibility for the relationship and the

Operations Director

“Cost”	means all expenditure reasonably incurred by Daher, but does not include overhead and similar charges, nor profit.
“Days”	means calendar days.
“Delivery Location”	means the ITER Site or a location in the proximity of the ITER Site, as set out in each Task Order.
“Dispute”	means any dispute, controversy, claim or counterclaim arising out of or in relation to the Transportation Contract.
“Force Majeure”	means any unforeseeable and exceptional situation or event beyond the control of the Parties, which prevents either of them from performing any of their obligations under the Transportation Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence.
“Framework Contract”	has the meaning ascribed to it in the Preamble to this Transportation Contract.
“Implementation Agreement”	has the meaning ascribed to it in the Preamble to this Transportation Contract.
“ITER Itinerary”	means the maritime route from Fos-sur-Mer Harbour to La Pointe Harbour in Berre l'Etang and the 104 km road itinerary between La Pointe Harbour and Saint-Paul-Lez-Durance, as set out in Prefecture Order No 2007-52 of 16 April 2007.
“ITER Organisation”	has the meaning ascribed to it in the Preamble to this Transportation Contract.
“ITER Members”	has the meaning ascribed to it in the Preamble to this Transportation Contract.
“ITER Project”	has the meaning ascribed to it in the Preamble to this Transportation Contract.
“ITER Site”	means the land under, in or through which the ITER Project is to be constructed, as it

may be extended by written decision of ITER Organisation.

“IO-SLM”

means the ITER Organisation Site Materials and Logistics Manager.

“load” (not capitalised)

means a physical factor (such as acceleration, fatigue, temperature, pressure, humidity, wind velocity, etc.) having an impact on the characteristics or performance of a Protection Important Component.

“Loads”

means the items required to be supplied by the Contracted Supplier to F4E pursuant to the Supply Contract and delivered by Daher to the Delivery Location pursuant to this Transportation Contract. The Loads qualify as [HEL/CEL/CL] based on the following criteria:

a) “HELs” (Highly Exceptional Loads)

The deciding criterion for HEL is that they cannot be transported over French classic roads but have to travel over the ITER Itinerary. To be noted that the French heavy haul itinerary cannot be used for movement of any trailer from Cadarache back to Berre (i.e. reverse way) and that the empty trailers should need to be modified or reconfigured in order to be able to travel over classic roads from Cadarache.

b) “CELs” (Conventional Exceptional Loads)

The deciding criterion for CEL is that they cannot be transported in a shipping container and may require a permit to transport over public roads regarding regulations about dimension and weight allowances. Related regulations may change among the various countries.

c) “CLs” (Conventional Loads)

This includes both full container and less than container loads. The deciding criterion for CL is that they can be transported in a shipping container by common commercial carrier/liner service or within standard trailers.

“Margin”

has the meaning ascribed to it in Article 6.6 (*Late Payment Interest Rate*).

“Onset Location”	means either Grand Port Maritime de Marseille (“GPM Harbour”) or Marignane Airport.
“Parties”	means the Contracted Supplier and Daher, and “Party” means either of them.
“Partner”	means a Subcontractor of Daher with which Daher has an exclusive partnership for the ITER Project defining, <i>inter alia</i> , the level of delegation granted by Daher to the Partner to perform the Services included in Task Orders in accordance with the terms of the Framework Contract, the Implementation Agreement, and this Transportation Contract.
“Payable Services Price”	means the price included in the Payable Services Price Table . The Payable Services Price is a part of the Task Order Price.
“Payable Services Price Table”	means the table included in Annex 5 (<i>Payable Services Price Table</i>) containing fixed unit rates for the price components for Services related only to HELs and CELs from the Onset Location to the Delivery Location.
“Point of Origin”	means the place of delivery of the Loads by the Contracted Supplier to Daher, as set out in the Task Order.
“Preferred Carrier”	means the preferred carrier of the Contracted Supplier of a CEL or a CL, referred to in Article [Number] of Annex [Number] to the Invitation to Tender, and in Article 4.1.6 (<i>Preferred Carrier – Shipment of Conventional Exceptional Loads and/or Conventional Loads</i>) of the Transportation Contract.
“Protection Important Components” (PICs)”	has the meaning ascribed to it in Annex 2 (<i>Minimum Technical Information</i>).
“Reference Rate”	has the meaning ascribed to it in Article 6.6 (<i>Late Payment Interest Rate</i>).
“Services”	means the transportation and related services set forth in the Task Order, to be performed by Daher pursuant to and in accordance with this Transportation

Agreement.

“Shipping Condition Certificate” means the document issued by ITER (“Shipment Delivery Certificate” in the Organisation and remitted to Daher duly Framework Contract) endorsed by the former and attesting that the delivery of the Load took place. The Shipping Condition Certificate is only an acknowledgement that the delivery took place and does not imply conformity of the delivery with this Transportation Contract.

“Soft format” means an MS Excel or an MS Word format.

“Subcontractor” means an economic operator or a consortium who is under direct contract with Daher to perform any part of the Services.

“Subcontractor’s Staff” means with respect to any Subcontractor, those directors, officers, employees, agents, and servants employed by such Subcontractor.

“Subsidiary” means any entity which controls, is controlled by, or is under common control with Daher. For the purposes of this definition, **“control”** means: (a) the power to, directly or indirectly, cause the direction or management of such entity, whether by contract or otherwise, or (b) ownership of more than 50% (fifty per cent) of the stock or voting rights.

“Supply Contract” means the supply contract referenced [Procedure reference number attributed by F4E] dated [Date] between F4E and the Contracted Supplier.

“Task Order” means the formal contractual document the model of which is included in Annex 1 (*Task Order Template*) between the Contracted Supplier and Daher, setting out the Services to be performed by Daher under this Transportation Contract.

“Task Order Price” means the price due by the Contracted Supplier to Daher for the performance of the Services related to the Loads included in the Task Order.

“Third Party Surveyor” shall mean an independent instance, acting

in the role of verifier/arbitrator and being responsible for the controls at each handling point from the first loading at the Contracted Supplier's dock or shop floor to the final off-loading at the Delivery Location. The foregoing responsibility also includes the control of the safety aspects of the ITER Itinerary before and during the transports.

“Variation”

for the purposes of Article 2.3, means any modification, change, alteration to a Task Order, howsoever made or recorded, whether by way of an oral or written instruction to Daher or by way of a formal amendment thereto.

“Working Day”

means any day other than Saturday, Sunday or legal holiday, in which business can be conducted in France and also in the place of loading of the Load.

- 1.2 The terms defined in this Transportation Contract have the meanings ascribed to them in this Transportation Contract and/or its Annexes and include the plural as well as the singular; the use of any gender shall include the other gender, and words denoting persons include firms and corporations and vice-versa.
- 1.3 The captions used in this Transportation Contract are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope or content of this Transportation Contract or any provision hereof.
- 1.4 The words “herein”, “hereof”, “hereunder” and other words of similar import refer to this Transportation Contract as a whole and not to any particular provision.
- 1.5 The terms “include” or “including” shall mean, without limitation, by reason of enumeration and shall not be interpreted restrictively.
- 1.6 Each reference to an “Annex” of this Transportation Contract shall include all sections of such Annex and each reference to an “Article” of this Transportation Contract or to a “section” of its Annex shall include all subsections/points of such Article or section.
- 1.7 References to any element of the legislation, statute, act, law, regulation, or Fusion for Energy's procedures/rules or any provision thereof shall, where applicable, be deemed to be references to that element of the legislation, statute, act, law, regulation, or Fusion for Energy's procedures/rules, as

amended or re-enacted.

1.8 If required for the purpose of interpretation or performance of this Transportation Contract, in the event of an inconsistency between the Task Order and this Transportation Contract, the Parties agree that the order of precedence shall be:

- a) First, this Transportation Contract, excluding its Annexes;
- b) Second, the Annexes to this Transportation Contract (numbered from 1 to 9) in numerical order:
 - **Annex 1:** Task Order Template;
 - **Annex 2:** Minimum Technical Information;
 - **Annex 3:** Packing List Template;
 - **Annex 4:** Cancellation and postponement costs for HEL and CEL;
 - **Annex 5:** Payable Services Price Tables;
 - **Annex 6:** Specific revision clause for the Payable Services Prices;
 - **Annex 7:** ITER Organisation Working Instructions on Transportation;
 - **Annex 8:** Technical Specification. The Contracted Supplier shall bear in mind that this Annex is in fact the Technical Specification of the Framework Contract. Consequently, the defined terms therein (e.g. LSP) do not necessarily match the defined terms herein and certain provisions (e.g. those concerning the other Domestic Agencies) are not relevant for the purpose of this Transportation Contract, and
 - **Annex 9:** Supplier Quality Requirements, IDM reference 22F8BJ v. 5.5, available on the Internet under the following link:

<https://industryportal.f4e.europa.eu/mainmenu/qa-nuclear-safety-qa-115/qa-115-v55-supplier-project-management-and-quality-requirements-and-applicable-documents/>

- c) Third, the signed Task Order.

1.9 The Parties agree that their general terms and conditions will not apply to performance under this Transportation Contract, notwithstanding any inclusion and/or mention of such terms and conditions in any document and/or invoice relating to this Transportation Contract.

1.10 If the scope of the Transportation Contract concerns only one type of Load (HEL/CEL/CL) or a combination of two such different types of Loads, the provisions related to the other type(s) of Loads shall not be applicable.

2. Appointment and Subject Matter. Prior endorsement by F4E of the Task Orders related to HELs

2.1 The Contracted Supplier hereby appoints Daher, and Daher agrees to:

- a) provide global logistics services and global transport insurance,
 - b) perform or cause to be performed all of the duties, obligations, responsibilities and covenants under this Transportation Contract,
 - c) furnish its best skill and judgment, in an expeditious and economical manner, in furthering the interests of the Contracted Supplier with respect to the ITER Project,
 - d) comply with and use best efforts to cause others to comply with applicable laws, ordinances, codes, rules, regulations, international conventions, insurance practices or orders of any public authority.
- 2.2 Daher undertakes to perform the Services by its own means or through any of its Partners or Subcontractors pursuant to and in accordance with the terms and conditions of this Transportation Contract.
- 2.3 Daher shall only execute customs related documents on behalf of the Contracted Supplier upon agreement between the Parties.
- 2.4 Daher shall notify the Contracted Supplier if it believes any decision, or course of action proposed or undertaken by the Contracted Supplier is not prudent or is not in the ITER Project's best interest.
- 2.5 For the implementation of the Transportation Contract, the Services shall be detailed in Task Orders issued by the Contracted Supplier and transmitted to Daher at the latest:
- six (6) months for HELs,
 - four (4) months for CELs,
 - one (1) month for CLs transported by truck exclusively, and
 - two and a half (2.5) months for any other CLs,
- in all cases, prior to the expected date of delivery at the Delivery Location.
- 2.6 Performance of the Services shall not commence before signature of the Task Order by both Parties and, as concerns Task Orders related to an HEL, prior endorsement by Fusion for Energy in accordance with Article 2.7.
- 2.7 Any and all Task Orders initiated by the Contracted Supplier for Services related to HELs from the Point of Origin to the Delivery Location shall be subject to F4E's prior endorsement, as a condition for performance by Daher of the Task Order¹. It shall be the responsibility of the Contracted Supplier to provide the Task Order for endorsement by F4E in accordance with the timing set out in Article 7.2 of Annex K (Terms of Reference for the Use of the Designated Carrier) of the Supply Contract. The endorsement shall not be valid unless made in writing.

¹ The aforementioned provisions shall not apply to Task Orders initiated by the Contracted Supplier for Services related to CELs or to CLs.

2.8 Similarly, any Variation to a Task Order related to an HEL, irrespective of its nature (including, without limitation, Variations related to schedule, inspections carried out by the authorities, or to any repackaging requirements imposed by law) which has or can reasonably be anticipated to have as a consequence an increase in the Task Order Price, shall be subject to F4E's prior endorsement, as a condition for:

- a) performance by Daher of the Task Order, as amended,
- b) payment by F4E to Daher of the additional Costs pertaining to the leg from the Onset Location to the Delivery Location, and
- c) reimbursement by F4E to the Contracted Supplier of the additional Costs pertaining to the leg from the Point of Origin to the Onset Location².

2.9 Daher warrants that:

- a) it is financially solvent and it can deploy the necessary personnel, materials, supplies and equipment required to complete the Services (as defined in Annex 9 (*Technical Specification*)) in a timely manner;
- b) it shall at all times maintain such equipment, tools and qualified personnel in sufficient number and condition to perform its obligations under the Transportation Contract;
- c) it is fully experienced, properly qualified, equipped, organised and financed to perform the Services and is in possession of necessary knowledge of the legal requirements and familiar with the business practice to be observed in the course of performance of the Transportation Contract and further confirms that it is therefore capable of performing the Services in accordance with the Transportation Contract and to the satisfaction of the Contracted Supplier.
- d) its *Ad Valorem* insurance covers the full replacement value of the Load as per its terms and conditions in Art. 10 (*Insurance*), provided that the Contracted Supplier subscribes to it in accordance with the terms of this Transportation Contract. This insurance shall also cover the full replacement value of the transportation frame of the Load and of all attached devices and protection if the Contracted Supplier indicates their value in the insurance value declaration. Daher shall provide that its insurance company agrees on the shipping plan of Loads.

3. Obligations and Undertakings of Daher

3.1 Subject to the limitations set out in Article 4.1.6 (*Preferred Carrier – Shipment of Conventional Exceptional Loads and/or of Conventional Loads*) Daher shall

² Please refer to Article 6.2 herein on the payment scheme.

have full liberty as to the means, route³ and procedure to be followed in the performance of the Services and to perform the Services by its own means or to subcontract all or part of the Services to any of its Partners or Subcontractors.

3.2 Daher hereby agrees to provide to the Contracted Supplier throughout the term of this Transportation Contract the Services specified herein. Daher shall perform the Services in accordance with the terms of the Task Order and of the Transportation Contract. In fulfilment of its obligations to the Contracted Supplier hereunder, Daher shall:

- a) Provide direct Services wherever possible or practical from the Point of Origin to the Delivery Location;
- b) Where practical and in compliance with the Task Order conditions, consolidate Tasks Orders to optimize Loads for delivery by the same mode of transport. Daher shall also maximize equipment utilisation and provide cost savings to the Contracted Supplier. Daher shall provide access to the Load optimization system to the Contracted Supplier in order to perform Load optimization, testing and modelling as needed;
- c) Use its best efforts to effect cost savings for the Contracted Supplier either by optimising the rates charged or by improving the processes and procedures for shipment of Loads. It shall also seek competitive options when receiving the minimum Technical Information set out in Annex 2 (*Minimum Technical Information*) for a defined transport and justify to the Contracted Supplier its choice based on costs, schedule constraints.
- d) Daher shall promptly inform the Contracted Supplier and pass on to it any cost savings agreed with Fusion for Energy pursuant to the Implementation Agreement. Such cost savings shall apply to any Task Orders signed by the Parties after the date of the agreement between Fusion for Energy and Daher and to those Task Orders signed at that date whose estimated date of arrival at the Delivery Location is more than one year from the date of signature of the Task Order;
- e) Appoint a Third-Party Surveyor to inspect the Loads in accordance with the terms of Annex 9 (*Technical Specifications*). Daher shall inform the Contracted Supplier of the cases of mandatory use of the Third-Party Surveyor as defined by Daher's insurance company in the Loss Prevention Plan.

3.3 Daher shall perform the Services at the times specified in the Task Order. Daher is responsible for ensuring that the Loads arrive on the scheduled time at the Delivery Location. Subject to Article 11 (*Force Majeure and Adverse Climatic Conditions*), Daher shall not be responsible, nor be deemed to be in

³ This liberty is restricted in case of HELs, which need to use the ITER Itinerary.

default of its obligations under the Transportation Contract in case of any Force Majeure event or Adverse Climatic Conditions. If delivery of the Service is delayed or is anticipated to be delayed as a result of the above events, the Parties shall re-schedule the delivery dates.

- 3.4 Daher shall provide the Contracted Supplier with any information, technical and logistics advice related to the performance of the Services. Upon request by the Contracted Supplier, Daher shall provide reports on the status of shipments and the Key Performance Indicators. Daher and the Contracted Supplier shall agree on the frequency, contents and format of such reports.
- 3.5 Daher shall cooperate on a timely basis with the Contracted Supplier and shall provide such assistance as they may reasonably require in the process of selection of the quotation. Furthermore, Daher shall promptly execute and deliver all such documents, and do all such things, or procure the execution of documents and doing of such things as are required to give full effect to this Transportation Contract and the transactions contemplated by it.
- 3.6 Daher undertakes to comply with IO's Working Instructions on Transportation, as defined in Annex 8 (*ITER Organisation's Working Instructions on Transportation*). Should IO amend or replace these Working Instructions from time to time, Daher shall provide the updated version to the Contracted Supplier within five (5) Working Days from its receipt. The updated version shall be effective immediately from its receipt by the Contracted Supplier, without a need for the Parties to amend this Transportation Contract.
- 3.7 Should any unforeseen event, action or omission directly or indirectly hamper performance of the Services, either totally or partially, Daher shall immediately and on its own initiative record it and report it to the Contracted Supplier. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by Daher to ensure full compliance with its obligations under the Transportation Contract. In such event, Daher shall give priority to solving the problem rather than determining liability, without prejudice to Daher's compliance with the Transportation Contract.
- 3.8 If Daher becomes aware of any loss or damage to any Load being transported under the Transportation Contract, Daher shall notify its insurer, the Contracted Supplier, the IO-SLM, and Fusion for Energy of such loss or damage as soon as reasonably practicable and within eight (8) working hours maximum in accordance with Article 19.4 (*Notification*) and shall thereafter, in a timely manner, provide the Contracted Supplier with full details of the circumstances of such loss or damage.
- 3.9 Daher shall take all necessary measures to protect the Loads and limit the damages and losses and to preserve the rights and recourses of the

Contracted Supplier and its insurers.

- 3.10 Daher undertakes to respect the applicable laws of the places of execution, security instructions and safety precautions.
- 3.11 Daher shall have sole responsibility for the Contractor's Staff. Daher shall make provision for the following employment or service relationships with the Contractor's Staff:
- Contractor's Staff executing the tasks assigned to Daher may not be given orders directly by the Contracted Supplier;
 - the Contracted Supplier may not under any circumstances be considered to be the Contractor's Staff's employer and the said staff shall undertake not to invoke in respect of the Contracted Supplier any right arising from the contractual relationship between the Contracted Supplier and Daher.
- 3.12 Unless otherwise agreed by the Parties it shall be the Contracted Supplier's responsibility to implement (i) the instrumentation required for recording the physical parameters characterising the loads (e.g. acceleration, temperature, humidity, etc.) which may affect the quality or performance of the Load and (ii) the required level of redundancy. Daher shall properly manage and safely archive all the values recorded from the loads during the transport. In case of transportation of PICs or when required by the Contracted Supplier, Daher shall provide and install in the transportation vehicle at the Contracted Supplier's Cost, instrumentation to measure the interface loads between the Load and the transportation vehicle.
- 3.13 The Contracted Supplier shall prepare and sign-off the Release for Shipping instruction to Daher. Daher shall arrange for the collection and transport of the Load from the Contracted Supplier premises as stated in the Release for Shipping instruction and provide a copy of this document to the IO Site Materials and Logistics (IO-SL) Warehouse staff and to Fusion for Energy.

4. Obligations and Undertakings of the Contracted Supplier

4.1 Exclusivity of Daher

- 4.1.1 The Contracted Supplier has an obligation to place with Daher Task Orders for the delivery of HELs delivered and handed over to the ITER Organisation required to be supplied by it under the Supply Contract, and for all related Services, including for the subscription of full value ad valorem insurance from the Point of Origin to the Delivery Location.
- 4.1.2 The Contracted Supplier shall have an obligation to place with Daher Task Orders for the HELs transportation.

- 4.1.3 The Contracted Supplier shall have no obligation to place with Daher Task Orders for
- 4.1.3.1 the supply of raw (bulk) materials or for the delivery of any type of Loads (HEL/CEL/CL) to a location other than the Delivery Location, and
- 4.1.3.2 for the delivery of CELS and CLs to the ITER Organization but shall systematically consult Daher to obtain a formal quotation for the services..
- 4.1.4 Article 4.1.6 applies with regard to the transportability studies carried out or commissioned by Daher in accordance with Article 4.3 (*Transportability of the Load*) but does not apply with regard to any subsequent road adaptation works.
- 4.1.5 Preferred Carrier – Shipment of Conventional Exceptional Loads and/or of Conventional Loads
- 4.1.5.1 This Article 4.1.6 (*Preferred Carrier – Shipment of Conventional Exceptional Loads and/or of Conventional Loads*) shall apply if:
- i) the Contracted Supplier included in its tender a quotation made by its Preferred Carrier and the amount of this quotation was lower than the amount of Daher's quotation in accordance with the provisions set out in Article [Number] of Annex [Number] of the Invitation to Tender, or if
 - ii) the Parties agree that this Article is applicable.
- 4.1.5.2 In such case, the Contracted Supplier shall place all Task Orders with Daher, but the Preferred Carrier shall carry out all the shipments contemplated under the Supply Contract. Daher and the Preferred Carrier shall enter into a separate transportation contract containing no more onerous provisions than the ones used by Daher with its Subcontractors in the normal course of business and for comparable shipments. Daher acknowledges that upon request by Fusion for Energy or by the Contracted Supplier, it shall provide to the requester a copy of the contract, and shall do its best efforts to implement any changes that the requester may reasonably ask. For the purposes of this Transportation Contract, the Preferred Carrier shall be a nominated Subcontractor of Daher.
- 4.1.6 The Contracted Supplier shall provide all information necessary for the good performance of the Transportation Contract. The Contracted Supplier shall provide to Daher in relation to each Load the Technical Information set out in Annex 2 (*Minimum Technical Information*) within the following timeline:
- a) For an HEL: nine (9) months prior to the estimated time of arrival at the Delivery Location;

- b) For a CEL: seven (7) months prior to the estimated time of arrival at the Delivery Location;
- c) For CLs transported exclusively by truck: two (2) months prior to the estimated time of arrival at the Delivery Location.
- d) For any other CLs: three and a half (3.5) months prior to the estimated time of arrival at the Delivery Location.

4.1.7 In addition, the Contracted Supplier shall provide to Daher packing lists in Soft format in view of IT integration no later than two (2) weeks before loading at Point of Origin. The minimum information to be provided in the packing list is: package reference, IO release note number, PO number, dimensions, weight, type of package, and the reference of the Supply Contract.

4.2 Packing and Loading

4.2.1 Unless otherwise agreed, the Contracted Supplier shall be the sole responsible for the packing and loading of the Loads at the Point of Origin. Accordingly, the Contracted Supplier shall ensure that all Loads are properly packed and loaded, and as such transportable to the Delivery Location, that no damaged Loads are loaded and that no Loads are damaged during loading. Notwithstanding the foregoing, Daher shall assist the Contracted Supplier with the definition and design of the packages and the frames of the Loads, if so requested by the Contracted Supplier. Daher shall timely provide all necessary information required for the Contracted Supplier to define packing and loading conditions.

4.2.2 If the Contracted Supplier is responsible for loading the trucks or stuffing the containers, it shall provide shipping lists to Daher no later than one (1) Working Day after loading at Point of Origin. Shipping Lists must be in the format defined in Annex 3 (*Shipping List Template*) in view of IT integration. They must identify the list of package references loaded in each container or truck with the indication of container or truck number.

4.3 Transportability of the Load

The Contracted Supplier shall be the sole responsible of the transportability of the Loads to the Delivery Location, having regard to the dimensions and the particular characteristics thereof. Therefore, unless otherwise agreed, the Contracted Supplier shall bear all related costs, including but not limited to, all costs associated with any required adaptation of infrastructures, such as road sign removal or any other road adaptation, as well as any specific transportation frames.

4.4 Protection Important Components (PICs)

4.4.1 Background. Definitions. Interpretation

Unless otherwise set out herein, any and all Costs related to the transportation of PICs are included in the quotation provided by Daher based on the Payable Service Price Table, with the exception of Costs of any survey carried out by the Third Party Surveyor or any other third party, of the cost of any additional instrumentation required by the Contracted Supplier under Article 3.12, of Costs related to the additional time of vehicle immobilisation during performance of the survey and/or during installation and removal of instrumentation. If performance of the survey has a cost impact, Daher shall either include such Cost in the Task Order or charge it separately, depending on whether it anticipated the survey at the time of signature of the Task Order.

4.4.2 Exchange of Technical Information for the Transportation of PICs

Daher shall develop a procedure for the transportation of each PIC that is compliant with the most recent version of ASME NQA-1 or equivalent. Such procedure shall deal, among others, with the installation of accelerometers, dust free environment and the use of inert gas. It shall identify all the auxiliary equipment that Daher will use to transport the PIC. Daher shall provide such procedure to the Contracted Supplier at least six (6) months prior to the shipment of the PIC and shall promptly implement any requests for correction made by the Contracted Supplier, F4E or ITER Organisation.

4.4.3 Provision of load Specifications

4.4.3.1 The Contracted Supplier shall inform Daher of the Supply Contract for PICs following its signature. The Contracted Supplier shall provide to Daher the drawings and mounting points that are directly on the PIC or on its load frame, to allow Daher to develop the procedures for handling the transportation frame and for securing the frame to the vehicle during transportation. If Daher must install the PIC into the transportation frame and remove it therefrom, the Contracted Supplier shall inform Daher of the handling points on the PIC and the protection devices that Daher must fit to the PIC.

4.4.3.2 Daher shall provide all information related to the applicable transportation arrangements and conditions and applicable loads with proposed safety factors to the Contracted Supplier, who shall make it available to the manufacturers of transportation frames. The Parties shall agree on the timing for the provision of this information on a case-by-case basis, depending on the type of PIC.

4.4.3.3 Following the delivery of a PIC to the Delivery Location Daher shall promptly provide to the Contracted Supplier the results of the instrumentation measuring all the loads during the entire transportation. Daher may only be discharged from liability for the transportation of the PIC subject to the resolution of the findings of a

“receipt inspection” carried out by the Contracted Supplier.

5. Task Order Price

5.1 Components of the Task Order Price

The Task Order Price shall be composed of the following items:

- a) The fixed direct Costs (FDC) for the performance of the Services from the Point of Origin to the Delivery Location, as follows:
 - i) For CELs carried through the Onset Location and HELs, the FDC from the Point of Origin to the Onset Location are set out in the quotation provided by Daher to the Contracted Supplier in accordance with Article 5.2 (*Quotations to the Contracted Supplier*). The FDC from the Onset Location to the Delivery Location are included in the Payable Service Price Table;
 - ii) For those CELs which are not carried through the Onset Location, the quotation provided in accordance with Article 5.2.2 (*Quotations to the Contracted Suppliers of CELs*) shall include the FDC from the Point of Origin to the Delivery Location;
 - iii) For CLs, the FDC from the Point of Origin to the Delivery Location are set out in the quotation provided by Daher according to Article 5.2.3;
 - iv) If required by the Contracted Supplier, the FDC shall also include the Cost of any transportability studies carried out or commissioned by Daher in accordance with Article 4.3 (*Transportability of the Load*);
 - v) If Article 4.1.6 (*Preferred Carrier – Shipment of Conventional Exceptional Loads and/or of Conventional Loads*) applies, the FDC shall be those set out in the quotation made by the Preferred Carrier at the shipment stage.
- b) A contribution to the gross profit and indirect overheads of Daher (GPO) of 6.2 % (six point two per cent) of the FDC.
- c) The premium for the *Ad Valorem* insurance for each Load, corresponding to 0.11% of the value of the Load, as declared by the Contracted Supplier.

5.2 Quotations to the Contracted Supplier

5.2.1 Quotations to the Contracted Suppliers of HELs

- 5.2.1.1 Prior to each shipment of an HEL Daher shall provide to the Contracted Supplier three (3) quotations for sea freight and road freight from the Point of Origin to the Onset Location. The quotations

shall contain sufficient detail, both as concerns the financial and the technical proposal so as to allow the Contracted Supplier to carry out a comprehensive comparison and selection exercise. Should the Contracted Supplier disagree for any reason with the quotations received, Daher shall provide two (2) additional quotations.

5.2.1.2 Daher warrants that the total maximum price of each quotation shall not exceed the total maximum price of the quotation provided to the Contracted Supplier at the tender stage by more than five percent (5%). This maximum deviation may be exceeded if a change in the dimensions, weight, center of gravity or place of loading of the HEL, as provided by the Contracted Supplier at the tender stage, prevents Daher from performing the Services at the costs originally foreseen. The deviation of five per cent (5%) shall include any uncertainties related to the other characteristics of the HEL or to the conditions of transport, which Daher as an experienced professional could not reasonably have foreseen when preparing the initial quotation.

5.2.2 Quotations to the Contracted Suppliers of CELs

5.2.2.1 Prior to each shipment of a CEL Daher shall provide to the Contracted Supplier three (3) quotations from the Point of Origin to the Delivery Location. The quotations shall contain sufficient detail, both as concerns the financial and the technical proposal so as to allow the Contracted Supplier to carry out a comprehensive comparison and selection exercise.

5.2.2.2 Daher warrants that the total maximum price of each quotation shall not exceed the total maximum price of the quotation provided to the Contracted Supplier at the tender stage by more than five percent (5%). This maximum deviation may be exceeded if a change in the dimensions, weight, centre of gravity or place of loading of the CEL, as provided by the Contracted Supplier at the tender stage, prevents Daher from performing the Services at the costs originally foreseen. The deviation of five per cent (5%) shall include any uncertainties related to the other characteristics of the CEL or to the conditions of transport, which Daher as an experienced professional could not reasonably have foreseen when preparing the initial quotation.

5.2.3 Quotations to the Contracted Suppliers of CLs

Prior to each shipment of a CL Daher shall provide to the Contracted Supplier 1 (one) quotation from the Point of Origin to the Delivery Location. Daher shall use its best effort to provide a quotation in line with the quotation provided at the tender stage. Daher shall also provide to the Contracted Supplier 1 (one) quotation for the Services related to CLs if they will be shipped by sea freight. Daher shall use its

best effort to provide a quotation in line with the quotation provided at the tender stage.

5.3 Revision of the Task Order Price

Unless otherwise permitted by this Article 5 (*Task Order Price*), the Task Order Price shall be firm and fixed and shall not be subject to revision throughout the term of the Task Order.

Notwithstanding the foregoing the Task Order Price may be revised upwards or downwards at the request of either Party, with effect from the first Day of the month following each anniversary of the Task Order Date. The revision clauses specific to each type of Load are set out in Annex 7 (*Specific Revision Clauses*). For ocean shipments, Daher may apply the Bunker Adjustment Factor and the Currency Adjustment Factor at any time of shipment throughout the term of the Task Order. For road shipments, the CNR index shall apply on each anniversary of the Task Order date.

5.3.1 The Task Order Price may be amended at any time:

- i) in case of a change in the applicable laws and regulations directly affecting the Task Order Price and not related to employment, corporate tax, or social legislation, and
- ii) in case of additional surcharges imposed by shipping liners which Daher as an experienced contractor could not foresee at the time of signature of the Task Order Price.

5.3.2 The Party having requested the price revision shall provide to the other Party appropriate evidence of the event determining the price revision, and of the calculations.

5.4 Without prejudice to Daher's liability under Article 8 (*Liability*) and to Article 11 (Force Majeure and Adverse Climatic Conditions), the Contracted Supplier shall bear all staging and storage Costs for a cumulative period of up to sixty (60) Days, which includes, if any, the staging Costs at the staging areas for HELs for a maximum duration of 21 Days (21 x 24h) and the staging Costs of CELs and CLs for a maximum duration of five (5) Days (5 x 24h). Any storage costs in excess of 60 Days will be invoiced by Daher to the party responsible for this additional costs. The Contracted Supplier shall be responsible for the maintenance of the Loads during the staging/storage period and shall bear all related Costs during the aforementioned 60- Days' period.

6. Invoicing and Payment

6.1 The Task Order Price shall be specified in Euro and shall be paid by the Contracted Supplier by bank transfer to Daher's bank account below. The Task

Order Price and all other Costs hereunder are exclusive of VAT, which, if applicable, shall be charged and payable at the prevailing rate.

Name of bank: [complete]

Address of branch in full: [complete]

Exact designation of account holder: [complete]

Full account number including codes: [complete]

IBAN⁴ code: [complete]

- 6.2 For Task Orders related to HELs, the Contracted Supplier shall not be responsible for the payment of that part of the Task Order Price which relates to the leg from the Onset Location to the Delivery Location. Daher shall invoice this part to F4E. The Contracted Supplier shall only pay the Services related to the leg from the Point of Origin to the Onset Location (liner term: Free Out unlashed). Notwithstanding this structural payment split, the overall responsibility in relation with a Task Order request and implementation remains with the Contracted Supplier.
- 6.3 For Task Orders related to CELs and/or CLs, the Contracted Supplier shall be responsible for the payment of the Services for the entire leg from the Point of Origin to the Delivery Location.
- 6.4 If Daher must store the Load in the Marseille region in excess of the sixty (60) Days' period set out in Article 4.3 d), the interim storage facility shall become the revised Delivery Location and F4E, ITER Organisation or their duly appointed representative shall endorse the Shipping Condition Certificate in relation to this shipment.
- 6.5 The requests for payment shall be in the form of invoices sent by Daher. The Shipping Condition Certificate signed by Daher and ITER Organisation shall accompany the invoice, as a condition for payment. The Shipping Condition Certificate shall indicate:
- the Task Order number,
 - the referenced cargo, and
 - the receiving date.
- 6.6 The Contracted Supplier shall pay all invoices due to Daher no later than thirty (30) Days from the date of receipt thereof. If any amounts are in Dispute, the Contracted Supplier shall only pay the undisputed amounts.
- 6.7 Late Payment Interest Rate
- If the Contracted Supplier fails to pay any amount due and payable within the agreed timeline, Daher shall be entitled to interest on the overdue amount on condition of claiming it at the latest within two (2) months as from receipt thereof. Interest shall be calculated at the rate applied by the European Central

⁴ BIC code for countries with no IBAN code.

Bank to its most recent main refinancing operations (hereinafter, the "**Reference Rate**") plus seven (7) percentage points (hereinafter, the "**Margin**"). The Reference Rate in force on the first Day of the month in which the payment is due shall apply. Interest shall be payable for the period elapsing from the Day following expiry of the time limit for payment up to the Day of payment in full. Suspension of payment by the Contracted Supplier for a duly justified reason does not constitute late payment.

7. No lien

Daher hereby waives, discharges, and releases and procures that its Subcontractors and Partners waive, discharge and release any and all liens, claims, and rights to liens, rights of retention and rights of privilege on the Loads or on the documents related to the Loads on account against the Contracted Supplier. Article L.132-2 of the French Commercial Code shall not apply.

8. Liability

- 8.1 Daher shall provide the Services or shall procure that the Services are provided using all the care and skill which might be reasonably expected of a competent and experienced professional. Notwithstanding the foregoing, it is acknowledged and agreed that Daher acts as a "*commissionnaire de transport*".
- 8.2 Subject to Article 8.5, Daher shall be liable vis-à-vis the Contracted Supplier for any loss or damage to the Loads or delay caused by or arising out of its own fault, error or negligence or the fault, error or negligence of the Contractor's Staff, its Subcontractors, Subcontractors' Staff, Partners, or Subsidiaries, in performance of the Services in accordance with the terms of this Article 8 (*Liability*) and of Article 9 (*Terms of Delivery and Delay Damages*).
- 8.3 Daher shall be solely and without any limitation as to the amount liable for all loss, damage or bodily injury (including death) sustained, whether directly or indirectly, by any third party, which is caused by Daher, the Contractor's Staff, its Subcontractors, Subcontractors' Staff, Partners or Subsidiaries, arising out of or relating to the performance of the Transportation Contract and/or a Task Order. In the event of any proceeding, whether judicial, arbitral, administrative or otherwise, by a third party against the Contracted Supplier on account of any loss, damage or bodily injury (including death), caused by any of the foregoing, or by their property, whether directly or indirectly, Daher shall indemnify and hold harmless the Contracted Supplier, and shall advance any funds necessary to defend its interests.

- 8.4 In case of liability for damage to or loss of the Load which is not fully covered by the DAHER ad valorem insurance policy set out in Article 10 (*Insurance*) the Contractor shall be responsible for the loss or damage to the Load up to 15 (fifteen) million Euros each and every loss. Such limitation shall not apply (i) in case of gross negligence or willful misconduct of DAHER or (ii) if the insurance policy is not in place or if the insurers do not provide full compensation for the damage for reasons attributable to Daher.

For all other damages, the Contractor's liability shall be limited to three times the amount of all Task Orders signed under this Transportation Contract up to the moment when the harmful event occurred. This limitation shall:

- i) not apply in case of gross negligence, willful misconduct of, personal injuries or death caused by the Contractor, Contractor's Staff, its Partners, Subcontractors, or Subcontractor's Staff;
- ii) apply in addition to any amounts recoverable from the insurances that Daher has in place or should have had in place in accordance with this Transportation Contract or the applicable law, should these amounts not cover fully the damage;
- iii) not apply to any liability for delays, for which Article 9 (*Terms of Delivery and Delay Damages*) applies.

The Contracted Supplier may request at any time from the Contractor copies of the certificates of insurance in effect.

The overall liability of the Contracted Supplier under a Task Order shall be limited to the amount of all Task Orders signed under this Transportation Contract up to the moment when the harmful event occurred, except for cases of gross negligence and wilful misconduct, personal injuries or death caused by the Contracted Supplier, its staff, subcontractors, or subcontractors' staff.

- 8.5 Without prejudice to any exceptions expressly set out in this Transportation Contract, neither Party be liable to the other Party for any consequential or indirect loss or damage suffered by that Party including but not limited to, loss of profit or anticipated profit, loss of revenue, loss of use or business interruption or for any other incidental or special damages whatsoever and however caused. Damages or losses related to transportation which qualify as "dommage materiel" under the applicable law and which the Contracted Supplier must compensate for pursuant to the terms and conditions of the Supply Contract can never qualify as consequential or indirect losses or damages.
- 8.6 Subject to the other provisions in this Article 8, Daher warrants that the Contracted Supplier shall not be in breach of the Supply Contract by reason of Daher's actions or omissions under the Framework Contract, the Implementation Agreement or the Transportation Contract. Daher shall indemnify the Contracted Supplier against all liabilities, costs, expenses,

damages and losses suffered or incurred by it arising out of or in connection with Daher's breach or negligent performance or non-performance of the Framework Contract, this Implementation Agreement or this Transportation Contract.

9. Terms of Delivery and Delay Damages

- 9.1 The specific time for delivery of each Load shall be agreed to by the Parties in the respective Task Order.
- 9.2 Timely performance of the delivery is subject to the timely receipt of individual Task Orders detailing the characteristics of the Load, by Daher in accordance with the provisions of Article 2.5. To the extent above mentioned conditions are not fulfilled on time, the time for delivery shall be extended accordingly unless Daher is responsible for the delay.
- 9.3 In case of late delivery due to a Force Majeure Event or Adverse Climatic Conditions as per Article 11 below (*Force Majeure Event or Adverse Climatic Conditions*), time for delivery shall be extended by the length of the delay and its consequences.
- 9.4 Should Daher fail to perform the Services within the time limits set out in the Task Order, then, without prejudice to Daher's actual or potential liability incurred in relation to the Transportation Contract and the Task Order, or to the Contracted Supplier's right to terminate the Transportation Contract and/or the Task Order in accordance with Article 12 (*Term and Termination*), the Contracted Supplier may impose liquidated damages at the rate of 0.5% (five per thousand) of the Task Order Price per Day of delay. The aggregated amount of liquidated damages shall not exceed 10% of the total Task Order Price. The Contracted Supplier may at its sole discretion apply a lower amount.
- 9.5 The Parties expressly agree and acknowledge that any amounts payable under this Article 9 (*Terms of Delivery and Delay Damages*) are of the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the damages and losses that may be reasonably anticipated by the Contracted Supplier from any delay of Daher.

10. Insurance

- 10.1 Daher shall take out the following insurances and provide upon request evidence of such insurances policies to the Contracted Supplier.
 - a) Full-value *Ad Valorem* insurance for all Loads, covering also any Services to be performed by all Subsidiaries, Partners and/or Subcontractors. This

Ad Valorem insurance shall be contracted in accordance with the following terms and conditions:

- i) Automatic insurance coverage for all the Loads and all the shipments;
- ii) “All Risks” insurance conditions, covering any and all material damages and losses, notably general average, theft, missing, fire, explosion, handling damages, falling of racks, damages from water, crash, storm, hail, snow, impact of land vehicles (or parts thereof) belonging to third parties, falling air or spacecraft, strikes, riots, civil commotions, war risks, terrorism, malevolence, vandalism ...;
- iii) The global limit of compensation in case of material damages and losses shall be EUR 200.000.000 (two hundred millions) per conveyance with the following sub-limits:
 - a) Debris removal: EUR. 5.000.000 (five million) per year,
 - b) Additional costs clause: EUR. 500.000 (five hundred thousand) per year.
- iv) Claims recoverable hereunder shall be paid with a deductible of EUR. 25.000,00 except General average and War risk for which no deductible is applied.
- v) Intermediate storage shall be covered at same conditions and without any limit of time;
- vi) Non apparent damages on delivery clause: 50/50 compensation clause between *Ad Valorem* and Construction & Assembly insurance (already placed by IO and F4E, also covering storage of Loads after their delivery by Daher);
- vii) Any “coinsurance clause”/“proportional rule” usually applied by insurers to determine level of compensation shall be abrogated.

The Contracted Supplier acknowledges that the ITER Organization shall be declared in the policy as Loss payee for the *Ad Valorem* insurance.

- b) A third party liability insurance covering Daher for all its activities, including Subcontractors, Partners and Subsidiaries, and for any material and non-material damages caused to any third party, including bodily injuries, extra Costs and financial losses. The General Third Party Liability shall amount to a minimum of 50.000.000 (fifty million) Euros per occurrence.

10.2 For the avoidance of doubt, the provisions of this Article 10 (*Insurance*) do not apply to the Preferred Carrier.

10.3 If by extraordinary, the Contracted Supplier does not use the *Ad Valorem* insurance policy subscribed by Daher, then the Contracted Supplier and its insurers shall waive their right of recourse against DAHER and its insurers for

any damage to or loss of the Loads due to transportation, provided that such damage or loss would have otherwise been covered by Daher's insurance.

11. Force Majeure and Adverse Climatic Conditions

11.1 Force Majeure

11.1.1 Neither Party shall be responsible for any complete or partial non-fulfilment of its obligations under this Transportation Contract and/or a Task Order if this non-fulfilment is caused by Force Majeure.

11.1.2 The Parties agree that Force Majeure includes, without limitation, the following:

- a) Public demonstrations;
- b) Accidents, requisitions, forbidden days for trucks, urgent and unforeseeable works or improvements, activation of emergency plan;
- c) Regulations (FR: *actes normatifs*) of the French authorities issued after signature by the Contracted Supplier and by Daher of the Task Order for CELs and CLs, or after endorsement by F4E of the Task Order for HELs;
- d) Decisions (FR: *actes individuels*) of the French authorities (by way of example, (i) of the Prefect of Defence and Security Zone South (FR : *Préfet de la zone de défense et de sécurité sud*), the Prefect of Provence Alpes Côtes d'Azur region (FR: *Préfet de la région Provence Alpes Côtes d'Azur*), the Prefect of Bouches-du-Rhône department (FR: *Préfet du département des Bouches-du-Rhône*) or their duly appointed representatives concerning the date and time of departure of an HEL convoy, or (ii) of the Gendarmerie Nationale), issued after endorsement by Fusion for Energy of the relevant Task Order, and
- e) Any specific constraints of the French local entities (such as, Lyondellbasell, Salins du Midi, ASF, ESCOTA, Conseil Général 13, SNCF, RFF, EDF, etc.), including industrial action at these entities, issued after signature by Daher and the Contracted Supplier of the Task Order for CELs and CLs, or after endorsement by F4E of the Task Order for HELs.

The burden of proving that the events set out in letters a) to e) above meet the conditions of Force Majeure shall rest upon Daher.

11.1.3 For the avoidance of doubt, any strike, lock out or other form of industrial action shall not be classed as Force Majeure if it relates to the employees of Daher or the Contracted Supplier only.

11.1.4 The Parties shall take the necessary measures to reduce damage to a minimum. The performance of the obligations affected by Force Majeure

shall resume when the Force Majeure ceases to exist.

- 11.1.5 Without prejudice to Article 3.7, if either Party is confronted with Force Majeure, it shall notify the other Party without delay by registered letter with acknowledgement of receipt or equivalent, stating the nature, likely duration, and foreseeable effects.
- 11.1.6 For Task Orders related to CLs, Daher shall absorb all additional costs incurred due to Force Majeure.
- 11.1.7 For Task Orders related to HELs or CELs, Daher shall be entitled to charge the Contracted Supplier by way of two (2) distinct invoices for the tasks actually performed prior to the Force Majeure, and for the additional Costs incurred due to it. Daher shall provide evidence of such Costs together with the corresponding invoice.

11.2 Adverse Climatic Conditions

This Article 11.2 (*Adverse Climatic Conditions*) shall apply only to Task Orders related to an HEL. For clarity, this means that when Adverse Climatic Condition affect the delivery of a CEL or CL, they do not entitle Daher to an extension of the time for delivery or to a claim for additional compensation.

Daher shall not be responsible for any Adverse Climatic Conditions, provided that:

- a) The adverse climatic conditions are the sole cause preventing or delaying the implementation of a Task Order;
- b) A contractor exercising reasonable care could not have avoided the consequences of such conditions by the exercise of due diligence, and
- c) Daher has taken all appropriate measures to mitigate any delays and Costs triggered by such conditions.

The burden of proving the fulfilment of the above conditions shall rest upon Daher. Daher shall charge F4E by way of a separate invoice the actual Costs incurred due to Adverse Climatic Conditions.

12. Term and Termination

- 12.1 The Transportation Contract shall enter into force on the Commencement Date and shall remain in full force and effect until full performance by the Parties of their respective obligations thereunder.
- 12.2 Either Party may terminate this Transportation Contract and/or any Task Order by written notice to the other Party in the following events:
 - a) if the other Party is in material breach of any of its obligations under the

Transportation Contract and/or the Task Order and, in the case of a breach capable of remedy, fails to remedy such breach within thirty (30) Days of being given written notice so to do;

b) if the Framework Contract or the Implementation Agreement is validly terminated in accordance with its provisions or the applicable law :

- i) for cause or for convenience by ITER Organization or by F4E⁵, or
- ii) for cause by Daher.⁶

If the right foreseen in Art. 12.2 b) is exercised, both the Transportation Contract and all Task Orders shall terminate by operation of the law.

c) in case of Force Majeure notified in accordance with Article 11.1.4,

- i) with respect to a Task Order, where its performance cannot be ensured for a period of at least one fifth (1/5) of its duration, and
- ii) with respect to the Transportation Contract, if Force Majeure affects the entire scope of either Party's obligations thereunder and if its performance cannot be ensured for a period exceeding three (3) months.

12.3 Prior to termination under Article 12.2 a), the defaulting Party shall be given the opportunity to submit its observations in writing to the other Party.

12.4 The Contracted Supplier may terminate a Task Order if the amount of liquidated damages due by Daher pursuant to Article 9 (*Terms of Delivery and Delay Damages*) exceeds 10% (ten per cent) of the Task Order Price.

12.5 This Transportation Contract and all Task Orders shall terminate *ipso jure* as from the date of termination of the Supply Contract by the Contracted Supplier or by F4E in accordance with its provisions or the applicable law. In such a case no loss or damage can be claimed by Daher other than what is provided for under article 12.8.4.

12.6 Without prejudice to Articles 12.5 and 12.2. b), termination shall take effect on the date on which a registered letter with acknowledgement of receipt terminating the Transportation Contract and/or the Task Order is received by the Party, or on the date indicated in that letter.

12.7 Notwithstanding expiration or termination of this Transportation Contract for any reason, all provisions containing payment obligations, and all provisions relating to Confidential Information, construction and interpretation of this Transportation Contract, dispute resolution and governing law, and all causes of action which arose prior to expiration or termination, shall survive until, by their respective terms, they are no longer operative or are otherwise limited by

⁵ For cause, in accordance with Article II.15.A. (*Termination by the Beneficiaries*), and for convenience, in accordance with Article II.16 (*Termination by Notice*) of the Framework Contract.

⁶ In accordance with Article II.15.B (*Termination of the Contract by the Contractor*) of the Framework Contract.

an applicable statute.

12.8 Consequences of termination

12.8.1 In case of termination of this Transportation Contract or of any Task Order in any of the following circumstances:

- a) by the Contracted Supplier, in accordance with Article 12.2 a) and 12.4;
- b) in case of a termination for cause of the Framework Contract or the Implementation Agreement by ITER Organisation or by F4E, in accordance with Article 12.2 b) i, except for termination due to Force Majeure⁷, the Contracted Supplier may claim compensation for any damage or loss incurred.

On termination, the Contracted Supplier may engage any other contractor to complete the Services and may claim from Daher all extra costs incurred in making good and completing the Services, without prejudice to any other rights it has under the Transportation Contract.

12.8.2 In case of termination by Daher of any Task Order, in accordance with Article 12.2 a) Daher may claim compensation for any damage or loss incurred.

12.8.3 Daher shall not be entitled to compensation if the Transportation Contract is terminated for any reason whatsoever, and by any Party, but no Task Order has been signed yet or is still in effect.

12.8.4 In case of termination of the Transportation Contract and/or of the Task Orders for any reason contemplated in this Article 12 (*Term and Termination*):

- a) Daher shall take immediate steps to bring to an end its activities forming the subject matter of the Transportation Contract and/or the Task Order and shall take all appropriate measures to prevent and minimise damage, and cancel or reduce his commitments. Daher shall draw up the documents required by the Transportation Contract and/or the Task Order for the Services provided up to the date on which termination takes effect, within a period not exceeding 60 (sixty) Days from that date.
- b) Without prejudice to the Contracted Supplier's right to seek compensation, Daher is entitled to be paid for the part of the Services performed in compliance with this Transportation Contract and the Task Order, up to the effective date of the termination.

13. Cancellation and Postponement

⁷ As per Article II.15.A.2 of the Framework Contract.

- 13.1 If the Contracted Supplier issues a written instruction for the cancellation or postponement of a Task Order related to a CL, Daher may invoice to the Contracted Supplier the actual Costs incurred caused by or arising out of such cancellation or postponement. In all cases, Daher shall provide together with the invoice evidence of the incurred Costs. In case of a request for postponement Daher shall do its best efforts to negotiate a reduction of the cancellation fees with the shipping liners, trucking companies, or any other transportation companies involved.
- 13.2 If the Contracted Supplier issues a written instruction for the cancellation or postponement of a Task Order related to a CEL or an HEL, Daher may invoice to the Contracted Supplier the actual Costs incurred and described in Annex 4 (*Cancellation Costs for CEL and HEL*). In all cases, Daher shall provide together with the invoice evidence of the incurred Costs. In case of a request for postponement Daher shall do its best efforts to negotiate a reduction of the cancellation fees with the shipping liners, trucking companies or any other transportation companies involved.
- 13.3 Daher shall inform F4E of a cancellation or postponement instruction promptly following its receipt.
- 13.4 The request for a cancellation or postponement of any HEL shipment under the relevant Task Order by the Contracted Supplier is subject to F4E's prior endorsement, as a condition for the performance by Daher of the Task Order, as amended, and for the payment by the Contracted Supplier of the cancellation and postponement Costs⁸.

14. Confidentiality

- 14.1 Each Party undertakes to treat and maintain in the strictest confidence and not make use of or divulge to third parties any Confidential Information.
- 14.2 This Article 14 (*Confidentiality*) does not apply where:
- a) the Confidential Information was, is or becomes publicly available to the public other than as a result of any breach by either Party of its confidentiality obligations under the Transportation Contract; or
 - b) the Disclosing Party subsequently informs the Recipient Party that the Confidential Information is no longer confidential; or
 - c) the Confidential Information was already known to the Recipient Party, at the time of its disclosure, other than as a result of any breach of its confidentiality obligations under the Transportation Contract, and is

⁸ The aforementioned F4E's prior endorsement shall not apply to Task Orders initiated by a Contracted Supplier for Services related to CELs or to CLs.

otherwise free of any restrictions as to its use or disclosure; or

- d) the Confidential Information was or is subsequently disclosed to the Recipient Party by a third party provided that such third party, to the Recipient Party's knowledge, is in lawful possession of the Confidential Information and under no obligation of confidentiality; or
- e) the disclosure or communication of the Confidential Information is required by any applicable law or by the rules of any regulatory body or government agency lawfully requesting the same, provided that the disclosing Party has been given by the other Party prior written notice of such disclosure.

14.3 Each Party shall procure that its staff, board and directors which has a need to know the Confidential Information, have been informed of the confidential nature of the Confidential Information and that they will not divulge to third parties or use for their own benefit or that of any third party any Confidential Information for a period of ten (10) years after execution of the Transportation Contract.

14.4 The Parties shall continue to be bound by this undertaking for a period of ten (10) years after performance of the Transportation Contract.

15. Contracted Supplier's Rights of Inspection

15.1 Daher shall keep accurate and up to date records showing all amounts due and all amounts paid by the Contracted Supplier for the Services and all other activities ordered and performed by Daher and its Subsidiaries, Partners and Subcontractors, and shall keep these records for a period of five (5) years after the term of this Contract.

15.2 During the whole duration of the Transportation Contract, Daher shall permit the Contracted Supplier to verify Daher's performance records referenced herein for their own ordered Services. For that purpose the Contracted Supplier's designated auditors or other personnel, or its regulators, at their own expense, shall be allowed to review the records related to their own expenses. Notification of the inspection shall be given to Daher with ten (10) Days' prior written notice.

15.3 Inspectors shall verify the records at all reasonable times during Daher's normal business hours and respect the confidentiality requirements of Daher.

16. Export Control regulations

16.1 Daher's obligation to fulfill this Transportation Contract and the respective Task

Order(s) is subject to the provision that the fulfillment is not prevented by impediments arising out of national and international foreign trade and customs requirements or any embargos or other sanctions, in particular export control provisions.

- 16.2 In any cases, F4E and/or the Contracted Supplier are responsible to fulfil the national export control regulations.
- 16.3 In performing the obligations of this Transportation Contract, both Parties shall comply with all applicable export, import and sanctions laws, regulations, orders, and authorizations (hereafter referred to as "export regulations"), applicable to the export (including re-export) or import of goods, software, technology, or technical data (collectively referred to as "items") or services. Nothing in this Transportation Contract shall be construed as requiring a Party to perform an obligation that is non-compliant with any export regulations.
- 16.4 The Contracted Supplier shall notify Daher in writing of any export control restriction related to items managed by Daher in terms of storage, access rights, specific export authorizations, handling, etc.
- 16.5 When the Service performed by Daher includes customs activities, the Contracted Supplier shall provide Daher with:
- all references of the export licenses and relevant export control statement (including but not limited to end user statement) previously granted by the exporter to cover the shipment operations.,
 - a copy of these export licenses and relevant export control statements.

17. Property of the Parties

- 17.1 Where for the purpose of the Transportation Contract one Party provide to the other Party access to drawings, files, technical data, computer programs, source codes, and any other item of property, the providing entity remains the sole owner of any item provided.
- 17.2 These items may only be used by the receiving entity for the purposes of the Transportation Contract. The distribution, reproduction or use by a third party without prior written approval by the providing entity is strictly forbidden.

18. Subcontracting

- 18.1 Daher shall have the right to subcontract the Services required hereunder to other carriers, provided any such carrier shall comply with the specifications required by the Contracted Supplier, if any, and be qualified to perform the required Services. The Contracted Supplier may not unreasonably withhold its content. All Subcontractors appointed by Daher shall be subject to the terms

and conditions set forth herein. Sub- contracting shall not relieve Daher from its overall responsibility to provide the Services.

18.2 Such Subcontractor would need to meet the following conditions:

- a) the Subcontractor is reputable and suitably resourced;
- b) alignment can be reached for Quality, Health, Security, and Environment policies and procedures;
- c) the Subcontractor will subscribe to the Contractor's cargo consolidation plans;
- d) the Subcontractor will provide the Contractor any necessary information through the Contractor's IT system to satisfy the Contractor's industrial organization.

19. Miscellaneous

19.1 Entire Agreement

This Transportation Contract and its Annexes attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede and replace all prior discussions, offers or agreements, either oral or in writing between the Parties.

19.2 Assignment

Neither Party shall assign or otherwise transfer its rights and obligations under this Transportation Contract without the prior written consent of the other Party and of Fusion for Energy.

19.3 Amendments

This Transportation Contract (including the Annexes) may not be implemented or amended except by a prior written amendment duly signed by the authorised officers or representatives of both Parties.

19.4 Notification

All notices, requests, demands and other communications with respect to this Transportation Contract shall be in writing and shall be deemed to have been duly given when delivered by hand against acknowledgement of receipt, by registered mailed with acknowledgement of receipt, by facsimile, by courier or email to the receiving Party's address as set forth below:

For the Contracted Supplier: For operational matters:

[Name and surname]

Mailing address: as stated above

For administrative matters (including invoicing): [Name and surname]

Mailing address: as stated above

For Daher:

Mr François GENEVEY

Project Director Mailing address:

Daher Transport – ITER Organization p/c DAHER Transport - Route de Vinon sur Verdon 13115 Saint-Paul-lès-Durance, France

f.genevey@daher.com

Or the appointed DAHER staff in case of absence or reassignment of the contact person.

For administrative matters (including invoicing):

Mrs Laëtitia BARRET

Contract Manager

Mailing address:

Daher Transport - ITER Organization p/c DAHER Transport - Route de Vinon sur Verdon 13115 Saint-Paul-lès-Durance, France

l.barret@daher.com

Or the appointed DAHER staff in case of absence or reassignment of the contact person.

19.5 Language

The language of communication between the Parties shall be English. The original versions of this Transportation Contract are written in English and shall prevail over any translation.

19.6 Severability

If any provision of this Transportation Contract is determined by a court of competent jurisdiction to be invalid or unenforceable either in whole or in part, such invalidity or unenforceability will not affect the other provisions of this Transportation Contract, all of which shall remain valid and in full force and effect. The Parties further agree to replace any such invalid or unenforceable provision with a valid and enforceable provision designed to achieve, to the extent possible under applicable law, the business purpose and intent of such invalid or unenforceable provision.

19.7 No Waiver

Each Party agrees to use good faith efforts to agree on those matters set forth in this Transportation Contract that are to be mutually agreed by the Parties; provided, however, that no failure to agree on any such matter shall invalidate this Transportation Contract or entitle either Party to terminate it. No departure from the terms of this Transportation Contract shall obligate either Party to permit any subsequent departure. No waiver, delay or failure to exercise any option, right, power or privilege under or in connection with this Transportation Contract by either Party on any occasion will be construed as a waiver thereof nor shall any single or partial exercise by any of the Parties of any option, right, power or privilege hereunder preclude any other or further exercise thereof or the exercise or any other option, right, power or privilege thereof.

19.8 Independent Contractor

Both Parties hereto are independent and nothing in this Transportation Contract and no action taken by the Parties pursuant to this Transportation Contract shall be construed to imply that there is any relationship between the Parties of partnership, or of principal and agent or employer and employee, nor are the Parties engaging in joint- venture or other co-operative venture and accordingly neither Party has any right or authority to act on behalf of any other nor to bind the other by sub-contract or otherwise unless expressly permitted by this Transportation Contract.

20. Governing Law and Dispute Resolution

20.1 This Transportation Contract shall be governed by and construed in accordance with French law.

20.2 Any Dispute between the Parties arising out of or in connection with this Transportation Contract shall be subject to the exclusive jurisdiction of the Commercial Court of Paris (FR: *Tribunal de Commerce de Paris*), France.

20.3 Notwithstanding any Dispute, Daher and the Contracted Supplier shall continue to perform their duties, obligations and liabilities under this Transportation Contract.

DONE IN ENGLISH, IN TWO ORIGINALS,

For and on behalf of the Contracted Supplier: Ms/Mr

Date and place:

For and on behalf of Daher: Ms/Mr

Date and place:

ANNEX 1 – Task Order Template

ANNEX 2 – Minimum technical information

Definition:

“Protection Important Component” or **“PIC”** has the meaning ascribed to it in French INB Order of 7 February 2012. The current definition is “a component important for the protection of the interests mentioned in Article L. 593 – 1 of the environment code (public safety, health and welfare, protection of nature and of the environment), i.e. structure, equipment, system (programmed or not), hardware, component or software present in a basic nuclear installation or placed under the responsibility of the operator, fulfilling a function necessary for the demonstration mentioned in the second paragraph of Article L. 593 – 7 of the environment code, or checking that this function is ensured”.

ANNEX 3- Packing List Template

(form of the template is not mandatory for the Contracted Supplier)

ANNEX 4 – Indicative cancellation and postponement costs for HEL and CEL

May 2025 – *to be reconfirmed by Daher at the time of quotation*

Conditions for cancellation of HEL and CEL							
Date		20/05/2025					
Type of cost	Type of load	WP1 - Pre booking	WP2 Booking	WP3 Firm booking with financial commitment	D-Day for WP calculation	D Day for financial commitment calculation	Financial commitment if cancellation
Pre-transportation Drayage Fos-Fos	HEL	-60 days	-30 days	-21 days	EXW date	EXW date	21<>15 days = 50% of the road freight 14<>7 days = 75% of the road freight 6<>0 days = 100% of the road freight
Self-gearred heavy lift vessel (part charter)	HEL and CEL	-120 days	-90 days	-90 days	ETS Vessel (lay can 1st day)	ETS Vessel (lay can 1st day)	On case by case basis, as per SPL
RORO Barge France	HEL	-60 days	-30 days	-21 days	ETS Barge	ETS Barge	21<>15 days = 50% of the freight 14<>7 days = 75% of the freight 6<>0 days = 100% of the freight
Post-transportation France (Hydraulic Trailer)	HEL 3.1 to 3.4	-60 days	-30 days	-30 days	ETA Vessel (lay can 1st day) or ETS barge	ETA Vessel (lay can 1st day) or ETS barge	30<>22 days = 30% of the road freight 21<>15 days = 50% of the road freight 14<>7 days = 70% of the road freight <6 days = 100% of the road freight
	HEL 3.5 to 3.6	-90 days	-42 days	-42 days	ETA Vessel (lay can 1st day) or ETS barge	ETA Vessel (lay can 1st day) or ETS barge	42<>30 days = 30% of the road freight 29<>21 days = 50% of the road freight 20<>0 days = 100% of the road freight
Road transportation	CEL	-60 days	-30 days	-21 days	ETD Trailer	ETD Trailer	21<>15 days = 50% of the road freight 14<>7 days = 75% of the road freight 6<>0 days = 100% of the road freight

Acronym	Definition
WP1	Warning Point 1
WP2	Warning Point 2
WP3	Warning Point 3
ETA VSL	Estimated Time of Arrival of the Vessel
ETA Barge	Estimated Time of Arrival of the Barge
ETS VSL	Estimated Time of Sailing of the Vessel
ETS Barge	Estimated Time of Sailing of the Barge
ETD Trailer	Estimated Time of Departure of the trailer
Lay Can	Time period during which departure of the vessel is expected

ANNEX 5 – Payable Services Price Table

ANNEX 6 – Specific revision clause for the Payable Services Prices

ANNEX 7 - ITER Organization's Working Instructions on Transportation

ANNEX 8 – Technical Specification

[insert here link to the Technical Specification of the Framework Contract]

ANNEX 9 – Supplier Quality Requirements [insert here link]