

Contract Agreement
Between
MAJID ALFUTTAIM PROPERTIES EGYPT SAE
and
BESIX ORASCOM JOINT VENTURE
Dated
19th of September, 2012

N.V BESIX S.A
Av. des Communautés 100
1200 Brussels Belgium

ORASCOM
CONSTRUCTION



CONTRACT AGREEMENT

THIS AGREEMENT is made the 19th day of September 2012

Between

Majid Al Futtaim Properties Egypt SAE with its registered office located at Maadi City Centre Mall, Al Me'raj City, Kattameya Ring Road, Cairo, Egypt (hereinafter referred to as the "Employer");
and

BESIX ORASCOM JOINT VENTURE with its registered office located at 2005A Corniche El Nile, Nile City Towers, Cairo, Egypt 1121 (hereinafter referred to as the "Contractor")

PREAMBLE

WHEREAS the Employer is desirous to appoint a Contractor for the construction of Mall of Egypt with the required Scope of Works specified in the Conditions of Contract which represent an integral part of this Agreement; and

WHEREAS, the Employer has accepted a Tender by the Contractor for the execution, completion and maintenance of such Works;

NOW, THEREFORE, the parties hereto agree as follows;

1. In this Agreement words and expressions shall have the same meaning as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following Documents shall be deemed to form and be read and construed as an integral part of this Agreement, viz:-
 - (1) *Contract Agreement*
 - (2) *Letter of Acceptance*
 - (3) *Conditions*
 - (4) *Appendix to Tender*
 - (5) *Tender*
 - (6) *The Schedules*
 - (7) *Drawings*
 - (8) *Specifications*
 - (9) *Bills of Quantities*
 - (10) *Any other document attached to and forming part of the Contract*
3. Subject to Clause 6 of this Agreement, in consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute, complete and maintain the Works in conformity in all respects with the provisions of the Contract.
4. Subject to Clause 6 of this Agreement, the Employer hereby covenants to pay the Contractor the sum of **EGP 2,384,000,000 (Two billion, three hundred and eighty four million Egyptian pounds)**, (hereinafter referred to as "The Contract Price") or such other sum as shall become payable under the terms and conditions of the Contract.



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5. The Contractor shall commence performance of the Phase 1 Works (as defined in sub-Clause 1.1 of the Conditions) on the Commencement Date of Phase 1 (as defined in sub-Clause 1.1 of the Conditions) and thereafter carry out the same in accordance with the terms and conditions of the Contract. The Commencement Date of Phase 1 shall be the date specified in the Employer's Phase 1 Notice to Proceed such date being within two (2) weeks of the Phase 1 Notice to Proceed being issued in accordance with sub-Clause 1.1 of the Conditions.
6. The Contractor shall perform the Phase 1 Works for a period of no longer than twelve (12) weeks starting from the date of the Commencement Date of Phase 1. The Contractor shall continue with any incomplete portion of the Phase 1 Works and start performing the Phase 2 Works on the Commencement Date of Phase 2 (as defined in sub-Clause 1.1 of the Conditions).
7. The Phase 2 Notice to Proceed (as defined in sub-Clause 1.1 of the Conditions) may be issued by the Employer at any time from the Effective Date (as defined in sub-Clause 1.1 of the Conditions) but before February 28th, 2013. If the Employer has not issued a Phase 2 Notice to Proceed by February 28th, 2013 the Employer and/or the Contractor may terminate the Contract but shall if required by the Employer enter into good faith negotiations with the objective of agreeing on the terms of its continuance.
8. The Contractor shall extend reasonable cooperation to the Employer in the completion of activities notified by the Employer to the Contractor which are intended to precede issuance of the Phase 2 Notice to Proceed. Such cooperation may include but shall not be limited to obtaining the building permit in addition to any other licenses or permits required under Egyptian Laws to complete the Works required under this Agreement.
9. On the date the Contractor receives the Phase 2 Notice to Proceed, any of the Phase 1 Works carried out by the Contractor between the Effective Date and the date the Contractor receives the Phase 2 Notice to Proceed shall form part of the Works and any sum paid by the Employer to the Contractor in respect of the Phase 1 Works shall form part of the Contract Price.
10. In the period between the Effective Date and the date the Contractor receives the Phase 2 Notice to Proceed:
 - (a) notwithstanding that the Employer has not issued the Phase 2 Notice to Proceed in accordance with Clause 6 of this Agreement, the Employer may instruct variations to the Phase 2 Works in accordance with Clause 51 of the Conditions and Clauses 51.1, 51.2, 52.1, 52.2, 52.3 and 44.1 of the Conditions shall apply to such variations.
 - (b) the Employer may instruct the Contractor to carry out additional works, whether originally forming part of the Phase 2 Works or other varied works. If the Employer instructs the Contractor to carry out a variation to the Phase 1 Works, the Contractor shall be entitled to additional payment and/or an extension of time in accordance with Clauses 51.1, 51.2, 52.1, 52.2, 52.3 and 44.1 of the Conditions.
 - (c) all provisions of this Agreement shall have effect, save for sub-Clauses 8.4, 11.1, 12.1 to 12.2, 14.1 to 14.4, 17.1, 18.1, 30.3, 31.1 to 31.2 (inclusive), 58.1 to 58.3 (inclusive) and 79.1 of the Conditions.
11. Prior to the date the Contractor receives the Phase 2 Notice to Proceed, the Employer shall be entitled at any time and at its sole discretion by written notice to the Contractor to terminate the Phase 1 Works and/or the Phase 2 Works and the Contractor agrees that Employer is not under any duty or obligation to issue the Phase 2 Notice to Proceed or otherwise to award the Phase 2 Works to the Contractor. Following any such termination or expiry of this Agreement pursuant to Clause 7 above, the Employer shall be entitled at its sole discretion to (i) to



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purchase from the Contractor any hoarding and/or site accommodation completed by the Contractor as part of the Phase 1 Works.

12. Without prejudice to the Employer's obligations to pay the Contractor under Clause 13 of the Contract Agreement, if for any reason the Employer terminates the Phase 1 Works and/or Phase 2 Works with the Contractor prior to the date the Contractor receives the Phase 2 Notice to Proceed or the Contract expires under Clause 11 above the Contractor shall not be entitled to claim from the Employer in respect of expectation of contract or for any loss of profits, loss of contracts, loss of opportunity, tender or bid costs or any other compensation of whatsoever nature whether arising under the Contract or any other principle of law, and further expressly waives any rights to claim under Clause 69.3 of the Conditions.
13. For the avoidance of doubt, following the date the Contractor receives the Phase 2 Notice to Proceed, Sub-Clauses 63.2, 63.4, 63.5, 63.6, 66.6, 69.2 and 69.3 of the Conditions shall govern any termination of the Contractor's employment under this Agreement and the provisions of Clauses 11 to 12 stipulated hereinabove shall not apply.
14. The Employer shall pay to the Contractor the Contract Price in consideration of and as the total compensation for the execution of all Work to be performed under this Contract in accordance with Schedule 1 - 10 and Clause 60.0 of the Conditions. The Contract Price shall comprise:
- (a) a lump sum of **EGP 26,577,105** for the performance of Phase 1 Works; and
 - (b) a lump sum of **EGP 2,357,422,895** for the performance of Phase 2 Works

and the Contract Price shall not be subject to alteration except in the event of a variation provided in Clause 51.0 (Alterations, Additions and Omissions) of the Conditions or as otherwise expressly provided in the Contract.

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed or have hereunto set their respective hands, the day and year first above written.

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Duly authorised to sign this Contract on behalf of the **CONTRACTOR**

Company Seal:

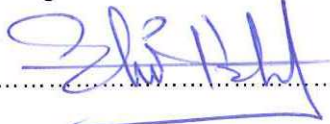
SIGNED BY



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CONSTRUCTION

Duly authorised to sign this Contract on behalf of the **EMPLOYER**

SIGNED BY



Company Seal:





MAJID AL FUTTAIM
PROPERTIES | EGYPT

BESIX ORASCOM JOINT VENTURE

2005A Corniche El Nile
Nile City Towers
Cairo
Egypt 1121

Date: 19TH September 2012

Mr. Jean-Claude Jacquemart

Dear Sirs

Project for the Mall of Egypt Shopping Mall (the "Project")
Main Contract - Letter of Acceptance

We, **Majid Al Futtaim Properties Egypt S.A.E** ("Employer"), hereby accept the offer from **BESIX ORASCOM JOINT VENTURE** ("Contractor") for the provision of main contractor services (the "Services") in relation to the Project works (the "Works") intended to be executed by us. The Services and details of the offer are more fully described in the Contract attached herewith.

Yours sincerely

Authorised Signatories

For **MAJID AL FUTTAIM PROPERTIES EGYPT.**

Date 19/9/2012



Company Stamp

Agreed and accepted:

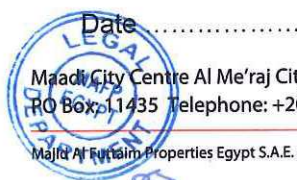
Authorised Signature

For **BESIX ORASCOM JOINT VENTURE.**

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1200 Brussels - Belgium



Company Stamp



Date
Majid Al Futtaim Properties Egypt S.A.E. Authorized capital issued and paid in capital 400,000,000 EGP. Commercial register No. 652 South Cairo, Tax Card 200-097-377.
PO Box: 11435 Telephone: +202 25204000. Fax: +202 25204409, www.majidalfuttaim.com

Lead by Example

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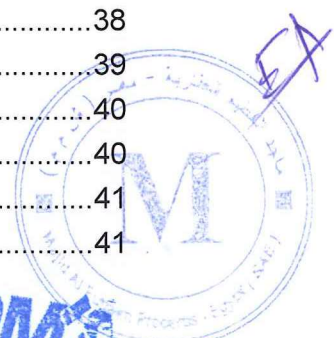
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CONDITIONS

DEFINITIONS AND INTERPRETATION

Definitions

1.1 In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

"Advance Payments" means the Phase 1 Advance Payment and the Phase 2 Advance Payment.

"Advance Payment Bond" means the advance payment bond in the amount and the form referred to in the Appendix to Tender.

"Affiliates" means, in relation to any party, any other party that directly or indirectly controls or is controlled by or is under common control with such party. For the purposes of this definition control means that a party possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other party, whether through the ownership of voting shares, by contract or otherwise, and the terms controls and controlled shall be interpreted accordingly.

"Appendix to Tender" means the appendix annexed to these Conditions at Schedule [4].

"Bill of Quantities" means the priced and completed bill of quantities annexed to the Conditions at Schedule [9].

"Building Permit" means the Statutory Authority approval for construction

"Collateral Warranty" means the collateral warranty in the form appended at Schedule [5].

"Commencement Date of Phase 1" means the date specified in the Employer's Phase 1 Notice to Proceed which shall be within two (2) weeks of the Phase 1 Notice to Proceed being issued.

"Commencement Date of Phase 2" means the date of the Employer's Phase 2 Notice to Proceed.

"Commissioning of the Works" means the commissioning of the Works in accordance with the requirements specified in Schedule [5].



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"Conditions" means these conditions of contract.

"Contract" means the Contract Agreement, the Appendix to Tender, these Conditions, Schedules 1 to 10, the Specification, the Drawings, the Bill of Quantities, and such further documents as may be expressly incorporated or referenced in the Contract Agreement.

"Contract Administrator" means the person named as such in the Appendix to Tender and their successors or other person or persons appointed by the Employer to act in that capacity.

"Contract Administrator's Representative" means the person appointed by the Contract Administrator from time to time pursuant to Sub-Clause 2.2.

"Contract Agreement" means the contract agreement to which these Conditions are appended.

"Contractor" means the person named in the Contract Agreement and the legal successors in title to such person, but not (except with the consent of the Employer) any assignee of such person.

"Contractor's Equipment" means all appliances and things of whatsoever nature (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects therein, but does not include Plant, materials or other things intended to form or forming part of the Permanent Works.

"Contractor's Personnel" means the Subcontractors and all personnel utilised by the Contractor in relation to the Works, including its staff, labour and other employees and the staff labour and other employees of each Subcontractor.

"Contract Price" means the sum stated in the Contract Agreement as payable to the Contractor for the execution and completion of the Works and the remedying of any defects therein and includes adjustments in accordance with the provisions of the Contract.

"Cost" means all expenditure reasonably and properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allocable thereto but does not include any allowance for profit.

"Country" means the country specified in the Appendix to Tender.

"Day" means calendar day.



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"Defects Liability Certificate" means the certificate to be provided by the Contract Administrator in accordance with Clause 62.1, upon the expiration of the Defects Liability Period.

"Defects Liability Period" has the meaning given in Clause 49.1.

"Drawings" means the drawings of the Works as specified in Schedule [7] and all other drawings, calculations and technical information of a like nature provided by the Contract Administrator to the Contractor under the Contract and all drawings, calculations, samples, patterns, models, operation and maintenance manuals and other technical information of a like nature submitted by the Contractor and approved by the Contract Administrator.

"Employer" means the person named in the Contract Agreement and the legal successors in title to such person.

"Emergency Defect" means any defect which is or has the potential to be life threatening or serious enough to cause significant damage or disruption to the Permanent Works.

"Effective Date" means the date of this Agreement.

"Final Payment Certificate" means the certificate of payment issued by the Contract Administrator pursuant to Sub-Clause 60.9.

"Foreign Currency" means a currency of a country other than that in which the Works are to be located.

"Government" means the government of the Country.

"Interim Payment Certificate" means any certificate of payment issued by the Contract Administrator other than the Final Payment Certificate.

"Laws" means all national (or state) legislation, statutes, ordinances and other laws and regulations and by-laws of any legally constituted public authority.

"Letter of Acceptance" means the formal acceptance by the Employer of the Tender.

"Liquidated Damages" means the liquidated and ascertained damages payable to the Employer at the rates set out in the Appendix to Tender.

"Milestone Date" means the dates for completing identified milestones specified in the Appendix to Tender (if any).



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"Performance Security" means the on demand security (or securities, if any), in the form annexed at Schedule [5] and otherwise in a form acceptable to the Employer, required to be given by the Contractor under Sub-Clause 10.1 (Performance Security).

"Performance Security Replacement Event" means an event as defined in Sub-Clause 10.4.

"Permanent Works" means the permanent works to be executed (including Plant) in accordance with the Contract.

"Permanent Utilities Connections" means the permanent connection of the Works to utilities including power, gas, water, sewerage, electricity, heating and lighting and any other services as may be required on the Site.

"Phase 1 Advance Payment" has the meaning given to it in Clause 60.1A.

"Phase 2 Advance Payment" has the meaning given to it in Clause 60.1A.

"Phase 1 Contract Price" means the lump sum price payable to the Contractor for the execution and completion of the Phase 1 Works and the remedying of any defects therein and includes adjustments in accordance with the provisions of the Contract.

"Phase 2 Contract Price" means the lump sum price payable to the Contractor for the execution and completion of the Phase 2 Works and the remedying of any defects therein and includes adjustments in accordance with the provisions of the Contract.

"Phase 1 Notice to Proceed" means the notice issued by the Employer to the Contractor instructing the Contractor to commence the Phase 1 Works on Site on the date specified therein.

"Phase 2 Notice to Proceed" means the notice issued by the Employer to the Contractor instructing the Contractor to commence the Phase 2 Works on Site on the date thereof such notice to be issued on or before the 28th February 2013.

"Phase 1 Works" means the preparation of the Site, the construction of the site accommodation, the completion of the master programme, the services performed by the Contractor's contract administration staff, and the preparation of design information (including but not limited to shop drawings) as more particularly described in Schedule [6] (Scope of Work) and as such works may be varied in accordance with Clause 51.0 (Alterations, Additions and Omissions).



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"Phase 2 Works" means the carrying out of the main construction of the Mall of Egypt as more particularly described in Schedule 1 - 10] (Scope of Work) and any incomplete portions of any Phase 1 Works as at the date of issuance of the Phase 2 Notice to Proceed as such works may be varied in accordance with Clause 51.0 (Alterations, Additions and Omissions).

"Plant" means machinery, apparatus and the like intended to form or forming part of the Permanent Works.

"Project" means the Company's project to design and construct a shopping mall in Dream land, 6th of October City in Egypt and all ancillary works thereto.

"Provisional Sum" has the meaning given in Clause 58.1.

"Provisional Sum Contracts" are Subcontracts, which have been procured pursuant to Clause 59.

"Provisional Sum Contractors" are Subcontractors that have entered into a Provisional Sum Contract pursuant to Clause 59.

"Provisional Sum Work" means the relevant part of the Works to be carried out using a Provisional Sum.

"Retention Money" means the aggregate of all monies retained by the Employer pursuant to Sub-Clause 60.3(a).

"Routine Defect" means any defect that is not immediately detrimental and not causing or having the potential to cause significant damage or disruption to the Permanent Works.

"Rules of Arbitration" means the applicable set of arbitration rules as specified in the Appendix to Tender.

"Section" means a part of the Works specifically identified in the Appendix to Tender as a Section.

"Site" means:

- (a) any other places as may be specifically designated in the Contract as forming part of the Site; and
- (b) the area delineated in the site plan attached at Schedule [7].

"Specification" means the specification of the Works as set out or referred to in Schedule [8] and any modification thereof or additions made thereto made under Clause 51 or submitted by the Contractor and approved by the Contract Administrator.

"Standard Subcontract Agreement" is the form of Subcontract agreement included with this Contract.



"Subcontract" means a contract between the Contractor and a Subcontractor entered into in accordance with Clause 4.

"Subcontract Documents" are those further or additional drawings, specifications or other documents required in respect of Provisional Sum Work referred to in Clause 58 and 59 to be prepared on behalf of the Employer.

"Subcontractor" means any person named in the Contract as a Subcontractor for a part of the Works or any person to whom a part of the Works has been subcontracted with the consent of the Contract Administrator (whether directly by the Contractor or at any lower tier) and the legal successors in title to such person, but not any assignee of any such person.

"Subcontract Works" means that part of the Works which are to be carried out by a Subcontractor pursuant to a Subcontract.

"Taking-Over Certificate" means a certificate issued pursuant to Clause 48.

"Temporary Works" means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

"Tender" means the Contractor's priced offer to the Employer for the execution and completion of the Works and the remedying of any defects therein in accordance with the provisions of the Contract, as accepted by the Letter of Acceptance

"Tender Bond" means the performance security provided by the Contractor as required by the Tender.

"Tests on Completion" means the tests specified in the Contract or otherwise agreed by the Contract Administrator and the Contractor which are to be made by the Contractor before the Works or any Section or part thereof are taken over by the Employer.

"Time for Completion" means the time for completing the Works or a Section (as the case may be) under Clause 43.1 [*Time for Completion*] as stated in the Appendix to Tender (or as extended under Clause 44) calculated from the Commencement Date of Phase 1.

"Unforeseeable" means not reasonably foreseeable by an experienced contractor as at the date of the Contract.



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"Urgent Defect" means any defect that is immediately detrimental and causing or having the potential to cause significant damage and disruption to the Permanent Works.

"Works" means the Permanent Works and the Temporary Works or either of them as appropriate.

"writing" means any hand-written, type-written, or printed communication, including e-mail, telex, cable and facsimile transmission.

Headings and Marginal Notes

- 1.2 The headings and marginal notes in these Conditions shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract.

Interpretation

- 1.3 Words importing persons or parties shall include firms, corporations, and any organisation having legal capacity.
- 1.4 Any reference to "Clause(s)" or "Sub-Clause(s)" throughout the Contract shall be construed and interpreted equally.
- 1.5 the words "include" and "including" are to be construed as meaning without limitation.

Singular and Plural

- 1.6 Words importing the singular only also include the plural and vice versa where the context requires.

Notices, Consents, Approvals, Certificate and Determinations

- 1.7 Wherever in the Contract provision is made for the giving or issue of any notice, consent, approval, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be in writing and the words "notify", "certify" or "determine" shall be construed accordingly. Unless otherwise specified, any such consent, approval, certificate or determination shall not unreasonably be withheld or delayed.



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CONTRACT ADMINISTRATOR AND CONTRACT ADMINISTRATOR'S REPRESENTATIVE

Contract Administrator's Duties and Authority

- 2.1
- i) The Contract Administrator shall carry out the duties specified in the Contract
 - (a) The Contract Administrator is required to consult with the Employer before completing his duties, where expressly required to do so in accordance with this Contract, and otherwise in accordance with the following Clauses:
 - (i) Clause 14.1
 - (ii) Clause 44
 - (iii) Clause 48
 - (iv) Clause 49
 - (v) Clause 51
 - (vi) Clause 52
 - (vii) Clause 53
 - (viii) Clause 62or any other Clause notified by the Employer to the Contract Administrator from time to time.
 - (b) Except as expressly stated in the Contract, the Contract Administrator shall have no authority to relieve the Contractor of any of his obligations under the Contract.
 - (c) Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Contract Administrator (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances

Contract Administrator's Representative

- 2.2
- The Contract Administrator's Representative shall be appointed by and be responsible to the Contract Administrator and shall carry out such duties and exercise such authority as may be delegated to him by the Contract Administrator under Clause 2.3.

Contract Administrator's Authority to Delegate

- 2.3
- The Contract Administrator may from time to time delegate to the Contract Administrator's Representative any of the duties and authorities vested in the Contract Administrator and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a



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copy thereof has been delivered to the Employer and the Contractor.

Any communication given by the Contract Administrator's Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Contract Administrator. Provided that:

- (a) any failure of the Contract Administrator's Representative to disapprove any work, materials or Plant shall not prejudice the authority of the Contract Administrator to disapprove such work, materials or Plant and to give instructions for the rectification thereof; and
- (b) if the Contractor questions any determination, instruction or communication of the Contract Administrator's Representative he may refer the matter to the Contract Administrator who shall confirm, reverse or vary the determination, instruction or communication.

Appointment of Assistants

- 2.4 The Contract Administrator or the Contract Administrator's Representative may appoint any number of persons to assist the Contract Administrator's Representative in the carrying out of his duties under Sub-Clause 2.2 he shall notify to the Contractor the names, duties and scope of authority of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instructions may be necessary to enable them to carry out their duties and to secure their acceptance of materials, Plant or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Contract Administrator's Representative.

Instructions in Writing

- 2.5 The Contractor shall only take instructions from the Contract Administrator, or from an assistant to whom the appropriate authority has been delegated under this Clause. The Contractor shall comply with the instructions given by the Contract Administrator or delegated assistant, on any matter related to the Contract.

Instructions given by the Contract Administrator shall be in writing, provided that if for any reason the Contract Administrator considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. Confirmation in writing of such oral instruction given by the Contract Administrator, whether before or after the carrying out of the instruction, shall be



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deemed to be an instruction within the meaning of this Sub-Clause. Provided further that if the Contractor, within 7 days, confirms in writing to the Contract Administrator any oral instruction of the Contract Administrator and such confirmation is not contradicted in writing within 7 days by the Contract Administrator, it shall be deemed to be an instruction of the Contract Administrator.

The provisions of this Sub-Clause shall equally apply to instructions given by the Contract Administrator's Representative and any assistants of the Contract Administrator or the Contract Administrator's Representative appointed pursuant to Sub-Clause 2.4.

Contract Administrator to Act Impartially

2.6 Wherever, under the Contract, the Contract Administrator is required to exercise his discretion by:

- (a) giving his decision, opinion or consent,
- (b) expressing his satisfaction or approval,
- (c) determining value, or
- (d) otherwise taking action which may affect the rights and obligations of the Employer or the Contractor

he shall exercise such discretion impartially within the terms of the Contract and having due regard to the relevant circumstances as determined by the Contract Administrator. Any such decisions, opinion, consent, expression of satisfaction, or approval, determination of value or action may be opened up, reviewed or revised as provided in Clause 67.

Replacement of the Contract Administrator

2.7 If the Employer intends to replace the Contract Administrator, the Employer shall, not less than 42 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Contract Administrator.

ASSIGNMENT AND SUBCONTRACTING

Assignment of Contract

3.1 The Contractor shall not, without the prior consent of the Employer (which consent, notwithstanding the provisions of Sub-Clause 1.7, shall be at the sole discretion of the



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Employer), assign the Contract or any part thereof, or any benefit or interest therein or thereunder, otherwise than by:

- (a) a charge in favour of the Contractor's bankers of any monies due or to become due under the Contract.
- (b) assignment to the Contractor's insurers by operation of law or by subrogation (in cases where the insurers have discharged the Contractor's loss or liability) of the Contractor's right to obtain relief against any other party liable.

3.2 The Employer may:

- (a) assign this Contract or a right under this Contract at any time upon providing written notice to the other party to this Contract; and
- (b) with prejudice to the above, in its sole discretion, assign, novate or transfer its rights and obligations under the Contract to any Affiliate, without the consent of the Contractor. The Contractor shall not object to such novation or transfer of rights and obligations and shall execute such documentation as the Employer may require to give effect to the novation or transfer of rights and obligations.

Subcontracting

- 4.1 The Contractor shall not subcontract the whole of the Works. Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of the Works without the prior consent of the Contract Administrator as described in Clauses 4.3 and 59. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any Subcontractor and the Subcontractor's agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor or the Contractor's agents, servants or workmen.

The Contractor shall not subcontract any part of the Works unless:

- (i) the work is designated under a Provisional Sum, in which case the Contractor shall be required to comply with the requirements of Clause 58 and 59, or
- (ii) the work is not designated under a Provisional Sum and the Contractor has made prior application to the Contract Administrator in accordance with the requirements of Clause 4.3,



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provided that the Contractor shall not be required to obtain such consent for:-

- (a) the purchase of materials which are in accordance with the standards specified in the Contract, or
- (b) the subcontracting of any part of the Works for which the Subcontractor is named in the Contract.

The Contractor may enter into Subcontracts for the performance of parts of the Works as described above.

The Contractor shall submit to the Contract Administrator details of his particular conditions of subcontract appropriate to any particular Subcontract that he intends to procure. The Contract Administrator may require the amendment of such conditions of the proposed Subcontract as are necessary to reflect the provisions of this Contract or to comply with any changes in Law and shall notify the Contractor of the amendments. The Contractor will amend the Subcontract as required by the Contract Administrator to the extent agreed by the Contractor (acting reasonably) without any additional cost to the Employer.

Assignment of Subcontractors' Obligations

- 4.2 In the event of a Subcontractor having undertaken towards the Contractor in respect of the work executed, or the goods, materials, Plant or services supplied by such Subcontractor, any continuing obligation extending for a period exceeding that of the Defects Liability Period under the Contract, the Contractor shall at any time, after the expiration of such Period, assign to the Employer, at the Employer's request and cost, the benefit of such obligation for the unexpired duration thereof.

Subcontractors

- 4.3 All subcontractors proposed by the Contractor to be a Subcontractor shall have had a minimum of five (5) years experience in the element of the Works pertaining to the proposed Subcontract on similar projects and shall have been subjected to a pre-qualification procedure by the Contractor.

The capabilities and quality of the proposed subcontractors and their staff will be reviewed by the Contract Administrator, and if, in the opinion of the Contract Administrator, a proposed Subcontractor is incapable of carrying out the Works to the standards required by the Contract Documents, that subcontractor shall be rejected. The Contractor shall then, within a period of seven days, put forward names of alternative subcontractors who



shall also have been subjected to a pre-qualification procedure by the Contractor as stated above.

This procedure and review shall be carried out until suitable subcontractors have been approved by the Contract Administrator for appointment as a Subcontractor.

No extensions of time claims or cost claims of any kind will be considered as a result of any delay or additional costs incurred by the Contractor as a result of failure to receive the Contract Administrator's approval of subcontractors for appointment as a Subcontractor.

Subcontractor's Termination

- 4.4 If any Subcontractor engaged on the Works executes any work or provides any materials or things which, in the opinion of the Contract Administrator, are not in accordance with the Contract, the Contract Administrator may, by written notice to the Contractor, require him to terminate such Subcontract and the Contractor, upon the receipt of such notice, shall immediately terminate such Subcontract, whereupon:
- (i) the Contractor shall immediately give the Contract Administrator notice of termination of the Subcontract;
 - (ii) the Contractor shall remain totally responsible for the completion of the Subcontract Works in accordance with the requirements of the Contract;
 - (iii) the Employer shall have no liability whatsoever to the Subcontractor or the Contractor arising as a result of the termination of the Subcontract.

Co-ordination of Subcontractors

- 4.5 The Contractor shall co-ordinate the work of all Subcontractors with the Works and ensure execution and completion of the Subcontract Works in a proper, workmanlike and timely manner in accordance with the Contract.

Contractor's Subsidiary as Subcontractor

- 4.6 No subsidiary or related corporation of the Contractor may engage in Work under a Provisional Sum either directly or by Subcontract without the approval of the Contract Administrator.



Payment of Subcontractors

- 4.7
- ii) The Contractor shall pay its Subcontractors in accordance with the terms of their respective subcontracts.
 - (a) If it comes to the attention of the Employer that the Contractor has not complied with Clause 1)a)ii), the Employer reserves the right (at its sole discretion), to pay direct to the relevant Subcontractor, on the receipt of an invoice issued by the Subcontractor addressed to the Employer, part or all of such amounts which are due to the Subcontractor as noted in the invoice. The Employer may at any time request evidence that amounts due to the Sub Contractor are paid by the Contractor.
 - (b) The Employer shall deduct any payment made pursuant to Clause 4.7(a) from any sums owing to the Contractor and such payment shall be considered to have been a payment made to the Contractor in respect of the part of the Works to which it relates.
 - (c) The Contractor agrees that any payment made pursuant to this Clause will be without any risk to the Employer and shall not create any contractual relationship between the Employer and the Subcontractor. The Contractor indemnifies the Employer in respect of any claims made by any Subcontractor as a result of the Employer exercising its right pursuant to Clause 4.4 and this Clause 4.7.

CONTRACT DOCUMENTS

Language(s) and Law

- 5.1
- iii) The Contract and Drawings shall be drawn up in English which shall be the ruling language of the Contract. However should the Employer request the translation of any document submitted by the Contractor into Arabic it shall be prepared by and at the cost of the Contractor. In the event of any discrepancy or contradiction between the original English text and the translation thereof, the original text shall prevail.
 - (a) The Contract shall be governed by and construed in accordance with the Laws of the Country.
 - (b) All dates and periods of time shall be construed in accordance with the Gregorian calendar.



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Priority of Documents

5.2 The documents forming the Contract are to be read as a whole and to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Contract Administrator, who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the order of priority of the documents forming the Contract shall be as follows:

- (1) Contract Agreement
- (2) Letter of Acceptance
- (3) Conditions
- (4) Appendix to Tender
- (5) Tender
- (6) The Schedules
- (7) Drawings
- (8) Specifications
- (9) Bills of Quantities
- (10) Any other document attached to and forming part of the Contract

5.3 In the event that:

- (a) the Drawings specify a requirement for the Works that is not specified in the Specification (or vice versa), this discrepancy will not be considered as an instance of conflict between the documents; or
- (b) the constituent documents forming part of the Contract impose different requirements for the Works, including different standards of product, workmanship or finish, the Contractor must comply:
 1. where the difference exists between two of the documents forming the Contract, with the document accorded the greater priority under Clause 5.2 (to the extent possible); and
 2. where the difference exists within a single document, or between one or more documents afforded the same priority under Clause 5.2, with the highest applicable standard,unless the Employer or Contract Administrator agrees in writing otherwise.

The Contractor shall be liable for all additional costs associated with complying with this Clause 5.3 at no additional cost or risk to the Employer.

Custody and Supply of Drawings and Documents



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- 6.1 The Drawings shall remain in the sole custody of the Contract Administrator, but two copies thereof shall be provided to the Contractor free of charge. The Contractor shall make at his own cost any further copies required by him. Unless it is strictly necessary for the purposes of the Contract, the Drawings, Specification and other documents provided by the Employer or the Contract Administrator shall not, without the consent of the Contract Administrator, be used or communicated to a third party by the Contractor. Upon issue of the Defects Liability Certificate, the Contractor shall return to the Contract Administrator all Drawings, Specification and other documents provided under the Contract.

The Contractor shall supply to the Contract Administrator six copies and one digital electronic copy of all Drawings, Specification and other documents submitted by the Contractor and approved by the Contract Administrator in accordance with Clause 7, together with a reproducible copy of any material which cannot be reproduced to an equal standard by photocopying. In addition the Contractor shall supply such further copies of such Drawings, Specification and other documents as the Contract Administrator may request in writing for the use of the Employer, who shall pay the cost thereof.

One Copy of Drawings to be Kept on Site

- 6.2 One copy of the Drawings, provided to or supplied by the Contractor as aforesaid, shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Contract Administrator and by any other person authorised by the Contract Administrator in writing.

Disruption of Progress

- 6.3 The Contractor shall give, not less than twenty eight (28) calendar days, written notice to the Contract Administrator whenever planning or progress of the Works is likely to be delayed or disrupted unless any further drawings or order including a direction, instruction or approval, is issued by the Contract Administrator within a reasonable time. The notice shall include details of the drawing or order required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late. Failure to comply with this clause shall relieve the Contract Administrator from the obligation to consider any claim by the Contractor.

Delays and Cost of Delay of Drawings



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6.4 If, by reason of any failure or inability of the Contract Administrator to issue, within a time reasonable in all the circumstances, any drawing or instruction for which notice has been given by the Contractor in accordance with Sub-Clause 6.3, the Contractor suffers delay and/or incurs costs then the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price,

and shall notify the Contractor accordingly, with a copy to the Employer.

Failure by Contractor to Submit Drawings

6.5 If the failure or inability of the Contract Administrator to issue any Drawings or instructions is caused in whole or in part by the failure of the Contractor to submit Drawings, the Specification or other documents which he is required to submit under the Contract, the Contract Administrator shall take such failure by the Contractor into account when making his determination pursuant to Sub-Clause 6.4.

Supplementary Drawings and Instructions

7.1 The Contract Administrator shall have authority to issue to the Contractor, from time to time, such supplementary Drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and completion of the Works and the remedying of any defects therein. The Contractor shall carry out and be bound by the same.

Permanent Works Designed by Contractor

7.2 Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor:

- (a) the Contractor shall submit to the Contract Administrator, for approval such drawings, specifications, calculations and other information as shall be necessary to satisfy the Contract Administrator as to the suitability and adequacy of that design;
- (b) these drawings, specifications, calculations and other information shall be in accordance with the Specification and Drawings, shall be written in the language for



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communications defined in Sub-Clause 5.1, and shall include additional information required by the Contract Administrator to add to the Drawings for co-ordination of each party's designs;

- (c) the Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as are specified in the Contract; and
- (d) prior to the commencement of the Tests on Completion, the Contractor shall submit to the Contract Administrator, for approval operation and maintenance manuals together with "as built" drawings of the Permanent Works as completed, in sufficient detail to enable the Employer to operate, maintain, dismantle, reassemble, adjust and repair the Permanent Works incorporating that design. The Works shall not be considered to be completed for the purposes of taking over in accordance with Clause 48 until such operation and maintenance manuals, together with drawings on completion, have been submitted to and approved by the Contract Administrator.

Responsibility Unaffected by Approval

- 7.3 Approval by the Contract Administrator, in accordance with Sub-Clause 7.2, shall not relieve the Contractor of any of his responsibilities under the Contract.

GENERAL OBLIGATIONS

Contractor's General Responsibilities

- 8.1 The Contractor shall design (to the extent provided for by the Contract), execute and complete the Works and remedy any defects therein in accordance with the Contract. The Contractor shall provide all supervision, labour, materials, Plant, Contractor's Equipment and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion and remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract.

The Contractor shall give prompt notice to the Contract Administrator, with a copy to the Employer, of any error, omission, fault or other defect in the design of or Specification for the Works which he discovers when reviewing the Contract or executing the Works.



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Site Operations and Methods of Construction

- 8.2 The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations and methods of construction. Provided that the Contractor shall not be responsible (except as stated hereunder or as may be otherwise agreed) for the design or specification of Permanent Works, or for the design or specification of any Temporary Works not prepared by the Contractor. Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor, he shall be fully responsible for that part of such Works, notwithstanding any approval by the Contract Administrator.

Decennial Liability

- 8.3 The Contractor shall be liable for the consequences of any defects in any part of the Works where such defects are due to any error, omission, negligence or breach of Contract of the Contractor, his Subcontractors or his staff provided that such defects become apparent during the period of ten (10) years from the issue of the Taking-Over Certificate for the part of the Works in question. Such liability shall not limit, reduce or negate any of the Employer's rights or any of the Contractor's obligations in accordance with the Laws of the Country.

The liability of the Contractor shall include the cost of rectification of the Works. The approval of the Contract Administrator shall not in any way absolve or relieve the Contractor from any such obligation, responsibility or liability.

This Clause 8.3 is without prejudice to the decennial liability provisions contemplated under Egyptian law.

Collateral Warranties

- 8.4 Where it is stated in the Appendix to Tender that this sub-clause applies, the Contractor shall, within 14 days of a written request from the Employer, deliver to the Employer duly executed Collateral Warranties from the Subcontractors named in the Appendix to Tender. Notwithstanding any other provision of the Contract, compliance with this sub-clause (to the extent applicable as specified in the Appendix to Tender) shall be a pre-condition to the entitlement of the Contractor to receive any payment from the Employer under the Contract in respect of the works or services to which the relevant Collateral Warranty relates.



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9. Not used

Advance Payment Bond and Performance Security

- 10.1 The Contractor, as soon as possible and in any event within 14 (fourteen) days of the Effective Date, shall submit to the Employer an Advance Payment Bond, to the value of 15% (fifteen per cent) of the Phase 1 Contract Price. Upon the issuance of the Phase 2 Notice to Proceed by the Employer, the Advance Payment Bond amount shall, in accordance with its terms, be increased to the value of 15% (fifteen per cent) of the Contract Price (less any proportional deductions in interim payments already made in accordance with Clause 60.1A).

The Contractor, as soon as possible and in any event within 14 (fourteen) days of the Effective Date, shall submit to the Employer a Performance Security, to the value of 10% (ten per cent) of the Phase 1 Contract Price. Upon the issuance of the Phase 2 Notice to Proceed by the Employer, the Performance Security amount shall, in accordance with its terms, be increased to the value of 10% (ten per cent) of the Contract Price.

Notwithstanding any other provision of the Contract, provision of the Advance Payment Bond and the Performance Security in accordance with this sub-clause by the Contractor shall be a pre-condition to the entitlement of the Contractor to receive any payment from the Employer under the Contract.

Period of Validity of Performance Security

- 10.2 The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects therein in accordance with the Contract. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Defects Liability Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied. No claim shall be made against the Performance Security after the issue of the Defects Liability Certificate in accordance with Clause 62.1 and such security shall be returned to the Contractor within 14 days of the issue of the said Defects Liability Certificate.



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Increases in value of Performance Security

- 10.3 Whenever the Contract Price is increased by an amount that equals or exceeds 10% of the previously applicable Contract Price, as determined from time to time in accordance with the Contract, the Contractor shall replace or amend the Performance Security so as to ensure that the value of the Performance Security reflects to 10% of such revised Contract Price.

Source of Performance Security and Advance Payment Bond

- 10.4 The Contractor shall:
- (a) obtain the Performance Security and the Advance Payment Bond from a bank approved by the Employer;
 - (b) within 21 days of the occurrence of a Performance Security Replacement Event, on the request of the Employer, replace the Performance Security and/or the Advance Payment Bond with an acceptable replacement security (such replacement security and the identity of the issuer to be subject to the Employer's prior written approval); and
 - (c) pay all fees, taxes and expenses associated with procuring, preparing, completing, extending and replacing the Performance Security and the Advance Payment Bond.

For the purposes of this Clause a "Performance Security Replacement Event" means in respect of the Performance Security or the Advance Payment Bond, a matter occurring analogous to those described in Clause 63.1(a) occurring in respect of the issuing bank, or such bank suffering a drop in its rating to less than BBB- according to the Standard and Poors' ratings or the Performance Security or Advance Payment Bond becoming unenforceable.

Inspection of Site

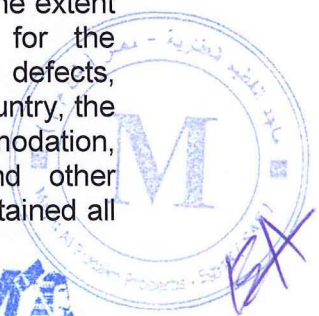
- 11.1 The Contractor shall be deemed to have inspected and examined the Site, its surroundings and all other places where the Works are to be performed and to have satisfied himself before submitting his Tender as to the form and nature thereof, including, as far as is practicable, the sub-surface conditions, the hydrological and climatic conditions, the extent and nature of work and materials necessary for the completion of the Works and the remedying of any defects, the Laws, procedures and labour practices of the Country, the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services and in general, shall be deemed to have obtained all



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necessary information as to risks, contingencies and all other circumstances which may influence or affect his Tender or the performance of the Works.

Subject only to Clause 12.2, the Contractor shall have no entitlement to additional payment and/or additional time as a result of the Contractor's inspection of the Site or failure to do so, in accordance with this Clause 11.1.

Sufficiency of Tender

- 12.1 The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract Price, the Tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services or of contingencies for which there is a Provisional Sum) and all matters and things necessary for the proper execution and completion of the Works and the remedying of any defects therein.

Unforeseeable Physical Obstructions or Conditions

- 12.2 If during the execution of the Works the Contractor encounters physical obstructions or physical conditions, other than climatic conditions on the Site, which obstructions or conditions were, in his opinion Unforeseeable, the Contractor shall forthwith give notice thereof to the Contract Administrator, with a copy to the Employer.

This notice shall describe the physical conditions, so that they can be inspected by the Contract Administrator, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Contract Administrator may give.

On receipt of such notice, the Contract Administrator shall, if in his opinion such obstructions or conditions are Unforeseeable, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of any costs which may have been incurred by the Contractor by reason of such obstructions or conditions having been encountered, which shall be added to the Contract Price,



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and shall notify the Contractor accordingly, with a copy to the Employer. Such determination shall take account of any instruction which the Contract Administrator may issue to the Contractor in connection therewith, and any proper and reasonable measures acceptable to the Contract Administrator which the Contractor may take in the absence of specific instructions from the Contract Administrator.

However, before additional Cost is finally agreed or determined under sub-paragraph (b) above, the Contract Administrator may also review whether other physical conditions in similar parts of the Works (if any) were more favourable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favourable conditions were encountered, the Contract Administrator may proceed to determine the reductions in cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Interim Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

Work to be in Accordance with Contract

- 13.1 The Contractor shall execute and complete the Works and remedy any defects therein in strict accordance with the Contract. The Contractor shall comply with and adhere strictly to the Contract Administrator's instructions on any matter, whether mentioned in the Contract or not, touching or concerning the Works. The Contractor shall take instructions only from the Contract Administrator or, subject to the provisions of Clause 2, from the Contract Administrator's Representative.

Programme to be Submitted

- 14.1 Within twenty eight (28) days after the Commencement Date of Phase 1, the Contractor shall submit to the Contract Administrator a programme, in form and substance and to a degree of detail satisfactory to the Employer, showing the order of procedure, and method, in which the Contractor proposes to carry out the Works, in the form of a design, procurement and construction progress bar chart supplemented by a resource schedule together with a written narrative explaining the Contractor's arrangements for carrying out of the Works, including a description of the Contractor's Equipment and Temporary Works which the Contractor intends to supply, use, or construct, as the case may be. The Contractor shall produce a critical path analysis programme, in electronic format using approved computer software, to the satisfaction of the Contract Administrator. The

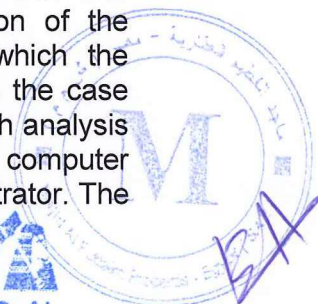


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programme submitted in accordance with this Clause 14.1 shall be agreed between the Parties (acting reasonably) by no later than fifty six (56) days after the Commencement Date failing which the Contractor shall submit the matter for determination in accordance with Clause 63.1.

Revised Programme

- 14.2 If at any time, it should appear that the actual progress of the Works does not, or is (in the Employer's reasonable opinion) not likely to, conform to the programme referred to in Clause 14.1 the Contractor shall produce within 7 days of being so requested by the Contract Administrator, a revised programme showing the modifications to the programme necessary to ensure completion of the Works within the Time for Completion as defined in Clause 43.1 herein.

The Contractor shall provide such detailed programmes, drawing schedules, delivery schedules and progress reports, as may be reasonably requested by the Contract Administrator.

Monthly Progress Report

- 14.3 The Contractor shall submit monthly updates of the Programme demonstrating progress to date to the Contract Administrator for review. In addition to the bar chart the Contractor shall provide a narrative report on the construction progress and shall particularly note conditions that may delay progress of the Works and shall describe actions proposed to overcome the adverse conditions to maintain the planned construction schedule. If, in the opinion of the Contract Administrator the Contractor falls behind the progress schedule, the Contractor shall take steps as necessary to improve and recover the progress and shall submit for review, revised schedules to demonstrate that the rate of progress will be regained and without additional cost to the Employer.

Cash Flow to be Submitted

- 14.4 The Contractor shall, within 28 days after the date of the Commencement Date of Phase 1, provide to the Contract Administrator for his information a detailed cash flow estimate, in monthly periods, of all payments to which the Contractor will be entitled under the Contract and the Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if required to do so by the Contract Administrator.

Contractor not Relieved of Duties or Responsibilities

- 14.5 The submission to and consent or approval by the Contract Administrator to such programmes or the provision of such



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general descriptions or cash flow estimates shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

Contractor's Superintendence

- 15.1 The Contractor shall give or provide all necessary superintendence during the execution of the Works and as long thereafter as the Contract Administrator may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorised agent or representative approved of in writing by the Contract Administrator, which approval may at any time be withdrawn, is to be constantly present during the Works and shall give his whole time to the superintendence of the same. Such agent or representative must be sufficiently fluent in English as to be able to interpret the Contract Administrator's requirements to the satisfaction of the Contract Administrator. If the approval of the agent or representative by the Contract Administrator is withdrawn the Contractor shall, as soon as is practicable, having regard to the requirement of replacing the agent or representative as hereinafter mentioned, but in any event within 14 days, after receiving written notice of such withdrawal, remove the agent or representative from the Works and shall not thereafter employ him again on the Works in any capacity and shall replace him with another agent or representative approved by the Contract Administrator.

Such authorised agent or representative shall receive, on behalf of the Contractor, directions and instructions from the Contract Administrator or, subject to the limitations of Clause 2.2 hereof, the Contract Administrator's Representative.

Contractor's Employees

- 16.1 The Contractor shall provide on the Site in connection with the execution and completion of the Works and the remedying of any defects therein:
- (a) only such technical assistants as are qualified, skilled and experienced in their respective callings and such foremen and leading hands as are competent to give proper superintendence of the Works, and
 - (b) such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely fulfilling of the Contractor's obligations under the Contract.



Contract Administrator at Liberty to Object

- 16.2 The Contract Administrator shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person provided by the Contractor who, in the opinion of the Contract Administrator, misconducts himself, or is incompetent or negligent in the proper performance of his duties, fails to conform with any of the provisions of the Contract or whose presence on Site is otherwise considered by the Contract Administrator to be undesirable, and such person shall not be again allowed upon the Works without the consent of the Contract Administrator. Any person so removed from the Works shall be replaced as soon as possible.

Setting-out

- 17.1 The Contractor shall be responsible for:

- (a) the accurate setting-out of the Works in relation to original points, lines and levels of reference specified in the Contract or given by the Contract Administrator in writing,
- (b) the correctness, subject as above mentioned, of the position, levels, dimensions and alignment of all parts of the Works, and
- (c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.

If, at any time during the extension of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Contract Administrator, shall, at his own cost, rectify such error to the satisfaction of the Contract Administrator, unless such error is based on incorrect data supplied in writing by the Contract Administrator, in which case the Contract Administrator, determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.

The checking of any setting-out or of any line or level by the Contract Administrator shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other things used in setting-out the Works.

BOREHOLES AND EXPLORATORY EXCAVATION

- 18.1 If, at any time during the execution of the Works, the Contract Administrator requires the Contractor to make boreholes or to carry out exploratory excavation, such requirement shall be the subject of an instruction in accordance with Clause 51,



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unless an item or a Provisional Sum in respect of such work is included in the Bill of Quantities.

SAFETY, SECURITY AND PROTECTION OF THE ENVIRONMENT

- 19.1 The Contractor shall, throughout the execution and completion of the Works and the remedying of any defects therein:
- (a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons;
 - (b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by the Contract Administrator or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others and to keep unauthorised persons off the Site;
 - (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation;
 - (d) ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values indicated in the Specification, and shall not exceed the values prescribed by applicable Laws.

Compliance with sustainability requirements

- 19.1B To the extent that the Contractor is responsible for the design of any part of the Permanent Works, the Contractor shall, without prejudice to the generality of clause 26.1, ensure that such design is carried out so as to enable:
- (a) the Permanent Works to comply with the requirements of the applicable Leadership in Energy and Environmental Design rating system issued by the US Green Building Council ("**LEED**"); and
 - (b) the Permanent Works to attain the LEED rating set out in the Appendix to Tender.



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Employer's Responsibilities

19.2 If under Clause 31 the Employer shall carry out work on the Site with his own workmen, he shall, in respect of such work:

- (a) have full regard to the safety of all persons entitled to be upon the Site, and
- (b) keep the Site in an orderly state appropriate to the avoidance of danger to such persons.

If under Clause 31 the Employer shall employ other contractors on the Site he shall require them to have the same regard for safety and avoidance of danger.

CARE OF WORKS

20.1 The Contractor shall take full responsibility for the care of the Works and materials and Plant for incorporation therein from the Commencement Date of Phase 1 until the date of issue of the Taking-Over Certificate for the whole of the Works, when the responsibility for the said care shall pass to the Employer. Provided that:

- (a) if the Contract Administrator issues a Taking-Over Certificate for any Section or part of the Permanent Works the Contractor shall cease to be liable for the care of that Section or part from the date of issue of the Taking-Over Certificate, when the responsibility for the care of that Section or part shall pass to the Employer,
- (b) the Contractor shall take full responsibility for the care of any outstanding Works and materials and Plant for incorporation therein which he undertakes to finish during the Defects Liability Period until such outstanding Works, materials and Plant have been completed pursuant to Clause 49; and
- (c) following the issue of a Taking-Over Certificate for any Section or part of the Permanent Works that comprise an individual or a grouping of tenancy spaces within the Site, the warranty pertaining to these Works shall only commence from the date of the Taking-Over Certificate for the whole of the Works, and the Defects Liability Period pertaining to these Works shall commence from the date of the Taking-Over Certificate for the whole of the Works.

If the Contract is terminated in accordance with the provisions of these Conditions, the date of issue of the Taking-Over Certificate



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shall be deemed to be the date of expiry of the notice of termination given under Clauses 63.1 and 69.1.

RESPONSIBILITY TO RECTIFY LOSS OR DAMAGE

20.2 If any loss or damage happens to the Works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever, other than the risks defined in Sub-Clause 20.4, the Contractor shall, at his own cost, rectify such loss or damage so that the Permanent Works conform in every respect with the provisions of the Contract to the satisfaction of the Contract Administrator. The Contractor shall also be liable for any loss or damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Clauses 49 and 50.

If the subject of the damage or loss had previously been rejected by the Contract Administrator under the provisions of Clause 39.1, then the Contractor, if required by the Contract Administrator, shall be responsible for the repair and restitution thereof at his own cost.

Loss or Damage Due to Employer's Risks

20.3 In the event of any such loss or damage happening from any of the risks defined in Sub-Clause 20.4, or in combination with other risks, the Contractor shall, if and to the extent required by the Contract Administrator, rectify the loss or damage and the Contract Administrator shall determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer. In the case of a combination of risks causing loss or damage any such determination shall take into account the proportional responsibility of the Contractor and the Employer.

Employer's Risks

20.4 The Employer's risks are:

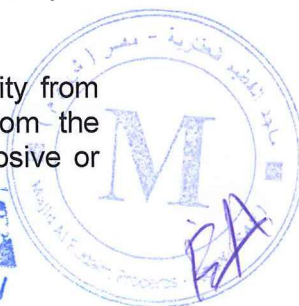
- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,
- (c) ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive or



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- other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
- (d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
 - (e) riot, commotion or disorder, by persons other than the employees of the Contractor and the Subcontractors,
 - (f) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except in respect of those tenant areas handed over for tenant fit out works, which the Contractor shall be required to continue to insure, until the date of issue of the Taking-Over Certificate, the whole of the Works as provided for in the Contract, and
 - (g) loss or damage to the extent that is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible.

The Employer's risks in respect of events described in Clauses 20.4(a), (b), (c), (d) and (e) above shall be limited to those events having occurred in the Country.

Contractor's Risks

- 20.5 The Contractor shall be deemed to have responsibility for all the risks not stated under the Employer's Risks in Clause 20.4.

Insurance by Employer

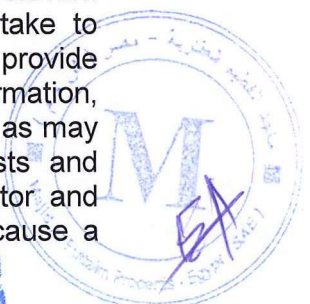
- 21.1 The Contractor:
- (a) hereby agrees to be included as an insured party in the Construction All Risks Policy taken out by the Employer, being coverage in respect of accidental physical loss or damage to the Works and third party liability occurring in connection with the carrying out of the Works. The Contractor undertakes to comply with all the procedures established by the Employer in this regard.
 - (b) acknowledges that the Employer may take out a relevant insurance policy, and the Contractor shall undertake to liaise with the insurer's technical representative, provide access to the Site and furnish such information, documentation, drawings, and basic technical data as may be reasonably required, comply with the requests and instructions of the Employer, Contract Administrator and Insurer's Technical Representative so as not to cause a



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qualification to or a cancellation of the policy by the Insurer and to inform the Employer of any changes which affect the risk of insuring the Works.

Scope of Cover
21.2

The policy required by Clause 21.1 will be in the name of the Employer with the Contractor, Subcontractors, Contract Administrator and any other interested party included as additional insured for their respective rights and interests in so far as the subject contract is concerned.

The above policy required by Clause 21.1 will insure against the following contingencies:

- (a) the Works, against any unforeseen and sudden physical loss or damage from any cause, other than those specifically excluded under the policy and the excepted risks specified in Clause 21.3, together with the material and Plant for incorporation therein, to the full replacement cost.
- (b) an additional sum to cover any additional costs incidental to the rectification of loss or damage on account of professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature.
- (c) Third Party Liability consequent upon i) accidental bodily injury to or illness of third parties and ii) accidental loss of or damage to property belonging to third parties occurring in direct connection with the construction or erection of the items insured under paragraph (a) above and happening on or in the immediate vicinity of the Site during the Period of Cover.
- (d) during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Period, and
- (e) for loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purposes of complying with his obligations under Clauses 49.1 and 50.1

The period of insurance shall be from the commencement of works at the Site to the end of the Defects Liability Period stipulated under the Contract.



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The Contractor hereby agrees that notwithstanding the Contractors All Risk Policy taken out by the Employer to which he will be included as an insured party, the Contractor will remain liable under the Contract for the due performance of any of his obligations thereunder.

Exclusions

- 21.3 There shall be no obligation for the insurances in Sub-Clause 21.1 to include loss or damage caused by:
- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,
 - (c) ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, or
 - (d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

Insurance by Contractor

- 21.4 The Contractor will arrange for insurance at its own costs, to cover the following risks and liabilities:
- (a) the Contractor's Equipment and other things brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site;
 - (b) the Contractor's workmen employed for the Works at the Site in accordance with the requirements set out in Clause 23.2;
 - (c) for loss, injury or damage to persons or property occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clauses 49 and 50, beyond the maintenance period.
 - (d) Motor Vehicle Third Party and Passenger Liability Insurance being coverage in respect of death of or bodily injury to persons and/or loss of or damage to property in respect of motor vehicles used by the Contractor (or Sub-contractor), whether owned/non-owned, leased or hired by the Contractor, in connection with the carrying out of the



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Works. Such insurance shall provide an unlimited indemnity for death of or injury to persons and the equivalent of not less than the amount stated in the Appendix to the Tender for loss of or damage to property which shall be extended as may be necessary to cover any additional cover required by statutory requirements in the Country.

The Contractor shall procure that the policy, or each of the policies, of insurance referred to in this Clause 21.4 contains a waiver by the insurers of any and all rights of subrogation they might otherwise be able to exercise against the Employer or any of its consultants, servants, employees or agents.

The Contractor shall procure that each of the policies of insurance referred to in paragraph (d) of this Clause 21.4 contains a clause indemnifying the Employer or any of its consultants, servants, employees or agents as though they are the Insured.

The Contractor agrees that obtaining the appropriate insurance cover will not, in any manner, absolve or exempt the contractor from any liability of any nature whatsoever in connection with the Works.

Responsibility for Amounts not Recovered

- 21.5 Any amounts not insured or not recovered from insurers shall be borne by the Employer or the Contractor in accordance with their responsibilities under Clause 20.

DAMAGE TO PERSONS AND PROPERTY

- 22.1 The Contractor shall indemnify the Employer against all losses and claims in respect of:
- (a) death of or injury to any person, or
 - (b) loss of or damage to any property (other than the Works), which may arise out of or in consequence of the execution and completion of the Works and the remedying of any defects therein, and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, subject to the exceptions defined in Clause 22.2,

and save in each case to the extent attributable to any negligence or breach of Contract by the Employer or its servants or agents.

EXCEPTIONS

22.2

The "exceptions" referred to in Clause 22.1(b) are:



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- (a) the permanent use or occupation of land by the Works, or any part thereof,
- (b) the right of the Employer to execute the Works, or any part thereof, on, over, under, in or through any land, and
- (c) damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any defects therein, in accordance with the Contract.

Indemnity by Employer

- 22.3 The Employer shall indemnify the Contractor against all claims, proceedings, damages, costs, charges and expenses in respect of the matters referred to in the exceptions defined in Clause 22.2.

ACCIDENT OR INJURY TO WORKMEN

- 23.1 The Employer shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or any Subcontractor or to any person whose services may for the time being be loaned or made available to the Contractor or any Subcontractor, other than death or injury resulting from any act or default of the Employer, his agents or servants. The Contractor shall indemnify and keep indemnified the Employer against all such damages and compensation, other than those for which the Employer is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

INSURANCE AGAINST ACCIDENT TO WORKMEN

- 23.2 The Contractor shall insure against such liability and shall arrange for Workmen's Compensation and Employers Liability insurance to cover personal injuries (including death and disability) and occupational illnesses of Employees resulting from or occurring in connection with the execution and completion of the Works which forms the basis of this Agreement. Such insurance shall cover no less than the employer's obligations under the labour laws or Social Insurance law in Egypt. The limit of liability in respect of Employers Liability insurance shall be no less than Egyptian Pounds Seven Million Five Hundred Thousand (EGP 7,500,000) in respect of each and every occurrence.

The Contractor shall continue such insurance during the whole of the time that any persons are employed by him on the Works.



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Provided that, in respect of any persons employed by any Subcontractor, the Contractor's obligations to insure as aforesaid under this Clause shall be satisfied if the Subcontractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Subcontractor to produce to the Employer, when required, such policy of insurance and the receipt for the payment of the current premium.

EVIDENCE AND TERMS OF INSURANCES

- 24.1 The Contractor shall provide evidence to the Employer prior to the start of work at the Site that the insurances required under the Contract have been effected and shall, within 28 days of the Commencement Date of Phase 1, provide the insurance policies to the Employer. When providing such evidence and such policies to the Employer, the Contractor shall notify the Contract Administrator of so doing. Such insurance policies shall be consistent with the terms of the Contract and approved by the Employer. The Contractor shall effect all insurances for which he is responsible with insurers approved by the Employer. All such insurances shall be endorsed by the Insurers stating their compliance with the terms of the relevant Clauses of these Conditions.

Adequacy of Insurances

- 24.2 The Contractor shall notify the insurers of changes in the nature, extent or programme for execution of the Works with a copy to the Contract Administrator and ensure the adequacy of the insurances at all times in accordance with the terms of the Contract and shall, when required, produce to the Employer the insurance policies in force and the receipts for payment of the premiums. No variations shall be made to the insurance policies by the Contractor without the prior approval of the Employer.

Notwithstanding the foregoing provisions, it shall be a condition of any Insurance Policies by the Insurers in accordance with the terms of the Contract, that the Insurers will not exercise their right to avoid this Insurance on the grounds of any non-disclosure, mis-description, misrepresentation in any information relevant to the risks insured under such Policies, unless the Insurer can establish that such non-disclosure, mis-description or misrepresentation was wittingly committed by the Insured.

Remedy on Contractor's Failure to Insure

- 24.3 If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide the policies to the Employer within the period required by Clause



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24.1, then and in any such case the Employer may effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

Compliance with Policy Conditions

24.4 In the event that the Contractor or the Employer fails to comply with conditions imposed by the insurance policies effected pursuant to the Contract, each shall indemnify the other against all losses and claims arising from such failure.

25. Not used

COMPLIANCE WITH LAW

26.1 The Contractor shall give all notices and pay all fees required to be given or paid to any national of the Country or other duly constituted authority in relation to execution of the Works and by the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the Works.

The Contractor shall in performing the Contract comply in all respects with the provisions of applicable Laws, including the regulations or bye-laws of any local or other duly constituted authority and shall give all notices and obtain all permits, licences and approvals which may be applicable to the Works and shall comply with such rules and regulations of public bodies and companies as aforesaid and shall keep the Employer indemnified against all penalties and liability of every kind for breach of this Clause 26.1.

The Contract Price is deemed to include all costs incurred by the provisions of this Clause including the cost of arranging for, and collecting, all permits, and obtaining all approvals, but excluding the Building Permit and fees for Permanent Utilities Connections, for which Provisional Sums will be allowed in the Bills of Quantities. The Contractor is responsible for obtaining all necessary information required in order to arrange for any of the Permanent Utilities Connections.

Fossils

27.1

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the Site shall, as between the Employer and the Contractor, be deemed to be the absolute



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property of the Employer. The Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, promptly give notice to the Contract Administrator of such discovery and carry out the Contract Administrator's instructions for dealing with the same. If, by reason of such instructions, the Contractor suffers delay and/or incurs costs then the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price,

and shall notify the Contractor accordingly, with a copy to the Employer.

Patent Rights

- 28.1 The Contractor shall indemnify and hold the Employer harmless against and from any loss, cost or claim (or proceedings pursuing a claim) to the extent the same arises out of or in relation to an actual or alleged infringement, misappropriation or misuse of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works except to the extent the infringement relates to any information provided by the Employer or the Contract Administrator.

Assistance with claims

- 28.2 If the Employer is entitled to be indemnified under this Clause, the Contractor may (at its cost) conduct negotiations for the settlement of the claim and any litigation or arbitration which may arise from it. The Employer shall, at the request and cost of the Contractor, assist in contesting the claim. The Employer (and its personnel) shall not make any admission which might be prejudicial to the Contractor, unless the Contractor failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by the Employer.

Royalties

- 28.3 Except where otherwise stated, the Contractor shall pay all tonnage and other royalties, rent and other payments or compensation, if any, for getting stone, sand, gravel, clay or



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other materials required for the Works and for the disposal of the same.

Interference with Traffic and Adjoining Properties

- 29.1 All operations necessary for the execution and completion of the Works and the remedying of any defects therein shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to interfere unnecessarily or improperly with:
- (a) the convenience of the public; or
 - (b) the access to, use and occupation of public or private roads and footpaths to or of properties whether in the possession of the Employer or of any other person.

The Contractor shall save harmless and indemnify the Employer in respect of all claims, proceedings, damages, costs, losses, charges and expenses whatsoever arising out of, or in relation to, any such matters insofar as the Contractor is responsible therefor.

Avoidance of Damage to Roads

- 30.1 The Contractor shall, after consultation with the local authorities, use all means to prevent any of the roads or bridges communicating with or on the routes to the Site from being damaged or injured by any traffic of the Contractor or any of his Subcontractors and, in particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of materials, Plant, Contractor's Equipment or Temporary Works from and to the Site shall be limited, as far as reasonably possible, and so that no damage or injury may be occasioned to such roads and bridges.

Transport of Contractor's Equipment or Temporary Works

- 30.2 Save insofar as the Contract otherwise provides, the Contractor shall be responsible for and shall pay the cost of strengthening any bridges or altering or improving any road communicating with or on the routes to the Site to facilitate the movement of Contractor's Equipment or Temporary Works and the Contractor shall indemnify and keep indemnified the Employer against all claims for damage to any such road or bridge caused by such movement, including such claims as may be made directly against the Employer and shall negotiate and pay all claims arising solely out of such damage.



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Transport of Materials or Plant

- 30.3 Unless otherwise stated in the Particular Conditions:
- (a) the Contractor shall give the Contract Administrator not less than 14 days' notice of the date on which any Plant or a major item will be delivered to the Site;
 - (b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Plant and other things required for the Works; and
 - (c) the Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Plant and other things required for the Works, and shall negotiate and pay all claims arising from their transport.

WATERBORNE TRAFFIC

- 30.4 Where the nature of the Works is such as to require the use by the Contractor of waterborne transport the foregoing provisions of this Clause shall be construed as though "road" included a lock, dock, sea wall or other structure related to a waterway and "vehicle" included craft, and shall have effect accordingly.

OPPORTUNITIES FOR OTHER CONTRACTORS

- 31.1 The Contractor shall, in accordance with the requirements of the Contract Administrator, afford all reasonable opportunities for carrying out their work to:
- (a) any other contractors employed by the Employer and their workmen,
 - (b) the workmen of the Employer, and
 - (c) the workmen of any duly constituted authorities who may be employed in the execution on or near the Site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the Works.



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Facilities for Other Contractors

- 31.2 If, however, pursuant to Sub-Clause 31.1 the Contractor shall, on the written request of the Contract Administrator:
- (a) make available to any such other contractor, or to the Employer or any such authority, any roads or ways, the maintenance of which the Contractor is responsible,
 - (b) permit the use, by any such, of Temporary Works or Contractor's Equipment on the Site, or
 - (c) provide any other service of whatsoever nature for any such,

and the Contractor suffers delay and/or incurs costs, the Contract Administrator shall determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.

CONTRACTOR TO KEEP SITE CLEAR

- 32.1 During the execution of the Works the Contractor shall keep the Site reasonably free from all unnecessary obstruction and shall store or dispose of any Contractor's Equipment and surplus materials and clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.

CLEARANCE OF SITE ON COMPLETION

- 33.1 Upon the issue of any Taking-Over Certificate the Contractor shall clear away and remove from that part of the Site to which such Taking-Over Certificate relates all Contractor's Equipment, surplus material, rubbish and Temporary Works of every kind, and leave such part of the Site and Works clean, safe and in a workmanlike condition to the satisfaction of the Contract Administrator. Provided that the Contractor shall be entitled to retain on Site, until the end of the Defects Liability Period, such materials, Contractor's Equipment and Temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

LABOUR

Engagement of Staff and Labour

- 34.1 The Contractor shall provide all labour necessary or required by the Contract Administrator for the construction, completion and maintenance of the Works. The Contractor shall make his



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own arrangements for the recruitment and engagement of all labour.

The Contractor shall as far as possible employ nationals of the Country and shall train such labour where necessary for the purpose of the Works. Should the Contractor wish to employ labour of nationalities other than from the Country he must ascertain whether the necessary entry permits may be obtained. No foreign labour shall be employed without the necessary approval by the Government and the Contractor should make allowance for the availability and costs of all labour and site staff, that are required for the Works, being recruited in compliance with Laws of the Country that concern immigration.

The Contractor shall be responsible for the engagement, transport and paying of all labour, feeding and housing of labour and other matters in connection therewith and all arrangements affecting the same shall be subject to such relevant local Laws (including Laws relating to their employment, health, safety, welfare, immigration and emigration) as exist at the commencement of the Contract and which may be enacted during the continuance of the Contract and the Contract Price shall be deemed to include the same.

Supply of Water

- 34.2 The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site, to the satisfaction of the Contract Administrator's Representative, an adequate supply of drinking water and other water for the use of the Contractor's staff and labour.

Alcoholic Liquor or Drugs

- 34.3 The Contractor shall not, otherwise than in accordance with the Laws of the Government for the time being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale, gift, barter or disposal by his Subcontractors, agents or employees.

Arms and Ammunition

- 34.4 The Contractor shall not give, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

Festivals and Religious Customs

- 34.5 The Contractor shall in all dealings with labour in his employment have due regard to all festivals, days of rest and



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religious or other customs in accordance with the Laws and customs for the time being in force in the Country.

Epidemics

- 34.6 In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such Laws, orders and requirements, as may be made by the Government, or the local medical or civil bodies, for the purpose of dealing with and overcoming the same.

Disorderly Conduct

- 34.7 The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his employees and for the preservation of peace and protection of persons and property on and near the Site.

Expatriate Personnel

- 34.8 The Contractor shall make his own arrangements to obtain immigration approval for expatriate personnel in accordance with the laws and customs for the time being in force in the Country.

Observance by Subcontractors

- 34.9 The Contractor shall be responsible for the observance by his Subcontractors of the requirements of Clause 34.

Health and Safety

- 34.10 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's employees. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's employees, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

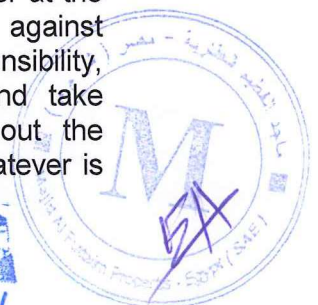
The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is



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required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Contract Administrator, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Contract Administrator may reasonably require.

Return of Labour and Contractor's Equipment

- 35.1 The Contractor shall deliver to the Contract Administrator details, in such form and at such intervals as the Contract Administrator may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such information in respect of Contractor's Equipment as the Contract Administrator may require.

MATERIALS, PLANT AND WORKMANSHIP

Quality of Materials, Plant and Workmanship

- 36.1 The Contractor warrants that:
- (a) all materials and Plant shall be
 - i. of the respective kinds described in the Contract and in accordance with the Contract Administrator's instructions;
 - ii. made of non-hazardous materials, except as otherwise specified in the Contract, which are suitable for use as part of the Works; and
 - (b) it shall carry out the Works:
 - i. in a proper workmanlike manner, exercising the skill and care to be expected of qualified and experienced contractors engaged in carrying out works of a similar nature, scale and complexity to the Works; and
 - ii. in accordance with recognised good practice and with properly equipped facilities.

Testing of Materials and Plant

- 36.2 The Contractor shall carry out any examinations, inspections and tests of the materials, workmanship and Plant, as the Employer or Contract Administrator may require, from time to time during the production, manufacture and construction of the Works at the place of manufacture, fabrication or preparation, or on the Site or at such other place or places as may be specified in the Contract, or at all or any of such



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places in order to check the progress of manufacture of Plant and production and manufacture of materials.

The Employer, Contract Administrator and/or their personnel are entitled to attend such examinations, inspections and tests and the Contractor shall provide the Employer, the Contract Administrator or their personnel, such access, facilities, assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or Plant and shall supply samples of materials, before incorporation in the Works, for testing as may be selected and required by the Contract Administrator. Each sample shall be labelled as to origin and intended use in the Works.

Cost of Samples

- 36.3 All samples shall be supplied by the Contractor at his own cost if the supply thereof is clearly intended by or provided for in the Contract.

Cost of Tests

- 36.4 The cost of making any test, examination or inspection shall be borne by the Contractor if such test is:

- (a) clearly intended by or provided for in the Contract; or
- (b) particularised in the Contract (in cases only of a test under load or of a test to ascertain whether the design of any finished or partially finished work is appropriate for the purposes which it was intended to fulfil) in sufficient detail to enable the Contractor to price or allow for the same in his Tender.

Cost of Tests not Provided for

- 36.5 If any test required by the Contract Administrator which is:
- (a) not so intended by or provided for in the Contract;
 - (b) (in the cases above mentioned in Clause 36.4(b)) not so particularised in the Contract; or
 - (c) (though so intended or provided for) required by the Contract Administrator to be carried out at any place other than the Site or the place of manufacture, fabrication or preparation of the materials or Plant tested,
- shows the materials, Plant or workmanship not to be in accordance with the provisions of the Contract to the satisfaction of the Contract Administrator, then the cost of such test shall be borne by the Contractor, but in any other case Sub-Clause 36.5 shall apply.



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Contract Administrator's Determination where Tests not Provided for

36.6 Where, pursuant to Sub-Clause 36.4, this Sub-Clause applies, the Contract Administrator shall, after due consultation with the Employer, and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs to the Contractor, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the Employer.

Inspection of Operations

37.1 The Contract Administrator, and any person authorised by him, shall at all reasonable times have access to the Site and to all workshops and places where materials or Plant are being manufactured, fabricated or prepared for the Works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

Inspection and Testing

37.2 The Contract Administrator shall be entitled, during manufacture, fabrication or preparation to inspect and test the materials and Plant to be supplied under the Contract. If materials or Plant are being manufactured, fabricated or prepared in workshops or places other than those of the Contractor, the Contractor shall obtain permission for the Contract Administrator to carry out such inspection and testing in those workshops or places. Such inspection or testing shall not release the Contractor from any obligation under the Contract.

Dates for Inspection and Testing

37.3 The Contractor shall agree with the Contract Administrator on the time and place for the inspection or testing of any materials or Plant as provided in the Contract. The Contract Administrator shall give the Contractor not less than 24 hours notice of his intention to carry out the inspection or to attend the tests. If the Contract Administrator, or his duly authorised representative, does not attend on the date agreed, the Contractor may, unless otherwise instructed by the Contract Administrator, proceed with the tests, which shall be deemed to have been made in the presence of the Contract Administrator. The Contractor shall forthwith forward to the Contract Administrator duly certified copies of the test



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readings. If the Contract Administrator has not attended the tests, he shall accept the said readings as accurate.

Rejection

- 37.4 If, at the time and place agreed in accordance with Sub-Clause 37.3, the materials or Plant are not ready for inspection or testing or if, as a result of the inspection or testing referred to in this Clause, the Contract Administrator determines that the materials or Plant are defective or otherwise not in accordance with the Contract, he may reject the materials or Plant and shall notify the Contractor thereof immediately. The notice shall state the Contract Administrator's objections with reasons. The Contractor shall then promptly make good the defect or ensure that rejected materials or Plant comply with the Contract. If the Contract Administrator so requests, the tests of rejected materials or Plant shall be made or repeated under the same terms and conditions. All costs incurred by the Employer by the repetition of the tests shall, after due consultation with the Employer, and the Contractor, be determined by the Contract Administrator and shall be recoverable from the Contractor by the Employer and may be deducted from any monies due or to become due to the Contractor and the Contract Administrator shall notify the Contractor accordingly, with a copy to the Employer.

Independent Inspection

- 37.5 The Contract Administrator may delegate inspection and testing of materials or Plant to an independent inspector. Any such delegation shall be effected in accordance with Sub-Clause 2.4 and for this purpose such independent inspector shall be considered as an assistant of the Contract Administrator. Notice of such appointment (not being less than 14 days) shall be given by the Contract Administrator to the Contractor.

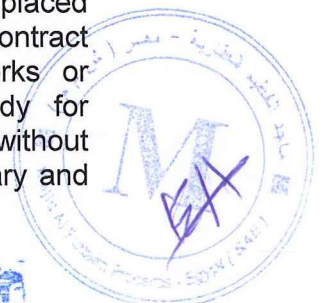
Examination of Work before Covering up

- 38.1 No part of the Works shall be covered up or put out of view without the approval of the Contract Administrator and the Contractor shall afford full opportunity for the Contract Administrator to examine and measure any such part of the Works which is about to be covered up or put out of view and to examine foundations before any part of the Works is placed thereon. The Contractor shall give notice to the Contract Administrator whenever any such part of the Works or foundations is or are ready or about to be ready for examination and the Contract Administrator shall, without unreasonable delay, unless he considers it unnecessary and



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advises the Contractor accordingly, attend for the purpose of examining and measuring such part of the Works or of examining such foundations.

Uncovering and Making Openings

- 38.2 The Contractor shall uncover any part of the Works or make openings in or through the same as the Contract Administrator may from time to time instruct and shall reinstate and make good such part. If any such part has been covered up or put out of view after compliance with the requirement of Sub-Clause 38.1 and is found to be executed in accordance with the Contract, the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine the amount of the Contractor's costs in respect of such of uncovering, making openings in or through, reinstating and making good the same, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the Employer. In any other case all costs shall be borne by the Contractor.

Removal of Improper Work, Materials or Plant

- 39.1 The Contract Administrator shall have authority to issue instructions from time to time, for:
- (a) the removal from the Site, within such time or times as may be specified in the instruction, of any materials or Plant which, in the opinion of the Contract Administrator, are not in accordance with the Contract;
 - (b) the substitution of proper and suitable materials or Plant, and
 - (c) the removal and proper re-execution, notwithstanding any previous test thereof or interim payment therefor, of any work which, in respect of:
 - (i) materials, Plant or workmanship; or
 - (ii) design by the Contractor or for which he is responsible,

is not, in the opinion of the Contract Administrator, in accordance with the Contract.

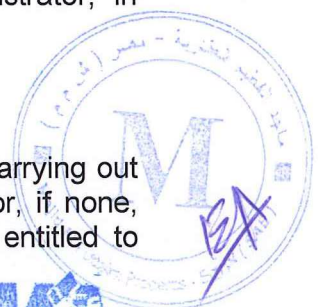
Default of Contractor in Compliance

- 39.2 In case of default on the part of the Contractor in carrying out such instruction within the time specified therein or, if none, within a reasonable time, the Employer shall be entitled to



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employ and pay other persons to carry out the same and all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Contract Administrator and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Contract Administrator shall notify the Contractor accordingly, with a copy to the Employer.

SUSPENSION

Suspension of Work

- 40.1 The Contractor shall, on the instructions of the Contract Administrator, suspend the progress of the Works or any part thereof for such time and in such manner as the Contract Administrator, may consider necessary and shall, during such suspension, properly protect and secure the Works or such part thereof so far as is necessary in the opinion of the Contract Administrator. Unless such suspension is:
- (a) otherwise provided for in the Contract,
 - (b) necessary by reason of some default of or breach of contract by the Contractor or for which he is responsible, or
 - (c) necessary for the proper execution of the Works or for the safety of the Works or any part thereof (save to the extent that such necessity arises from any act or default by the Contract Administrator or the Employer or from any of the risks defined in Sub-Clause 20.4),
- Sub-Clause 40.2 shall apply.

Contract Administrator's Determination following Suspension

- 40.2 Where, pursuant to Sub-Clause 40.1, this Sub-Clause applies the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine:
- (a) any extension of time to which the Contractor is entitled under Clause 44, and
 - (b) the amount, which shall be added to the Contract Price, in respect of the cost incurred by the Contractor by reason of such suspension,
- and shall notify the Contractor accordingly, with a copy to the Employer.

Suspension lasting more than 84 Days

- 40.3 If the progress of the Works or any part thereof is suspended on the instructions of the Contract Administrator and if permission to resume work is not given by the Contract Administrator within a period of 84 days from the date of suspension then, unless such suspension is within paragraph (a), (b), [(c)] or (d) of Sub-Clause 40.1, the Contractor may



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give notice to the Contract Administrator requiring permission, within 28 days from the receipt thereof, to proceed with the Works or that part thereof in regard to which progress is suspended. If, within the said time, such permission is not granted, the Contractor may, but is not bound to, elect to treat the suspension, where it affects part only of the Works, as an omission of such part under Clause 51 by giving a further notice to the Contract Administrator to that effect, or, where it affects the whole of the Works, treat the suspension as an event of default by the Employer and terminate his employment under the Contract in accordance with the provisions of Sub-Clause 69.1, whereupon the provisions of Sub-Clauses 69.2 and 69.3 shall apply.

Contractor not to Suspend Work

- 40.4 Other than as permitted under Clause 69.4, the Contractor shall not suspend the Works, unless so ordered by the Contract Administrator in accordance with Clause 40.1, irrespective of any pending decision by the Contract Administrator on any matter under the Contract.

Resumption of Work

- 40.5 After the permission or instruction to proceed is given, the Contractor and the Contract Administrator shall jointly examine the Works and the Plant and materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or materials, which has occurred during the suspension.

COMMENCEMENT AND DELAYS

Commencement of Phase 1 Works

- 41.1 The Contractor shall commence the Phase 1 Works immediately on the Commencement Date of Phase 1. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay.

Commencement of Phase 2 Works

- 41.2 The Contractor shall commence the Phase 2 Works immediately on the Commencement Date of Phase 2. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay.

Possession of Site and Access Thereto

- 42.1 Save insofar as the Contract may prescribe:



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- (a) the extent of portions of the Site of which the Contractor is to be given possession from time to time;
- (b) the order in which such portions shall be made available to the Contractor,

and, subject to any requirement in the Contract as to the order in which the Works shall be executed, the Employer will, on the Commencement Date of Phase 1, give to the Contractor possession of:

- (c) so much of the Site; and
- (d) such access as,

in accordance with the Contract, is to be provided by the Employer as may be required to enable the Contractor to commence and proceed with the execution of the Works in accordance with the programme referred to in Clause 14, if any, and otherwise in accordance with such reasonable proposals as the Contractor shall, by notice to the Contract Administrator with a copy to the Employer, make.

Failure to Give Possession

42.2 If the Contractor suffers delay and/or incurs costs from failure on the part of the Employer to give possession in accordance with the terms of Sub-Clause 42.1, the Contract Administrator shall, after due consultation with the Employer, and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44; and
- (b) the amount of such costs, which shall be added to the Contract Price,

and shall notify the Contractor accordingly, with a copy to the Employer.

Rights of Way and Facilities

42.3 The Contractor shall bear all costs and charges for special or temporary rights of way required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by him for the purposes of the Works.



Time for Completion

- 43.1 The Contractor shall complete the whole of the Works and, if applicable, any Section required to be completed, within the Time for Completion for the Works or Section (as the case may be), including:
- (a) achieving the passing of the Tests on Completion,
 - (b) the successful completion of the Commissioning of the Works; and
 - (c) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking over under Clause 48 [*Taking Over Certificate*].
- 43.2 Without prejudice to the Contractor's obligations under Clause 43.1, the Contractor shall use its best endeavours to progress the Works so as to achieve the Milestones by the applicable Milestone Dates (if any).

Extension of Time for Completion

- 44.1 Subject to Clause 44.2, in the event of:
- (a) the amount or nature of extra or additional work;
 - (b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions; or
 - (c) any delay, breach, impediment or prevention by the Employer,

being such as fairly to entitle the Contractor to an extension of the Time for Completion of the Works, or any Section or part thereof, the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine the amount of such extension and shall notify the Contractor accordingly, with a copy to the Employer.

Contractor to Provide Notification and Detailed Particulars

- 44.2 Subject to Clause 44.3, the Contract Administrator is not bound to make any determination under Clause 44.1 unless the Contractor has:



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- (a) within 28 days after such event has first arisen notified the Contract Administrator, with a copy to the Employer, of the event causing the delay; and
- (b) within 28 days, or such other reasonable time as may be agreed by the Contract Administrator, after such notification under Clause 44.2 (a), submits to the Contract Administrator a "Time Impact Analysis" which among other things, details:
 - (i) the particulars of the event causing the delay and any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time,
 - (ii) the status of the work at that time and the resultant impact on the Time for Completion;
 - (iii) the activities which will require change;
 - (iii) an analysis of how float has been used to minimise the additional time required;
 - (iv) the date(s) of any extra or additional work or other special circumstances which occurred; and
 - (v) provides any such additional supporting information as the Contract Administrator may require in a form acceptable to the Contract Administrator.

Interim Determination of Extension

- 44.3 Where an event has a continuing effect such that it is not practicable for the Contractor to submit detailed particulars within the period of 28 days referred to in Sub-Clause 44.2 (b), he shall nevertheless be entitled to an extension of time on the condition that that he has submitted to the Contract Administrator interim particulars at intervals of not more than 28 days and final particulars within 28 days of the end of the effects resulting from the event. On receipt of such interim particulars, the Contract Administrator shall, without undue delay, make an interim determination of extension of time and, on receipt of the final particulars, the Contract Administrator shall review all the circumstances and shall determine an overall extension of time in regard to the event. In both such cases the Contract Administrator shall make his determination after due consultation with the Employer, and the Contractor and shall notify the Contractor of the determination, with a copy to the Employer. No final review shall result in a decrease of any extension of time already determined by the Contract Administrator.



Restriction on Working Hours

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- 45.1 There are no restrictions placed on the hours that the Contractor is permitted to work on site. However, the Contractor is required to seek the written approval of the Contract Administrator to work outside of the normal working hours and state the nature of the works to be undertaken, the duration of the works to be undertaken and any supervision required from the Contract Administrator. All work outside of the normal working hours are to be indicated in the Tender programme and subsequent Clause 14 programme.

Normal Working Hours

- 45.2 The normal site working hours for the Site will be:
Saturday to Thursday 08h00 – 18h00
Friday (Day of Rest) Site Closed
During all officially declared public or national holidays the site offices will be closed.

Contract Administrator's Out of Hours Working

- 45.3 In the event that the Contract Administrator or the Contract Administrator's Representative or their assistants are obliged to supervise the Contractor's operations in excess of the normal working hours stipulated in Clause 45.2, or on Fridays or declared public holidays in the Country, the supervision by the Contract Administrator of such work out of working hours shall be agreed in advance between the Contract Administrator and the Contractor and approved by the Employer. Payment for the agreed out of hours work will be made to the Contract Administrator by the Employer. Where the Contract Administrator is obliged to supervise the work out of working hours as a result of the default by the Contractor, the Contract Administrator's costs shall be recovered from the Contractor by the Employer by deducting the amount from the Interim Payment Certificates.

Contract Administrator's Rates

- 45.4 In the event that the Contract Administrator is obliged to supervise the out of hours work as a result of the default of the Contractor, the costs recovered by the Employer will be limited to the cost of an Inspector(s), working the hours agreed with the Contract Administrator, at a fair and reasonable rate prevalent at the time.

Rate of Progress

- 46.1 If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any Section is at any time, in the opinion of the Contract



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Administrator, too slow to comply with the Time for Completion, the Contract Administrator shall so notify the Contractor who shall thereupon submit a detailed proposal to the Contract Administrator which outlines such steps as are necessary, subject to the approval of the Contract Administrator, to expedite progress so as to comply with the Time for Completion. The Contractor shall commence any such approved steps and any other steps, requested by the Contract Administrator, as soon as practicable and shall thereafter diligently complete such steps as quickly as reasonably practicable, but in any event shall complete such steps within 28 days (or any longer period as the Contract Administrator may agree in its absolute discretion). The Contractor shall not be entitled to any additional payment for taking such steps. If, as a result of any notice given by the Contract Administrator under this Clause, the Contractor considers that it is necessary to do any work at night or on locally recognised days of rest, he shall be entitled to seek the consent of the Contract Administrator so to do. Provided that if any steps, taken by the Contractor in meeting his obligations under this Clause, involve the Employer in additional supervision costs, such costs shall, after due consultation with the Employer and the Contractor, be determined by the Contract Administrator and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Contract Administrator shall notify the Contractor accordingly, with a copy to the Employer.

Liquidated Damages for Delay

- 47.1 If, as determined by the Contract Administrator, the Contractor shall fail to achieve completion of the Works or any Section, as described in Clause 43.1 hereof, within the relevant Time for Completion, then the Contractor shall pay to the Employer the Liquidated Damages stated in the Contract as damages for delay, at the rate set out in the Appendix to Tender, for such default for every day or part of a day which shall elapse between the relevant Time for Completion and the date of certified completion of the Works or Section (as the case may be) in accordance with Clause 48. The Employer may, without prejudice to any other method of recovery, deduct the amount of such Liquidated Damages from any monies due or which may become due to the Contractor. The payment or deduction of such penalty shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.



Reduction of Liquidated Damages

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- 47.2 If, before the completion of the whole of the Works any part or Section has been certified by the Contract Administrator as completed, pursuant to Clause 48.1, 48.2, 48.3 and 48.4 hereof, and occupied or used by the Employer, the Liquidated Damages for delay shall, for any period of delay after such certificate and in the absence of alternative provisions in the Contract, be reduced in the proportion which the value of the part or Section so certified bears to the value of the whole of the Works.

This Clause will not be applicable in respect of the completion and use of a part of the Works that comprise an individual or grouping of tenancy spaces within the Development.

Taking-Over Certificate

- 48.1 When the whole of the Works have been substantially completed (including any express requirements of this Contract which are required to be completed before a Taking-Over Certificate may be issued) and have satisfactorily passed any Tests on Completion prescribed by the Contract, the Contractor may give a notice to that effect to the Contract Administrator, with a copy to the Employer, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the Contractor for the Contract Administrator to issue a Taking-Over Certificate in respect of the Works.

The Contract Administrator shall, within 28 days after receiving the Contractor's notice:

- (a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- (b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.



Taking Over of Sections or Parts

- 48.2 Similarly, in accordance with the procedure set out in Sub-Clause 48.1, the Contractor may request and the Contract Administrator, shall issue a Taking-Over Certificate in respect of:
- (a) any Section in respect of which a separate Time for Completion is provided in the Appendix to Tender,
 - (b) any substantial part of the Permanent Works which has been both completed to the satisfaction of the Contract Administrator and, otherwise than as provided for in the Contract, occupied or used by the Employer, or
 - (c) any part of the Permanent Works which the Employer has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract or has not been agreed by the Contractor as a temporary measure).

Should any part of the Permanent Work be Taken-Over as described above, the period of any warranties for any Plant, equipment or materials shall run from the date of the Taking-Over Certificate for the whole of the Works and not from any interim Taking-Over Certificate date.

Substantial Completion of Parts

- 48.3 If any part of the Permanent Works has been substantially completed and has satisfactorily passed any Tests on Completion in accordance with the procedure in 48.2, the Contract Administrator, may issue a Taking-Over Certificate in respect of that part of the Permanent Works before completion of the whole of the Works and, upon the issue of such Certificate, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work in that part of the Permanent Works during the Defects Liability Period.

Surfaces Requiring Reinstatement

- 48.4 A Taking-Over Certificate given in respect of any Section or part of the Permanent Works before completion of the whole of the Works shall not be deemed to certify completion of any ground or surfaces requiring reinstatement, unless such Taking-Over Certificate shall expressly so state.



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DEFECTS LIABILITY

Defects Liability Period

49.1 In these Conditions the expression "Defects Liability Period" shall mean the defects liability period named in the Appendix to Tender, calculated from:

- (a) the date of substantial completion of the Works certified by the Contract Administrator in accordance with Clause 48, or
- (b) in the event of more than one certificate having been issued by the Contract Administrator under Clause 48, the respective dates so certified,

and in relation to the Defects Liability Period the expression "the Works" shall be construed accordingly.

Completion of Outstanding Work and Remedying Defects

49.2 In order that the Works shall, at or as soon as practicable after the expiration of the Defects Liability Period, be delivered to the Employer in the condition required by the Contract, fair wear and tear excepted, to the satisfaction of the Contract Administrator, the Contractor shall:

- (a) complete the work, if any, outstanding on the date stated in the Taking-Over Certificate as soon as practicable after such date;
- (b) provided such defects, shrinkages or other faults or damage arise out of or in connection with (i) the acts or omissions of the Contractor and/or any Contractor's Personnel and/or their respective agents, and/or (ii) any breach or default by the Contractor in the performance of its obligations under or in connection with this Contract, execute all work required to remedy defects, shrinkages or other faults and damage, which are notified by the Contract Administrator during the Defects Liability Period within a reasonable time of such notice subject to paragraph (c) below;
- (c) remedy any defects notified under this Clause which are specified in the notice as being an "Emergency Defect", "Urgent Defect" or "Routine Defect", within the applicable period of time set out in the Appendix to Tender.



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Cost of Remedying Defects

- 49.3 All work referred to in Sub-Clause 49.2 (b) shall be executed by the Contractor at his own cost if the necessity thereof is, in the opinion of the Contract Administrator, due to:
- (a) the use of materials, Plant or workmanship not in accordance with the Contract;
 - (b) where the Contractor is responsible for the design of part of the Permanent Works, any fault in such design; or
 - (c) the neglect or failure on the part of the Contractor to comply with any obligation, expressed or implied, on the Contractor's part under the Contract.

If, in the opinion of the Contract Administrator, such necessity is due to any other cause, he shall, determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.

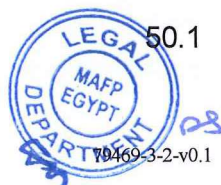
Contractor's Failure to Carry Out Instructions

- 49.4 In case of default on the part of the Contractor in carrying out such instruction within a reasonable time, the Employer shall be entitled to employ and pay other persons to carry out the same and if such work is work which, in the opinion of the Contract Administrator, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Contract Administrator and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Contract Administrator shall notify the Contractor accordingly, with a copy to the Employer.

Extension of Defects Liability Period

- 49.5 The Employer shall be entitled to an extension of the Defects Liability Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or damage. However, a Defects Liability Period shall not be extended by more than two years.

Contractor to Search



50.1

If any defect, shrinkage or other fault in the Works appears at any time prior to the end of the Defects Liability Period, the

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Contract Administrator may instruct the Contractor, with copy to the Employer, to search under the directions of the Contract Administrator for the cause thereof. Unless such defect, shrinkage or other fault is one for which the Employer is liable under the Contract, the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine the amount in respect of the costs of such search incurred by the Contractor, which shall be added to the Contract Price and shall notify the Contractor accordingly, with a copy to the Employer. If such defect, shrinkage or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect, shrinkage or other fault at his own cost in accordance with the provisions of Clause 49.

ALTERATIONS, ADDITIONS AND OMISSIONS

Variations

- 51.1 The Contract Administrator shall make any variation of the form, quality or quantity of the Works or any part thereof that may, in his opinion, be necessary and for that purpose, or if for any other reason it shall, in his opinion, be appropriate, he shall have the authority to instruct, the Contractor to do and the Contractor shall do any of the following:
- (a) increase or decrease the quantity of any work included in the Contract;
 - (b) omit any such work (including, subject to Clause 51.1A, where the Employer subsequently gives such work to others);
 - (c) change the character or quality or kind of any such work;
 - (d) change the levels, lines, position and dimensions of any part of the Works;
 - (e) execute additional work of any kind necessary for the completion of the Works; or
 - (f) change any specified sequence or timing of construction of any part of the Works.

No such variation shall in any way vitiate or invalidate the Contract, but the effect, if any, of all such variations shall be valued in accordance with Clause 52. Provided that where the issue of an instruction to vary the Works is necessitated by some default of or breach of contract by the Contractor or for which he is



responsible, any additional cost attributable to such default shall be borne by the Contractor.

- 51.1A The Contract Administrator shall only be entitled to instruct the Contractor to omit work and give it to others in accordance with Clause 51.1(b) in the event that the decision to do so has arisen out of the breach or default by the Contractor in the performance of its obligations under or in connection with this Contract.

Instructions for Variations

- 51.2 The Contractor shall not make any variation referred to in Clause 51.1 without an instruction of the Contract Administrator.

Value Engineering

- 51.3 The Contractor may, at any time, submit to the Contract Administrator a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.

The proposal shall be prepared at the cost of the Contractor.

If a proposal, which is approved by the Contract Administrator, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:

- (a) the Contractor shall design this part;
- (b) Sub-Clauses 99.1, 99.2 and 99.3 shall apply; and
- (c) if this change results in a reduction in the contract value of this part, the Contract Administrator shall proceed to agree or determine a fee, which shall be added to the Contract Price. This fee shall be half (50%) of the difference between the following amounts:
 - (i) such reduction in contract value, resulting from the change, excluding matters under Sub-Clause 70.1; and
 - (ii) the reduction (if any) in the value to the Employer of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies or any additional fees or costs including consultant



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fees, statutory fees and/or any other fees or costs necessitated by the change.

However, if amount (i) is less than amount (ii), there shall not be a fee.

Valuation of Variations

52.1 All variations referred to in Clause 51 and any additions or deletions to the Contract Price which are required to be determined in accordance with Clause 52 (for the purposes of this Clause referred to as "**varied work**"), shall, subject to Clause 52.2, be valued at the rates and prices set out in the Contract if, in the opinion of the Contract Administrator, the same shall be applicable.

If the Contract does not contain any rates or prices applicable to the varied work, the rates and prices in the Contract shall be used as the basis for valuation so far as may be reasonable, failing which, after due consultation by the Contract Administrator the Employer and the Contractor, suitable rates or prices shall be agreed upon between the Contract Administrator and the Contractor. In the event of disagreement the Contract Administrator shall fix such rates or prices as are, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to the Employer. Until such time as rates or prices are agreed or fixed, the Contract Administrator shall determine provisional rates or prices to enable on-account payments to be included in certificates issued in accordance with Clause 60.

The value of any variation shall be agreed by the Contractor and Contract Administrator, within a period of 90 days from the issue date of the formal instruction, unless otherwise instructed by the Contract Administrator,. Should the Contractor fail to agree the value within the stipulated period, the Contract Administrator, shall determine the value as noted above, which value shall be final and binding.

The Contractor shall employ a dedicated cost management resource to service the valuation of any variation in accordance with this Clause. This resource will be separate from the Contractor's internal cost reconciliation team. The primary duties of the cost management resource will comprise:

- (i) the provision of cost estimates for potential variations;
- (ii) the collection of Subcontractor and suppliers costs;
- (iii) the preparation of individual variation cost submissions;



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- (iv) the preparation of the monthly statements of account for progress payments;
- (v) preparation of final account; and
- (vi) any other duties as agreed.

Power of Contract Administrator to Fix Rates

52.2 If the nature or amount of any varied work relative to the nature or amount of the whole of the Works or to any part thereof, is such that, in the opinion of the Contract Administrator, the rate or price contained in the Contract for any item of the Works is, by reason of such varied work, rendered inappropriate or inapplicable, then, after due consultation by the Contract Administrator with the Employer and the Contractor, a suitable rate or price shall be agreed upon between the Contract Administrator and the Contractor.

In the event of disagreement the Contract Administrator shall fix such other rate or price as is, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to the Employer. Until such time as rates or prices are agreed or fixed, the Contract Administrator shall determine provisional rates or prices to enable on-account payments to be included in certificates issued in accordance with Clause 60.

Provided also that no varied work instructed to be done by the Contract Administrator pursuant to Clause 51 shall be valued under Sub-Clause 52.1 or under this Sub-Clause unless, within 14 days of the date of such instruction and, other than in the case of omitted work, before the commencement of varied work, notice shall have been given either:

- (a) by the Contractor to the Contract Administrator of his intention to claim extra payment or a varied rate or price, or
- (b) by the Contract Administrator to the Contractor of his intention to vary a rate or price.

Daywork

52.3 The Contract Administrator may, if in his opinion it is necessary or desirable, issue an instruction that any varied work shall be executed on a daywork basis. The Contractor shall then be paid for such varied work under the terms set out in the daywork schedule included in the Contract and at the rates and prices affixed thereto by him in the Bill of Quantities.

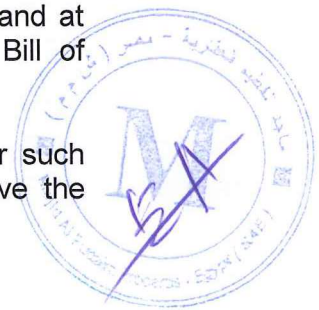
The Contractor shall furnish to the Contract Administrator such receipts or other vouchers as may be necessary to prove the



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amounts paid and, before ordering materials, shall submit to the Contract Administrator quotations for the same for his approval.

In respect of such of the Works executed on a daywork basis, the Contractor shall, during the continuance of such work, deliver each day to the Contract Administrator an exact list in duplicate of the names, occupation and time of all workmen employed on such work and a statement, also in duplicate, showing the description and quantity of all materials and Contractor's Equipment used thereon or therefore other than Contractor's Equipment which is included in the percentage addition in accordance with such daywork schedule. One copy of each list and statement will, if correct, or when agreed, be signed by the Contract Administrator and returned to the Contractor.

At the end of each month the Contractor shall deliver to the Contract Administrator a priced statement of the labour, materials and Contractor's Equipment, except as aforesaid, used and the Contractor shall not be entitled to any payment unless such lists and statements have been fully and punctually rendered. Provided always that if the Contract Administrator considers that for any reason the sending of such lists or statements by the Contractor, in accordance with the foregoing provision, was impracticable he shall nevertheless be entitled to authorise payment for such work, either as daywork, on being satisfied as to the time employed and the labour, materials and Contractor's Equipment used on such work, or at such value therefore as shall, in his opinion, be fair and reasonable.

PROCEDURE FOR CLAIMS

Notice of Claims

- 53.1 Notwithstanding any other provision of the Contract, if the Contractor intends to claim any additional payment pursuant to any Clause of these Conditions, he shall give notice of his intention to the Contract Administrator, with a copy to the Employer, within 14 days after the event giving rise to the claim has first arisen.

Contemporary Records

- 53.2 Upon the happening of the event referred to in Sub-Clause 53.1, the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make. Without admitting the Employer's liability, the Contract Administrator shall, on receipt of a notice under Sub-Clause 53.1, inspect such contemporary records and may instruct the Contractor to keep any further contemporary records as are reasonable and may be material to the claim of which notice has been given. The Contractor



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shall permit the Contract Administrator to inspect all records kept pursuant to this Sub-Clause and shall supply him with copies thereof as and when the Contract Administrator so instructs.

Substantiation of Claims

- 53.3 Within 28 days, or such other reasonable time as may be agreed by the Contract Administrator, of giving notice under Sub-Clause 53.1, the Contractor shall send to the Contract Administrator an account giving detailed particulars of the amount claimed and the grounds upon which the claim is based. Where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Contract Administrator may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. In cases where interim accounts are sent to the Contract Administrator, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event. The Contractor shall, if required by the Contract Administrator so to do, copy to the Employer all accounts sent to the Contract Administrator pursuant to this Sub-Clause.

Failure to Comply

- 53.4 If the Contractor fails to give notice of a claim in accordance with the requirements of Clause 53.1 and/or give detailed particulars of the amount claimed pursuant to Clause 53.3, the Contractor shall not be entitled to additional payment and the Employer shall be discharged from all liability in connection with the claim.

Payments of Claims

- 53.5 The Contractor shall be entitled to have included in any interim payment certified by the Contract Administrator pursuant to Clause 60 such amount in respect of any claim as the Contract Administrator, after due consultation with the Employer and the Contractor, may consider due to the Contractor provided that the Contractor has supplied sufficient particulars to enable the Contract Administrator to determine the amount due. If such particulars are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payment in respect of such part of the claim as such particulars may substantiate to the satisfaction of the Contract Administrator. The Contract Administrator, shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the Employer.



CONTRACTOR'S EQUIPMENT, TEMPORARY WORKS AND MATERIALS

Contractor's Equipment, Temporary Works and Materials; Exclusive Use for the Works

- 54.1 Subject as hereinafter provided, all Contractor's Equipment, Temporary Works and materials provided by the Contractor shall when brought on to the Site immediately be deemed to become subject to a lien in favour of the Employer and the Contractor shall not remove the same or any part thereof without the consent in writing of the Contract Administrator. The Contractor shall use all such Contractor's Equipment, Temporary Works and materials exclusively on and for the completion of the Works and, until the happening of any event which gives the right to the Employer to exclude the Contractor from the Site, use the said Contractor's Equipment, Temporary Works and materials for, and proceed with the completion of the Works.

Re-vesting of Contractor's Equipment, etc

- 54.2 Upon the removal of any such Contractor's Equipment, Temporary Works or materials with consent as aforesaid the same shall be released from the Employer's said lien and become the property of the Contractor and upon completion of the Works the remainder of the said Contractor's Equipment and Temporary Works and any unused materials provided by the Contractor shall be released from the Employer's said lien and become the property of the Contractor who shall remove the same. If the Contractor fails to remove any of the said Contractor's Equipment, Temporary Works or unused materials within such reasonable time after the completion of the Works as may be allowed by the Contract Administrator then the Employer may sell the same and shall, after deducting from the proceeds the cost, charges and expenses of and in connection with such sale, pay the balance (if any) to the Contractor.

Employer not Liable for Damage

- 54.3 The Employer shall not at any time be liable for the loss of or damage to any of the said Contractor's Equipment, Temporary Works or materials save as mentioned in Clause 20.1 and 20.3 hereof.

Shipment and Landing Charges

- 54.4 The Contractor shall bear all expenses in connection with the shipment and landing of any Contractor's Equipment, materials or other things landed or brought into or despatched from the Country by him for the purposes of this Contract.



Customs Clearance

- 54.5 The Contractor shall make all necessary arrangements and shall be solely responsible for obtaining customs clearance for the importation into the Country of Contractor's Equipment, materials and other things required for the Works.

The Contract Price shall be deemed to include payment by the Contractor of all customs and other import duties, harbour and port dues, wharfage, landing, pilotage and any other charges or dues including demurrage charges on any Plant, materials or other things required for the Works entering the Country.

Where the value of any unfixed materials or goods has been included in any Interim Certificate under which the Contractor has received payment such materials and goods shall become the property of the Employer but the Contractor shall remain responsible for loss or damage to the same.

Re-export of Contractor's Equipment

- 54.6 In respect of any Contractor's Equipment which the Contractor has imported for the purposes of the Works, the Employer will use his best endeavours to assist the Contractor, where required, in procuring any necessary Government consent to the re-export of such Contractor's Equipment by the Contractor upon the removal thereof pursuant to the terms of the Contract.

Conditions of Hire of Contractor's Equipment

- 54.7 With a view to securing, in the event of termination under Clause 63, the continued availability, for the purpose of executing the Works, of any hired Contractor's Equipment, the Contractor shall not bring on to the Site any hired Contractor's Equipment unless there is an agreement for the hire thereof (which agreement shall be deemed not to include an agreement for hire purchase) which contains a provision that the owner thereof will, on request in writing made by the Employer within 7 days after the date on which any termination has become effective, and on the Employer undertaking to pay all hire charges in respect thereof from such date, hire such Contractor's Equipment to the Employer on the same terms in all respects as the same was hired to the Contractor save that the Employer shall be entitled to permit the use thereof by any other contractor employed by him for the purpose of executing and completing the Works and remedying any defects therein, under the terms of the said Clause 63.



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Costs for the Purpose of Clause 63

- 54.8 In the event of the Employer entering into any agreement for the hire of Contractor's Equipment pursuant to Sub-Clause 54.5, all sums properly paid by the Employer under the provisions of any such agreement and all costs incurred by him (including stamp duties) in entering into such agreement shall be deemed, for the purpose of Clause 63, to be part of the cost of executing and completing the Works and the remedying of any defects therein.

Incorporation of Clause in Subcontracts

- 54.9 The Contractor shall, where entering into any subcontract for the execution of any part of the Works, incorporate in such subcontract (by reference or otherwise) the provisions of this Clause in relation to Contractor's Equipment, Temporary Works or materials brought on to the Site by the Subcontractor.

Approval of Materials not Implied

- 54.10 The operation of this Clause 54 shall not be deemed to imply any approval by the Contract Administrator or the Employer of the materials or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by the Contract Administrator or the Employer.

MEASUREMENT

Quantities

- 55.1 The Quantities (as defined in and set out in the Bills of Quantities) shall be verified by the Contractor before submitting the Tender.

The Contractor is responsible for the accuracy of the Quantities and no adjustment will be made in the event of any error or omission in the Quantities being discovered after the signing of the Contract. The rates in the Bills of Quantities will be used to value any variations which may be instructed pursuant to this Contract.

Works to be Measured

- 56.1 The Contract is for a lump sum. Only variations required by the Employer and confirmed in writing by the Contract Administrator shall be measured and valued in accordance with the Conditions of Contract.



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Method of Measurement

- 57.1 The method of measurement used in the preparation of the quantities and for any subsequent measurement of variations shall be as stated in the preambles to the Bills of Quantities.

Breakdown of Lump Sum Items

- 57.2 For the purposes of statements submitted in accordance with Sub-Clause 60.1, the Contractor shall submit to the Contract Administrator, within 28 days after the receipt of the [Letter of Acceptance], a breakdown for each of the lump sum items contained in the [Tender]. Such breakdowns shall be subject to the approval of the Contract Administrator.

PROVISIONAL SUMS

Definition of "Provisional Sum"

- 58.1 "Provisional Sum" means a sum included in the Contract and so designated in the Bill of Quantities for the execution of any part of the Works or for the supply of goods, materials, Plant or services, or for contingencies that cannot be fully defined by the Specification and Drawings and may include, but not be limited to, works to be completed by the Contractor, Subcontractor, statutory or utility authorities; each amount being an indication of the amount for each item of Provisional Sum Work excluding the Contractor's overheads and profit, which sum may be used, in whole or in part, or not at all, on the instructions of the Contract Administrator. The Contractor shall be entitled to only such amounts in respect of the work, supply or contingencies to which such Provisional Sums relate as the Contract Administrator, shall determine in accordance with this Clause 58. The Contract Administrator shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the Employer.

Use of Provisional Sums

- 58.2 In respect of every Provisional Sum the Contract Administrator shall have authority to issue instructions for the execution of work or for the supply of goods, materials, Plant or services by:
- (a) the Contractor, in which case the Contractor shall be entitled to an amount equal to the value thereof determined in accordance with Clause 52; or
 - (b) a Provisional Sum Subcontractor, as defined in Clause 59, in which case the Contractor shall be entitled to an amount



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equal to the value thereof determined in accordance with Clause 52.

Production of Vouchers

- 58.3 The Contractor shall produce to the Contract Administrator all quotations, invoices, vouchers and accounts or receipts in connection with expenditure in respect of Provisional Sums, except where work is valued in accordance with rates or prices set out in the Tender.

PROVISIONAL SUM CONTRACTS

Provisional Sum Work

- 59.1 All Provisional Sum Work performed by a Provisional Sum Contractor shall be performed under Provisional Sum Contracts entered into in accordance with Clause 59.2 and must be on terms and conditions of the Standard Subcontract Agreement, subject to amendments approved by the Contract Administrator (which approval the Contract Administrator may not unreasonably withhold).

Procurement of Provisional Sum Contracts

- 59.2 Provisional Sum Contracts for Provisional Sum Work shall be procured as follows:
- (a) the Contract Administrator shall provide to the Contractor a list of proposed tenderers for any Provisional Sum Contract at least 20 days before the calling of tenders for the relevant Provisional Sum Contract;
 - (b) the Contract Administrator shall include any Subcontractor proposed by the Contractor for inclusion on the list of tenderers at least 20 days prior to the date for issue of tenders. The Contract Administrator and the Contractor, may reject any of the proposed tenderers;
 - (c) the Contract Administrator shall issue the proposed Provisional Sum Contract tender documents for the Provisional Sum Work to the Contractor and the Contractor shall assist in the preparation of the Subcontract Documents by:
 - (i) giving the Contract Administrator all items of contract preliminaries and other relevant information necessary for the proper execution and completion of the relevant Provisional Sum Work which the Employer requires the relevant Subcontractor to provide; and



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- (ii) advising the Contract Administrator as to the sufficiency and completeness of the proposed Subcontract Documents;
- (d) the Contract Administrator shall call for tenders from the list of approved Subcontractors;
- (e) the sealed bids from tenderers must be submitted at a location to be notified by the Contract Administrator. The Contract Administrator shall conduct the tender opening, which shall be attended by the Employer;
- (f) the Contract Administrator shall examine and analyse all tenders received and recommend to the Employer which tender, if any, should be accepted;
- (g) once the Employer has approved the Contract Administrator's recommendation as to the tenderer to be appointed, the Contract Administrator shall issue an instruction to the Contractor to immediately enter into a Provisional Sum Contract with the approved tenderer for the Provisional Sum Contract amount using the Standard Subcontract Agreement and with the Contract Price adjusted accordingly. The Contractor shall not be entitled to object to an approved tenderer that was not previously objected to pursuant to Clause 59.2(b);
- (h) the Subcontract Documents shall be prepared by the Contract Administrator and shall comprise the following:
 - (i) the Subcontract Agreement between the Contractor and Subcontractor; and
 - (ii) any other documentation forming part of the Provisional Sum Contract.
- (i) after receipt of the Contract Administrator's instruction the Contractor shall enter into a Standard Subcontract Agreement with the relevant Subcontractor based on the documentation provided by the Contract Administrator and shall issue a copy of the signed Subcontract Documents to the Contract Administrator. The Contractor will be responsible for the performance of the Subcontractor in terms of programming, co-ordination and completion of the Provisional Sum Work to be carried out under the Provisional Sum Contract.



CERTIFICATES AND PAYMENT

Amount and Adjustment

- 60.1 The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of his obligations under the Contract.

The Contract Price shall be a firm lump sum not subject to any alteration except in the event of a variation as expressly provided for in the Contract. The Employer shall have no liability for increases in the Contractor's costs of performing the Contract of any nature whatsoever caused by currency fluctuations, changes in taxation, inflation or otherwise, except as otherwise provided for in the Contract.

The Contractor shall in no circumstances (including breach of the Contract or negligence by the Employer or persons for whom the Employer is responsible) become entitled to additional payment save as expressly provided in the Contract (and any such entitlement is hereby excluded).

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract Price.

Advance Payment

- 60.1A The Employer shall pay the Contractor an Advance Payment of:
- (a) 15% (fifteen per cent) of the Phase 1 Contract Price upon issuing the Phase 1 Notice to Proceed ("Phase 1 Advance Payment"); and
 - (b) 15% (fifteen per cent) of the Phase 2 Contract Price upon issuing the Phase 2 Notice to Proceed to the Contractor ("Phase 2 Advance Payment").
- (collectively referred to as the "Advance Payments")

The Employer shall make the Advance Payments after receiving:

- (c) an application for payment (under Sub-Clause 60.2);
- (d) in the case of (a), the Advance Payment Bond in accordance with Sub-Clause 10.1; and



- (e) in the case of (b), evidence that the value of the Advance Payment Bond has been increased in accordance with Sub-Clause 10.1.

The Advance Payments shall be repaid through proportional deductions in interim payments. Deductions shall be made at the amortization rate stated in the Appendix to Tender which shall be applied to the amount otherwise due (excluding the Advance Payments and deductions), until such time as the Advance Payments have been repaid.

If the Advance Payments have not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 63 [*Default by Contractor*], Clause 69.1 [*Default of Employer*] or Clause 66 [*Force Majeure*] (as the case may be), the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

The Advance Payment Bond shall initially be for an amount equivalent to the Phase 1 Advance Payment. The amount of the Advance Payment Bond shall be reduced by such amount as Employer deducts from interim payments in accordance with this Clause 60.1A and the Appendix to Tender. The Contractor shall be entitled to forward a copy of each Interim Payment Certificate to the issuer of the Advance Payment Bond (copying such transmission to Employer) in order to trigger each such reduction.

The Advance Payment Bond shall automatically become null and void (save in respect of any pending or previously notified claim(s)) upon the date on which the total amount retained by the Employer under this Clause 60.1A equals the value of the Advance Payments.

The Advance Payment Bond shall be returned to Contractor immediately after it becomes null and void.

Monthly Statements

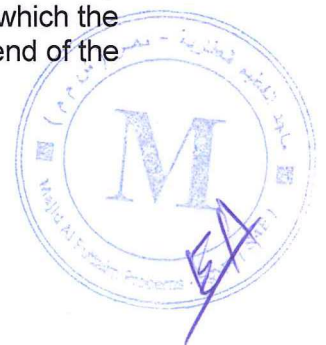
- 60.2 The Contractor shall submit to the Contract Administrator after the end of each month an original, signed by the Contractor's representative approved by the Contract Administrator in accordance with Sub-Clause 15.1, and two copies, of a statement, in such form as the Contract Administrator may from time to time prescribe, showing the amounts to which the Contractor considers himself to be entitled up to the end of the month in respect of;

- (a) the value of the Permanent Works executed,



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- (b) any other items in the Bill of Quantities including those for Contractor's Equipment, Temporary Works, dayworks and the like;
- (c) the percentage of the invoice value of listed materials, all as stated in the Appendix to Tender, and Plant delivered by the Contractor on the Site for incorporation in the Permanent Works but not incorporated in such Works, provided that they are reasonably, properly and not prematurely brought upon the Site and provided they are adequately stored and protected against weather, damage or danger; and
- (d) any other sum to which the Contractor may be entitled under the Contract.

The rates and prices, used to ascertain the values of Permanent Works, in such monthly statements, shall be those in the priced Bills of Quantities, insofar as such rates and prices are, in the opinion of the Contract Administrator, applicable. If the said Bills of Quantities do not, in the opinion of the Contract Administrator, contain any rates or prices applicable to some or any part of the work executed and there has not been a rate or price fixed at the time when the statement is prepared, then temporary rates or prices shall be assigned thereto by the Contract Administrator. Neither the temporary rates or prices assigned as described above in this Clause nor the Quantities mentioned in the Certificates statement submitted as described above in this Clause shall be binding on the Employer or on the Contractor.

In connection with the purchase by the Contractor or Subcontractor of materials for inclusion in the Permanent Works payment will be certified by the Contract Administrator, in the amount of 90% of the cost, insurance and freight ("C.I.F.") value of these materials approved for delivery by the Contract Administrator and delivered by the Contractor or Subcontractor on the Site subject to retention, and such certified payment shall be adjusted by the progressive deduction of the amounts previously certified as and when these materials are incorporated in the Works.

Monthly Payments

60.3

The Contract Administrator shall, within 14 days of receiving such statement, deliver to the Employer an Interim Certificate stating the amount of payment to the Contractor which the Contract Administrator, considers due and payable in respect of such statement, subject:

- (a) firstly, to the retention of the amount calculated by applying the Percentage of Retention (as defined in the Appendix to



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Tender), to the amount to which the Contractor is entitled under paragraphs (a), (b), (c) and (d) of Sub-Clause 60.2 until the amount so retained reaches the Limit of Retention Money (as defined in the Appendix to Tender);

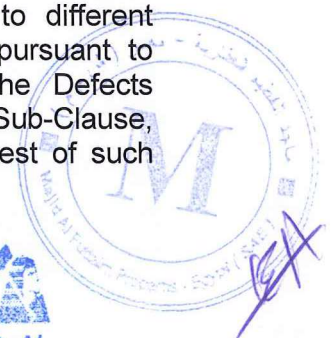
- (b) secondly, to the deduction, other than pursuant to Clause 47, of any sums which may have become due and payable by the Contractor to the Employer;
- (c) any amounts to be added and deducted for the Advance Payment and repayments in accordance with Sub-Clause 60.1B [*Advance Payment*].

Provided that the Contract Administrator shall not be bound to certify any payment under this Sub-Clause if the net amount thereof, after all retentions and deductions, would be less than the Minimum Amount of Interim Payment Certificates (as defined in the Appendix to Tender).

Notwithstanding the terms of this Clause or any other Clause of the Contract no amount will be certified by the Contract Administrator for payment until the Performance Security and Advance Payment Bond, if required under the Contract, have been provided by the Contractor and approved by the Employer.

Payment of Retention Money

- 60.4
- iv) Upon the issue of the Taking-Over Certificate with respect to the whole of the Works, one half of the Retention Money, or upon the issue of a Taking-Over Certificate with respect to a Section or part of the Permanent Works only such proportion thereof as the Contract Administrator determines having regard to the relative value of such Section or part of the Permanent Works, shall be certified by the Contract Administrator, for payment to the Contractor. No retention monies shall be released against a Section or part of the Works that comprise an individual or a grouping of tenancy spaces within the Development.
 - (a) Upon the expiration of the Defects Liability Period for the Works the other half of the Retention Money shall be certified by the Contract Administrator for payment to the Contractor. Provided that, in the event of different Defects Liability Periods having become applicable to different Sections or parts of the Permanent Works pursuant to Clause 48, the expression "expiration of the Defects Liability Period" shall, for the purposes of this Sub-Clause, be deemed to mean the expiration of the latest of such periods.



Provided also that if at such time there shall remain to be executed by the Contractor any work instructed, pursuant to Clauses 49 and 50, in respect of the Works, the Contract Administrator, shall be entitled to withhold certification until completion of such work of so much of the balance of the Retention Money as shall, in the opinion of the Contract Administrator, represent the cost of the work remaining to be executed.

Correction of Certificates

- 60.5 The Contract Administrator may by any Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate which shall have been issued by him, and the Contract Administrator, shall have power to withhold any certificate in respect of the Works if the Works or any part thereof are not being carried out to his satisfaction or to deduct the value of damaged materials, Plant or equipment supplied by the Employer to the Contractor for the purpose of the Works in the event of such damage being caused by the Contractor's negligence or mishandling.

Statement at Completion

- 60.6 Not later than 84 days after the issue of the Taking-Over Certificate in respect of the whole of the Works, the Contractor shall submit to the Contract Administrator six copies of a Statement at Completion with supporting documents showing in detail, in the form approved by the Contract Administrator:
- (a) the final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate;
 - (b) any further sums which the Contractor considers to be due; and
 - (c) an estimate of amounts, which the Contractor considers, will become due to him under the Contract.

The estimated amounts shall be shown separately in such Statement at Completion. The Contract Administrator, shall certify payment in accordance with Sub-Clause 60.2.

Final Statement

- 60.7 Not later than 56 days after the issue of the Defects Liability Certificate pursuant to Sub-Clause 62.1, the Contractor shall submit to the Contract Administrator for consideration six copies of a draft final statement with supporting documents



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showing in detail, in the form approved by the Contract Administrator:

- (a) the value of all work done in accordance with the Contract; and
- (b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.

If the Contract Administrator, disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Contract Administrator may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Contract Administrator the final statement as agreed (for the purposes of these Conditions referred to as the "**Final Statement**").

If, following discussions between the Contract Administrator and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Contract Administrator, shall deliver to the Employer an Interim Payment Certificate for those parts of the draft final statement, if any, which are not in dispute. The dispute may then be settled in accordance with Clause 67.

Discharge

60.8

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Contract Administrator, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Payment Certificate issued pursuant to Sub-Clause 60.9 has been made and the Performance Security, if any, has been returned to the Contractor.

Final Payment Certificate

60.9

Within 28 days after receipt of the Final Statement, and the written discharge, the Contract Administrator, shall issue to the Employer (with a copy to the Contractor) a Final Payment Certificate stating:

- (a) the amount which, in the opinion of the Contract Administrator, is finally due under the Contract or otherwise; and



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- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled other than under Clause 47, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer as the case may be.

If the Contractor has not applied for a Final Statement in accordance with Sub-Clause 60.6 and Sub-Clause 60.7, the Contract Administrator shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 28 days, the Contract Administrator shall issue the Final Payment Certificate for such amount as he fairly determines to be due, the value of which will be final and binding.

Cessation of Employer's Liability

- 60.10 The Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or execution of the Works, unless the Contractor complied with the applicable notice requirements in accordance with the Conditions and included a claim in respect thereof in his Final Statement and (except in respect of matters or things arising after the issue of the Taking-Over Certificate in respect of the whole of the Works) in the Statement at Completion referred to in Sub-Clause 60.6.

Time for Payment

- 60.11 The amount due to the Contractor under any Interim Payment Certificate issued by the Contract Administrator pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 47, be paid by the Employer to the Contractor within 28 days after such Interim Payment Certificate has been delivered to the Employer, or, in the case of the Final Payment Certificate referred to in Clause 60.8, within 56 days, after such Final Payment Certificate has been delivered to the Employer. The provisions of this Sub-Clause are without prejudice to the Contractor's entitlement under Clause 69 or otherwise.

Accounting Records

- 60.12 The Contractor shall keep full and detailed accounts and exercise such control as may be necessary for proper financial management under this Contract. The method of keeping accounts and control systems shall be arranged to the satisfaction of the Contract Administrator. The Contract Administrator shall be permitted access at all times to the Contractor's accounts and all original documents necessary for the proper auditing of the accounts and ascertainment of the Cost of the Works as he may require.



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Currency of Payments

60.13 All payments shall be made in the currency of the Country by cheque or transfer drawn on a local branch of an established bank.

61. Not used

Defects Liability Certificate

62.1 Subject to Clause 62.2, the Works shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Contract Administrator and delivered to the Employer, with a copy to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the Works and remedy any defects arising in the Defects Liability Period to the Contract Administrator's satisfaction.

The Defects Liability Certificate shall be given by the Contract Administrator within 28 days after the expiration of the Defects Liability Period, or, if different defects liability periods shall become applicable to different Sections or parts of the Permanent Works, the expiration of the latest such period, or as soon thereafter as any works instructed, pursuant to Clauses 49 and 50, have been completed to the satisfaction of the Contract Administrator. Provided that the issue of the Defects Liability Certificate shall not be a condition precedent to payment to the Contractor of the second portion of the Retention Money in accordance with the conditions set out in Sub-Clause 60.3

Unfulfilled Obligations

62.2 Notwithstanding the issue of the Defects Liability Certificate (i) the Contractor shall remain liable to the Employer in accordance with Clause 8.3 and (ii) the Contractor and the Employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time such Defects Liability Certificate is issued.

Notice to Correct

62.3 If the Contractor fails to carry out any obligation under the Contract, the Employer or the Contract Administrator may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.



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REMEDIES

Default of Contractor

- 63.1 The Employer shall be entitled to terminate the Contract if:
- (a) the Contractor:
 - (i) is deemed by law to be unable to pay his debts as they fall due;
 - (ii) enters into voluntary or involuntary bankruptcy, liquidation or dissolution (other than a voluntary liquidation for the purposes of amalgamation or reconstruction);
 - (iii) becomes insolvent; or
 - (iv) makes an arrangement with, or assignment in favour of, his creditors, or agrees to carry out the Contract under a committee of inspection of his creditors.
 - (b) a receiver, administrator, trustee or liquidator is appointed over any substantial part of the Contractor's assets;
 - (c) under any law or regulation relating to reorganization, arrangement or readjustment of debts proceedings are commenced against the Contractor;
 - (d) resolutions are passed in connection with dissolution or liquidation of the Contractor;
 - (e) any steps are taken to enforce any security interest over a substantial part of the assets of the Contractor; or
 - (f) any act is done or event occurs with respect to the Contractor or his assets which, under any applicable law has a substantially similar effect to any of the foregoing acts or events;
 - (g) the Contractor has contravened Sub-Clause 3.1;
 - (h) the Contractor has contravened Clause 76.1;
 - (i) the Contractor has an execution levied on his goods;
 - (j) the Contractor has failed to comply with Clause 10 or Clause 62.3;



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- (k) the Contract Administrator certifies to the Employer, with a copy to the Contractor, that, in his opinion, the Contractor:
 - (i) has abandoned the Works or otherwise plainly demonstrated the intention not to continue with the performance of his obligations under the Contract;
 - (ii) without reasonable excuse has failed:
 - (A) to commence the Works in accordance with Sub-Clauses 41.1 and 41.2; or
 - (B) to proceed with the Works, or any Section thereof, within 28 days after receiving notice pursuant to Sub-Clause 46.1;
 - (iii) has failed to comply with a notice issued pursuant to Sub-Clause 37.4 or an instruction issued pursuant to Sub-Clause 39.1 within 28 days after having received it;
 - (iv) is unable or has failed to progress the Works such that the Contractor will be unable to complete the Works by the Time for Completion in accordance with Clause 43.1, provided that the Contract Administrator shall first have given the Contractor two weeks' written notice of its intention to issue a certificate under this Clause 63.1(k)(iv), and the Contractor has not satisfied the Contract Administrator within that two week period that it will be able to complete the Works by the Time for Completion;
 - (v) despite previous warning from the Contract Administrator, in writing, is otherwise persistently or flagrantly neglecting to comply with any of his obligations under the Contract; or
 - (vi) has contravened Sub-Clause 4.1; or
- (l) the Contractor has failed to comply with Sub-Clause 10.4(b), following a Performance Security Replacement Event.

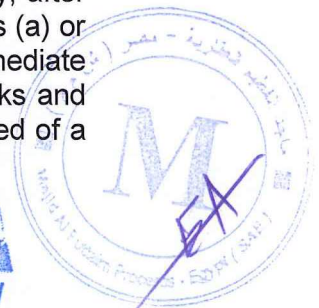
In any of these events or circumstances, the Employer may, after giving 14 days' notice (except in the case of sub-paragraphs (a) or (c), in which case the Employer may terminate by immediate notice) to the Contractor, enter upon the Site and the Works and terminate the employment of the Contractor without the need of a court order.



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The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer or Contract Administrator, under the Contract or otherwise or release the Contractor from any of his obligations or liabilities under the Contract.

Consequences of termination – Contractor's obligations

63.2 After a notice of termination under Clause 63.1 has taken effect, the Contractor shall promptly:

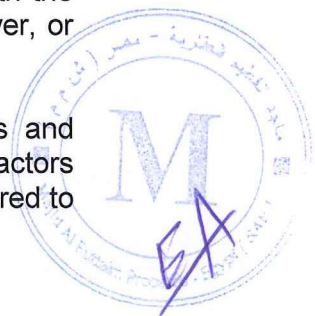
- (a) vacate the Site and cease all further work, except for such work as may be necessary for the purpose of protecting the part of the Works already executed or any work required to leave the Site in a clean and safe condition;
- (b) unless otherwise specified by the Employer in the notice of termination, remove all Contractor's Equipment from the Site, repatriate Contractor's and Subcontractor's personnel from the Site;
- (c) terminate all Subcontracts, except those to be assigned and/or novated to the Employer pursuant to Clause 63.2(f);
- (d) use his best efforts to comply immediately with any reasonable instructions of the Employer included in the termination notice;
- (e) deliver to the Employer the parts of the Works executed by the Contractor or any Subcontractor up to the date of termination together with any manuals (including as-built drawings) or drafts of them in existence at the date of termination;
- (f) to the extent legally possible, procure the assignment to the Employer or such person as the Employer may direct of all the rights, title and benefit of the Contractor to the Works and in the Materials as at the date of termination, and, as may be required by the Employer, in any Subcontracts between Contractor and its Subcontractors;
- (g) procure that any consents obtained in connection with the Contract are transferred into the name of the Employer, or such person as the Employer may direct;
- (h) deliver to the Contract Administrator all documents and Drawings, including those prepared by any Subcontractors in connection with the Works in addition to those referred to in clause 63.2(e); and



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- (i) deliver any required Plant or material to the Contract Administrator.

Consequences of termination - Employer's rights

63.3 After a notice of termination under Clause 63.1 has taken effect, the Employer may:

- (a) enter the Site and expel the Contractor therefrom;
- (b) elect to complete the Works and/or arrange for any other entities to do so;
- (c) to the exclusion of any right of the Contractor over the same, take over and use any without the Contractor's consent, any Contractor's Equipment, Temporary Works, Plant, materials, Drawings and other documents made by or on behalf of the Contractor. The Employer shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site which the Contractor shall promptly remove at its risk and cost. However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor; and
- (d) in its sole discretion and without any obligation to do so, pay Subcontractors amounts payable in accordance with their subcontract in respect of any materials delivered or works or services carried out for the purposes of the Works insofar as the price for the same has not already been discharged by the Contractor, and any payments so made may be deducted from any sum due or to become due to the Contractor under the Contract or may be recovered from the Contractor as a debt.

Valuation at date of termination

63.4 As soon as practicable after a notice of termination under Clause 63.1 has taken effect, the Employer shall proceed to agree or determine the value of the Works and any other sums due to the Contractor for work executed in accordance with the Contract.

Payment after termination

63.5 After a notice of termination under Clause 63.1 has taken effect, where the Employer elects to complete the Works under Clause 63.3(b), the Employer may:



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- (a) withhold further payments to the Contractor until the costs of design, execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, have been established,
- (b) as soon as reasonably practicable draw up and notify to the Contractor a provisional statement allowing for any sum due to the Contractor under Clause 63.4 and containing an estimate of any losses and damages incurred or likely to be incurred by the Employer and the extra costs of completing the Works, which shall then be recoverable as a debt due and owing by the Contractor to the Employer; and/or
- (c) recover from the Contractor the difference between the actual amounts of any losses and damages incurred by the Employer and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Clause 63.4 and the amount estimated pursuant to 63.5(b) above. After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.

63.6 Where the Employer elects not to have the Works completed under Clause 63.3(b), the Employer may, in addition to exercising the rights set out in clauses 63.3(a) and/or 63.3(d) accept the Works as having attained substantial completion in accordance with Clause 48.3 subject to a fair and reasonable reduction in the Contract Price, such reduction:

- (a) to be agreed between the Parties; or
- (b) in the default of agreement under Clause 63.4(a), within 30 days of termination, provisionally determined by the Employer (subject to dispute resolution in accordance with Clause 67),

such reduction to be fair and reasonable with reference to the condition of the Works and the effect on the project of the termination of the Contractor's engagement under the Contract, and the Contractor shall pay or allow to the Employer such reduction forthwith upon such agreement or provisional determination together with the cost of rectification of any defect or damage and any other loss and/or expense incurred by the Employer as a result of the termination (including any additional financing costs).

Urgent Remedial Work



64.1

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the Works, or any part



thereof, either during the execution of the Works, or during the Defects Liability Period, the Contract Administrator notifies an Emergency Defect which the Contractor is unable or unwilling at once to remediate, the Employer shall be entitled to employ and pay other persons to carry out such work as the Contract Administrator, may consider necessary to remediate the Emergency Defect.

- 64.2 If the work or repair carried out under Clause 64.1 is work which, in the opinion of the Contract Administrator, the Contractor was liable to do at its own cost under the Contract, then all costs consequent thereon or incidental thereto shall, be determined by the Contract Administrator and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Contract Administrator shall notify the Contractor accordingly, with a copy to the Employer provided that the Contract Administrator shall, as soon as may be reasonably practicable, notify the Contractor thereof.

65. Not used

FORCE MAJEURE

Definition of Force Majeure

66.1 In this Clause, "**Force Majeure**" means an exceptional event or circumstance:

- (a) which is beyond a party's control;
- (b) which such party could not reasonably have provided against before entering into the Contract;
- (c) which, having arisen, such party could not reasonably have avoided or overcome;
- (d) which is not substantially attributable to the other party; and
- (e) which occurs in the country where the Site is located.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, revolution, insurrection, military or usurped power, or civil war,



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- (iii) riot, commotion, disorder, strike or lockout by persons other than the employees of the Contractor and Subcontractors,
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

Notice of Force Majeure

66.2 If a party is or will be prevented from performing any of his obligations under the Contract by Force Majeure, then he shall give notice to the other party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents him from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either party to make payments to the other party under the Contract.

Duty to Minimise Delay

66.3 Each party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure.

A party shall give notice to the other party when he ceases to be affected by the Force Majeure.

Consequences of Force Majeure

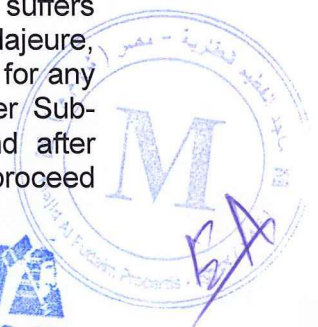
66.4 If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 66.2, and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 (Extension of Time for Completion), and after receiving this notice, the Contract Administrator shall proceed to agree or determine these matters.



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Force Majeure Affecting Subcontractor

- 66.5 If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

Optional Termination, Payment and Release

- 66.6 If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 66.2, or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either party may give to the other party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 69.2.

Upon such termination, the Contract Administrator shall determine the value of the work done and issue a Final Payment Certificate which shall include:

- (a) the amounts payable for any work carried out for which a price is stated in the Contract;
- (b) the cost of Plant and materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;
- (c) any other cost or liability which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the Works;
- (d) the cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
- (e) the cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.



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Release from Performance under the Law

- 66.7 Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both parties to fulfil his or their contractual obligations or which, under the law governing the Contract, entitles the parties to be released from further performance of the Contract, then upon notice by either party to the other party of such event or circumstance and the Parties shall be discharged from further performance, without prejudice to the rights of either party in respect of any previous breach of the Contract.

SETTLEMENT OF DISPUTES

Contract Administrator's Decision

- 67.1 If a dispute of any kind whatsoever arises between the Employer and the Contractor in connection with, or arising out of, the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after repudiation or other termination of the Contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Contract Administrator, the matter in dispute shall, in the first place, be referred in writing to the Contract Administrator, with a copy to the other party. Such reference shall state that it is made pursuant to this Clause. No later than the eighty-fourth day after the day on which he received such reference the Contract Administrator, shall give notice of his decision to the Employer and the Contractor. Such decision shall state that it is made pursuant to this Clause.

Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the Works with all due diligence and the Contractor and the Employer shall give effect forthwith to every such decision of the Contract Administrator unless and until the same shall be revised, as hereinafter provided, in an amicable settlement or an arbitral award.

If either the Employer or the Contractor is dissatisfied with any decision of the Contract Administrator, or if the Contract Administrator fails to give notice of his decision on or before the eighty-fourth day after the day on which he received the reference, then either the Employer or the Contractor may, on or before the seventieth day after the day on which the said period of 84 days expired, as the case may be, give notice to the other party, with a copy for information to the Contract Administrator, of his intention



to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party to commence arbitration, as hereinafter provided, in respect of the dispute (hereafter referred to as a "**Notice of Intention to Commence Arbitration**") and, subject to Sub-Clause 67.4, no arbitration in respect thereof may be commenced unless such notice is given.

If the Contract Administrator has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor on or before the seventieth day after the day on which the parties received notice as to such decision from the Contract Administrator, the said decision shall become final and binding upon the Employer and the Contractor.

Amicable Settlement

- 67.2 Where a Notice of Intention to Commence Arbitration has been given in accordance with Sub-Clause 67.1, the parties shall attempt to settle such dispute amicably before the commencement of arbitration, provided that, unless the parties otherwise agree, arbitration may be commenced on or after the fifty-sixth day after the date of the Notice to Commence Arbitration was received, even if no attempt at amicable settlement thereof has been made.

Arbitration

- 67.3 Any dispute in respect of which:
- (a) the decision, if any, of the Contract Administrator has not become final and binding pursuant to Sub-Clause 67.1, and
 - (b) amicable settlement has not been reached within the period stated in Sub-Clause 67.2,

shall be referred to final determination by arbitration in accordance with this Clause.

The arbitration shall be conducted according to the Rules of Arbitration. The seat of the arbitration shall be the location specified in the Appendix to Tender. The language of the arbitration shall be English. In case of conflict between the Rules of Arbitration and the provisions of this Clause, the provisions hereof shall prevail.

The arbitral tribunal shall consist of three arbitrators. The Employer and the Contractor shall each appoint one arbitrator and the two



arbitrators thus appointed shall agree on a third arbitrator to act as a chairman (the "**Arbitration Committee**"). If a party fails to nominate its arbitrator within a period of 15 days after receiving the Notice of Intention to Commence Arbitration or if agreement between the two appointed arbitrators upon a third arbitrator cannot be reached within 15 days from the date of their appointment, then such arbitrator shall be nominated and appointed on the application of either of the parties, to the Centre for Arbitration specified in the Appendix to Tender, in accordance with the Rules of Arbitration.

The decision of the Arbitration Committee shall be final and binding on both parties. Such committee shall have full power to open up, review and revise any decision, opinion, direction, certificate or valuation of the Contract Administrator.

Neither party shall be limited in the proceedings before such committee to the evidence or arguments put before the Contract Administrator for the purpose of obtaining his said decision.

No decision given by the Contract Administrator in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the Arbitration Committee on any matter whatsoever relevant to the dispute or difference referred to the Arbitration Committee as aforesaid.

The Arbitration Committee shall not enter on the reference until after the completion or alleged completion of the Works unless with the written consent of the Employer and the Contractor, provided always:

- (a) that such reference may be opened before such completion or alleged completion in respect of the withholding by the Contract Administrator of any certificate or the withholding of any portion of the Retention Money to which the Contractor claims in accordance with the conditions set out in Clause 60 to be entitled or in respect of the exercise of the Contract Administrator's power to give a certificate under Clause 63 hereof; and
- (b) that the giving of a Taking-Over Certificate under Clause 48 hereof shall not be a condition precedent to the opening of any such reference.

Unless an award of costs is made by the Arbitration Committee, the Employer and the Contractor shall each pay the costs of the members appointed by him. The costs of the third member and all joint costs shall be borne equally by the Employer and the Contractor.



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Failure to Comply with Contract Administrator's Decision

- 67.4 Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 67.1 and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights he may have, refer the failure to arbitration in accordance with Sub-Clause 67.3. The provisions of Sub-Clauses 67.1 and 67.2 shall not apply to any such reference.

NOTICES

Notice to Contractor

- 68.1 All certificates, notices or instructions to be given to the Contractor by the Employer or the Contract Administrator under the terms of the Contract shall be sent by post, e-mail, cable, telex or facsimile transmission to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

Notices to Employer and Contract Administrator

- 68.2 All notices to be given to the Employer or to the Contract Administrator under the terms of Contract shall be served by delivering the same to the addresses noted in the Appendix to Tender:-

Change of Address

- 68.3 Either party may change a nominated address to another address in the country where the Works are being executed by prior notice to the other party, with a copy to the Contract Administrator, and the Contract Administrator may do so by prior notice to both parties.

DEFAULT OF EMPLOYER

Default of Employer

- 69.1 In the event of the Employer:
- (a) failing to pay to the Contractor an amount due under any certificate of the Contract Administrator within 60 days after the expiry of the time stated in Sub-Clause 60.10 within which payment is to be made, subject to any deduction that the Employer is entitled to make under the Contract;



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- (b) becoming bankrupt or, being a company, going into liquidation, other than for the purpose of a scheme of reconstruction or amalgamation; or
- (c) giving notice to the Contractor that for unforeseen economic reasons it is impossible for him to continue to meet his contractual obligations,

the Contractor shall be entitled to terminate his employment under the Contract by giving notice to the Employer, with a copy to the Contract Administrator. Such termination shall take effect 14 days after the giving of the notice.

REMOVAL OF CONTRACTOR'S EQUIPMENT

- 69.2 Upon the expiry of the fourteen days notice referred to in Clause 69.1, the property in all Contractor's Equipment brought upon the Site by the Contractor shall revert in him and he shall, with all reasonable despatch, remove the same from the Site.

PAYMENT ON TERMINATION

- 69.3 In the event of such termination the Employer shall pay the Contractor, insofar as such amounts or items have not already been covered by payments on account made to the Contractor, for all work executed prior to the date of termination and in addition:

- (a) the amounts payable in respect of any preliminary items referred to in the Bill of Quantities, so far as the work or service comprised therein has been carried out or performed, and a proper proportion of any such items which have been partially carried out or performed;
- (b) the cost of materials, Plant or goods reasonably ordered for the Works which have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery, such materials, Plant or goods becoming the property of the Employer upon such payments being made by him;
- (c) a sum being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the Works insofar as such expenditure has not been covered by any other payments referred to in this Sub-Clause;
- (d) any additional sum payable under the provisions of Sub-Clause 20.3;



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- (e) such proportion of the cost as may be reasonable, taking into account payments made or to be made for work executed, or removal of Contractor's Equipment under Sub-Clause 69.2 and, if required by the Contractor, return thereof to the Contractor's main plant yard in his country of registration or to other destination, at no greater cost;
- (f) the reasonable cost of repatriation of all the Contractor's staff and workmen employed on or in connection with the Works at the time of such termination; and
- (g) the amount of any loss or damage to the Contractor arising out of or in connection with or by consequence of such termination.

Provided that against any payment due from the Employer under this Sub-Clause, the Employer shall be entitled to be credited with any outstanding balances due from the Contractor for advances in respect of Contractor's Equipment, materials and Plant and any other sums which, at the date of termination, were recoverable by the Employer from the Contractor under the terms of the Contract.

Any sums payable under this Sub-Clause shall, after due consultation with the Employer and the Contractor, be determined by the Contract Administrator who shall notify the Contractor accordingly, with a copy to the Employer.

Contractor's Entitlement to Suspend Work

- 69.4 Without prejudice to the Contractor's entitlement to terminate under Clause 69.1, the Contractor may, if the Employer fails to pay the Contractor the amount due under any certificate of the Contract Administrator within 28 days after the expiry of the time stated in Clause 60.10 within which payment is to be made, subject to any deduction that the Employer is entitled to make under the Contract, after giving 28 days' prior notice to the Employer, with a copy to the Contract Administrator, suspend work or reduce the rate of work.

If the Contractor suspends work or reduces the rate of work in accordance with the provisions of this Sub-Clause and thereby suffers delay or incurs costs the Contract Administrator shall, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price,



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and shall notify the Contractor accordingly, with a copy to the Employer.

Resumption of Work

- 69.5 Where the Contractor suspends work or reduces the rate of work, having given notice in accordance with Sub-Clause 69.4, and the Employer subsequently pays the amount due, including interest pursuant to Sub-Clause 60.10, the Contractor's entitlement under Sub-Clause 69.1 shall, if notice of termination has not been given, lapse and the Contractor shall resume normal working as soon as is reasonably possible

CHANGES IN COST

Increase or Decrease of Cost

- 70.1 v) No adjustment to the Contract Price shall be made in respect of any increase or decrease in the cost to the Contractor of employing labour or staff in the execution of the Works which may take place subsequent to the date of Tender.
- (a) No adjustment to the Contract Price shall be made in respect of any increase or decrease in the cost to the Contractor of goods and materials (whether for Permanent or Temporary Works), consumable stores or Plant or in the cost to the Contractor of ocean or air freight and other associated charges which may take place subsequent to the date of Tender.

CURRENCY AND RATES OF EXCHANGE

Currency Restrictions

- 71.1 The Contractor shall be deemed to have allowed in his Contract Price for all effects of currency restrictions and/or transfer of currency restrictions which may be imposed by the Government or authorised agency of the Government of the country in which the Works are being or are to be executed before or during the period of the Contract. The Employer shall not have any liability or responsibility to reimburse the Contractor for any loss or damage to the Contractor arising from such restriction.



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72. Not used

STATUTORY TAXES, DUES OR FEES

Statutory Taxes, Duties or Fees

- 73.1 The Contractor will be required to pay all statutory taxes, duties and fees arising in connection with the execution of the Works and performance of the Contract which are in existence at the date of Tender or which may be introduced or amended thereafter, provided that, in the event of any increase or decrease in statutory taxes, duties and fees or the introduction of new statutory taxes, duties and fees which may take effect subsequent to the date of Tender, the Contract Price shall be increased or decreased (as appropriate) by the amount of the increase or decrease or the amount payable in accordance with the new tax, duty or fee.

MISCELLANEOUS

Details Confidential

- 74.1 The Contractor shall treat the Contract and everything contained therein as private and confidential. In particular the Contractor shall not publish any information, drawing or photograph concerning the Works and shall not use the Site for the purpose of advertising except with the written consent of the Contract Administrator and subject to such conditions as he may prescribe.
- 74.2 As between the parties, the Employer shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.
- 74.3 The Contractor shall:
- (a) transfer to the Employer to the extent possible under law, all copyright and other intellectual property rights in all Drawings, plans, documents and all revisions thereof and additions thereto, and the designs contained in them and all other data prepared by the Contractor on behalf of the Employer in respect of the Works ("**Documents**"); and
 - (b) without prejudice to the foregoing, grant to the Employer an irrevocable royalty free licence to use and reproduce the



Documents for all purposes relating to the Works including the completing, operating, maintaining, adjusting, modifying, extending, repairing or replacing of the Works.

Explosives

- 75.1 The Contractor shall not use any explosives without the permission in writing of the Contract Administrator who will require that the Contractor has complied in full with the regulations in the Country regarding such use. The Contract Administrator's refusal to permit the use of explosives shall not constitute grounds for claims.

Bribery

- 76.1 Any commission, advantage, gift, gratuity, reward or bribe given, promised or offered by or on behalf of the Contractor or his agent or servant or any other person on his or their behalf to the Employer, the Contract Administrator or the Contract Administrator's Representative or to any of their respective members, officers, servants, advisers, agents or employees or to any person on their behalf or on behalf of any of them in relation to the obtaining or the execution of this or any other contract with the Employer, shall entitle the Employer to terminate this Contract and all other contracts which the Contractor may have entered into with the Employer in accordance with Clause 63.1 and also to the payment of any loss or damage resulting to the Employer from such cancellation.

Declaration Against Waiver

- 77.1 The condoning by the Employer of any breach or breaches by the Contractor or by an authorized Subcontractor, of any of the stipulations and conditions contained in the Contract shall in no way prejudice or affect or be construed as a waiver of the Employer's rights, powers and remedies under the Contract in respect of any other breach or breaches as aforesaid.

Contract Correspondence

- 78.1 All correspondence on any matter whatsoever in connection with the Contract shall be written and recorded in the English Language. If the Contractor requires copies of such correspondence or records in any other language then he shall arrange for these to be made at his own expense



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Use of Site

- 79.1 In particular the following provisions shall be deemed to apply to the possession and use of the Site:
- (a) The lands and other places outside the Site which are the property of or under the control of the Employer shall not be available for use by the Contractor, unless otherwise agreed by the Employer beforehand in writing.
 - (b) The Contractor shall at any time move any vehicle, machine, vessel, or any other obstruction within his control that may be required by the Contract Administrator to be moved for any purpose and the Contractor shall move such things or such obstructions promptly on instructions being given and at his own expense.
 - (c) The Contractor shall maintain access for the inspection, operation and maintenance of any of the Plant for the Works belonging to the Employer, which lie within the Site or elsewhere.
 - (d) The Contractor shall not use any portion of the Site for any purpose not connected with the Works.
 - (e) Reasonable access around the Site shall be maintained for the use of the occupants of adjoining lands and properties.

Land

- 80.1 The Employer will provide all the land, wayleaves and easements for the Permanent Works and the Contractor may, where approved by the Contract Administrator, so far as they are available use the same for temporary purposes.

In the case of land required for temporary purposes, such as workshops, work yards, offices, storage of materials, etc., the Contract Administrator will, on application being made, indicate the area that can be used for these purposes. If the Contractor shall require any land other than the Site for the storage or preparation of materials or for other purposes in connection with the Works, he shall obtain it at his own expense.

The Contractor shall observe all agreements entered into by the Employer with any person or persons relating to occupation of the properties by the Employer and to the execution of the Works thereon, provided always that compliance with such agreements shall not relieve the Contractor of his obligations under Clause 29.1 hereof. The Contractor will be given on request copies of any agreement or part thereof relating to such matters.



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In so far as the execution of the Works requires the acquisition or use and occupation of land, including access routes thereto, for the establishment of quarries and/or borrow pits or for any other purpose associated with the Works, such lands being outside the Site of the Permanent Works and the property of parties other than the Employer, the Contractor shall be entirely responsible for all arrangements necessary for, and costs arising from, such acquisition or use and occupation.

The Contractor shall indemnify the Employer against all claims, costs, damages and proceedings arising out of the use and occupation of such lands or arising from any failure on the part of the Contractor to observe conditions or regulations imposed by the owners or other competent authorities respecting such use and occupation.

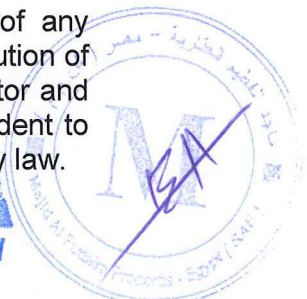
The Contractor shall not disturb or pull down any tree, wall or building within the Site without the written consent of the Contract Administrator after approval by the Employer.

Indemnity to the Employer's Officials and Contract Administrator

- 81.1 The Contractor shall indemnify the Employer and every member, officer and employee thereof and the Contract Administrator and the Contract Administrator's Representative and every member of his staff and every other authorized person from any claim or demand from accident, injury, damage, loss and/or compensation of any kind whatsoever arising out of or in connection with all claims and demands which may be made against the Employer for or in respect of or arising out of any failure by the Contractor in the performance of his obligations under any of the provisions of the Contract.

If the Employer has to pay or elects to pay any money in respect of any such claims or demands as aforesaid, the amount so paid and the cost incurred by the Employer shall be charged to and paid by the Contractor provided always that the Employer shall, if circumstances permit, give to the Contractor reasonable opportunity of examining such claims or demands before payment. In the event of the Contractor disputing the amount of any payment (except payments made in accordance with the legal obligations or after approval by the Contractor) then the Contractor shall have the right to dispute the matter and refer the matter to arbitration in accordance with the provisions herein contained.

The Contractor shall immediately upon the occurrence of any accident at or about the Site or in connection with the execution of the Works report such accident to the Contract Administrator and the Employer. The Contractor shall also report such accident to the competent authority whenever such report is required by law.



Interference with Works

- 82.1 The Contractor shall not interfere in any way with any existing works whether the property of the Employer or of a third party and whether the position of such works is indicated to the Contractor by the Contract Administrator or not except where such interference is specifically described as part of the Works either in the Contract or in the Contract Administrator's Instructions.

Sums due to the Employer

- 83.1 All sums due from the Contractor to the Employer under the provisions of the Contract shall be ascertained and determined by the Contract Administrator and certified by him and the said certificate shall be a condition precedent to any right arising in the Employer in respect of such sums.

Contract Administrator may deduct Sum Certified Due

- 84.1 The Contract Administrator, may, in his discretion, deduct any sums mentioned in Clause 83.1 hereof, when ascertained and determined by him, from the amount of any Interim Payment Certificate and he will deduct all such sums as can then be ascertained and determined from any sum due to the Contractor in making out the Final Payment Certificate for payment upon completion of the whole of the Works. However, should the Contract Administrator omit to deduct from any certificate or certificates as aforesaid, any sum then or subsequently found to be due by the Contractor to the Employer, such omission shall not prejudice or affect the right of the Employer to recover such sum from the Contractor as a debt due on issue by the Contract Administrator of a certificate that such sum is due by the Contractor, pursuant to Clause 83.1, notwithstanding any other provision of this Contract and notwithstanding that the Interim Payment Certificate or Final Payment Certificate from which the sum was omitted was described as final or professed to be a final certificate.

The Employer shall be entitled upon a certificate in writing from the Contract Administrator to deduct the amount so certified from any monies otherwise due to the Contractor under this or any other contract, to recover the said amount as a debt due or partly in either manner as the Employer shall deem advisable.

Contract Administrator not Arbitrator



85.1

In measuring, valuing, deciding or certifying the Contract Administrator is not intended to act as Arbitrator but as an Contract Administrator acting by his skill and from his

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knowledge of any fact and incidents connected with the Works and, in so far as any facts are not within his own knowledge, he shall be at liberty to inform himself by enquiring of the Contract Administrator's Representative and others. The Contract Administrator shall at all times be considered appraised of all the facts necessary for him to form his opinion, make his measurements or valuation, give his decision or order, make his requisition or give or refuse his certificate and he shall be at liberty to certify at such time and in such manner in his discretion he shall think proper and he shall not be bound to give any reason for, or any particulars of, his certificates or any reason for his not certifying.

Members of Employer's Staff, etc. not personally liable

- 86.1 Neither any member of the Employer's staff, nor the Contract Administrator nor any of his staff, nor the Contract Administrator's Representative shall be in any way personally liable for the acts or obligations under the Contract, or answerable for any default or omission on the part of the Employer in the observance or performance of any of the acts, matters or things which are herein contained.

Fire Precautions

- 87.1 The Contractor shall conform to the regulations of the Employer and any other controlling authority in force at the Site of the Works with respect to the precautions to be taken against fire hazards.

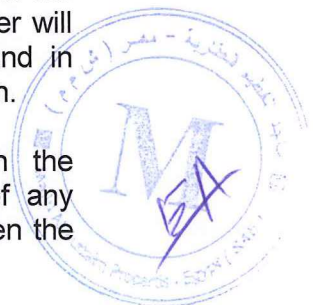
Photographs

- 88.1 No photographs of the Site or of the Works or any part thereof or anything therein shall be taken except with the permission of the Contract Administrator and such photographs shall not be published or otherwise circulated without the like permission. No such permission shall exempt the Contractor from complying with any statutory provisions in regard to the taking and publication of photographs.

Boycott of Israel

- 89.1 The Contractor shall comply strictly with all the regulations of the Boycott of Israel Office in force in the Country. Should the Contractor fail to observe these regulations the Employer will apply all relevant penalties without advance notice and in addition reserves the right to claim suitable compensation.

Without prejudice to other rights and remedies which the Employer may possess, if the Contractor is in breach of any instrument, law or order relative to the Boycott of Israel, then the



Employer shall be entitled to determine the employment of the Contractor under this Contract with immediate effect upon service of written notice specifying the breach in question. The rights and duties of the Employer and the Contractor shall then be as set out in Clause 63 of these Conditions.

Separate Contracts

- 90.1 The Employer reserves the right to let other separate contracts in connection with the Work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their material and the execution of their work and shall properly connect and co-ordinate his work with them.

If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the Contract Administrator any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to inspect and report shall constitute an acceptance of the other contractor's work, except as to defects which may develop in the other contractor's work after its execution.

To ensure the proper execution of his subsequent work the Contractor shall measure work already in place and shall at once report to the Contract Administrator any discrepancy between executed work and the drawings.

Local Laws and Regulations

- 91.1 The Contractor's operations and proceedings in connection with the Works shall at all times during the continuance of the Contract be conducted in accordance with local Laws for the time being in force in the Country. The Contractor shall also comply with the bye-laws and regulations of all authorities (if any) having jurisdiction over or in connection with the Works on Site or other operations such as those carried out by the Contractor and shall give all notices required by such bye-laws and regulations. Hospital regulations in force for the time being shall also be complied with by the Contractor, his sub-contractors, employees and workmen.

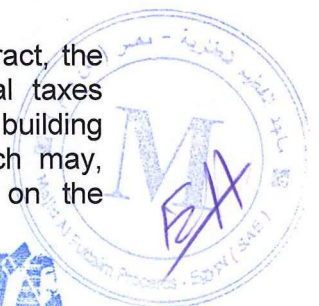
Taxation

- 92.1 Without prejudice to any other condition of this Contract, the Contractor shall pay all Government and municipal taxes including road taxes and vehicle registration fees, building permit and inspection charges and any taxes which may, subject to Clause 73.1, in the future be levied on the



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Contractor or his expatriate employees whilst employed on this project.

Interruption of Supplies of Services

- 93.1 The Contractor shall not interfere with supplies and services of whatsoever nature such as but not limited to water, electric power and light, telephones, buried cables and sewerage. If any such supply or service is damaged, the Contractor must report it to the Contract Administrator and the relevant service authority immediately.

The Contractor shall be responsible for any damage caused to such supplies or services and shall fully indemnify and keep indemnified the Employer against all consequences thereof of whatsoever nature.

The method of execution of repairs shall be decided by the Contract Administrator.

In addition to and without prejudice to the generality of the indemnity above referred to, and to the Contractor's liability in penalties or liquidated damages generally, the Contractor shall pay to the Employer in respect of damage to any such supply or service a charge calculated in accordance with the Laws in force during the period of this Contract.

Before opening up the ground for any purpose, the Contractor must notify all concerned parties by issue of a formal "Notice of Intent" and must obtain information by formal notice regarding the location of all underground services. The complete responsibility for obtaining this information rests with the Contractor.

Claims resulting from adjoining Sites

- 94.1 The Contractor shall not be entitled to claim indemnity or extension of time for the Works nor to be excused from any of the obligations of the Contract nor to submit any claims in respect of disturbance or delay due to the simultaneous execution of work adjoining the Site and executed either by the Contractor or another contractor.

Building Permit

- 95.1 The Contract Administrator shall apply for and liaise with the relevant local authorities for the mandatory permit to construct the Works required in this Contract as a whole or part or for any variation to the work, which has already received the mandatory permit. In case of variations resulting from Contractor instigated alternatives the Contractor shall prepare the revised drawings and submit to the Contract Administrator



for his approval prior to re-submission to the relevant local authorities.

The Contractor shall be responsible for the collection of the permit documentation mentioned above, and pay all necessary fees for this collection within two working days from receiving written instructions from the Contract Administrator. A Provisional Sum is allowed in the Bills of Quantities for these costs.

The Contractor shall be responsible for completing the Works in accordance with the Building Permit and to the satisfaction of the relevant local authorities. The Contractor shall be responsible for arranging inspection by the relevant local authorities and for obtaining the relevant local authorities' "Certificate of Completion" (or its equivalent) and other approvals necessary for the connection of services, in order to ensure completion of the Contract.

On receipt of the relevant local authorities' Building Permit the Contractor shall examine all the documentation handed over by the relevant local authorities as part of the Building Permit, and advise the Contract Administrator in writing within 24 hours from the date of receipt of any comment or special requirement stated by the relevant local authorities on any of the documents which make up the Building Permit. Failure of the Contractor to submit such advice within the prescribed period of 24 hours shall be deemed to be confirmation to the Contract Administrator and the Employer that the Works required in this Contract have received the mandatory Building Permit, relieving the Employer thereafter from any responsibility to liaise with the relevant local authorities for obtaining any permit in connection with the Works required in the Contract and from considering any claim by the Contractor for any extension of time or additional payments due to extra work resulting from comments made in writing by the relevant local authorities on any of the documents of the Building Permit.

Demarcation Certificate

- 96.1 Upon receipt of the Building Permit, the Contractor shall arrange for the provision of the relevant local authorities' demarcation certificate. The Permanent Works on site will not be permitted to commence until this certificate is collected from the relevant local authorities. The Contractor shall issue a copy of the certificate to the Contract Administrator.

Certificate of Completion

- 97.1 Upon the written request of the Contractor, the Contract Administrator will issue a letter stating that the Works are complete to allow the inspection of the relevant local authorities for the relevant local authorities' "Completion



[Handwritten signature]

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Certificate" (or its equivalent) to take place, provided always that the Contract Administrator shall be satisfied that the Works are complete to this extent. If the Works are not complete to the satisfaction of the Contract Administrator, the Contractor will be required to complete the necessary works and issue a further request. The issuance of the letter referred to in this Clause by the Contract Administrator shall not constitute completion within the meaning of Clause 48 or shall have any other meaning other than that the Works are complete for the purpose of initiating the inspection for the relevant local authorities' "Completion Certificate" (or its equivalent).

In addition to the requirements of Clause 48, the Contractor is required to complete the Works necessary for obtaining the relevant local authorities "Certificate of Completion" (or its equivalent) defined in Clauses 99.1 within the time for completion defined in Clause 43. The Contractor's failure to obtain this certificate for any reason other than reasons, which entitle the Contractor within the provisions of the Contract to an Extension of Time, shall be the sole responsibility of the Contractor and shall not constitute any ground for an extension of time or additional costs.

Permanent Electricity, Water, Telephone and Drainage

98.1 The Contractor shall be responsible for the provision of all power, water and other services he may require.

The Contractor shall be responsible under this Contract to liaise with all statutory authorities to ensure that the work is carried out to their latest regulations and rules regardless of the fact that the Contract Administrator has already liaised with such authorities prior to the award of this Contract.

Notwithstanding his responsibilities under this Sub-clause, the Contractor shall within 28 days of the order to commence the Works contact all statutory authorities and discuss in detail with them the requirements of the project. The Contractor shall be responsible to ensure that no rules, regulations or requirements of the statutory authorities have changed, or that the authorities require any details for the Works, which are different from those included or inferred in the Contract, which may cause a variation to the Contract. If any changes are required by the statutory authorities, he shall inform the Contract Administrator within a further 14 days (i.e. within 42 days of the order to commence) giving full details of the consequences of these changes including details on costs and programme. If no notification has been received by the Contract Administrator within the time stipulated, it will be deemed that no variation will be necessary and the



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Contractor will forfeit his rights to any extension of time or costs (if any) due to any subsequent statutory authority requirements.

The Contractor shall liaise with all statutory authorities throughout the Contract and shall be responsible for obtaining full approval of the authorities and connections as required by the Contract.

DESIGN - GENERAL OBLIGATION

General Obligations

- 99.1 The Contractor shall carry out, and be responsible for, the design of such Sections of the Works as detailed in the Specification. Design shall be prepared by suitably qualified designers who are engineers or other relevant professionals. For each part of the Works, the prior consent of the Contract Administrator shall be obtained to the designer and design subcontractor, if they are not named as such in the Contract. The obligations of designers and design subcontractors shall be undertaken and performed on behalf of the Contractor in accordance with the Contract. Nothing contained in the Contract shall create any contractual relationship or professional obligations between any designer, or a design Subcontractor, and the Contract Administrator.

The Contractor holds himself, his designers and design Subcontractor as having the experience and capability necessary for the design. The Contractor undertakes that the designers shall be available to attend discussions with the Contract Administrator at all reasonable times during the execution of the Works.

Construction Documents

- 99.2 The Contractor shall prepare relevant information and drawings in sufficient detail to satisfy all regulatory approvals, to provide suppliers and construction personnel sufficient instruction to execute the Works, and to describe the operations of the completed Works. The Contract Administrator shall have the right to review and inspect the preparation of drawings, whenever and wherever they are being prepared.

In accordance with the details (if any) specified by the Contract Administrator the Contractor shall submit his proposed drawings for the Contract Administrator's consent; ongoing reviews will be required by the Contract Administrator during the design period. The Contractor is to allow a 21 day period in his programme for the Contract Administrator's consent on completion of the design or as agreed otherwise; phased submission of information for consent may be required as appropriate and in accordance with the Clause 14 programme. For each part of the Works,



procurement, fabrication or construction shall not commence prior to receipt of such consent to the relevant proposed information and drawings, and shall be in accordance with such information and drawings unless otherwise agreed to by the Contract Administrator.

The Contractor shall notify the Contract Administrator if the Contractor wishes to modify any design information or Drawings to which consent has previously been given, and shall submit revised documents for the Contract Administrator's consent.

If the Contract Administrator instructs that further information and drawings are necessary for carrying out the Works, the Contractor shall upon receiving the Contract Administrator's instructions prepare such drawings. Errors, omissions, ambiguities, inconsistencies, inadequacies and other defects shall be rectified by the Contractor at his cost.

Contractor's Undertaking

- 99.3 The Contractor undertakes that, if legally and physically possible, the construction documents, the Drawings, the execution and the completed Works will be in accordance with the following:
- (a) The Law in the Country; and
 - (b) The documents forming the Contract, as altered or modified by variations made pursuant to this Contract.

Samples

- 99.4 In accordance with the details specified in the Specifications, the Contractor shall submit two sets of the manufacturer's standard samples and/or his proposed samples and/or any additional samples instructed by the Contract Administrator together with any relevant information, for the Contract Administrator's approval. All these samples shall be labelled as to origin and intended use in the Works. For each part of the Works, construction shall not commence prior to receipt of such approval to the relevant samples unless otherwise agreed with the Contract Administrator. The Contract Administrator shall forward his approval, or otherwise, to the Contractor within 14 days of receipt from the Contractor of any samples in accordance with this Clause 99.4.

As-Built Drawings

- 99.5 The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact "as-built" locations, sizes and



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details of the Works as executed, with cross references to the Specifications and Drawings. These records shall be kept on the Site and shall be used exclusively for this purpose. One copy shall be submitted to the Contract Administrator prior to the commencement of any Test on Completion.

The drawings shall be prepared as the Works proceed, and shall be submitted to the Contract Administrator for his inspection. The Contractor shall obtain the consent of the Contract Administrator as to their size, the referencing system, CAD protocols and other pertinent details.

Contractors Submittals

- 99.6 The Contractor shall prepare and submit to the Contract Administrator for approval drawings of the Permanent Works as built, guarantees, warranties, and manufacturer's data in the form required by the Contract Administrator and no later than (i) 14 days after such drawing, guarantee warranty or data is originally required by the Contract Administrator or (ii) where the Contract Administrator has asked for the same to be re-submitted, 7 days after such drawing, guarantee, warranty or data is required by the Contract Administrator to be re-submitted. The Works shall not be considered to be completed for the purpose of taking over in accordance with Clause 48 until such items have been submitted to and approved by the Contract Administrator. Confirmation that any submission or re-submission is approved or rejected (as appropriate) shall be given by the Contract Administrator (with comments in the case of a rejection) within 14 days for an original submission, and 7 days for a re-submission from the date of the Contractor's submission or re-submission (as applicable).

Operation and Maintenance Manuals

- 99.7 Prior to commencement of any required Tests on Completion, the Contractor shall prepare, and submit to the Contract Administrator, operation and maintenance manuals in accordance with the Contract Administrator's approval and in sufficient detail for the Contract Administrator to operate, maintain, dismantle, reassemble, adjust and repair the Works. The Works shall not be considered to be completed for the purposes of taking-over under Clause 48 until operation and maintenance manuals have been submitted to and approved by the Contract Administrator.

Third Party Approvals

- 99.8 The Contractor is to provide all information to the Contract Administrator to enable the Contract Administrator to obtain all



third party approvals necessary for the Contractor to design, construct and complete the Works, including providing sufficient and appropriate information to the Contract Administrator to support their applications.

Insurance for Design

- 99.9 The Contractor shall provide Professional Indemnity Insurance for any design works that the Contractor is obliged to complete under the Contract that are specifically identified in the Specification or Scope of Works. The Contractor shall effect and maintain adequate professional indemnity insurance, which shall insure the Contractor's liability by reason of error, omission or professional negligence in the design of the Works. The insurance shall be available to cover the liability of the Contractor, irrespective of any other claims made against, or losses incurred by, the Contractor (whether arising from the Works or his other activities), for the period specified in the Appendix to Tender.

The amount of Professional Indemnity Insurance provided is to be stated in the Appendix to Tender.

The Contractor shall maintain such professional indemnity insurance in full force and effect throughout the periods of his liability, under the Contract and under the law of the country. The Contractor undertakes to give the Contract Administrator reasonable notice in the event of difficulty (if any) in extending or renewing such insurance.

SUNDRY ADDITIONAL ITEMS

Works by Employer or Persons Employed or Engaged by the Employer

- 100.1 In regard to any work not forming part of this Contract, but which is related to the Works, which is to be carried out by the Employer himself or by persons employed or otherwise engaged by him, the Contractor shall provide such information as is necessary to enable the Employer to carry out and complete the works and shall permit the execution of such work.

Maintenance of Documentation

- 101.1 The Contractor is responsible for the maintenance and safe-keeping of all Drawings, building permits or other official documents from all relevant local and Government departments.



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These Drawings, documents, building permits or other official documents are to be handed over to the Employer on issue of the Taking-Over Certificate.



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SCHEDULE [4]
APPENDIX TO TENDER

Ref	Item	Clause(s)	Data
1.	Advance Payment	1.1, 60.1A	Amount: 15 % of the Contract Price Currency of payment: EGP Amortization rate: 15% of the amount of each Interim Payment Certificate.
2.	Advance Payment Bond	1.1, 60.1A	Amount: 15 % of the Contract Price Form of Advance Payment Bond is set out in Schedule 5
3.	Contract Administrator	1.1	Davis Langdon LLC, Ground Floor, Corner Road 23 / Sharifa Dina Street, Building 13, Maadi, Egypt
4.	Contract Administrator's Representative	1.1	Mark Cubitt
5.	Country	1.1	Arab Republic of Egypt
6.	Liquidated Damages	1.1, 47.1	Refer to Programme Constraints Document Schedule 5 Maximum amount of 10% of the accepted Contract Price
7.	Milestone Date	1.1	Refer to Programme Constraints Document Schedule 5 and 6
8.	Rules of Arbitration	1.1	As set out in Clause 67.3
9.	Section	1.1, 48.2	Refer to Programme Constraints Document Schedule 5
10.	Time for Completion	1.1	Phase 1 – 12 calendar weeks Phase 2 – 32 calendar months
11.	Collateral warranty	8.4	Applicable



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			<ul style="list-style-type: none"> In respect of all Subcontractors who have design liability As Contract CDP List
12.	Compliance with sustainability requirements	19.1B	Applicable LEED Rating Gold
13.	Motor Vehicle Third Party and Passenger Liability Insurance – Damage to Property	21.4	Minimum of EGP 40,000 in respect of each and every occurrence
14.	Insurance against accident to workmen	23.2	Minimum of EGP 7,500,000 in respect of each and every occurrence
15.	Defects Liability Period	49.1	Phase 1 – Not Applicable Phase 2 - 365 calendar days
16.	Completion of Outstanding Work and Remedying Defects	49.2	Emergency Defect to be remedied within 24 hours of notification of the defect Urgent Defect to be remedied within 3 days of notification of the defect Routine Defect to be remedied within 14 days of notification of the defect
17.	Monthly Statement : Materials for inclusion into the permanent works	60.2	90 % of the invoice value of materials
18.	Percentage of Retention	60.3	5 %
19.	Limit of Retention Money	60.3	5 % of the Contract Price
20.	Minimum Amount of Interim Payment Certificates	60.3	EGP 1,000,000
21.	Arbitration	67.3	Seat of Arbitration: Dubai - UAE The Centre for Arbitration is: DIFC Courts
22.	Notices to Employer and Contract Administrator	68.2	Employer: Majid Al Futtaim Properties Egypt, Maadi City Centre, Kattameyia Ring Road, Me'raj City, Cairo, Egypt



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			Contract Administrator: Davis Langdon LLC, Ground Floor, Corner Road 23 / Sharifa Dina Street, Building 13, Maadi, Egypt
23.	Insurance for Design	99.9	Professional Indemnity insurance: Period of cover: 10 years from Commencement Date Limit of indemnity: USD 5,000,000 in respect of each and every occurrence



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