



GOVERNMENT OF BERMUDA

Ministry of Public Works
Works and Engineering

Annex E- Short Form of Contract
Project No. 31-263-76
New Gun Range, Fort Prospect

**New Gun Range
Fort Prospect**

Bermuda

**Annex E
Short Form of Contract**

Date: February 24, 2017

Project No. 31-263-76



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AGREEMENT

The Employer is the Ministry of Public Works,
PO Box HM 525, Hamilton, HM CX, Bermuda

The Contractor is _____

The Employer desires the execution of certain Works known as _____
New Gun Range, Fort Prospect, Devonshire.

OFFER

The Contractor has examined the documents listed in the Appendix which forms part of this Agreement and offers to execute the Works in conformity with the Contract for the sum of
(in words) _____

(in figures) _____

Or such other sum as may be ascertained under the Contract.

This offer, of which the Contractor has submitted two signed originals, may be accepted by the Employer by signing and returning one original of this document to the Contractor before
(insert date) _____

The Contractor understands that the Employer is not bound to accept the lowest or any offer received for the Works.

Signature: _____ Authorised to sign on behalf of the Contractor

Name: _____ Date: _____

Capacity: _____

ACCEPTANCE

The Employer has by signing below, accepted the Contractor's offer and agrees that in consideration for the execution of the Works by the Contractor, the Employer shall pay the Contractor in accordance with the Contract. This Agreement comes into effect on the date when the Contractor receives one original of this document signed by the Employer.



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Signature: _____ Authorised to sign on behalf of the Ministry
of Public Works

Name: _____ Date: _____

Capacity: _____



APPENDIX

This Appendix forms part of the Agreement.

Sub-Clause	Item	Data
1	General Provisions	
1.1.1	Documents forming the Contract listed in order of priority (delete if not applicable)	Document Identification
	(a) The Agreement	_____
	(b) Letter of Acceptance	_____
	(c) Client's Request for Proposal	_____
	(d) Addenda	_____
	(e) Particular Conditions	_____
	(f) General Conditions	_____
	(g) The Specification	_____
	(h) The Drawings	_____
	(i) The Contractor's tendered design	_____
1.1.9	Time for Completion	_____ days
1.4	Law of the Contract	Laws of Bermuda
1.5	Language	English
2	The Employer	
2.1	Provision of Site	On the Commencement Date
3	Employer's Representatives	
3.1	Authorised Person	Chief Engineer
3.2	Name and address of Employer's representative (if known)	Mr. Yves Lortie C.E. Ministry of Public Works, 56 Church Street, Hamilton, HM12



Sub-Clause	Item	Data
4	The Contractor	
4.4	Performance Security (if any):	
4.4	Amount	<u>Not applicable</u>
4.4	Form	<u>Not applicable</u>
5	Design by Contractor	
5.1	Requirements for Contractor's design (if any)	<u>Not applicable</u>
7	Programme	
7.2	Time for submission	<u>Within 14 days of the Commencement Date</u>
7.2	Form of programme	<u>Microsoft Project – Electronic & Paper formats</u>
7.4	Amount payable due to failure to complete	<u>\$ 500 per day up to a maximum of 10% of sum stated in the Agreement</u>
9	Remedying Defects	
9.1	Period for notifying defects	<u>365 days calculated from the date stated in the notice under Sub-Clause 8.2</u>
10	Variation Procedure	
10.2	Day work rates	<u>Attach hourly rates for labour materials and equipment (details)</u>
11	Valuation of the Works	
11.1	Lump sum price	<u>(details)</u>
11.1	Lump sum price with schedules of rates	<u>Not applicable (details)</u>
11.1	Lump sum price with bill of quantities	<u>Not applicable (details)</u>
11.1	Re-measurement with tender bill of quantities	<u>Not applicable (details)</u>
11.1	Cost reimbursable	<u>Not applicable (details)</u>



11.2	Percentage of value of Materials and Plant	Materials	<u>80%</u>
		Plant	<u>90%</u>

Sub-Clause	Item	Data
11.3	Percentage of retention	<u>10%</u>
11.5	Period for notifying defects	<u>365 days calculated from the date stated in the notice under Sub-Clause 8.2</u>
11.7	Currency of payment	<u>Bermuda Dollars</u>
11.8	Rate of interest	<u>0.5 % per annum</u>
14	Insurances	
14.1(a)	The Works, Materials, Plant and fees	The sum stated in the Agreement plus 15%
14.1(a)	Contractor's Equipment	Full replacement cost
14.1(b)	Third party injury to persons and damage to property	<u>\$ 1,000,000.00</u>
14.1(c)	Workers	<u>\$ 1,000,000.00</u>
	Other Cover	<u></u>
	Exclusions	<u>None</u>
15	Arbitration	
15.3	Rules	Bermuda Arbitration Act 1986 In accordance with the Bermuda Arbitration Act 1986
15.3	Appointing authority	Bermuda Arbitration Act 1986
15.3	Place of Arbitration	Bermuda



CONDITIONS OF CONTRACT

1.0 Short Form of Contract - GENERAL CONDITIONS

The conditions of contract are the **Conditions of Contract for the Short Form of Contract, First Edition 1999**, published by the Federation Internationale des Ingenieurs-Conseils (FIDIC).

The General Conditions of Contract are amended by the Particular Conditions of Contract.



2.0 Short Form of Contract - PARTICULAR CONDITIONS

Preamble

These Particular Conditions supplement the General Conditions, and shall modify, delete and/or add to the General Conditions. Where any clause, paragraph, or sub-paragraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such clause, paragraph, or sub-paragraph shall remain in effect and the supplemental provisions shall be considered as added thereto. Where any clause, paragraph, or sub-paragraph in the General Conditions is amended, deleted or superseded by any of the following paragraphs, the provisions of such clause, paragraph, or sub-paragraph, not so amended, deleted or superseded shall remain in effect.

Clause numbers herein refer to the same clause numbers as in the General Conditions.

A. References from Clauses in the GENERAL CONDITIONS

2.0 The Employer

2.2

Permits and Licences

2.2.1

Add the following Sub-Clauses:

Where the work of the Contractor is subject to the approval or review of an authority, department of Government, or agency other than the Engineer, such applications for approval or review shall be the responsibility of the Contractor, but shall be submitted through the offices of the Employer and unless authorised by the Engineer in writing, such applications for approval or review shall not be obtained by direct contact by the Contractor with such other authority, department of Government or agency.

2.2.2

The Contractor shall ensure that a valid work permit is in place for all non- Bermudian staff working in Bermuda.

4.0 The Contractor

4.5

Facilities

Add the following Sub-Clauses:

The Contractor shall make his own arrangements for all local accommodation he may require for offices, yards, stores, labour, etc., all buildings and all services in connection therewith which are required for the efficient execution of the Works. The Contractor shall pay proper regard to the prevention of obstruction of public roads and walkways and the avoidance of nuisance to the public and to residents.



**4.6
Electricity, Water and
Gas**

The Contractor shall be responsible for the provision of all, power water and other services that he may require for the Works and shall pay and bear all costs associated therewith.

**4.7
Protection of Utilities**

The Contractor shall carry out the Works so that there is the minimum of interruption to the supply of water, telephone, electricity and other services through existing mains and services. Work involving interference with existing works of any kind shall only be carried out with the permission of and during such times and in such a manner as are agreed in writing by the Engineer or competent Authority.

**4.8
Reporting of Errors**

The Contractor shall examine and compare the Contract Documents and shall report any errors, inconsistencies, or omissions he may find to the Engineer immediately.

**4.9
Damage to Persons and
Property**

The Contractor shall, immediately on occurrence of any incident involving loss or injury at or about the Site, or in connection with the execution of the Works, report such incident to the Engineer or the Engineer's Representative. The Contractor shall also report such incident to the appropriate Authority whenever such report is required by Law.

**4.10
Rates, Wages, Hours
and Conditions of
Labour**

The Contractor shall pay to all Foremen, Craftsmen, and Labourers not less than the rates of wages for the various Foremen, Craftsmen, and Labourers that prevail in Bermuda, and comply with such requirements relating to hours of work and conditions of labour as are or may be laid down from time to time by the Laws of Bermuda.

**4.11
Facilities for Staff and
Labour**

The Contractor shall provide such accommodation and amenities as he may consider necessary for all his expatriate staff and labour, employed for the purposes of or in connection with the Contract.

The Contractor shall comply with all local statutes and regulations and any amendments thereto with regard to the health and safety of his employees and others, and shall provide adequate latrines for his workers on the Site to conform with the requirements of the Department of Health.



4.12 Display of Notices The Contractor shall post notices to inform the workers of their conditions of work in conspicuous places at the establishments and work places concerned.

4.13 Alcoholic Liquor and Drugs The Contractor shall not, otherwise than in accordance with the Statutes, Ordinance and Government Regulations or Orders 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 sub-contractors, agents, or employees.

4.14 Arms and Ammunition 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 aforesaid.

4.15 Festivals and Religious Festivals The Contractor shall in all dealings with labour in his employment have due regard to all recognised festivals, public holidays, days of rest, and religious or other customs.

4.16 Epidemics In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders, and requirements as may be made by the Government, or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

4.17 Supply of Drinking Water The Contractor shall so far as is reasonably practicable having regard to local conditions provide on the site, to the satisfaction of the Engineer's Representative, an adequate supply of drinking water and other water for the use of the Contractor's staff and work people.

15.0 Resolution of Disputes

15.1 Delete Clause 15.1 in its entirety.



Adjudication

15.2 Notice of Dissatisfaction

This clause is deleted in its entirety and replaced by:

If a dispute arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Engineer, a notice of dissatisfaction shall be issued by either Party to the other Party. Where such notice is given both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the fifty-sixth day after the day on which notice of dissatisfaction was given, even if no attempt at an amicable settlement has been made.



**15.3
Arbitration**

This clause is deleted in its entirety and replaced by:

Unless settled amicably, any dispute shall be finally settled by arbitration, unless otherwise agreed by both Parties:

- (a) the dispute shall be finally settled in accordance with the Bermuda Arbitration Act 1986
- (b) the dispute shall be settled by arbitrators appointed in accordance with the said Act, and
- (c) the arbitration shall be conducted in the English language.

The arbitrator(s) shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, relevant to the dispute. Nothing shall disqualify the Engineer from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute.

Neither Party shall be limited in the proceedings before the arbitrator(s) to the evidence nor did arguments previously put before the Engineer to obtain his decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the Engineer shall be admissible in evidence in the arbitration.

Arbitration may be commenced prior to or after completion of the Works, by mutual agreement. The obligations of the Parties and the Engineer shall not be altered by reason of any arbitration being conducted during the progress of the Works.

B. Additional Clauses to be added to the GENERAL CONDITIONS

**16.0
Arithmetical Accuracy
of Proposal**

The Client accepts no responsibility for the arithmetical or other accuracy of the Consultant's Proposal. Should it transpire after the Agreement has been executed that there are arithmetical mistakes in the accepted Proposal which would have increased or decreased the total amount of the Proposal had such mistakes not been made, the items affected will be paid for in accordance with the actual measurements of Services performed and with the unit prices inserted against the said items.

**17.0
Taxation**

The Contractor shall be required to pay Bermudian Taxes on all Contractor's Equipment (except as described in the Fifth



Schedule, Section 2 of the Customs Tariff Act 1970) materials and other things of whatsoever nature brought into Bermuda for the purpose of Contract.

**18.0
Bribery**

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 person on his or their behalf to any officer, servant, representative, or agent of the Employer or of the Engineer or to any person on their behalf or on behalf of any of them in relation to the obtaining or to the execution of this or of any other Contract with the Employer shall in addition to any criminal liability which may be thereby incurred subject the Contractor to the cancellation of this and of all other contracts which he may have entered into with the Employer and also to the payment of any loss or damage resulting from such cancellation.

**19.0
Debt Recovery**

The Employer shall be entitled upon a certificate in writing of the Engineer to deduct the amounts so certified from any monies or otherwise due to the Contractor under this or any other contract or to recover the said amounts as a debt due or partly the one and partly the other as the Employer shall deem advisable.

**20.0
Strikes and Lock-Outs**

The Contractor shall forthwith notify the Engineer of the commencing of any strike or lock-out and the Engineer on account of any delay caused thereby may, after consultation with the Employer, grant such extension of time as he considers reasonable without prejudice to the right of the Employer to exercise after the expiration of such reasonable extension of time the rights and powers under these Conditions in case of default by the Contractor.

**21.0
Members and Staff of
Employer and Engineer
not Personally Liable**

Neither the members nor the staff of the Employer or the Engineer shall be in any way personally bound or liable for the acts or obligations of the Contractor under the Contract or answerable for any default or omission in the observance or performance of any of the acts, matters or things which are herein contained.



22.0
Details to be
Confidential

The Contractor shall treat the details of the Contract as private and confidential, save in so far as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity or disclosure for the purpose of the Contract the same shall be referred to the decision of the Employer whose award shall be final.

23.0
Rights and Remedies
Not Waived

In no event shall the making by the Employer of any payment to the Contractor constitute or be construed as a waiver by the Employer of any breach of Contract, or any default which may then exist, on the part of the Contractor, and the making of any such payment by the Employer while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the Employer in respect of such breach or default.

24.0
Patents

All concepts, products or processes produced by or resulting from the Services rendered by the Consultant in connection with the Project, or which are otherwise developed or first reduced to practice by the Consultant in the performance of his Services, and which are patentable, capable of trademark or otherwise, shall be and remain the property of the Consultant.

The Client shall have permanent non-exclusive royalty-free license to use any concept, product or process, which is patentable, capable of trademark or otherwise produced by or resulting from the Services by the Consultant in connection with the Project and for no other purpose or project.

SHORT FORM of Contract

GENERAL CONDITIONS

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FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS
INTERNATIONAL FEDERATION OF CONSULTING ENGINEERS
INTERNATIONALE VEREINIGUNG BERATENDER INGENIEURE
FEDERACION INTERNACIONAL DE INGENIEROS CONSULTORES



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General Conditions

1 General Provisions

1.1

Definitions

In the Contract as defined below, the words and expressions defined shall have the following meanings assigned to them, except where the context requires otherwise:

The Contract

1.1.1 "**Contract**" means the Agreement and the other documents listed in the Appendix.

1.1.2 "**Specification**" means the document as listed in the Appendix, including Employer's requirements in respect of design to be carried out by the Contractor, if any, and any Variation to such document.

1.1.3 "**Drawings**" means the Employer's drawings of the Works as listed in the Appendix, and any Variation to such drawings.

Persons

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

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

1.1.6 "**Party**" means either the Employer or the Contractor.

Dates, Times and Periods

1.1.7 "**Commencement Date**" means the date 14 days after the date the Agreement comes into effect or any other date agreed between the Parties.

1.1.8 "**day**" means a calendar day.

1.1.9 "**Time for Completion**" means the time for completing the Works as stated in the Appendix (or as extended under Sub-Clause 7.3), calculated from the Commencement Date.

Money and Payments

1.1.10 "**Cost**" means all expenditure properly incurred (or to be incurred) by the Contractor, whether on or off the Site, including overheads and similar charges, but does not include profit.

Other Definitions

1.1.11 "**Contractor's Equipment**" means all apparatus, machinery, vehicles, facilities and other things required for the execution of the Works but does not include Materials or Plant.

1.1.12 "**Country**" means the country in which the Site is located.

1.1.13 "**Employer's Liabilities**" means those matters listed in Sub-Clause 6.1.

1.1.14 "**Force Majeure**" means an exceptional event or circumstance: which is beyond a Party's control; which such Party could not reasonably have



provided against before entering into the Contract; which, having arisen, such Party could not reasonably have avoided or overcome; and, which is not substantially attributable to the other Party.

- 1.1.15 "**Materials**" means things of all kinds (other than Plant) intended to form or forming part of the permanent work.
- 1.1.16 "**Plant**" means the machinery and apparatus intended to form or forming part of the permanent work.
- 1.1.17 "**Site**" means the places provided by the Employer where the Works are to be executed, and any other places specified in the Contract as forming part of the Site.
- 1.1.18 "**Variation**" means a change to the Specification and /or Drawings (if any) which is instructed by the Employer under Sub-Clause 10.1.
- 1.1.19 "**Works**" means all the work and design (if any) to be performed by the Contractor including temporary work and any Variation

1.2

Interpretation

Words importing persons or parties shall include firms and organisations. Words importing singular or one gender shall include plural or the other gender where the context requires.

1.3

Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. If an ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary instructions to the Contractor, and the priority of the documents shall be in accordance with the order as listed in the Appendix.

1.4

Law

The law of the Contract is stated in the Appendix.

1.5

Communications

Wherever provision is made for the giving or issue of any notice, instruction, or other communication by any person, unless otherwise specified such communication shall be written in the language stated in the Appendix and shall not be unreasonably withheld or delayed.

1.6

Statutory Obligations

The Contractor shall comply with the laws of the countries where activities are performed. The Contractor shall give all notices and pay all fees and other charges in respect of the Works.

2 The Employer

2.1

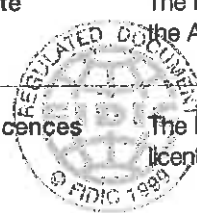
Provision of Site

The Employer shall provide the Site and right of access thereto at the times stated in the Appendix.

2.2

Permits and Licences

The Employer shall, if requested by the Contractor, assist him in applying for permits, licences or approvals which are required for the Works.



2.3
Employer's Instructions The Contractor shall comply with all instructions given by the Employer in respect of the Works including the suspension of all or part of the Works.

2.4
Approvals No approval or consent or absence of comment by the Employer or the Employer's representative shall affect the Contractor's obligations.

3 Employer's Representatives

3.1
Authorised Person One of the Employer's personnel shall have authority to act for him. This authorised person shall be as stated in the Appendix, or as otherwise notified by the Employer to the Contractor.

3.2
Employer's Representative The Employer may also appoint a firm or individual to carry out certain duties. The appointee may be named in the Appendix, or notified by the Employer to the Contractor from time to time. The Employer shall notify the Contractor of the delegated duties and authority of this Employer's representative.

4 The Contractor

4.1
General Obligations The Contractor shall carry out the Works properly and in accordance with the Contract. The Contractor shall provide all supervision, labour, Materials, Plant and Contractor's Equipment which may be required. All Materials and Plant on Site shall be deemed to be the property of the Employer.

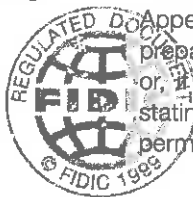
4.2
Contractor's Representative The Contractor shall submit to the Employer for consent the name and particulars of the person authorised to receive instructions on behalf of the Contractor.

4.3
Subcontracting The Contractor shall not subcontract the whole of the Works. The Contractor shall not subcontract any part of the Works without the consent of the Employer.

4.4
Performance Security If stated in the Appendix, the Contractor shall deliver to the Employer within 14 days of the Commencement Date a performance security in a form and from a third party approved by the Employer.

5 Design by Contractor

5.1
Contractor's Design The Contractor shall carry out design to the extent specified, as referred to in the Appendix. The Contractor shall promptly submit to the Employer all designs prepared by him. Within 14 days of receipt the Employer shall notify any comments or, if the design submitted is not in accordance with the Contract, shall reject it stating the reasons. The Contractor shall not construct any element of the permanent work designed by him within 14 days after the design has been



submitted to the Employer or where the design for that element has been rejected. Design that has been rejected shall be promptly amended and resubmitted. The Contractor shall resubmit all designs commented on taking these comments into account as necessary.

5.2

Responsibility for Design

The Contractor shall remain responsible for his tendered design and the design under this Clause, both of which shall be fit for the intended purposes defined in the Contract and he shall also remain responsible for any infringement of any patent or copyright in respect of the same. The Employer shall be responsible for the Specification and Drawings.

6 Employer's Liabilities

6.1

Employer's Liabilities

In this Contract, Employer's Liabilities mean :

- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies, within the Country,
- b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- c) riot, commotion or disorder by persons other than the Contractor's personnel and other employees, affecting the Site and/or the Works,
- d) 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 other hazardous properties of any explosive nuclear assembly or nuclear component of such an assembly, except to the extent to which the Contractor may be responsible for the use of any radio-active material,
- e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- f) use or occupation by the Employer of any part of the Works, except as may be specified in the Contract,
- g) design of any part of the Works by the Employer's personnel or by others for whom the Employer is responsible, and
- h) any operation of the forces of nature affecting the Site and/or the Works, which was unforeseeable or against which an experienced contractor could not reasonably have been expected to take precautions.
 - i) Force Majeure,
 - j) a suspension under Sub-Clause 2.3 unless it is attributable to the Contractor's failure,
 - k) any failure of the Employer,
 - l) physical obstructions or physical conditions other than climatic conditions, encountered on the Site during the performance of the Works, which obstructions or conditions were not reasonably foreseeable by an experienced contractor and which the Contractor immediately notified to the Employer,
 - m) any delay or disruption caused by any Variation,
 - n) any change to the law of the Contract after the date of the Contractor's offer as stated in the Agreement,
- o) losses arising out of the Employer's right to have the permanent work executed on, over, under, in or through any land, and to occupy this land for the permanent work, and
- p) damage which is an unavoidable result of the Contractor's obligations to execute the Works and to remedy any defects.



7 Time for Completion

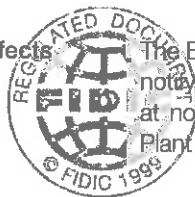
- 7.1 Execution of the Works** The Contractor shall commence the Works on the Commencement Date and shall proceed expeditiously and without delay and shall complete the Works within the Time for Completion.
- 7.2 Programme** Within the time stated in the Appendix, the Contractor shall submit to the Employer a programme for the Works in the form stated in the Appendix.
- 7.3 Extension of Time** Subject to Sub-Clause 10.3, the Contractor shall be entitled to an extension to the Time for Completion if he is or will be delayed by any of the Employer's Liabilities.
- On receipt of an application from the Contractor, the Employer shall consider all supporting details provided by the Contractor and shall extend the Time for Completion as appropriate.
- 7.4 Late Completion** If the Contractor fails to complete the Works within the Time for Completion, the Contractor's only liability to the Employer for such failure shall be to pay the amount stated in the Appendix for each day for which he fails to complete the Works.

8 Taking-Over

- 8.1 Completion** The Contractor may notify the Employer when he considers that the Works are complete.
- 8.2 Taking-Over Notice** The Employer shall notify the Contractor when he considers that the Contractor has completed the Works stating the date accordingly. Alternatively, the Employer may notify the Contractor that the Works, although not fully complete, are ready for taking over, stating the date accordingly.
- The Employer shall take over the Works upon the issue of this notice. The Contractor shall promptly complete any outstanding work and, subject to Clause 9, clear the Site.

9 Remedying Defects

- 9.1 Remedying Defects** The Employer may at any time prior to the expiry of the period stated in the Appendix, notify the Contractor of any defects or outstanding work. The Contractor shall remedy at no cost to the Employer any defects due to the Contractor's design, Materials, Plant or workmanship not being in accordance with the Contract.



The cost of remedying defects attributable to any other cause shall be valued as a Variation. Failure to remedy any defects or complete outstanding work within a reasonable time of the Employer's notice shall entitle the Employer to carry out all necessary work at the Contractor's cost.

9.2

Uncovering and Testing The Employer may give instruction as to the uncovering and/or testing of any work. Unless as a result of any uncovering and/or testing it is established that the Contractor's design, Materials, Plant or workmanship are not in accordance with the Contract, the Contractor shall be paid for such uncovering and/or testing as a Variation in accordance with Sub-Clause 10.2.

10 Variations and Claims

10.1

Right to Vary The Employer may instruct Variations.

10.2

Valuation of Variations Variations shall be valued as follows:

- a) at a lump sum price agreed between the Parties, or
- b) where appropriate, at rates in the Contract, or
- c) in the absence of appropriate rates, the rates in the Contract shall be used as the basis for valuation, or failing which
- d) at appropriate new rates, as may be agreed or which the Employer considers appropriate, or
- e) if the Employer so instructs, at daywork rates set out in the Appendix for which the Contractor shall keep records of hours of labour and Contractor's Equipment, and of Materials used.

10.3

Early Warning A Party shall notify the other as soon as he is aware of any circumstance which may delay or disrupt the Works, or which may give rise to a claim for additional payment. The Contractor shall take all reasonable steps to minimise these effects.

The Contractor's entitlement to extension to the Time for Completion or additional payment shall be limited to the time and payment which would have been due if he had given prompt notice and had taken all reasonable steps.

10.4

Right to Claim If the Contractor incurs Cost as a result of any of the Employer's Liabilities, the Contractor shall be entitled to the amount of such Cost. If as a result of any of the Employer's Liabilities, it is necessary to change the Works, this shall be dealt with as a Variation.

10.5

Variation and Claim Procedure The Contractor shall submit to the Employer an itemised make-up of the value of Variations and claims within 28 days of the instruction or of the event giving rise to the claim. The Employer shall check and if possible agree the value. In the absence of agreement, the Employer shall determine the value.



11

Contract Price and Payment

11.1

Valuation of the Works The Works shall be valued as provided for in the Appendix, subject to Clause 10.

11.2

Monthly Statements

The Contractor shall be entitled to be paid at monthly intervals:

- a) the value of the Works executed,
- b) the percentage stated in the Appendix of the value of Materials and Plant delivered to the Site at a reasonable time,

subject to any additions or deductions which may be due.

The Contractor shall submit each month to the Employer a statement showing the amounts to which he considers himself entitled.

11.3

Interim Payments

Within 28 days of delivery of each statement, the Employer shall pay to the Contractor the amount shown in the Contractor's statement less retention at the rate stated in the Appendix, and less any amount for which the Employer has specified his reasons for disagreement. The Employer shall not be bound by any sum previously considered by him to be due to the Contractor.

The Employer may withhold interim payments until he receives the performance security under Sub-Clause 4.4 (if any).

11.4

Payment of First Half of Retention

One half of the retention shall be paid by the Employer to the Contractor within 14 days after issuing the notice under Sub-Clause 8.2.

11.5

Payment of Second Half of Retention

The remainder of the retention shall be paid by the Employer to the Contractor within 14 days after either the expiry of the period stated in the Appendix, or the remedying of notified defects or the completion of outstanding work, all as referred to in Sub-Clause 9.1, whichever is the later.

11.6

Final Payment

Within 42 days of the latest of the events listed in Sub-Clause 11.5 above, the Contractor shall submit a final account to the Employer together with any documentation reasonably required to enable the Employer to ascertain the final contract value.

Within 28 days after the submission of this final account, the Employer shall pay to the Contractor any amount due. If the Employer disagrees with any part of the Contractor's final account, he shall specify his reasons for disagreement when making payment.

11.7

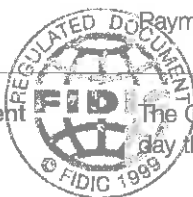
Currency

Payment shall be in the currency stated in the Appendix.

11.8

Delayed Payment

The Contractor shall be entitled to interest at the rate stated in the Appendix for each day the Employer fails to pay beyond the prescribed payment period.



12 Default

12.1

Default by Contractor

If the Contractor abandons the Works, refuses or fails to comply with a valid instruction of the Employer or fails to proceed expeditiously and without delay, or is, despite a written complaint, in breach of the Contract, the Employer may give notice referring to this Sub-Clause and stating the default.

If the Contractor has not taken all practicable steps to remedy the default within 14 days after the Contractor's receipt of the Employer's notice, the Employer may by a second notice given within a further 21 days, terminate the Contract. The Contractor shall then demobilise from the Site leaving behind Materials and Plant and any Contractor's Equipment which the Employer instructs in the second notice is to be used until the completion of the Works.

12.2

Default by Employer

If the Employer fails to pay in accordance with the Contract, or is, despite a written complaint, in breach of the Contract, the Contractor may give notice referring to this Sub-Clause and stating the default. If the default is not remedied within 7 days after the Employer's receipt of this notice, the Contractor may suspend the execution of all or parts of the Works.

If the default is not remedied within 28 days after the Employer's receipt of the Contractor's notice, the Contractor may by a second notice given within a further 21 days, terminate the Contract. The Contractor shall then demobilise from the Site.

12.3

Insolvency

If a Party is declared insolvent under any applicable law, the other Party may by notice terminate the Contract immediately. The Contractor shall then demobilise from the Site leaving behind, in the case of the Contractor's insolvency, any Contractor's Equipment which the Employer instructs in the notice is to be used until the completion of the Works.

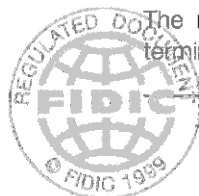
12.4

Payment upon Termination

After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by the following:

- a) any sums to which the Contractor is entitled under Sub-Clause 10.4,
- b) any sums to which the Employer is entitled,
- c) if the Employer has terminated under Sub-Clause 12.1 or 12.3, the Employer shall be entitled to a sum equivalent to 20% of the value of those parts of the Works not executed at the date of the termination,
- d) if the Contractor has terminated under Sub-Clause 12.2 or 12.3, the Contractor shall be entitled to the Cost of his suspension and demobilisation together with a sum equivalent to 10% of the value of those parts of the Works not executed at the date of termination.

The net balance due shall be paid or repaid within 28 days of the notice of termination.



13 Risk and Responsibility

13.1

Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works from the Commencement Date until the date of the Employer's notice under Sub-Clause 8.2. Responsibility shall then pass to the Employer. If any loss or damage happens to the Works during the above period, the Contractor shall rectify such loss or damage so that the Works conform with the Contract.

Unless the loss or damage happens as a result of an Employer's Liability, the Contractor shall indemnify the Employer, the Employer's contractors, agents and employees against all loss or damage happening to the Works and against all claims or expense arising out of the Works caused by a breach of the Contract, by negligence or by other default of the Contractor, his agents or employees.

13.2

Force Majeure

If a Party is or will be prevented from performing any of its obligations by Force Majeure, the Party affected shall notify the other Party immediately. If necessary, the Contractor shall suspend the execution of the Works and, to the extent agreed with the Employer, demobilise the Contractor's Equipment.

If the event continues for a period of 84 days, either Party may then give notice of termination which shall take effect 28 days after the giving of the notice.

After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by the following:

- a) any sums to which the Contractor is entitled under Sub-Clause 10.4,
- b) the Cost of his suspension and demobilisation,
- c) any sums to which the Employer is entitled.

The net balance due shall be paid or repaid within 28 days of the notice of termination.

14 Insurance

14.1

Extent of Cover

The Contractor shall, prior to commencing the Works, effect and thereafter maintain insurances in the joint names of the Parties:

- a) for loss and damage to the Works, Materials, Plant and the Contractor's Equipment,
- b) for liability of both Parties for loss, damage, death or injury to third parties or their property arising out of the Contractor's performance of the Contract, including the Contractor's liability for damage to the Employer's property other than the Works, and
- c) for liability of both Parties and of any Employer's representative for death or injury to the Contractor's personnel except to the extent that liability arises from the negligence of the Employer, any Employer's representative or their employees.



14.2
Arrangements

All insurances shall conform with any requirements detailed in the Appendix. The policies shall be issued by insurers and in terms approved by the Employer. The Contractor shall provide the Employer with evidence that any required policy is in force and that the premiums have been paid.

All payments received from insurers relating to loss or damage to the Works shall be held jointly by the Parties and used for the repair of the loss or damage or as compensation for loss or damage that is not to be repaired.

14.3
Failure to Insure

If the Contractor fails to effect or keep in force any of the insurances referred to in the previous Sub-Clauses, or fails to provide satisfactory evidence, policies or receipts, the Employer may, without prejudice to any other right or remedy, effect insurance for the cover relevant to such default and pay the premiums due and recover the same as a deduction from any other monies due to the Contractor.

15 Resolution of Disputes

15.1
Adjudication

Unless settled amicably, any dispute or difference which arises between the Contractor and the Employer out of or in connection with the Contract, including any valuation or other decision of the Employer, shall be referred by either Party to adjudication in accordance with the attached Rules for Adjudication ("the Rules"). The adjudicator shall be any person agreed by the Parties. In the event of disagreement, the adjudicator shall be appointed in accordance with the Rules.

15.2
Notice of Dissatisfaction

If a Party is dissatisfied with the decision of the adjudicator or if no decision is given within the time set out in the Rules, the Party may give notice of dissatisfaction referring to this Sub-Clause within 28 days of receipt of the decision or the expiry of the time for the decision. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties. If notice of dissatisfaction is given within the specified time, the decision shall be binding on the Parties who shall give effect to it without delay unless and until the decision of the adjudicator is revised by an arbitrator.

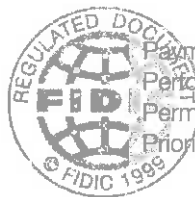
15.3
Arbitration

A dispute which has been the subject of a notice of dissatisfaction shall be finally settled by a single arbitrator under the rules specified in the Appendix. In the absence of agreement, the arbitrator shall be designated by the appointing authority specified in the Appendix. Any hearing shall be held at the place specified in the Appendix and in the language referred to in Sub-Clause 1.5.



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