**SECTION 6: CONDITIONS OF CONTRACT,**

**PARTICULAR CONDITIONS**

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| **2500 HOUSING UNITS IN HULHUMALE’ PHASE 2 PROJECT, 2016** |

**September 5, 2016**

**Public Procurement Division**

**Ministry of Finance and Treasury**

**Particular Conditions**

These “Particular Conditions” are amendments and additions to the “General Conditions” that form part of the “Conditions of Contract for EPC/Turnkey Projects” First Edition 1999 published by the Federation Internationale des Ingenieurs-Conseils (FIDIC)

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| Clause Number | Amendments and Additions |
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| GENERAL PROVISIONS |  |
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| 1.1 Definitions |  |
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| 1.1.1.4 Tender | Inserting the following words at the end of the sub-clause;  “The Word Tender is synonymous with contractor’s proposal”. |
|  | After Sub-Clause 1.1.1.5, add the following Sub-Clause: |
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| **1.1.1.6 Contractor’s Proposal** | Contractor’s Proposal means the contractor’s signed offer for the works and all other documents which the contractor submitted therewith (other than these conditions and the employer’s requirements, if so submitted) as included in the Contract. |
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| 1.1.3.9 Day | Delete Sub-Clause 1.1.3.9 and substitute:  Day means a calendar day, week means 7 consecutive days and year means 365 consecutive days. |
|  | After Sub-Clause 1.1.3.9, add the following Sub-Clause |
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| **1.1.3.10 Effective Date of Contract Agreement** | Effective Date of Contract Agreement means the date on which the Contract Agreement comes into force and effect. |
|  | After Sub-Clause 1.1.5.8, add the following Sub-Clause: |
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| **1.1.5.9 Project** | Project means the housing project - Construction of Two thousand and five Hunred Housing Units in Hulhumale’ Phase 2, of Maldives, including the Permanent Works and the Temporary Works, or either of them as appropriate, in the Republic of Maldives. The Housing units are 2 Bedroom 2 toilets (attached), with area of 550 square feet. The Height of the buildings constructed is 10-15 floors. |
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| **1.1.5.10 Service** | Service means engineering survey, design, drawing, logistics, shipping, civil work construction, installation, testing, and guarantees after taking over, remedying of any defects, training, superintendence, maintenance support and other services as provided by the Contactor according to the Contract. |
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| **1.1.6.2 Country** | Delete Sub-Clause 1.1.6.2 and substitute:  Countrymeans the Republic of Maldives in which the Sites are located, where the Permanent Works are to be executed. |
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| **1.1.6.7 Site** | Delete Sub-clause 1.1.6.7 and substitute:  Site means the Hulhumale’ Second Phase where the permanent works to be executed and to which Plant and Materials are to be delivered. |
|  | After Sub-Clause 1.1.6.8, add the following Sub-Clause: |
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| **1.1.6.9 Loan agreement** | Loan agreement means the financial agreement between the Employer and ………………………………… |
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| **1.1.6.10 Local Taxes/Charges** | Local Taxes/Charges means Customs Duties and levies, Taxes, the charges on right of way, compensation of acquisition of land and sea area and any other statutory taxes/charges levied inside the territory of the Republic of Maldives in accordance with the laws and regulations of the Country. |
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| **1.1.6.11 Shipping Documents** | Shipping Documents means manually signed Invoice, Packing List, Bill of Lading or Airway Bill (as the case may be), Certificate of Origin, Insurance Policy and Inspection Certificate. |
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| **1.1.6.12 Conceptual Design** | Conceptual Design means the design provided by the Contractor and approved by the Employer. |
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| **1.1.6.13 Basic Design** | Basic Design means the design to be materialized by the Contractor after the Site investigation, based on the Conceptual Design, and submitted for the approval by the Employer. (architectural, structural, Mechanical and Electrical (M&E) etc.) |
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| **1.1.6.14 Detail Design** | Detail Design means the final design, developed by the Contractor on the basis of the approved Basic Design, to be used for the construction work. |
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| **1.1.6.15 Master List** | Master List means the final list of construction material, equipment, and machinery, to be imported for the execution of this Project approved by the Employer and eligible for exemption of Duty under Sub-Clause 2.6. |
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| **1.1.6.16 Priced Bill of Quantities** | Priced Bill of Quantitiesmeans the tables attached in Annex 1 of Particular Conditions of Contract. |
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| **1.1.6.17**  **Design stage** | Amend by inserting the following new sub clause at the end of sub clause 1.1.6.8  **Design Stage** means the “Design Stage” referred in the Employer’s Requirement. |
| **1.1.6.18**  **Construction Stage** | Amend by inserting the following new sub clause at the end of sub clause 1.1.6.8  **Construction Stage** means the “Construction Stage” referred in the Employer’s Requirement. The word “Construction stage” is synonymous with the word “Execution” in the contract where appropriate. |
| **1.1.6.19**  **Maintenance Stage** | Amend by inserting the following new sub clause at the end of sub clause 1.1.6.8  **Maintenance Stage** means the “Maintenance Stage” referred in the Employer’s Requirement. The “Maintenance Stage” is synonymous with the word “Defects Notification Period” in the contract. |
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| 1.3 Communications | Add the following at the end of Sub-Clause 1.3 |
|  | All notices and any other writings in connection with this Contract shall be written in English and sent by registered mail, E-mail, fax, cable, hand over or telex immediately confirmed in writing to the following address:  The Employer: Housing Development Corporation Limited  Postal Address: HDC Building, 3rd Floor, Hulhumale’, Republic of Maldives  Attention: Mohamed Saiman  Telephone No: +960 3353535  Facsimile: +960 3358892 |
|  | The Contractor:……………………………………………  Postal Address: ……………………………………………….  Attention: ……………………………………………….  Telephone No.: …………………………………………. |
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| Law and Language | Delete the first and second Sub-paragraph of Sub-Clause 1.4 and substitute:  The Contract shall be governed by and construed in accordance with laws of the Republic of Maldives.  The language for communication shall be the English Language. |
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| Priority of Documents | Delete Sub-Clause 1.5 and substitute:  The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:  I. The Contract Agreement  II. Particular Conditions of Contract including Appendices  III. General Conditions of Contract  IV The Employer’s requirement (Annexed with the Appendices)  V Schedule of payment (Annexed with the Appendices)  VI Contractor’s Proposal (Annexed with the Appendices)  VII Technical specification  If any discrepancy or contradiction occurs between the documents, the latest amendment and addendum shall supersede the previous document. |
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| 1. **The Employer** |  |
| * 1. **Right of Access to the Site** | Delete last sentence of first Sub-paragraph of Sub-Clause 2.1.  Add following to the end of the Sub Clause:  The Contractor shall submit all details including survey plans showing boundaries and extent of land to be used as Sites for the purpose of the Works within 30 Days after the Contract Agreement is signed in order to enable timely allocation of such land by the Employer.  The Employer shall, within Forty two (42) days after the signing of Contract Agreement, give to the Contractor, free of any charge, tax, duty or fee, fully and timely right of access to and possession of the Site. The Employer shall ensure that the Sites are clear from any third party rights, landmines. The Employer shall indemnify the Contractor against any third party claim of any kind in such area.  The Employer shall provide the Contractor, free of any charge, tax, duty or fee, with full right of access and use of land in all designated sites for the purposes of building, offices, living quarters, storage for materials and equipment, laboratories, workshops for the need of the Contractor’s staffs and employees. The area of such land shall be agreed upon by Contractor and Employer 56 days prior to Commencement Date. The Employer shall ensure that there shall be no third party claims or infringements in relation to such land. The Employer shall provide necessary assistance in getting off-site land when the Contractor is required. |
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| * 1. **Permits, Licenses or Approvals** | Add following to the end of the Sub Clause:  Obtaining of Environmental Impact Assessment Decision Statement required for carrying out the construction work in the Project Site will be the responsibility of the Contractor.  At the end of Sub-Clauses 2.5, add the following new Sub-Clauses: |
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| **2.6 Local Taxes/Charges and Other Charges** | The employer shall (where he is in a position to do so) provide reasonable assistance and facilitate (by providing required documents) in obtaining exemptions for all import duties and Local Taxes/Charges duties payable under Sub-clause 1.1.6.10 from the relevant authorities upon the request of the contractor.  The Contractor shall submit all the shipping documents to the Employer for the latter making the payment of duties, taxes and charges in time. An advance notice of the shipment shall be received by the Employer from the Contractor ten (14) days before shipment, including the name of the item, packing list, CIF Values and tentative date of shipment. The Contractor shall submit to the Employer for approval a Master List of all construction material, equipment, and machinery to be imported for the execution of this Contract, 45 days after the date of approval of Basic Design. Employer shall approve the list submitted by the Contractor after review within 14 days of submission. Exemption of local taxes, charges and other charges shall not be issued to any additional material, equipment, and machinery not included in this Master List. |
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| 1. **The Employer’s Administration** | At the end of Sub-Clause 3.5, add new Sub-Clause: |
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| **3.6 Management Meetings** | The Employer shall invite the Contractor and other relevant parties to the first Management Meeting where he shall decide upon intervals between future Management Meetings.  The purpose of these Management Meetings is to coordinate the Works with the Contractor, (and other parties if deemed necessary) to record progress in relation to agreed program, and to reach and verify agreements.  Minutes of each Management Meeting will be prepared by the Employer and circulated to all parties attending the Management Meeting, prior to the next meeting. Agreements reached at a particular Management Meeting if duly recorded and confirmed at the next meeting will be considered accepted by all parties.  Agreement reached at meetings shall not be means to override the requirements to follow stipulated procedure and to submit the required quality assurance documents, method statements, shop drawings etc. |
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| **4. The Contractor** |  |
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| **4.2 Performance Security** | Delete the second Sub-paragraph of Sub-Clause 4.2 and substitute:  The Contractor shall provide the Employer with a Performance Security issued by their Bank or Financing Agency in the form provided in Appendix No. 2 “Form of Performance Security” in the amount of five percent (5%) of the total Contract Price.  The Performance Security shall be issued within twenty eight (28) days from the Effective Date of the Loan Agreement and valid up to twenty eight (28) days after the Contractor has become entitled to receive the Performance Certificate. |
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| **4.3 Contractor’s Representative** | Delete the third Sub-paragraph of Sub-Clause 4.3 and substitute with following:  The Contractor shall notify the Employer if the appointment of the Contractor’s Representative is revoked or appointed a replacement by the Contractor.  At the end of last Sub-paragraph of Sub-Clause 4.3, add:  Otherwise the Contractor shall make a competent interpreter available, at the Contractor's own cost, during all working hours. |
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| **4.4 Subcontractors** | Delete the second sentence of the second Sub-paragraph and Sub-paragraph (a) (b) (c) of Sub-Clause 4.4. |
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| **4.5 Nominated Subcontractors** | Delete Sub-Clause 4.5. |
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| **4.10 Site Data** | Insert the following sentence at the end of the first Sub-paragraph of Sub-Clause 4.10:  The data/information shall also include but not be limited to:   1. The diagram of existing underground networks pertaining to the electricity, gas, water and sewerage facilities existing in the working area. 2. And any other things/data/help/information and necessary requirement from time to time for implementation of the project. |
| **4.12 Unforeseeable Difficulties** | Insert Sub-Clause 4.12 following words at the end of this sub-clause:  In this Sub-Clause, “Physical Conditions” means natural physical conditions or man-made or other physical obstructions and pollutants, which the Contractor encounters within the Site when executing the Works, including underground, underwater and/or hydrological conditions.  If the Contractor encounters adverse Physical Conditions which a third party considers to have been unforeseeable, the Contractor shall give notice to the Employer and apply for Variations subject to Clause 13 [Variations and Adjustments] as soon as practicable.  This notice shall describe the Physical Conditions, so that they can be inspected by the Employer, 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 Employer may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply. |
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| **4.13 Rights of Way and Facilities** | Add the following at the end of Sub-Clause 4.13:  The Contractor shall be responsible for getting the temporary access to the work site. The Employer shall where necessary provide assistance according to Sub-Clause 2.2. |
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| **4.15 Access Route** | Insert “Employer” after “and” in the second sentence of Sub-paragraph (b) of Sub-Clause 4.15. |
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| **4.16 Transport of Goods** | At the end of Sub-Clause 4.16, add:  The Contractor shall deliver to the Employer the Shipping Documents pertaining to any consignment of imported Plant and Materials and shall supply three (3) copies thereof to the Employer prior to the arrival of the vessel or aircraft carrying each such consignment. Each consignment shall be clearly marked as under:  Consignee:  Contract No.  Date:  Contents: (as the case may be)  The Plant and Materials shall be delivered to the main or closest port/airport of the Country in accordance with the CIF term of INCOTERMS of the International Chamber of Commerce (2000).  The Contractor shall be entitled to transport at his discretion, his materials and equipment from the Port to each site, if required between sites during all day and night hours, subject to prevailing Statutory or local regulations in the Country. |
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| **4.18 Protection of the Environment** | Delete “shall not exceed the values indicated in the Employer’s Requirements, and” on the third line of the second Sub-paragraph of Sub-Clause 4.18.  Add to the end of this clause “The Contractor shall carry out any mitigation measures or activities outlined in the Environmental Impact Assessment Decision Statement Report, if any, and submit reports accordingly during construction stage”. |
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| **4.19 Electricity, Water and Gas** | Delete Sub-Clause 4.19 and Substitute;  The contractor shall be responsible for the provision of all power, water and other services he may require. For the avoidance of doubt, the Contractor shall, at his risk and cost, provide any apparatus necessary for supplying and/or using electricity, water, gas and other services on the site and shall bear all expenses of quantities consumed.  At the end of Sub-Clause 4.19, add:  The Employer shall provide access roads to all the sites before the Commencement Date. |
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| **4.21 Progress Reports** | Delete “six” on the second line of the first Sub-paragraph of Sub-Clause 4.21 and substitute “four”.  Add the following sentence at the end of third Sub-paragraph:  The format of the monthly progress report shall be agreed between both Parties. |
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| **5. Design** |  |
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| **5.1 General Design Obligations** | Add the following paragraph at the end of this Sub-Clause:  The Contractor shall develop the Conceptual Design and complete the Basic Design and Detail Design of the Project after further site investigations. It is agreed the Basic Design and Detail Design may differ from the Conceptual Design after considering the actual Site data. |
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| **5.6 As-Built Documents** | Delete the first sentence of the third Sub-paragraph of Sub-Clause 5.6 and Substitute:  Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Employer six (6) hard copies and two (2) electronic copies of the relevant as-built drawings. |
| **5.9.** Completion of Design Stage | Amend by inserting the following words at the end of the Sub-Clause: Any Contractor’s Documents related to the Design Stage shall not be considered to have been completed until the Employer has issued Approval for such documents. The Design Stage shall not be considered to have been completed until the Employer has issued Approval for all Contractors’ documents related to Design stage mentioned in the Employer’s Requirement. |
| **6. Staff and Labor** |  |
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| **6.1 Engagement of Staff and Labor** | At the end of Sub-Clause 6.1, add:  The Employer shall assist the Contractor to obtain any and all visas, working permits and/or residence permits as required for each of the Contractor’s personnel. |
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| **6.5 Working Hours** | At the end of sub-paragraph (a), add the following:  The Contractor may arrange working hours that the Contractor may deem suitable to execution of the Works. Due Consideration shall be given to mandatory labor regulations on working hours of the local personnel employed by the Contractor. The Contractor shall in all dealing with its staff and labor have due regard to all recognized festivals, days of rest and religious and other local customs. If any necessary, the Employer will provide reasonable assistance for obtaining the permits for the Contractor to organize rotations of local employees in two or more shifts per day to ensure the timely completion of the Works. |
| **6.7** Health and Safety | Amend by inserting the following new paragraphs between the first and second paragraphs of the Sub-Clause:  “The Contractor shall at all times take the necessary precautions to protect all staff and labour employed on the Site from nuisance by insects, rats, and other pests and reduce their danger to health. The Contractor shall provide suitable prophylactics for the Contractor’s Personnel for the prevention of malaria, and shall take steps to prevent the formation of stagnant pools of water. The Contractor shall comply with all the regulations of the local health authorities in these respects and shall in particular arrange to spray thoroughly with approved insecticide all buildings erected on the Site. Such treatment shall be carried periodically as instructed by the Engineer. 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 Employer’s Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.” |
| **6.12** Alcoholic Liquor or Drugs | Amend by inserting the following new Sub-Clause: “The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal by Contractor’s Personnel.” |
| **6.13** Arms and Ammunition | Amend by inserting the following new Sub-Clause: “The Contractor shall not give, barter, or otherwise dispose of to any person, any arms or ammunition of any kind or allow Contractor’s Personnel to do so.” |
| **6.14** Burial of the Dead | Amend by inserting the following new Sub-Clause: “In the event of the death of any of the imported Contractor’s Personnel or members of their families, the Contractor shall be responsible for making the appropriate arrangements for their repatriation to the place where they were originally recruited from or to their domicile or to any other place as required for burial. The Contractor shall also be responsible, to the extent required by any Laws, for making arrangements for burial of any of his local Personnel who may die whilst engaged upon the Works.” |
| **7. Plant, Materials and Workmanship** |  |
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| **7.4 Testing** | At the end of Sub-Clause 7.4 add:  Contractor shall give not less than fourteen (14) days’ notice of the Contractor’s intention to carry out tests, notifying the time and place. If the tests are to be carried out outside the Country, then period of notice shall not be less than 21 days. |
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| **7.9 Sea Sand** | If necessary, the Contractor can use sea sand for the cement block manufacturing only. |
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| 1. **Commencement, Delays and Suspension** |  |
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| **8.1 Commencement of Work** | Delete the Sub-paragraph (a) and (b) of first sentence and substitute:  The Commencement Date is the date on which the following cumulative conditions are met:   1. The Contractor has received the confirmation in writing from the Employer that the Contractor is being granted immediate access to such Sites without any restriction according to the Contract. 2. 14 days after the loan agreements have come into effect.   The latest accomplishment date of the item mentioned above shall be the Commencement Date of the Works. It will be confirmed by both Parties in writing. |
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| **8.2 Time for Completion** | Delete the first sentence of Sub-Clause 8.2 and substitute:  The Time for Completion shall be within a period of 730 (Seven Hundred and Thirty) days from the Commencement Date unless extension of time is allowed as per Sub-Clause 8.4 [Extension of Time for Completion] or Sub-Clause 13 [Variations and Adjustments]. |
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| **8.5 Delay Caused by Authorities** | Delete “by the date for submission of the Tender” and substitute “by the Base Date” on the second line of Sub-paragraph (c) of Sub-Clause 8.5. |
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| **8.7 Delay Damages** | 1. Delay damages shall be zero point zero one percent (0.01%) of the Contract Price per day 2. Maximum amount of delay damages shall be five percent (5%) of the Contract Price. |
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| **13.8 Adjustments for Changes in Costs** | Delete the Sub-Clause 13.8 and substitute:  No price adjustments shall be applicable to the Contract. |
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| **14. Contract Price and Payment** |  |
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| **14.1 The Contract Price** | Delete Sub-Clause 14.1 and substitute:  Notwithstanding any other provisions in these Conditions:   1. Payment for the Works shall be made on the basis of the Accepted Contract Price, subject to adjustments in accordance with the Contract. 2. The Contract Price may be adjusted only in case of a significant change/variation subject to Sub-Clause 4.12 [Unforeseeable Difficulties] and Clause 13 [Variations and Adjustments]. 3. When making the payments, all the banking charges incurred by the Employer in the Country will be borne by the Employer while all the banking charges outside the Country will be borne by the Contractor. |
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| **14.2**  **Advance payment** | Delete the first paragraph of this sub clause and replace with the following words  The Employer shall make an advance payment, as an interest-free loan for mobilization and design, in accordance to this sub clause including the details stated in particular conditions. |
| **14.2**  **Advance payment** | Delete the last sentence of the first paragraph, (a), (b) and (c) add the following and end of the first paragraph.   1. Advance payment shall be 15% from the Contract price, 2. Advance payment will be paid in currencies applicable to contract. 3. Advance payment will be recovered from each interim claims of the contractor at the rate of 15%.” |
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| **14.4**  **Schedule of Payments** | The contract price shall be paid in accordance to the schedule of payment which the contractor proposes along with the Letter of Tender. |
| **14.9 Payment of Retention Money** | The percentage of retention shall be five percent (5%) of each Interim Payment, subject furthermore to a maximum aggregate ceiling of five percent (5%) of the Contract Price, half of which will be released after the certificate of take-over, the balance will be released one week after the defection period.  Add the following words at the end of the Sub-clause 14.9:  When the Taking-Over Certificate has been issued for the whole Works, the Employer shall make payment of 100% of the second half of Retention Money to the Contractor if he obtains a guarantee, in a form and provided by an entity approved by the Employer, in amounts and currencies equal to the payment.  The Contractor shall ensure that the guarantee is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security in Sub-Clause 4.2, and shall be returned to the Contractor accordingly. |
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| **14.15 Currencies of Payment** | Retain 1st sentence of Sub-Clause 14.15 and delete from “Unless otherwise …” onwards.  Insert the following;  The currencies of payment are USD. |
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| **15 Termination by Employer** | Add the following Sub-clause at the end of this clause: |
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| **15.6 Termination for Convenience** | The Employer has the right to terminate this Contract in the event that an agreement is not reached between Employer and the banks to finance the Project, for an amount covering the cost of Project at an interest rate and repayment terms that the Employer deem acceptable within Thirty (30) calendar days from the date of execution of the Contract Agreement. Either party may request in writing to extend this duration prior to the expiration of this period and receive acceptance by the other Party for such extensions. If there is evidence after this date that the loan agreement cannot be reached between the parties, then this Contract can be terminated by an agreement between the two Parties. |
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| **17. Risk and Responsibility** |  |
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| **17.6 Limitation of Liability** | The total liability of the Contractor to the Employer shall not exceed Five percent (5%) of the Contract Price stated in the Contract Agreement. |
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| **18. Insurance** |  |
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| **18.2Insurance for Works and Contractor’s Equipment** | The deductible amount per occurrence shall not exceed US Dollars Ten Thousand only (USD10,000) mentioned under section (d) of this Sub-Clause. |
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| **18.3 Insurance against Injury to Persons and Damage to Property** | The amount of insurance against third party liability taken out by the Contractor shall not be less than US Dollars Two Hundred Thousand only (USD200,000) per occurrence. |
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| **20. Claims, Disputes and Arbitration** |  |
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| **20.6 Arbitration** | Delete Sub-Clause 20.6, and substitute:  Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall, unless settled amicably, be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.  The language of the arbitration shall be English.  The Parties also waive irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority, insofar as such waiver may be validly made.  The Arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of (or on behalf of) the Employer, and any decision of the Adjudicator or Dispute Adjudication Board, relevant to the dispute.  Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the Adjudicator or Dispute Adjudication Board to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. |
|  | After Clause 20, add the following new Clause: |
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| **21. Customs and Duties** |  |
| **21.1 Customs and other Import Duties in the Country** | **(a) Plant and Materials for the Works**  Subject to Sub-Clause 2.6, Contractor will be exempt from paying any customs duties and taxes levied in the Country on materials, tools, machinery and other similar equipment to be incorporated in the Works and goods for exclusive use in the execution of the project, as per the approved Master List.  The Contractor will be required to complete the customs entry forms in respect of all consignments and obtain from the Employer a certificate that the goods are for exclusive use in the execution of the Works.  The Contractor shall also, in respect of all Plant, materials, Contractor’s Equipment and other things, to be re-exported out of the Country, before their removal from the Site, complete all necessary customs documents and comply with all customs, export and exchange formalities as a precedent to the granting by the Employer of consent to their removal.  **(b) Disposal of Contractor’s Equipment, etc. Not Re-exported**  After the Contractor receives the necessary authority from the Employer for such disposal, the amount payable to the Employer with regard to the custom duties paid by the Employer shall be assessed in the manner and at the rates applicable at the time of disposal. Before disposals of any of these items to others, they shall first be offered to the Employer.  The contractor and his personnel shall comply with the regulations of the Country which may be issued from time to time relating to the disposal of items. |
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| 21.2 Duty-Free Vehicles/ Vessels | The Contractor shall import vehicles on duty-free basis on receiving such approval from the Employer**.** The Contractor shall import the following duty-free vehicles/vessels for the use of the Employer and the Contractor for the Project.  The Contractor will be required to complete the customs entry forms in respect of the imported motor vehicles. Contractor may have to obtain from the Employer a certificate to the effect that the motor vehicles are for the use of the personnel of the Contractor and required for the Project. |
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| **22. Contractor's Surplus Material** | Upon completion of the Defects Notification Period, the Contractor's unused surplus materials shall be handed over to the Employer at a fair price if the Employer is willing to buy. Otherwise the Contractor shall sell the surplus materials to a third Party and should reimburse the Employer’s cost incurred in custom and other import duties. |
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| **23. The Waiver of Immunity** | The Employer hereby irrevocably and unconditionally waives any right to claim immunity (whether characterized as sovereign immunity or otherwise) in respect of itself or any of its property or assets, including immunity from jurisdiction, immunity from attachment prior to entry of judgment, immunity of attachment in aid of execution of judgment, and immunity from execution of judgment all in respect of any legal suit, action or proceeding arising out of or relating to this Contract. In addition, the Employer agrees that any such suit, action or proceeding may be instituted in the competent courts or before the Singapore International Arbitration Centre, and irrevocably and unconditionally submits to the jurisdiction of any such court for such purpose. |