

**Kingdom of Saudi Arabia**

**Ministry of Finance**

(279)

Legal Department

Public Works Contract Form

Pursuant to Council of Ministers Decision

No. 136, dated 13/06/1408H

and in accordance with the provisions of the Amendments' Annex issued by the Ministry of Finance's Telegram Circulation No. 42/25517 dated 28/03/1428H.

**In the name of Allah the Merciful and Compassionate**

**Public Works Contract**

**Section One**

**Basic Contract Document**

The following has been agreed upon in the city of \_\_\_\_\_, on \_\_\_\_\_, dated \_\_\_/\_\_\_/\_\_\_, between:

First: [Name of Ministry or administrative body], represented by \_\_\_\_\_, hereinafter referred to as the Employer (**First Party**)

Second: [Name of the Contractor, place of corporation if it is a company, permanent address, and address in the Kingdom, as well as the name of the person authorized to sign on its behalf and the number and date of the authorization granted thereto to sign the current agreement] hereinafter referred to as the Contractor (**Second Party**)

Whereas the Employer wishes to complete (provide a brief description of the project or construction works to be agreed upon).

Whereas the Contractor has submitted its bid for carrying out, executing, completing, and maintaining such works, after reviewing the Contract's terms, specifications, plans, and all the documents attached thereto, as well as the Law of Government Procurement and Execution of its Projects and Works issued by Royal Decree No. M/14 dated 07/04/1397H and its Implementing Regulations.

Whereas the bid submitted by the Contractor has been accompanied by the acceptance of the Employer, the abovementioned Parties have agreed to the following:

**Article 1: Purpose of Contract:**

The purpose of this Contract is \_\_\_\_\_

This shall include the provision of material, equipment, workers, and all items necessary for

the execution, completion, and maintenance of the works set forth in the Contract, as well as temporary, additional, and supplementary works and modifications required by the Employer from the Contractor in accordance with the terms and conditions of the Contract.

**Article 2: Contract Documents:**

- 2.1 This Contract shall consist of the following documents:
- A. Basic contract document and the Amendments' Annex issued by the Ministry of Finance's Telegram Circulation No. 42/25517 dated 28/03/1428H
  - B. Special conditions (if any)
  - C. General conditions
  - D. Special specifications (if any)
  - E. Plans and drawings
  - F. General specifications
  - G. Bill of quantities and price categories
  - H. Letter of award or bid acceptance
- 2.2 These documents constitute an integral unit and each document shall be regarded part of the Contract so that the above are interpreted and complement each other.
- 2.3 If the provisions and documents of the Contract contradict, prevalence of documents shall be determined by the order in which they occur in Paragraph 2.1 above.

**Article 3: Contract Term:**

- 3.1 The Contractor shall undertake to execute and complete all works specified in the Contract within a period of [Contract term shall be written in days, in number and letter form].

This includes the processing period. This term shall apply from the date the work site is handed over to the Contractor, subject to written minutes signed by the Engineer and the Contractor.

- 3.2 If the Contractor fails to execute the works within the term indicated in the preceding paragraph, he shall be subject to the fine stipulated in Article 39 of the Contract's General Conditions, in addition to the costs and fees of the supervisor as stipulated in Article 40.

**Article 4: Guarantee Term of Works:**

The Contractor shall fully guarantee the works stipulated for in the Contract for a period commencing from the date of initial acceptance and ending with the final acceptance, subject to the details specified in Article 41 of the General Conditions of this Contract.

**Article 5: Contract Value:**

- 5.1 The total value of the Contract shall be SR [insert value in numbers and letters] in exchange for execution in accordance with the conditions, specifications, plans, list of quantities, and other Contract documents.
- 5.2 The total value of the Contract shall be subject to increases and decreases in accordance with the quantities of actual work performed by the Contractor based on the Contract and pursuant to additional and supplementary works and modifications made at the request of the Employer within the limits provided for in the terms of the Contract.

**Article 6: Payment:**

The Employer shall pay the value of the Contract in the manner and at the times specified in the Contract's General Conditions in exchange for the execution and completion of stipulated works by the Contractor.

**Article 7:**

Without prejudice to the provisions of other laws, the Contractor acknowledges that he has not paid any sums nor has he provided any other benefit or promised to do the same in order to secure this Contract. If proven otherwise, paid or promised values shall be deducted from any entitlements to the Contractor, in addition the Employer retains the right to cancel the Contract without any compensation. Further, the Contractor and his employees shall be responsible for such actions.

**Article 8: Contract Regulations:**

This Contract shall be subject to the laws of the Kingdom of Saudi Arabia and it shall be interpreted, executed, and adjudged if disputes arise thereunder. In confirmation of the stipulations above, both Parties have signed this document at the abovementioned time and location.

**Second Party**

Name:

Title:

Signature:

**First Party**

Name:

Title:

Signature:

## **Section Two**

### **(General Conditions)**

#### **Article 1: Definitions and Interpretations:**

**First:** The following terms and phrases shall have the meanings assigned thereto, unless explicitly stated in the text or the context requires otherwise:

#### **A) Employer (First Party):**

The ministry or administrative body that requested the submission of bids for the execution of (works), which hires the Contractor or any other body assigned to supervise works.

#### **B) Contractor (Second Party):**

The natural or legal person(s) whose bid is accepted by the Employer, including their representatives, successors, and replacements, with the consent of the Administration.

#### **C) Engineer:**

The natural or legal person appointed at any time by the Employer to supervise the execution of the Contract.

#### **D) Engineer's representative:**

Any resident engineer or works controller appointed by the Employer or the Engineer, from time to time, to perform the duties provided for in Article 2 of these Conditions within the limits of the powers notified in writing by the Employer or the Engineer to the Contractor.

#### **E) Works:**

All actions to be performed under the Contract.

#### **F) Temporary works:**

All works of any kind that are not permanent and which can be removed, replaced, or canceled during or after the execution of works.

#### **G) Construction equipment:**

The machines, tools, and everything that is needed for the execution of permanent or temporary works, excluding material or objects allocated as part of permanent works.

#### **H) Plans:**

The plans referred to in the Contract or any modifications thereto which the Contractor is assigned to perform in writing from time to time.

#### **I) Site:**

The lands and locations on, under, or through which works shall be carried out and any land or other places provided by the Employer for the purposes of the Contract, as well as any other places specified in the Contract as part of the site.

#### **J) Approval:**

Written consent, including written assurances subsequent to any prior oral approvals.

**Second: Vocabulary and Plurals:**

Singular vocabulary items shall have the same references as their plural forms, and vice versa if the text so requires.

**Third: Headings and Footnotes:**

Headings and footnotes in the Contract shall not be considered part of the Contract and shall not be taken into account in its interpretation.

**Article 2: The Engineer:**

**Powers of the Engineer:**

The powers of the Engineer are to observe, monitor, inspect, and test any material used or method implemented in the execution of works. The Engineer shall not be authorized to exempt the Contractor from any of his duties or obligations under the Contract nor shall he issue instructions to take any action that may result in delaying or increasing the Employer's financial obligations. Further, the Engineer shall not undertake any changes in works, unless the same is explicitly provided for in the Contract.

The Engineer may, from time to time, authorize his representative in writing to exercise any of his powers and authorities, provided that a copy of the written authorization is submitted to the Contractor. Written instructions and approvals issued by the Engineer's representative to the Contractor within the limits of his mandate shall be binding to the Contractor as well as the Employer as if issued by the Engineer himself, always taking the following into account:

- (A) Failure on the part of the Engineer's representative to refuse or accept any work or material shall not affect the authority of the Engineer who is subsequently entitled to refuse such work or material and order the demolition or removal thereof.
- (B) In case the Contractor is not satisfied with any decision taken by the Engineer's representative, the Contractor shall have the right to refer the matter to the Engineer, who, in this case, shall be entitled to endorse, revoke, or amend said decision.

**Article 3: Assignment to Other Parties:**

The Contractor shall not be entitled to assign the Contract, any part thereof, or any profit or interest arising therefrom to a third party, without obtaining the Employer's prior written consent. Nevertheless, the Contractor shall remain liable to the Employer, in solidarity with the assignee, upon execution of the Contract.

**Article 4: Subcontracting:**

The Contractor shall not be entitled to subcontract the execution of all works under the Contract, and unless the Contract provides otherwise, the Contractor shall not be entitled to subcontract to perform part of the works without obtaining the Employer's prior written

consent. However, such consent does not exempt the Contractor from any liabilities and obligations assigned to the same in the Contract, and the Contractor shall remain liable for any conduct, error, or negligence committed by any subcontractor, or by the Contractor's agents, employees, or workers, as if such conduct, error, or negligence is committed by the Contractor himself or his agents, employees, or workers. Employment contracts concluded by the Contractor for the purpose of executing certain tasks shall not be considered a subcontract under this Article.

**Article 5: Scope of Contract:**

The Contract shall be inclusive of the following:

- A. Execution, completion, and maintenance of works
- B. Provision of workers, material, construction equipment, and temporary works, unless otherwise provided for
- C. Anything else, whether of a permanent or temporary nature, since it is explicitly stated in the Contract or can be inferred from the same that such a need is necessary

**Article 6: Contract Language:**

- A. The Arabic language shall be the language adopted in the interpretation and execution of this Contract. However, both Parties may use any foreign languages in writing the Contract or part of it in addition to the Arabic language. If there is a conflict between the Arabic and foreign text, the Arabic text shall prevail. Further, the Arabic text shall be referred to in terms of specifications and plans.
- B. Correspondence relating to this Contract shall be in Arabic. However, the Contractor may use a foreign language and translate it at his expense into Arabic. The Arabic text shall prevail if there are any discrepancies.

**Article 7: Keeping Copies of Plans:**

**First:** The Engineer shall keep copies of plans and specifications provided that he shall provide the Contractor with free copies thereof. The Contractor shall then bear the expenses and costs of preparing any additional copies he may require to perform his job. Upon completion of the Contract, the Contractor shall return to the Engineer all the plans delivered to him.

The Contractor shall also submit a prior written notice to the Engineer or the Engineer's representative indicating the need for additional copies of the plans or specifications required to execute works.

**Second:** The Contractor shall undertake to keep, at the work site, a copy of the plans submitted to him, which shall be ready and available at all suitable times for inspection and use by the Engineer, the Engineer's representative, or any other person authorized in writing by the Engineer or the Employer.

## **Article 8:**

Subject to the provisions of Article 2, the Engineer shall have complete power and authority to provide the Contractor, from time to time during the execution of the Contract, with any other plans or instructions necessary for the fulfillment of his obligations in a sound and proper manner. The Contractor shall execute and comply with such plans and instructions. If such plans or instructions stipule increasing the quantities prescribed, or decreasing or changing the material and type thereof, resulting in an increase or decrease in prices, the same shall be submitted to the Employer for approval if they have similar prices in price categories, or as agreed upon between the Employer, the Engineer, and the Contractor.

## **General Obligations**

### **Article 9: Execution Bond:**

**First:** The Contractor shall submit to the Employer, within ten days from the date of being notified of the acceptance of his bid via a registered letter, a guarantee of five percent (5%) of the value of the bid as a guarantee for Contract execution. The Employer may grant the Contractor an additional period of ten days from the expiry of the abovementioned term.

This guarantee must be irrevocable and enforceable throughout the Contract term until final acceptance.

**Second:** The guarantee ...

(The guarantee must be stipulated for by law and in accordance with the wording agreed upon by the Ministry of Finance and National Economy and the Saudi Arabian Monetary Agency).

**Third:** If the Contractor, whose bid is accepted, fails to provide the required guarantee, the Employer shall either withdraw his acceptance of the bid and confiscate the temporary guarantee or execute the works at the Contractor's expense, in accordance with the provisions of Article 53 of these Conditions, without the need for any warning or notice and without prejudice to the Employer's right to pay the Contractor the necessary compensation for damages and losses that may be incurred as a result thereof.

### **Article 10: Site Inspection:**

- 10.1 The Contractor shall, at his own expense, inspect the site and its surroundings, so as to orient himself before submitting the bid with the shape of the site and the nature of the soil thereof by inserting the probes and digging the holes that enable him to do so. The Contractor shall also review the amount of work, its nature, and the material necessary to complete the same, as well as the means to access the site and the facilities required. Generally, the Contractor shall obtain on his own any necessary information and other factors that may affect the bid.
- 10.2 The Contractor shall be responsible for reviewing engineering and technical designs in full detail, and the Contractor shall inform the Employer and the Engineer of any errors or observations discovered in the plans and drawings during execution.

### **Article 11: Bid's Adequacy:**

The Contractor is presumed to have completed his information before submitting his bid and has ensured that the prices included in his list of quantities and price categories are sufficient to cover all his obligations under the Contract and any other items and matters necessary for the sound and proper completion and maintenance of works. If the Contractor is faced, during the execution of works, with any physical difficulties or unusual obstacles that could not have been foreseen by any experienced contractor, the Contractor shall immediately notify the Engineer or the Engineer's representative of these difficulties and obstacles in writing within ten days of their discovery. Accordingly, the Engineer shall submit a report to the Employer including his opinion on the additional costs incurred by the Contractor due to such difficulties and obstacles, if confirmed, for consideration by the Employer and to determine what he deems appropriate in this regard. However, if the Contractor fails to notify the Engineer and claim compensation within the ten days, he shall no longer be entitled to such claim.

### **Article 12: Execution of Works:**

12.1 The Contractor shall execute, complete, and maintain works under the Contract and he shall comply with the Engineer's written instructions and orders regarding any subject related to the works, whether or not the same is mentioned in the Contract.

The Contractor shall receive instructions from the Engineer or the Engineer's representative within the scope referred to in Article 2 of these Conditions.

12.2 The Contractor shall comply with the following:

- A. The Contractor shall purchase national products and he may not use similar products imported from abroad for the purpose of executing the Contract
- B. The material used, whether local or imported, to execute the Contract shall comply with the standard specifications approved by the Saudi Standards, Metrology, and Quality Organization. Regarding material for which Saudi standard specifications have not been issued, such material shall conform to a set of internationally recognized standards specified by the supervisor of execution.
- C. The Contractor shall comply with the laws, standards, and regulations for environmental protection in the Kingdom, as issued by competent authorities.
- D. Foreign contractors shall assign to a Saudi contractor not less than 30% of Contracted work. The competent authority shall, in agreement with the Ministry of Finance and National Economy, exempt the foreign contractor from full or partial compliance to giving a Saudi contractor said percentage if it is proven that there is no work that can be performed by a Saudi contractor or if the works available are less than 30%. In order to apply this exemption, the competent authority, upon preparing the project and before requesting tenders, shall determine the ratio of partial or total exemption by its technical staff in collaboration with the consultant who designed the project and its specifications.

- E. The Contractor shall undertake to purchase the tools and equipment he needs for the execution of this Contract from Saudi dealers providing such equipment and machinery in the Kingdom. He may not import directly from abroad except when importing his personal equipment.
  - F. The Contractor shall be obliged to obtain the following services from local Saudi establishments:
    - 1. Transport services of goods and individuals within the Kingdom if the Contractor has not performed the same directly using equipment owned by the same or by persons who work directly with the Contractor
    - 2. Local insurance services
    - 3. Banking services
    - 4. Lease and purchase of land and buildings
    - 5. Catering and food supply services
- 12.3 The Contractor shall submit his letters, accounts, and statements to the administrative body in Arabic and shall keep his records and all accounts and documents locally in Arabic and under its responsibility, accompanied by a certificate issued by a chartered accountant licensed to practice in the Kingdom. If the Contractor fails to comply with the same, he shall be subject to prescribed penalties.
- 12.4 The Contractor shall undertake to use Saudi Arabian Airlines for air transportation of all passengers, material, and other items related to the execution of the Contract. If the Contractor fails to comply with the same, he shall be subject to prescribed penalties.

The Contractor shall also undertake to transport material that is to be shipped by sea for the execution of the Contract using Saudi ships and vessels in accordance with the instructions and orders prescribed for that purpose.

- 12.5 The Contractor shall, when signing any contract that exceeds SR 5 million, submit to the government authority an insurance policy from a national insurance company which is required to insure the project and its basic components during execution until initial acceptance of the project.

**Article 13: Work Schedule:**

The Contractor shall attach with his bid submission a timetable that indicates the workflow and the way he proposes to carry out works. The Contractor shall also submit to the Engineer or the Engineer's representative, upon request, any written detailed information concerning the arrangements required for the completion of works, as well as the construction equipment and temporary works that the Contractor intends to provide, use, or establish, as appropriate.

**Article 14: Contractor's Supervision:**

**First:** The Contractor shall perform necessary supervision during and after the execution of works to the extent the Engineer deems necessary to fulfill his contractual obligations in a sound and proper manner. The Contractor or the Contractor's representative, duly accepted in writing by the Engineer, shall reside continuously and permanently at the work site and shall devote all his time to supervise the execution of work.

In the event the Engineer withdraws his acceptance, the Contractor shall, upon receipt of a written notice of said withdrawal, transfer his representative from the work site as soon as possible, not use him again at the work site, and appoint another representative to be approved by the Engineer. Said representative shall receive, on behalf of the Contractor, the instructions and directives issued by the Engineer or the Engineer's representative within the limits set forth in Article 2 of these Conditions.

**Second:** If the Contractor's representative is unable to speak fluent Arabic, the Contractor shall use, at the site and at all times, a translator who can speak Arabic fluently.

#### **Article 15: Contractor's Employees:**

**First:** The Contractor shall hire the following employees at the site for the execution and maintenance of works:

- A. Technical assistants, who are experienced and skilled in their respective, as well as assistants, heads of work, and supervisors who are competent to carry out proper control over the work entrusted to them
- B. The required number of skilled, semi-skilled, and ordinary workers to carry out and maintain works in a sound and proper manner

**Second:** The Engineer, in all cases, may object and request the Contractor to immediately withdraw from the work site any person he employs in the execution and maintenance of works or any work related to the same if the Engineer sees that he is of bad conduct, incompetent, or negligent in his duties or that his employment is undesirable by the Engineer. In such cases, such person shall not be employed again without the written consent of the Engineer and the Contractor shall replace, as soon as possible, any person withdrawn as above set forth subject to the approval of the Engineer.

#### **Article 16: Determination of Work Sites:**

The Contractor shall be responsible for the sound and proper execution of works in their locations (\_\_\_\_), and linking them to the original points, lines, dimensions, and basic levels provided by the Engineer or the Engineer's representative, and the Contractor shall provide all the necessary tools, devices, and manpower in this regard, in addition to correcting any errors in this execution or in the points, lines, dimensions, and levels at his own expenses, unless such error is due to incorrect information provided by the Engineer or the Engineer's representative, in which case the Employer shall incur the costs of correction.

The inspection of the execution of works in their locations, points, lines, dimensions, and levels by the Engineer or the Engineer's representative shall not exempt the Contractor in any way from its responsibility in verifying validity thereof.

The Contractor shall maintain all marks necessary for the execution of works in their locations, points, dimensions, and levels.

**Article 17: Security Services and Lighting:**

The Contractor shall, at his own expense, provide all lighting, security services, fencing, and surveillance at the times and locations specified by the Engineer or the Engineer's representative or as determined by any public authority to protect the works, ensure public safety, or otherwise.

**Article 18: Damages to Persons and Property:**

The Contractor shall be liable for all losses and damages to persons and property resulting from the execution or maintenance of works or for any other matter related thereto, and the Contractor shall be responsible for all the claims, requests, and expenses resulting therefrom.

The Contractor shall not be responsible for the following:

1. Losses and damages to the easements of the neighborhood, which is an unavoidable consequence of the execution of works in accordance with the Contract.
2. Losses and damages caused to persons and property due to error, negligence, or default by the Employer or any of his employees, agents, staff, or workers.

**Article 19: Notification and Payment of Fees and Fines:**

**First:** The Contractor shall send all the necessary notices and pay all the fees required by laws, regulations, or decisions in terms of the execution of works or temporary works, or with respect to relevant laws and regulations of any form.

**Second:** Compliance with laws and decisions:

The Contractor shall comply with the laws, regulations, and decisions issued by the competent public authority related to the works or temporary works, in addition to adhering to the laws and regulations of relevant public bodies and companies, bearing the responsibility and imposed fines of any kind for violating said laws and regulations.

**Article 20: Remains, Valuable Objects, and Others:**

All money, valuables, antiquities, buildings, monuments, and other objects of geological or archaeological value discovered at the work site shall be deemed the sole property of the Employer, and the Contractor shall take the necessary precautions to prevent his workers or any other person from transferring or sabotaging any of these items. Further, the Contractor, upon finding such items and prior to their transfer, shall inform the Employer or the Employer's representative and the competent authority of the discovery, and the Contractor shall carry out his instructions regarding the disposal thereof at the expense of the Employer.

**Article 21: Patent Rights and Ownership:**

The Contractor shall protect and indemnify the Employer against all claims and actions consequent to or arising from infringement of any right, concession, design, trademark,

name, or other registered rights with respect to any construction equipment, machinery, and material used for the execution of works and/or temporary works as well as all claims, demands, actions, damages, expenses, fees, and costs incurred by or related to the same, whatever they may be.

**Article 22: Obstruction of Traffic and Damage to Neighboring Property:**

The Contractor shall undertake all necessary operations for the execution of works or temporary works within the scope permitted by the requirements of the Contract and in a manner consistent with relevant laws and public comfort, without impeding access to public and private roads and corridors or entry/exit of property, whether in the possession of the Employer or any other person.

The Contractor shall protect and prevent harm to the Employer and indemnify the same for any claims, requests, actions, damages, expenses, fees, or costs whatsoever if arising from or related to such matters and to the extent for which the Contractor is responsible.

**Article 23: Unusual Traffic:**

**First:** The Contractor shall take all reasonable means and precautions to prevent the damage or malfunction of any public roads or bridges connected to the site or linking it to the roads leading thereto arising from traffic caused by the Contractor or any of his subcontractors, in accordance with applicable laws.

In particular, the Contractor shall choose roads, select and use vehicles, and determine and distribute loads, so that any unusual traffic resulting inevitably from the transport of equipment and material from and to the site shall be limited as much as possible and appropriate to avoid unnecessary damage to such roads and bridges.

**Second:** Special Loads:

If the Contractor is required to transport one or more loads of construction made equipment, machinery, or units or parts of work units, on a public road or bridge, and if the same will cause damage to this road or bridge if no special protection or reinforcement measures are taken, the Contractor, before the load is transported on said road or bridge, shall have to send to the Engineer or the Engineer's representative a written notice including the weight of the load to be transported and its other specifications and his suggestions regarding the protection and reinforcement of said road or bridge.

The Contractor shall comply with the Engineer's instructions in this regard. If the Engineer or the Engineer's representative has not submitted to the Contractor within fourteen days from the date of receipt of the notice a corresponding notice that there is no need to take any protective and reinforcing measures, the Contractor shall, at his own expense, implement his proposals or any modifications the Engineer considers necessary to such proposals.

**Article 24: Providing Opportunities to Other Contractors:**

The Contractor, based on the instructions and orders of the Engineer, shall give the opportunity to any other contractors employed by the Employer to execute their works. The Contractor shall also provide the same opportunity to the workers of said contractors, the

workers of the Employer, or government employees working at or near the site for the execution of any works not included in the Contract or for the execution of any contract concluded by the Employer, relevant, attached, or supplementary to the works.

**Article 25: Site Evacuation after the Completion of Works:**

Upon completion of works, the Contractor shall evacuate the site and transfer all construction equipment, material, waste, and temporary works of any kind. The Contractor shall leave the entire site and all works clean and ready for use or in the form approved by the Employer.

**Workers**

**Article 26: Hiring Workers:**

The Contractor shall make special arrangements for the employment and treatment of all workers, whether they are nationals or foreigners, pursuant to the stipulations of the Labor Law, Social Insurance Law, Residence Regulations, and other regulations. The Contractor shall also provide necessary work requirements for his workers, including healthy housing, transportation, and healthcare, as stipulated in the Special Conditions.

**Article 27: Workers' Record:**

The Contractor shall submit at the times specified by the Engineer or the Engineer's representative a detailed record with the names of all his employees and workers, as well as any other information the Engineer or the Engineer's representative may require regarding workers or construction equipment.

**Article 28: Material and Craftsmanship:**

All material and craftsmanship shall be of types conforming to Saudi specifications or as specified in the Contract, and they shall conform to the Engineer's instructions. They shall be subject, from time to time, to any tests the Engineer may deem necessary at the place of manufacturing of such material, at the site, in all such places, or in any other place.

**Article 29: Access to the Site:**

The Engineer or any other person authorized thereby shall have the right at all times to view the works and access the site, as well as all workshops and places where work is being prepared or where material, products, and machinery required by works is obtained. The Contractor shall provide all the facilities and assistance necessary to exercise this right.

**Article 30: Inspecting Work Before it is Covered:**

**First:** No work may be covered or concealed without the consent of the Engineer or the Engineer's representative. The Contractor shall enable the Engineer or the Engineer's representative from examining and measuring any work that will be covered or concealed. When such work is ready or is about to be ready for inspection, the Contractor shall submit to the Engineer or the Engineer's representative a written notice to attend as soon as possible to inspect and measure the works, unless the Engineer or the Engineer's representative consider it unnecessary to do so and the Contractor is notified thereof.

**Second:** Uncovering work and making openings therein:

The Contractor shall uncover any part(s) of the works or make openings in or through the same, as the Engineer so requires from time to time, and the Contractor shall reinstate such part(s) to the satisfaction of the Engineer.

If part(s) of the works have been covered after being inspected in accordance with Paragraph 1 of this Article and subsequently it became necessary to uncover or make openings in or through the same, the costs of uncovering and reinstating such part(s) shall be borne by the Employer, provided that they conform to the Contract. In all other cases, costs are incurred by the Contractor.

**Article 31: Removal of Works and Material Inconsistent with the Contract:**

**First:** During the stages of work execution, the Engineer shall have the right, from time to time, to issue the following directions in writing:

- A. Removal of any material from the site that the Engineer considers to be inconsistent with the Contract, provided that this is done within period(s) specified by him in the said directions
- B. Replacement of such material with suitable and proper material
- C. Removal and re-execution of any work properly if the Engineer considers that the work is inconsistent with the Contract, whether in terms of material or craftsmanship, despite any previous test of said work and despite previously disbursed payments of its costs

**Second:** Failure of the Contractor to comply with the Engineer's directions:

If the Contractor fails to perform the Engineer's directions, the Employer shall have the right to use other persons and to pay them the fees necessary for the execution of said order, provided that the Contractor shall bear all the expenses incurred or related thereto. The Employer shall be entitled to redeem such expenses from the Contractor or deduct them from any amounts due or payable or shall become due or payable.

**Article 32: Suspension of Works:**

The Contractor shall, in accordance with written instructions from the Employer, suspend works or any part thereof for a period or in such a manner as the Employer deems necessary for the safety of works, and the Contractor shall, during the suspension period, protect works and ensure the workflow to the extent deemed necessary by the Engineer.

The Employer shall not bear the costs resulting from suspension in the following cases:

1. If stipulated for in the Contract
2. If it is necessary to perform the work in a fundamental manner, due to weather conditions, or because of the Contractor's default
3. If it is necessary for the safety of works or any part thereof

## **Works Start Time and Delay**

### **Article 33: Commencement of Works:**

The Contractor shall commence works upon receipt of the site and shall implement them promptly and without delay.

### **Article 34: Delivery and Possession of the Site:**

**First:** Except as may be stipulated in the Contract for the determination of parts of the site to be delivered to the Contractor from time to time and the order under which such parts shall be delivered, and adhering to any requirement stipulated in the Contract regarding the order under which works are to be executed, the Employer shall handover the required section of the site to the Contractor, along with the Engineer's written directive to commence works in order for the Contractor to proceed with the execution of works in accordance with the timetable referred to in Article 13 of these Conditions, if any. Otherwise, in accordance with the appropriate proposals submitted to the Engineer which are accepted by virtue his written notice, the Employer shall, from time to time, as work progresses, provide the Contractor with other sections of the site, as necessary, so that he can continue to carry out the work and complete the same in a timely manner, whether in accordance with the timetable, the Contractor's suggestions, or as the case may be.

### **Second:** Traffic Rights:

The Contractor shall bear all expenses and fees necessary to secure special or temporary traffic rights as needed to access the site. He shall also provide, at his own expense, any additional off-site accommodation required for the purposes of work in accordance with relevant regulations issued by the competent authority in this regard.

**Third:** Except where otherwise stated, the boundaries of the site shall be as specified in Contract plans. If the Contractor needs to exceed the boundaries of the site, for work related to the project, it shall have to obtain that space at its own expense.

**Fourth:** The Contractor shall, at his own expense, prepare temporary fences suitable to the site or a section thereof when necessary for the safety of the workers, public, or animals, or when the same is necessary to protect the works.

### **Article 35: Works' Execution Term:**

Subject to any requirement stipulated for in the specifications with respect to the completion of any particular section of the works, said works shall be performed within the period specified in the Contract.

### **Article 36: Extension of Works' Execution Term:**

The Contract term shall be extended in accordance with Article 9 of the Law of Government Procurement and Execution of its Projects and Works.

### **Article 37: Prevention of Work at Night and on Public Holidays:**

Except as may be later stipulated, it shall be prohibited to perform works during the night, on Fridays, or on other official holidays, without the written permission of the Engineer or the Engineer's representative, unless the work is necessary or indispensable to save lives or property or in order to ensure the safety of works, provided that in such cases the Contractor shall promptly inform the Engineer or the Engineer's representative of the same.

It shall always be observed that the provisions of this Article shall not be applicable in cases when it is customary to perform work alternately or in two shifts.

**Article 38: Progress Rate of Works:**

**First:** If the Engineer considers at any time that the work rate is too slow to ensure that the work shall be completed within the specified period, he shall notify the Contractor in writing and the Contractor shall take the measures he deems necessary and as approved by the Engineer to expedite the workflow so that he may complete works within the predetermined period.

**Second:** Periodic reports:

The Contractor shall submit to the Engineer periodically, as determined by the Employer, a detailed report on the work progress, supported by the Contractor's plans and supporting documents.

**Delay Penalty**

**Article 39:**

If the Contractor fails to complete the work and deliver it in full on the specified dates and the Employer does not see a reason to withdraw the work from him, the Contractor shall commit to pay a fine for the period of delay in work completion after the predetermined date for delivery which shall be calculated on the basis of the average daily cost of the project by dividing the Contract value on its term as follows:

- A. A fine on the first part of the delay period, equivalent to one quarter of the average daily cost for each day of delay until the maximum period reaches fifteen days or 5% of the Contract term
- B. A fine on the second part of the delay period equivalent to half of the average daily cost for each day of delay until both parts exceed 30 days or 10% of the Contract term.
- C. A fine on the third part of the delay period equivalent to the full amount of the average daily cost for each day of delay following the two periods stipulated for in Paragraph B

The total fines imposed may not exceed 10% of the Contract value, provided that if the Employer considers that the delayed part does not preclude full utilization of work at the time specified for its completion, does not cause confusion in the use of any other benefit, and does not adversely affect the work accomplished, the total fine shall not exceed 10% of the value of the delayed work.

## **Supervision Costs Caused by the Delay**

### **Article 40:**

In addition to the fine provided for in the previous Article, the Contractor shall bear the fees of the supervisor of project execution during the period the Contractor is subject to the fine. Such fees shall be calculated as per the supervisor's contract, whether it is a periodic amount or a percentage of the value of the Contract.

If the fees for supervision are a lump sum or undertaken by the government body, the supervisor's fees shall be calculated as follows:  $\text{Contract value} \times 0.01 \times (\text{delay period per day} / \text{contract term per day})$

### **Article 41: Maintenance Period:**

**First:** Definition of maintenance period:

The expression “maintenance period” mentioned in these Conditions refers to the period specified in the Contract, which starts from the date of initial acceptance until the date of final acceptance. In case of segmenting initial acceptance, the maintenance period shall be calculated for each part as of the date of initial acceptance.

**Second:** Implementation of maintenance works and other works:

Since the intent is to handover works to the Employer at the end of the maintenance period or as soon as possible after completion of the same, and that works shall be in good condition upon delivery meeting the satisfaction of the Engineer and not in a condition that is less than that at the beginning of the maintenance period, except what may result from ordinary use and consumption, the Contractor shall carry out any repair, modification, or reinstatement of defects as requested by the Employer or the Engineer in writing during the maintenance period or upon final acceptance.

It shall be understood that maintenance works do not include repair of issues that may result from usual use and consumption of what has been accepted, unless the same is a result of manufacturing or maintenance defects.

**Third:** Costs of carrying out repairs and other works:

The Contractor shall perform all repair works at his own expense if the reason for such works is, according to the Engineer, due to the fact that material or craftsmanship do not conform to the Contract or if the cause is negligence or default on the Contractor's behalf in carrying out any obligation in the Contract whether implied or explicit.

**Fourth:** Addressing the Contractor's failure to execute works required by the Engineer:

If the Contractor refuses to perform any of the works set out in this Article and required by the Engineer, the Employer shall have the right to perform such works at his discretion or through other contractors at the expense of the Contractor or by deducting relevant costs from any sums due to the Contractor or which may become due to the Contractor at a later time.

**Fifth:** The Contractor shall guarantee any total or partial destruction to his constructions

within ten years from the date of his delivery of the project to the administrative body, if such destruction is due to execution defects, unless the contracting parties have agreed to keep the facilities for a shorter period.

**Article 42: The Contractor's Obligation to Search for Causes of Defects or Errors:**

The Contractor, if requested by the Engineer in writing to investigate the causes of any defect, fault, or error, shall do so in accordance with the Engineer's instructions. If the defect, fault, or error is a matter for which the Contractor is responsible, the Contractor shall bear the costs of the investigations, and accordingly, the Contractor shall repair, rectify, and remedy such defect, fault, or error at his own expense in accordance with the provisions of Article 41 of these Conditions.

**Article 43: Modifications, Additions, and Cancellations:**

**First:** The Engineer, after obtaining the Employer's approval or within the limits of his powers, shall make any changes in the form, type, or quantity of works or any part thereof, as he deems appropriate. The Contractor shall execute the same, provided that no change shall occur to the Contract and the limits provided for in the following paragraph are not exceeded.

**Second:** During the execution of the Contract, the Employer may increase the amount of works by no more than 10% of the total value of the Contract. He may also reduce the amount of works by no more than 20% of the total value of the Contract, provided that no other modifications in the value of the Contract are performed again whether as an increase or a decrease.

**Third:** The Contractor shall not undertake any of the abovementioned changes without written instructions issued by the Engineer.

**Article 44:**

**First:** Evaluating changes:

The Engineer shall determine the value, if any, which he deems should be added or deducted from the amount mentioned in the bid for any additional or extra works performed or canceled upon his instructions. Such work shall be evaluated in accordance with the rates mentioned in the Contract if the Engineer deems it applicable. If the Contract does not include any rates applicable to extra work or overtime, the Employer and the Contractor shall agree on relevant fair prices.

**Second:** Claims:

The Contractor shall send to the Engineer a detailed monthly account regarding all claims related to additional expenses the Contractor deems himself entitled to. The account shall also detail all extra and additional works undertaken in accordance to the Engineer's instructions based on his powers and which the Contractor has executed during the previous month. Any claim relating to the payment of such works shall be ignored if abovementioned

information is not included and if the same is not included in the previously mentioned monthly account.

**Article 45: Equipment, Temporary Works, and Material:**

**First:** Using equipment and other elements in works:

Equipment, temporary works, and material the Contractor has provided shall be entirely and exclusively allocated to the construction and completion of works upon being brought to the site. The Contractor, without obtaining the Engineer's written approval, shall not move the same, in full or in part, from the site, unless such transfer is from one place to another on the same site. The Engineer shall not be entitled to refrain from giving said written consent unjustifiably.

**Second:** Transfer of equipment and other elements:

After completion of works, the Contractor shall transfer from the site all abovementioned construction equipment, remaining temporary works, and all unused material, which the Contractor had brought, and then clean the site.

**Third:** Non-liability of the Employer for any subsequent failure in the equipment and other elements:

The Employer shall not be liable at any time for any loss or damage occurring to any equipment, temporary works, or material, except as provided for in Article 54 of these Conditions.

**Article 46: Quantities:**

The quantities mentioned in the bill of quantities shall be the estimated quantities for works, and accounting shall be carried out on the basis of the actual quantities being executed.

**Article 47: Measurement of Works:**

Except as otherwise stipulated, the Engineer shall check by measurement and decide accordingly the value of the work accomplished according to the Contract. The Engineer, when measuring any part of the works, shall notify the Contractor or the Contractor's authorized agent or representative and any or all of them shall attend in person or send a duly authorized agent to assist the Engineer or the Engineer's representative in conducting such measurement, and the same shall submit to the Engineer or the Engineer's representative all information requested by either of them.

**Article 48: Method of Measurement:**

**First:** Works shall be measured on the basis of net measurements alone unless explicitly provided for in the Contract.

**Second:** The metric system shall be used in all measurements and purposes related to this Contract unless explicitly stated otherwise.

**Article 49: Use of Explosives:**

The Contractor may not use any explosives without the Engineer's written permission, and the Engineer shall verify prior to the explosion that the Contractor has conformed to relevant laws and instructions. The Engineer's refusal to give such a permission shall not be regarded as grounds for any claim against the Employer. The Employer may not refrain from granting such permission for any unjustified reasons.

**Article 50: Payment, Initial and Final Acceptance, and Guarantee Term:**

- A. The Employer may, if necessary, pay to the Contractor an advance payment that does not exceed 10% of the value of the Contract after the delivery of the work site against a bank guarantee of the same amount. The same shall be settled by deduction from the Contractor's actual entitlements with an equal percentage.
- B. Payment of the Contractor's entitlements according to accomplished work and the settlements approved by the consultant or the technical authority overseeing the project, periodically and at a rate of at least one settlement per month.
- C. The final settlement, which should not be less than 10% of the value of the Contract or the value of accomplished works, shall be deferred until initial acceptance of the project and a certificate is issued by the General Authority of Zakat and Income Tax attesting to the payment of required zakat or tax.
- D. Upon the initial receipt of works and the submission of a certificate from the General Authority of Zakat and Income Tax, the Employer shall pay the deferred percentage of the value of all accomplished works, and the Employer shall deduct from the same any remaining sums already paid to the Contractor or any other amounts required by him.
- E. Upon final acceptance of works, after the maintenance period has elapsed and the Contractor submits the official minutes thereof, the final account shall be settled and the letter of guarantee shall be released in accordance with Article 9 of these Conditions.
- F. Subject to the provisions of laws and regulations, all payments shall be in the currency of the Kingdom of Saudi Arabia unless another currency is stipulated in the Special Conditions, if any.

**Article 51: Initial Acceptance:**

Upon completion of works, the Contractor shall clear the site from all equipment, material, dust, and waste and he shall level it in a usable manner. Thereafter, the Contractor shall send a written notice to the Employer who shall determine an inspection date in preparation for initial acceptance. The Employer shall determine the inspection date via a written notice within a period that does not exceed fifteen days from the date the Employer was notified of the same by the Contractor.

Upon receipt of works, the Employer or the Employer's representative shall inspect the works and receive them initially in the presence of the Contractor or the Contractor's

representative. Initial Acceptance minutes shall be prepared in several copies as necessary, a copy of which shall be submitted to the Contractor. In case the handover is conducted in the absence of the Contractor, despite being notified with a registered letter, such absence shall be recorded in the minutes. If inspection reveals that works have been accomplished as required, the date of the Contractor's notice to the Employer of his readiness to deliver shall be the works completion date and the beginning of the maintenance period. If the inspection reveals any defects in the works, the same shall be recorded in the minutes and the handover shall be deferred until the works are completed or repaired as required.

If initial acceptance reveals that there are items or parts the Contractor has not executed, and the initial acceptance committee finds that the incomplete works do not preclude benefiting from the works and using them for the purpose for which they were established, the Employer may, in this case, consider the works initially accepted. The Employer shall also require the Contractor to complete missing works during a reasonable period. The Contractor's failure to comply with the same shall entitle the Employer to deduct the value of such works, commission another contractor to execute them at his expense, and demand the Contractor to pay any differences in prices.

#### **Article 52: Final Acceptance:**

Sufficiently prior to the elapse of the maintenance period, the Contractor shall send a written notice to the Employer to set a date for inspection in preparation for final acceptance. Once said inspection confirms the compliance of works to conditions and specifications, the same shall be finally accepted by virtue of minutes prepared by the Employer or the Employer's agent, in several copies as needed, to be signed by both Parties or their representatives, providing the Contractor with a copy thereof.

In case said inspection reveals a shortage, defect, or error in some works, even if not included in initial acceptance minutes, acceptance shall be deferred, thus extending the maintenance period until the shortage is remedied or the defect or error is repaired by the Contractor within a reasonable period to be specified by the Engineer. If the period expires and the Contractor has not executed the same, the Employer may undertake necessary repairs as he deems appropriate at the expense of the Contractor and under his responsibility, or the Employer may deduct the value of such repairs according to the bill of quantities and the prices in the guarantee.

#### **Withdrawing Works from the Contractor**

**Article 53:** Without prejudice to the provisions of other relevant laws, the Employer may:

**First:** Withdraw works from the Contractor and take possession of the site in any of the following situations:

- A. If the Contractor is late in the commencement of work, shows a slowdown in progress, or stops execution to the extent that the Employer believes that the Contractor will fail to complete the works within the specified period
- B. If the Contractor withdraws, renounces, abandons, or surrenders the work, or subcontracts for its execution without obtaining the Employer's prior written

permission

- C. If the Contractor breaches any of the conditions of the Contract or refuses to perform any of his contractual obligations and fails to repair the same within fifteen days of receiving a written notice to do so
- D. If the Contractor, whether in person or through a third party, gives or promises to give any gift, advance, or reward to any government employee or staff member or to any other person related to the works subject to this Contract
- E. If the Contractor is bankrupt or files for bankruptcy, or if the Contractor is proven to be insolvent or an order is issued for his placement under guardianship, or if the Contractor is a company that has been liquidated or dissolved

**Second:** Withdrawing work from the Contractor shall be by virtue of a written notice based on a recommendation from the bids examination committee, without the need to take any judicial proceedings or otherwise.

**Third:** The Employer, under circumstances he deems appropriate, may take suitable measures to ensure that the required specifications are adhered to in work execution within the specified period, including assigning project management to a consulting office, without resorting to withdrawal of the work.

#### **Article 54: Consequences of Withdrawing Works:**

**First:** If work is withdrawn from the Contractor, the Employer may, at his absolute discretion, resort to one of the following measures:

1. Agree with the subsequent bidder to execute the work at the same prices he provided. If said bidder does not agree, negotiations shall be held with other bidders regarding the same.
2. Issue another request for tenders for all or part of incomplete works; in all cases, the same shall be at the expense of the Contractor.

**Second:** The Employer shall have the right, if any of the situations provided for in the previous Article exists, to take possession of the material, equipment, and machines at the site for use in the execution of works without paying any amount in return for the same to the Contractor or to others and without being responsible for any damage or deficiency caused due to such usage. The Employer may also demand the Contractor for all losses or damages he incurred by withdrawing the work. If the final guarantee is not sufficient to cover such losses and damages, the Contractor must pay the Employer, upon his request, the difference in amount required by the Contractor. The Employer may, if the Contractor refuses to pay the difference though he was notified in writing, sell the equipment and machinery seized at the site, and the Employer may also take all necessary measures to fulfill its dues from the Contractor

**Third:** After settling the Contractor's account with the Employer, the Contractor may transfer his equipment, machinery, and material from the site.

### **Article 55: Special Risks:**

Special Risks include war, invasion by hostile forces, military actions, and the like.

The Contractor shall not be responsible for compensations or any other payments for any destruction of the works, temporary works, property of the Employer or any third party, any malfunction, or damage to lives if such destruction, damage, or malfunction is caused by special risks.

Except for what is subject to removal and rejection under Article 31, the Contractor shall be entitled to payment by the Employer for the value of the works, temporary works, or material when the same is proven to have been allocated to the work, if they are damaged or destroyed by special risks, whether at the work site, near it, or on the way thereto. The Contractor shall also be entitled to payment by the Employer for the expenses necessary for the repair of works or temporary works to the extent the Engineer deems necessary, on the basis of the price of cost plus a reasonable amount of profit as determined by the Engineer.

Any destruction, damage, or loss of life caused by an explosion or pressure at any time or location, due to a mine, bomb, shell, ammunition, explosives, or any war material shall be deemed arising from special risks and shall be treated as such, as provided for in this Article, unless the same is due to any act or negligence on the part of the Contractor, his subcontractors, or their employees.

If war breaks out during the validity of this Contract, the Contractor shall take all possible measures and efforts to complete the works, provided that the Contractor bears in mind that the Employer shall have the right, at all times after the outbreak of war, to terminate the Contract by virtue of a written letter to the Contractor, upon which this Contract shall be terminated, except for the rights of both Parties as provided for in Article 56 and without prejudice to the rights of either party with respect to any previous violations of the Contract.

### **Article 56:**

If the Contract is terminated due to the outbreak of war as above described, the Employer shall pay the Contractor for all its dues for the works it has performed, in addition to the value of the material and goods supplied to the site, after deducting remaining amounts due to the Employer at the Contractor's liability from the balance of the advances made and paid to him or any other amount paid to the Contractor on account of the execution of works.

### **Article 57: Settlement of Disputes:**

Any dispute arising from the implementation of this Contract, which could not be settled between the Parties, shall be referred to the Board of Grievances for final settlement.

### **Notifications**

#### **Article 58: Notifications:**

Notifications and notices relating to this Contract shall be exchanged either by hand delivery in return for a receipt or by official or registered mail. Such notifications and notices shall be deemed valid and applicable if they are exchanged in the abovementioned manner to any of

the following addresses in the Kingdom:

Address of the Employer: .....

Address of the Contractor: .....

The above addresses may be changed by notifying the other party thirty days before effecting said change.

**Article 59: Default of the Employer:**

The Employer shall enforce the terms of this Contract in good faith, and the Employer shall pay the Contractor outstanding installments without delay. If the Employer breaches any of the conditions of the Contract or fails to pay within the specified period, the Contractor shall have the right to claim compensation for losses resulting from such default or breach.

However, the Contractor may not suspend work on the basis of the Employer's delay in payment due to any error attributable to the Contractor. The Contractor shall be deemed to have waived his right to compensation if he does not claim the same within thirty days of the occurrence of the incident for which compensation is to be claimed.

**Article 60: Taxes and Fees:**

The Contractor shall be subject to the Kingdom's laws in terms of taxes and fees, and the Contractor shall, under his responsibility, pay such taxes and fees to the competent authority according to their specified deadlines and in the amounts due.

If the Kingdom's taxes and fees are modified by increasing or decreasing the same after the date of bid submission, the value of the Contract shall increase or decrease accordingly. For payment of the difference resulting from increased customs fees, the Contractor shall provide evidence that he paid the difference resulting from increased fees due to the provision of material for the contracted works after fees were raised, and the Contractor shall prove that such a difference has not been reimbursed due to the modification of prices as stipulated for in this Article.

**Article 61:**

The Second Party (Contractor/ **purveyor**) acknowledges that the laws and regulations related to import and customs in the Kingdom of Saudi Arabia are applied to the supply and shipment of any products or any parts thereof to or from the Kingdom, including provisions related to the prohibition of importation.