

**Standard Bid Documents for Limited Tenders**

**For (Turnkey) Contracts to Execute the Works**

## **Introduction**

These tender documents of the government (turnkey) contracts were prepared to execute works thru limited tenders for projects of industrial nature, or the projects thru which the employer aims to transfer know-how and expertise, where the obligations of contractor include preliminary and detailed designs, equipment manufacturing, machineries used in the works, supplying, work execution, installation, tests, trial operation, training, work acceptance from the employer and the maintenance thereof as full responsibility, and in some cases they may include the services after the final acceptance of project, such as the operation for specified time periods, providing production requirements and spare parts, or the supervision of project operation ...etc.

## **A Brief Description:**

These standard bid documents of work execution by adopting (turnkey) contracts are prepared to be adopted on the general competitive tenders if the prequalification is not carried out, and we list hereunder a brief description of these documents.

The standard documents of works execution include the following:

### **Part One - Contracting Procedures**

Contains the following sections:

#### **Section One– Instructions to Bidders**

This section contains the information related to the contracting procedures in order to facilitate the mission of bidders in preparation of their bid, and also include the information of procedures of submitting, opening and evaluation of bids, and the information of contract awarding. This section contains conditions that cannot be amended by the bidder.

#### **Section Two - Bid Data Sheet**

This section contains the conditions of each tender and they are considered complementary to the information and requirements stated in the first section (Instructions to Bidders).

#### **Section Three - Evaluation and Comparison Criteria to evaluate the tenders whose bidders were not pre-qualified.**

This section contains the adopted criteria to determine the lowest bid price, along with fulfilling the required qualifications by the bidder, which confirm his eligibility to execute the contract.

#### **Section Four - Bid Forms**

This section contains the forms that the bidders shall fill out and submit as part of bid.

## **Section Five- Eligible Countries**

This section contains the information of the eligible countries:

## **Part Two - Work Requirements**

This section contains the following:

### **Section Six– Work Requirements**

This section contains the specifications, plans, bill of quantities and additional information that describe the works required to be executed.

## **Part Three– Contract Conditions and Contract Forms**

It contains the following sections:

### **Section Seven– General Conditions**

This section contains the general conditions that must be applied in all contracts and no amendment on texts of these conditions is allowed by the bidder.

### **Section Eight– Special Conditions**

This section consists of the First Chapter which includes the contract data that contains the special data of contract, and

Second Chapter: includes the special condition of each contract.

The contents of this section are considered complementary to the general conditions and shall be prepared by the employer.

### **Section Nine– Annex to Special Conditions/Contract Forms**

This section contains the form that when filled out will form a part of the contract, and the forms for the bank guarantee for the good performance guarantee and the bank letter of guarantee for the advance payment shall be filled out by the winner bidder only after the award of contract.

**Limited Tender Documents**

**Issued on:**

**For Trunkey Contracts to Execute the Works  
(Insert Works Introduction)**

**Limited** Competitive Tender No.: [Insert number of tender]

Project: [Insert name of project]

Employer: [Insert name of employer]

## Invitation Form of Bid Submission

[Insert name of country]  
[Insert name of employer]

No.:  
Date:

**To / Insert Name of Bidder**

**Sub. / Insert Name and Number of Tender**

1. [Insert name of the contracting party / name of employer] is pleased to invite the qualified and experienced bidders who conducted the prequalification to submit their bids of special work [insert a brief description of works required to be executed].
2. The qualified bidders who want to obtain additional information shall call [Insert name of contracting party, name and email of the person in charge] [Insert hours of attendance] as shown in the instructions to bidders.
3. Interested bidders can buy bid documents in [Insert language of the bid] language, after submitting written request to the address specified in the instructions to bidders, and after paying the selling value of documents amounted to [Insert amount in Dinar] or [Insert value in other transferrable currency]. The method of payment shall be by [Insert method of payment], and the documents shall be sent by [Insert method of sending the documents].
4. The bids are delivered to the following address [Specify the address aforementioned in the instructions to the bidders] at the specified date [Insert submission date and time]. All bids must include a bid guarantee [Insert letter of bank guarantee and date of submission or certified cheque] in the amount of [Insert amount in dinar] or the equivalent transferrable currency.
5. The bids will be opened by the attendance of the bidders or their representatives who want to attend in the following address [Insert the address specified in the instructions to the bidders] at the time and date [Insert time and date].

**Note:** The contracting party can add additional data that are suitable with the value of the tender provided it does not conflict with the legal legislations that regulate the government contracting in Iraq.

Signature

Insert name of the authorized representative for the contracting party

Insert the position title of the authorized representative for the contracting party

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### **Part Two – Work Requirements**

Section Six - Work Requirements

### **Part Three – Contract Conditions and Contract Forms**

Section Seven– General Conditions of Contract

Section Eight– Special Conditions of Contract

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**First Part – Contracting Procedures**  
**For the Turnkey Contract for Works Implementation**



**First Section – Instructions to Bidders**  
**For Turnkey Contract for Works Implementation**

## Section One– Instructions to Bidders

### For Turnkey Contract for Works Implementation

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# Instruction to Bidders

## A. General

### 1. Scope of bid

1-1 In reference to the invitation to bidders the "employer" that has been identified in section 2 **Statement of the Bid**, has issued these documents for the implementation of Works as set put in section 6 " Work requirements". The name and number of bid shall be included in **Statement of the Bid** and Special conditions of the contract.

1-2 The following shall be adopted in the bidding documents:

- A. "Written" shall mean any means of written communication (post, email, fax) with confirmation of their receipt.
- B. Unless the context otherwise requires, the singular form shall be used to describe the plural and vice versa.
- C. "Day" shall mean calendar day.

### 2. Source of Finance

2-1 The federal budget of the Government of Iraq

### 3. Fraud and Corruption

3-1 Employer shall require from bidders, contractors and their subcontractors, suppliers and consultants contracted to adhere to the highest standards of ethics during the contracting process and contract implementation. And to achieve this policy:

- A. The employer shall adopt the following definitions for the purpose of these texts:
  - 1) "Corrupt practices" shall mean provide or give or receive or solicitation of, directly or indirectly, anything of value to influence the work of an official in a position of public responsibility during the supply process or contract implementation.
  - 2) "Fraudulent practices" shall mean any misrepresentation or deletion of any facts in order to influence the supply process or contract implementation.
  - 3) "Collusion practices" shall mean any planning or coordination between two or more bidders, with or without the knowledge of the employer in order to set fake and uncompetitive prices.
  - 4) "Coercive practices" shall mean harm or threat to harm, directly or indirectly, the persons or their properties to influence their participation on the supply process or to influence the contract implementation.
  - 5) "Hindrance practices" and shall mean the following:

**First** - The deliberate destruction or forgery or change in documents or withholding

evidence necessary for investigation or give false testimony to investigators to hinder the investigation by the employer concerning administrative corruption practices or fraud or collusion or coercive practices or threat or harassment or obstruction of any party and prevent him from providing any information relating to the investigation or to prevent him from pursuing the investigation.

**Second** – Practices that hinder the employer from pursuing the audit and review procedures pursuant to clause (3-1-e) of Instructions to bidders.

B. Award of contract proposal shall be rejected if it found out that the bidder who submitted it who has been chosen to be awarded the contract has involved, directly or through an agent, in corrupt or fraudulent or collusion or coercive practices or hindrance during his competing for the contract in question.

C. Penalties shall be imposed on any institution or individual that has been chosen to be awarded the bid, including the announcement of ineligibility, **for limited or unlimited period**, if it is found at any time that the institution has been involved, either directly or through an agent, in corrupt, fraudulent, collusive or coercive practices or hindrance during the competition for the contract and / or during the implementation of that contract.

D. Adding a condition in the contract documents, and the contract funded by the employer states that the bidders or suppliers or contractors or consultants shall allow the employer to carry checks on their accounts, records and documents related to contracting procedures and the to implement the contract and to allow to be audited by auditors appointed by the employer.

**3-2** In addition to the foregoing, the bidder shall become familiar with the conditions mentioned in paragraph (15-6) of the general conditions of the contract.

#### **4. Bidders and Qualified Persons**

**4-1** The bidder shall be either a natural person, **private company or state company (owned by the government) or consortium (partnership) according to partnership contracts certified according to the rules, submitted with the bid, if the contracting party does not request to be submitted after the award of tender** ((taking into account the limitations in paragraph (4-5) of these instructions)), and in case of joint venture and consortium.

A. Unless otherwise stated in the **bid data sheet**, all partners in the joint venture shall assume full and joint liability for the implementation of the contract under its conditions.

B. The joint venture (**consortium**) shall name a representative acting on behalf of all contributors' partners and he shall be authorized with the powers necessary to perform the contract, starting from the preparation and submission of bid (tender), and then bid award, and through the period of contract implementation.

**4-2** Bidders and all partners of a joint venture of nationality holders of any State shall have the right to participate in bids under **the order of the provisional coalition authority (disbanded) No. 87 for the year 2004 or any law that replaces it** and instruction in force, provided that Determinants (limitation) indicated Chapter V of these documents (Eligible Countries)

shall be acted upon. The bidder holder a nationality of a state, shall either be a citizen in it or has established or participated or registered the company in it and worked under the requirements and conditions of the law of that State. This definition shall be relied on to determine the nationality of any subcontractor or supplier participated in implementation of part of the contract.

**4-3** Bidders shall not have any conflict of interests, where any bidder found to be involved in any of the conflict of interest situations listed below shall be excluded and consider to be ineligible:

A. If one of the main partners is a shareholder in more than one company participating in the bid.

B. If the bidder received or will receive any aids directly or indirectly from any other companies participating in the bid.

C. If more than one bidder has one mutual legal representative who act on their behalf in pursuing bid submission procedures.

D. If there is a relation between bidders directly or through a mutual third party that allows each of them to obtain any information or influence the bid submission to another bidder, or influence the decisions of the employer during the contracting procedures.

E. If it found out that the bidder has participated in more than one tender in the same bid, tenders participated in shall all be considered ineligible. But this shall not include subcontractors to contribute more than one bid.

F. If contracting has been made or suggesting contracting with the bidder or any of its affiliates by the employer to carry out the tasks of the engineer to manage the contract.

**4-4** Any ineligible bidder shall be excluded by the employer according to paragraph (3) of instructions to bidders, upon contract award and list of the excluded institutions is available on the website provided in the **bid data sheet**.

**4-5** State companies in the Republic of Iraq is considered only eligible if they have proven that they are legally and financially autonomous, and operate according to trade law **and state companies law** , and these companies shall not be an agencies of the employer.

**4-6** Bidders shall prove the continuation of their eligibility to the satisfaction of the employer whenever the employer requested.

**4-7** Bidders shall be excluded in one of the two following cases:

A. The existence of laws or instructions issued by the employer's state prohibiting trade deal with bidder's state; and

B. Based on Guarantee Council resolutions of the United Nations under Chapter VII of the United Nations Declaration, which prohibits the employer from importing or contracting for works or services, or payment to individuals or institutions in the State of the bidder.

## **5. Materials, equipment and services eligible**

**5-1** Materials, equipment and services provided under this contract funded by the employer shall be of eligible (qualified) origins (eligible countries according to the determinants (limitations) indicated in Chapter V). And that all amounts disbursed shall not be inconsistent with this. Bidder shall provide evidence that proves the true origins of materials, equipment and services as soon as required by the employer.

### **B) Contents of Tender documents**

## **6. Parts of Tender documents**

**6-1** Bidding documents are those parts 1, 2, 3 listed hereinafter and shall be read with the additions referred in paragraph (8) of instructions to bidders

### **Part 1 – contracting procedures**

- Section 1 – Instructions to Bidders
- Section 2 – Bid Data Sheet (BDS)
- Section 3 – Evaluation and Qualification Criteria
- Section 4 – Bidding Documents
- Section 5 – Eligible Countries

### **Part 2 - Work Requirements**

- Section 6 - Employer Requirements

### **Part 3 – Contract**

- Section 7 – General Conditions of Contract(GCC)
- Section 8 – Special Conditions of Contract (SCC)
- Section 9 – Contract Forms

**6-2** Invitation from issued by the employer to submit tenders shall not be considered bidding documents.

**6-3** The employer shall not be responsible for the completeness of bidding documents and their annexes if they were not been received directly from sources specified by the employer in the Invitation to Bid.

**6-4** The bidder shall check (audit) all instructions, forms, expressions and specifications submitted contained in the bidding documents. And that the lack of commitment to provide the required information and documents may lead to the exclusion of Bid.

## **7. Clarification of Tender documents, site visit and pre- bidding Conference**

- 7-1** In case of need to clarify or interpret any of the information contained in the bidding documents, the bidder shall communicate with the employer mentioned in **bid data sheet** or present his inquiries in the pre-bid meeting referred in paragraph (7-4) of Instructions to bidders. The latter shall answer in inquiries he receives provided that they shall be received by an appropriate date not less than (21) days of the deadline for submission of bids, or as stipulated in the bid data sheet and the employer shall send a copy of the inquiry with his answer to each who received the bidding documents directly under paragraph (6-3) of the Instructions to bidders without reference to the inquired party. And if it results from the inquiries the need to amend the basic bidding documents. The employer shall make the amendments and issue an annex under the procedures specified in paragraphs (8) and (22-2) of the Instructions to bidders.
- 7-2** It's preferable that bidders visit the worksite and the surrounding sites to obtain on his responsibility any necessary information to assist him in preparing his bid for the implementation of Works. And bidders shall bear the costs resulting from securing such visit.
- 7-3** The bidder and any of his representatives or agents shall have the right to access to the work site after obtaining employer's approval the in order to identify the site conditions, provided that the bidder's agents and representatives undertakes to exempt and compensate employer's representatives or agents from any liability or claim for death or injury or damages or any financial loss realized as a result of this visit.
- 7-4** The authorized bidder's representatives shall be invited to attend the pre-bid meeting if referred to this in the bid data sheet. The aim of this conference is to clarify and answer any inquiries presented during this phase.
- 7-5** Bidder shall present his questions in writing in an appropriate period not less than one week from the date of conference.
- 7-6** Conference minutes containing the inquiries (without mentioning their sources) and the answers in their regard shall be sent to all bidders who bought bidding documents under paragraph (6-3) of the Instructions to bidders, and any amendments necessary on the bidding documents resulted from such inquiries presented in the conference, an annex for bidding documents shall be sent thereunder and provided to all bidders, pursuant to the provisions of article (8) of the Instructions to bidders and not through the conference minutes.
- 7-7** Failure to attend the pre-bid meeting shall not be a cause to consider the bidder ineligible.

## **8. Amendment of Tender Documents**

- 8-1** The employer shall have the right to amend bidding documents at any time prior to the deadline for submission of bids.



- 8-2** Any annex to the bidding documents shall be part of the bidding documents and shall be issued and distributed in writing to all bidders who bought the bidding documents under paragraph (6-3) of the Instructions to bidders.
- 8-3** The employer shall extend the deadline for submission of bids pursuant to paragraph (22-2) of the Instructions to bidders and give bidders sufficient time to take into account the amendments marked in the bid annex when preparing their bid.

## C) Bids Preparation

### 9. Bid Cost

- 9-1** The bidder shall bear the total cost resulting from the preparation and submission of his bid and the employer shall bear no responsibility for this regardless of the procedures and results of the bidding.

### 10. Language of Bid

- 10-1** The bid and all correspondences and documents shares between the bidder and the employer shall be in the language referred in the **bid data sheet**, and a second language can be adopted to any of the supporting documents and publications that forms part of the bid provided that it shall be attached to the **accurate** translation thereto in the language specified in the bid data sheet for the purpose of bidding clarification.

### 11. Documents Comprising the Bid

- 11-1** The bid consists of the following documents:
- A. Bid letter and bid annex ;
  - B. Complete tables required including the priced tables under articles (12) and (18) of the Instructions to bidders;
  - C. Bid Guarantee under article (21) of the Instructions to bidders;
  - D. Alternative tender if allowed under article (13) of the Instructions to bidders;
  - E. A written authorization to the bidder representative to sign the bid under paragraph (22-2) of the Instructions to bidders;
  - F. Documents approved by the parties (authorities) specified in **bid data sheet** which confirm that all materials, equipment, mechanical supplies and services shown in the bidder's tender or any of his alternative tenders (if allowed) are from origins eligible under article (14) of the Instructions to bidders;
  - G. Documents approved by authorities specified in the **bid data sheet** which confirm the continued eligibility of the bidder under article (15) of the Instructions to bidders, or documents of subsequent eligibility under the forms included in Section IV to verify the eligibility of the bidder, whose bid has been accepted;
  - H. Technical proposal under article (17) of the Instructions to bidders;
  - I. Documents approved by the authorities specified in the **bid data**

**sheet** which confirm the conformity of the materials, equipment, plants and services offered in the bidders' tender for what is specified in the bidding documents;

J. The bid submitted from the joint venture shall be accompanied by the Joint Venture's Articles of Agreement or the Joint Venture's (**partnership contract certified according to the rules**) , identified at minimum from the participants in the joint venture from the actors responsible for advisory services, design and supplying of plants **unless the contracting party requests this agreement after the award of tender.**

K. A list of subcontractors for main events under paragraph (17-2) of the Instructions to bidders;

L. Any other documents stipulated in the **bid data sheet**.

## 12. Bid letter and schedules

**12-1** Bid letter and schedules including scheduled of priced quantities shall be made by adopting standard documents referred in Chapter IV (Bids Forms). The forms shall be completed as specified in each form.

## 13. Alternative bids

**13-1** If it is stated in the bid data sheet to accept alternative bids, then it shall also include a reference that the acceptance of alternative bids shall be pursuant to the provisions of paragraph (13-3) of the Instructions to bidders, or are requested pursuant to the provisions of article (13-2) and / or paragraph (13-4) of the Instructions to bidders.

**13-2** When bidders are requested to provide extended terms to complete the Works, that will be included in the bid data sheet with a detailed presentation for the manner in which be followed in the provision of various extended terms in section 3 (Evaluation and Qualification Criteria).

**13-3** Except what is mentioned in paragraph (13-4) of Instructions to bidders listed hereinafter, the bidder shall have the right, in case of his wish to provide an alternative technical bid :

**First** – to submit his bid according to bid documents and design prepared by the employer; and

**Second** – then, his alternative bid shall be submitted enhanced by all necessary information of designs, technical specifications, price analysis and the methodology that shall be adopted in the implementation of work (if any) to enable the employer to adopt it by comparison Employer shall compare the alternative bids with those least costly under the main bids documents in the bid documents.

**13-4** If so provided in the **bid data sheet**, the bidders shall have the right to submit their alternative technical solutions to implement some parts of the facility, as it has been referred in the bid data sheet and to determine the methodology that to be adopted in the analysis and comparison as described in Chapter VI (Employer Requirements). Only alternative technical solutions to some parts of the Works facilities that meet the performance standards and technical requirements required for plants (if any), and services will be taken by the employer.

#### **14. Documents Confirming the Eligibility of Materials, Mechanical Supplies, Equipment and Services**

**14-1** Bidders shall work under Article (5) of the Instructions to bidders, complete information of origins mentioned in the priced tables forms in section 4 of bid forms for each of the materials, mechanical suppliers, equipment and services that will be supplied by him.

#### **15. Supporting Documents to Qualify the Bidder**

**15-1** Pursuant to the provisions of section 3 (Evaluation and Qualification Criteria), bidder in the limited bids shall submit updated document of eligibility including any changes occurred on his qualifications during the period following the prequalification procedures when announcing the limited bid in accordance with the forms thereon in section 4.

These documents must be issued by the competent authorities in the State of the bidder and ratified by the Ministry of Foreign Affairs in the State of the bidder and diplomatic missions of the Republic of Iraq in that State.

**15-2** If the principle of granting Margin of Preference to local bidders pursuant to the provisions of paragraph (33-1) of Instructions to bidders, then the local bidders participating in the bid individually or through a joint venture who are hoping to obtain Preference Right shall provide all information required in paragraph (33-1) of the Instructions to bidders that qualifies them to obtain Margin of Preference.

#### **16. Documents Confirming the compliance of Mechanical Supplies (if any), Equipment, Services and Materials to the Employer's Requirement**

**16-1** The documents that confirm the conformity of mechanical supplied (if any), equipment, services and materials to the requirements of bid documents either in the form of introductory manual or drawings or data and shall meet the following:

A. Detailed description of the technical specifications and characteristics of base performance, plant guarantee for the performance of mechanical supplies, equipment, services and materials and the extent of their conformity to the specifications requires;

B. List of the components of all mechanical supplies, equipment, services and materials includes the resources available for their spare parts, and special tools...etc. necessary to guarantee the proper and ongoing operation after the completion of the installation of mechanical supplies and services under the contract conditions and for the period specified in the **bid data sheet**; and

C. a report containing the comment on employer's specifications supported by appropriate evidence proving full compliance of the mechanical supplies, equipment, services and materials that will be supplied by him to those specifications. Bidders should be aware of the standard specifications of the workmanship, materials and equipment specified by the employer in the bid documents is of a descriptive nature (limited to identifying the quality and performance) only and is not restrictive. Bidder shall have the right to submit alternatives to the standard specifications or trade names and / or identification numbers of the mechanical supplies, equipment, services and materials in their identification bulletins in his bid.

**16-2** To facilitate the preference process of bids, variations (if any) from the conditions, determinants and specifications must be installed as specified in paragraph (18-2) of the Instructions to bidders.

## **17. Technical Proposal and Subcontractors**

- 17-1** The bidder shall submit his technical proposal that includes the methodology and work plan that he shall follow in the implementation of Works clarifying the staff and equipment used and implementation program as shown in section 4 and any details that supports the success of the technical proposal in achieving the Works requirement and to be completed at the final date of completion.
- 17-2** The bidders shall give details of the names and nationalities of subcontractors nominated for the implementation of the key items of the works and designs, testing, commissioning and manufacturers of mechanical supplies, equipment, services and materials, as specified by the employer in Section 3 (Evaluation and Qualification Criteria). In addition, the bidder must include in his tender information that supports their meeting the specific requirements of the employer for these items. And the bidder shall have the freedom to nominate more than one alternative manufacturer for each item of the mechanical supplies, equipment and services. And that the prices and the amounts contained in the bid shall be in force in regard of any of the alternatives proposed in the bid, and will not be allowed to review prices for some reason due to the selection of the employer to any of the alternatives contained in the bid.
- 17-3** The Contractor shall ensure the response of the subcontractors proposed by him to the requirements set out in paragraph (4) of the Instructions to bidders, as well as the response of both mechanical supplies (if any), equipment, services and materials to the requirements specified in paragraphs (5), (15-1) of Instructions to bidders.

## **18. Bids Prices and Discounts**

- 18-1** Unless otherwise stated in the **bid data sheet** and / or Section 6 (Employer Requirements). Bidders shall submit their prices for the full implementation of Works and inclusive the supply of mechanical supplies (if any), equipment and services as one integrated responsibility and thus, the amount of the bid shall be inclusive of all contractor's obligations specified or referenced reasonably in bid documents, as far as the matter relates to his responsibility for the design and manufacture including the supply, subcontracting (if required), the delivery of goods, implementation of Works, installation works of mechanical supplies, equipment and services and their completion and carry out pre-commissioning and commissioning activities for Works. And the bid amount shall also include the requirement specified under contractor's obligations for his responsibility for testing the mechanical supplies and carry out the procedures for obtaining licenses and performance certificates of mechanical supplies whether stipulated in bidding documents, as well as well as operation and maintenance services, training

and any other items and services contained in the bidding documents and under the general conditions of the contract requirements. And that the items that are not priced by the bidder in the table of priced quantities shall not result in payment by the employer upon their implementation and their cost shall be deemed covered within the rest of the prices of the priced tables of quantities of the bidder.

**18-2** Bidders shall be required to submit their prices taking into account the commercial, contractual and technical aspects of the obligations specified in the bidding documents. If the bidder wishes to suggest a deviation from his obligations required in bidding documents, he shall include such deviation in the form related in Section IV (bidding forms). Bidder shall also submit his additional price (if any) for the removal of the deviation proposed in his bid.

**18-3** Bidders shall submit the prices of his bid in the manner and details required in the table of quantities included in section 4 (bidding forms). And when no reference in the bidding documents to another sample of other tables of prices, the bidders shall submit their prices in accordance with the tables set out in the below:

- Table 1 : Design services
- Table 2: mechanical supplies and equipment (including the mandatory spare parts) supplied from outside Iraq.
- Table 3: mechanical supplies and equipment (including the mandatory spare parts) supplied locally.
  
- Table 4: Construction works, installation works and other services.
- Table 5: Table of final compendium (summary)/ and includes a compendium (summary) of the total amounts of the table (1-4).
- Table 6: The technical support and secure of spare parts for post-contract phase.
- Table 7: Training

**18-4** Bid prices shall be inclusive of all taxes, customs, fees and any charges related to the contract applicable in the period leading up to the deadline for submission of bid in 28 days unless it is provided to exclude the bid prices from taxes, customs and fees in **bid data sheet**.

**18-5** Reference is made in the **bid data sheet** if the contract prices are fixed or subject to review:

A. In fixed price contracts, prices offered by bidder shall be fixed during contract implementation by bidder and shall not be subject to amendment for whatever reason. And bids that will be offered on the basis of price adjustable shall be rejected and shall be considered unresponsive; and

B. In the contract of adjustable prices, the prices offered by the bidder is adjustable during the contract implementation to deal with the changes in cost items, such as workers' wages, prices of materials, transportation and contractor's equipment in accordance with the procedures specified in the relevant annex to the Special Conditions of the Contract. The bids submitted on fixed price bases shall not be rejected, and the percent of amendment of contract's price shall be equal to zero. Bidder is required to identify the sources of labor wage and materials' indicators under the forms in the chapter 4 (bid forms).

## 19. Currencies of the Bid and Payments

**19-1** The (currency/ currencies) of the bid and payments shall be as specified in **bid data sheet**.

**19-2** The bidders shall determine the percentage of what they need of Iraqi currency from the bid amount in the Table of Prices and Bid Letter, so as to cover their expenses in Iraqi currency.

**19-3** Bidders shall determine their need of foreign currency up to three foreign currencies they wish in order to cover their expenses to supply requirements from outside the Republic of Iraq in each of the Table of Prices and Bid Letter.

## 20. Period of Validity of Bids

**20-1** The bid shall remain in force for the period specified in bid data sheet and for the period extended after the deadline for submission of bids, any bid includes a validity period less than the period specified above shall be refused and shall be considered unresponsive.

**20-2** In exceptional circumstances and before the expiration of the period of validity of bids and the request shall be submitted and bidder's response in writing, and if the documents include the submission of bid guarantee under the provisions of paragraph (21-1) of the Instructions to bidders, the bidder that his period of validity has been extended has the right to extend the period of bid guarantee till 28 after the expiry date of the amended period of validity of bids. The bidder shall have the right to refuse the request for the extension of period of validity of bids without seizure of his bid's guarantee. The bidder, whose request to extend the period of validity of his bids has been accepted, shall not have the right to request to amend his bid except what is mentioned in paragraph (20-3) of Instructions to bidder.

**20-3** If contracting procedures delayed to a period more than (56) day after the date of Period of Validity of the initial Bid, then bid amount shall be determined as follows:

- A. In case of fixed price contracts, the contract amount shall be the bid price multiplied by coefficient (factor) fixed in the **bid data sheet**;
- B. In case of contracts in which prices are adjustable, and for the purpose of determining the contract amount of its parts that are not included in price adjustment, the price shall be adjusted by multiplying the price of such parts by the coefficient (factor) specified in **bid data sheet**; and
- C. In any of these cases, bids references shall be made based on the bid price without taking into consideration the adjustment referred to above.

## 21. Bid Guarantee

**21-1** Bidder shall include in his tender the bid guarantee in the form, amount and currency specified in the **bid data sheet**.

**21-2** If the bid guarantee was required under paragraph (21-1) of Instructions to bidders, it shall be payable immediately upon written order from the employer in one of the following forms chosen by the bidder:

- A. Unconditioned bank guarantee from accredited bank.
- B. Certified check issued by an accredited bank.
- C. Any other form referred to in the **bid data sheet**.

And that bid guarantee shall be issued from a banking institution reputation of an accredited reputation and from an eligible country, and if the institution that issued the bank guarantee exists outside the employer's country, it shall a correspondent banking institution in the employer's country to activate the guarantee. It is possible to adopt the forms (templates) set out in Chapter IV within the bidding documents. Or any other form agreed upon with the employer before bid submission. And whatever the form agreed upon, it shall include the name of bidder and shall be valid for a period of (28) day after the date of the original deadline for bid validity or after date of extension of bid validity if made under paragraph (20-2) of the Instructions to bidders.

**21-3** If bid guarantee is requested pursuant to the provisions of paragraph (21-1) of the Instructions, then any bid that does not include bid guarantee in the required form shall be considered unresponsive.

**21-4** If the bid guarantee is requested pursuant to the provisions of paragraph (21-1) of Instructions to bidders, then bid guarantee shall be returned immediately to unsuccessful bidders, as soon as the winning bidder submits the performance bond under paragraph (43) of Instructions to bidders and the signing of the contract under paragraph (42) of Instructions to bidders.

**21-5** The bid guarantee shall be confiscated if the winning bidder fails in:

**First:** signing the contract under paragraph (42) of Instructions to bidders.

**Second:** submitting performance bond under paragraph (43) of Instructions to bidders.

**21-6** The bid guarantee for the joint venture shall be in the name of the joint venture submitting the bid and if the joint venture still not established legally at the time of bid submission then bid guarantee shall be in the name of all future partners as mentioned in the Invitation Letter referred in paragraph (4-1) of the Instructions to bidders.

**21-7** The employer shall have the right, if stated so in the **bid data sheet**, to announce the contractor's ineligibility in regard of any award of works to him and for a period specified in the **bid data sheet** in the following cases:

**A** If the bid guarantee was not responsive as in paragraph (21-1) of the Instructions to bidders

**B.** If the winning bidder fails in signing the contract under article (42) of the Instructions to bidders and in submitting the performance bond under article (43) of the Instructions to bidders, then the employer shall have the right, if stated so in the **bid data sheet**, to announce the contractor's ineligibility in regard of any award of works to him and for a period specified in the **bid data sheet**.

## **22. Format and Signing of Bid**

**22-1** Bidder shall prepare one original copy of documents constituting the bid as shown in the Instructions to bidders in Article (11) and the envelop that contain it shall be marked in by the words (original copy) clearly. And if alternative bids under article (13) of the Instructions to bidder were accepted, the bidder shall submit additional copy of the bid in accordance to what the bid data sheet states and to mark the envelope with the words (original copy). In the case of a difference between the original and additional copies, the original version shall be relied on.

**22-2** The original bid and all additional copies shall be printed or written in an ink that is hard to erase and shall be signed by the authorized to sign in behalf of the bidder, and the Authorization Letter shall be attached as mentioned in **bid data sheet** and attached to the bid. The name and position of the authorized persons shall be printed under their signatures. And that bidding documents in which the required information is written in them or being amended shall all be signed by the person who has signed the bid.

**22-3** The bid submitted by the joint venture shall meet the following requirements:

**A.** Unless required under paragraph (4-1-A) of the Instructions to bidders, it shall be signed to be binding on all partners; and

**B.** Attach an authorization of the joint venture's representatives signed by authorized Legal representatives of all partners in the joint venture certified by a notary under paragraph (4-1-A) of the Instructions to bidders.

**22-4** Any marking or deletion or words adding on the bid shall be enhanced by the signature of the bid's signatory in order to consider it in force (valid).

### **D) Submission and Opening of Bids**

## **23. Submitting, Closing and Marking of Bids**

**23-1** Bidder shall place original and reproduced copy of the his bid as well as the alternative bid (if allowed under paragraph (13-4) of the Instructions to bidders) in separate envelopes and marked by the words (original copy) or (alternative bid) and then the envelopes that contain the original and the reproduced copies shall be placed in one envelop.



**23-2** The outer and inner envelopes shall be marked by the following:

A. Name and address of bidder;

B. Name and address of employer under paragraph (24-1) of the Instructions to bidders;

C. Name and number of bid under the paragraph (1-1) of bid data sheet; and

D. Warning not to be opened before the deadline for the opening of bids.

**23-3** Employer shall not bear any responsibility for any loss or shortage in bids that are submitted without closing, sealing, signing and marking them as required by the instructions.

## **24. Deadline for Submission of Bids**

**24-1** Bids shall be submitted to the employer's address at a date not exceeding the date and time specified in the **bid data sheet**. The bidders shall have the right to submit their bids electronically if stated in the **bid data sheet** and they shall at that time adopt the procedures set out for that in the **bid data sheet**.

**24-2** The employer shall have the right to extend the deadline for submission of bids through amending the documents under article (8) of the Instructions to bidders, and in this case, the rights and obligations of both parties specified in previous date shall be included in the extension.

## **25. Late bids**

**25-1** Employer shall not receive any bid submitted after the deadline for submission of bids under article (24) of the Instructions to bidders, and that any bid received after the deadline shall be considered late and shall be rejected and returned unopened to the bidder.

## **26. Withdrawal, Replacement and Amendment of Bids**

**26-1** Bidder may withdraw or replace or amend his bid by written notice signed by the authorized person under paragraph (22-2) of the Instructions to bidders before the deadline provided that a copy of the authorization (except in withdrawal cases) to submit the bid to shall be attached to the notice. And that notices of replacement or modification or withdrawal shall:

A. Be prepared and submitted under articles (22) and (23) of Instructions to bidders (except notice of withdrawal, it shall not require a copy of the authorization) and envelopes of notices shall be marked by the word (withdrawal) or (replacement) or (modification) clearly; and

B. Be delivered before the deadline for submission of bid under article (26-1) of the Instructions to bidders.

**26-2** Bids that are a notice of withdrawal is submitted thereto shall be returned to bidders unopened.

**26-3** It is not allowed to withdraw or replace or modify any bid after the deadline for submission of bids and till the expiry of the bid specified by the bidder in his Bid Letter or any extension thereof.

## **27. Bid Opening**

**27-1** Employer (**Committee of Opening bids**) shall open the bids publically in the presence of bidders or their representatives at the address, time and date specified in **bid data sheet** and that any procedures of electronic opening, if applicable, under paragraph (24-1) will be referred to in **bid data sheet**.

**27-2** Enveloped entitled (withdrawal) shall be opened and read first and the bids it represent shall be returned to bidders unopened. It is not allowed to withdraw any bid unless the notice of withdrawal given by the end authorized person to submit the bid is read. Following is the opening of the envelopes entitled (replacement) and reading it and the bid that has been replaced shall be returned to the bidder and the replaced bid shall be read. It is not allowed to replace any bid in which no notice thereof is given by the deadline of submission of bids, and this will be followed by opening of enveloped entitled (modification) and the previous bid shall be returned to the bidder and the modified bid shall be read, no modified bid shall be accepted unless a notice thereon is given by the person authorized before the deadline for submissions of bids, and shall be taken into consideration hereinafter in the bids that are opened and read.

**27-3** Employer (**Committee of Opening bids**) shall start opening bids by reading the bidders' names and the amount of their bids and any discount or modification presented. As well as reading the alternative bids and determining whether bidders have attached bid guarantee or not if that was required and any other details that the employer may deem appropriate, and that the alternative bids and those containing a discount that have been read during bid opening shall be examined when comparing and evaluating the bids if stated in bid data sheet. Signing of Bid Letter and all tables (schedules) shall be made by the Bids Opening Committee and no bid shall be rejected except those delayed under paragraph (25-1) of the Instructions to bidders.

**27-4** Employer (**Committee of Opening bids**) shall prepare a minute of bids opening which shall include , as minimum, the name of the bidder and if the bid has been withdrawn or replaced or modified, the amount of the bid (according to each part if required), and any discounts proposed on the bid, and alternative bids, and to attach bid guarantee to the bid if was required, and all bidders present shall be asked to sign the minute, and the delete of the signature of any bidders shall not affect the content of the minute and shall be circulated to all bidders.

## E) Evaluation and Comparison of Bids

### 28. Confidentiality

**28-1** Information relating to the examination, clarification, evaluation and comparison of bids and recommendations for award of the contract to bidders or anyone else officially irrelevant to this process will not be announced until the declaration of contract award to the winning bidder and inform all bidders thereof.

**28-2** Any attempt by the bidder to influence the employer in his bids' processing or in award decision might result in rejecting his bid.

**28-3** Notwithstanding in paragraph (28-2) of the Instructions to bidders, if any bidder wishes to contact the employer about any matter related to the bidding process in the period between bid opening and contract award, he can do so in writing.

### 29. Clarification of Bids

**29-1** To facilitate the bids auditing process and their evaluation and comparison, employer (**Committee of evaluating and analyzing the bids**) may ask any bidder to clarify his bid including units' price details.

Any clarification provided by the bidder which not a result of answering an inquiry from the employer (**Committee of evaluating and analyzing the bids**) shall not be taken into account. The request for clarification and the answer shall be made in writing without incurring any change in the price or the essence of the bid submitted, or proposing this or allowing it only within the limit of correcting calculation mistakes discovered by the employer during the bid evaluation under article (33) of the Instructions to bidders.

**29-2** If the bidder did not answer on any substantial clarifications about his bid in time and date specified by the employer (**Committee of evaluating and analyzing the bids**) that would make the bid unresponsive and / or incomparable, then his bid shall be excluded.

### 30. Deviations , Reservations and deletion

During the bids evaluation process, the following definitions shall be adopted:

- a) **Deviations** : shall mean deviations from requirements specified in bidding documents;
- b) **Reservations**: is setting specified conditions or lack of full acceptance of the requirements specified in bidding documents of the bidder; and
- c) **Deletion**: shall mean bidder's failure in providing part or all information and documents required in bidding documents.

## 31. Determining the response

- 31-1** The employer's determination to the response to any bid shall be made according to the content of its bid and as described in article (11) of the Instructions to bidders.
- 31-2** The responsive bid is basically the bid that meet the requirement in bidding documents without any variations or reservations or deletion, **as for the meaning of important variations, they are:**
- a) If accepted they shall:
    - First:** Mainly affect the quality and performance of works specified in the contract; and
    - Second:** Basically determining is not compatible with the bidding documents, the rights or obligations of the employer or the bidder in the proposed contract.
  - b) If amended it shall unfairly affect the competition status of the rest of bidders who mainly submit responsive bids.
- 31-3** The employer shall examine the technical indicators referred in the technical proposal of the bid under article (17) of the Instructions to bidders specifically in regard to meeting work's requirements referred in chapter six without any significant variation or reservations or deletion.
- 31-4** If the bid was unresponsive mainly to the requirements of bidding documents, it shall be rejected by the employer and it is not allowed to render it responsive hereinafter through making any modification on the significant variations or reservations or deletion.

## 32. Unimportant and Non-Conforming Bids

- 32-1** If the contract is responsive mainly, employer shall have the right to dismiss any non-conformity in the bid that does not constitute a significant variation or reservation or deletion.
- 32-2** If the bid is responsive mainly, employer may request the bidder to provide any information or documents necessary within a reasonable time to remedy any insignificant errors or non-conformity in his bid, provided that it shall not have impact on prices. And that the non-responsiveness of the bidder to employer's request to remedy this will lead to the rejection of his bid.
- 32-3** If the bid is responsive mainly, the employer shall correct the non-conformity or any insignificant errors measurable in the bid amount resulting from the non-pricing of some paragraphs or non-conformity, modification shall be carried out by adopting the mechanism referred in the analysis and qualification methodology in chapter 3 of bidding documents.

### 33. Correcting arithmetical Errors

33-1 If the bid is responsive mainly, the employer shall correct the arithmetical errors by adopting the following:

- A. If there is a discrepancy between the unit price and the item's amount, the unit price is relied on and item's amount shall be adjusted in the light of this, only if there is an error in the location of the decimal point in the unit price from the viewpoint of the employer, then the amount shall be approved and the price shall be corrected.
- B. If there was an error in gross total of the lists of the tables of quantities as a result of addition and subtraction measures of the totals submenus in the tables of quantities, the totals submenus shall be approved and gross total shall be adjusted.
- C. If there is a discrepancy between the values of the amount of any item that is written in figure and in writing, the number specified in writing shall be adopted, unless there was an arithmetic error in determining the value of the amount as a result of paragraphs A and B above. The specified in figure (number) shall be adopted.

33-2 If the bidder of underbid refused the modifications on mathematical errors in his bid, his bid shall be rejected.

### 34. Conversion to Single Currency

34-1 For the purposes of comparison and analysis, the currency (currencies) mentioned in the bid shall be converted to a single currency as specified in the **bid data sheet**.

### 35. Margin of Preference

35-1 Unless stated otherwise in the bid data sheet, the preference margin shall be adopted for bids submitted by local bidders and with the value determined in **bid data sheet**.

### 36. Evaluation of Bids

36-1 The employer (**Committee of evaluating and analyzing the bids**) shall adopt the methodology and mechanism listed in this article for the purpose of analyzing and evaluating the bids and no other methodology and mechanism shall be accepted.

#### 36-2 Technical Analysis

Employer (**Committee of evaluating and analyzing the bids**) shall carry out technical **evaluation** for bids that have been accepted for being responsive mainly, to determine whether they conform to bidding documents. For the purpose of reaching analysis findings, the employer shall examine and compare the technical aspects of the bids based on the information provided by the bidders taking into account the following:

- A. Conformity and integration of bids with the requirements of the employer;
- B. Deviations from the requirements of the employer;
- C. Conformity of mechanical supplies, equipment and services offered

- in the bid for performance standards;
- D. Suitability of mechanical supplies, equipment and services to the environmental conditions and climate conditions prevailing at the site;
- E. The quality, performance and operation of the control system of any of the functioning operations of mechanical supplies (if any) or equipment or services;
- F. Quality, quantity and availability of mandatory spare parts and necessary spare parts and maintenance services; and
- G. Any other indicators (if any) as listed in Section 3 (Eligibility and Evaluation Criteria).

And the bid that does not achieve the minimum acceptable standards of perfection and thoroughness and detail required shall be excluded and shall be considered non-conforming.

**36-3** If alternative technical solutions are allowed to be submitted under paragraph (13) of the Instructions to bidders and have been provided by the bidder, the employer shall conduct similar evaluation to the alternative bids. And in the event the alternative bids were not allowed, they shall be neglected.

#### **36-4 Financial Evaluation**

For the purposes of evaluating the bid, employer (**Committee of evaluating and analyzing the bids**) shall note the following:

- A. Bid amount after excluding the reserve amount and the general reserves amount (if any) in the tables of prices;
- B. Price adjustment due to correcting arithmetical errors in the tables of price of bids under paragraph (33-1) of the Instructions to bidders;
- C. Price adjustment due to any discounts proposed in the bid under (18-7) of the Instructions to bidders;
- D. The transfer of funds resulting from the valuation procedures in paragraphs (a-c) above and convert it into a single currency, if appropriate under paragraph (34); and
- E. Taking into account the evaluation indicators specified in Section 2 (Eligibility and Evaluation Criteria).

**36-5** If prices review is allowed under paragraph (18-5) of the Instructions to bidders, the expected effects of the terms of prices review during the implementation period referred to in the general conditions of the contract will have no effect on the evaluation of bids.

**36-6** If the bidding documents stated the possibility of segmentation of Works and the right of bidder to submit his prices for parts of the Works or a group of parts, then determining the best bid price wise for a group of parts including any reduction proposed in Bid Letter to this effect shall be made under section 3 (Eligibility & Evaluation Criteria).

**36-7** If resulted from the analysis, receiving a bid that is significantly less than the true cost from employer's viewpoint, the employer shall have the right to ask the bidder to submit details of calculating cost components and the method of calculation and implementation schedules for an item or items of tables of quantities and after evaluating and analyzing the prices taken into account the estimated cost approved in the plan, the employer shall have the right to increase the letter of guarantee on account of bidder to the level that ensures the protection of employer from any financial loss in the event of contractor's failure to implement his obligations under the contract.

### **37. Comparison of bids**

**37-1** The employer (**Committee of evaluating and analyzing the bids**) shall compare all responsive bids mainly under paragraph (36-2) of the Instructions to bidders to determine best suitable bid.

### **38. Qualifications of the Bidders**

**38-1** Employer (**Committee of evaluating and analyzing the bids**) shall decide, with conviction, that the underbid bidder and responsive mainly, still have the qualifications specified in the previous qualification, if the work has been done in accordance with the limited bids or has met the requirements of the subsequent qualification specified in section 3 (Eligibility & Evaluation Criteria).

**38-2** Determining the winning candidate by the employer shall be made after examining all documents related to proving his qualifications that are provided by him under paragraph (15-1) of the Instructions to bidders.

**38-3** The positive decision in the selection of the candidate is the basis for the conclusion of the contract and that the negative decision would result in the disqualification of bid and in the light of this, an employer shall resort to underbid bid, to adopt the same mechanism to verify the availability of the eligibility requirements for the bidder.

**38-4** The participation of manufacturers and subcontractors proposed in the underbid tender of the bidder in light of the evaluation shall be enhanced by the Letter of Intent regarding the agreement between the parties involved in the bid, upon request. The possibilities added to the manufacturers and subcontractors proposed in the underbid tender of the bidder in light of the results of the evaluation would also be taken into consideration in the evaluation and acceptance of bid under Section 3 (Evaluation and Qualification Criteria). And before signing the contract, the contract agreement's annexes related to the listing of the names of manufacturers and subcontractors that have been approved for implementation of key items of each of them shall be completed.

### **39. Employer's right to accept or reject bids**

**39-1** Employer shall reserve the right to accept any bid or to cancel contracting procedures and to reject all bids at any time before contract **award** without any obligations to bidders. And in the event of cancelling a bid, all bids and bids guarantee shall be returned to bidders.

## **F) Award of contract**

### **40. Methodology of Award**

**40-1** Employer shall award the contract on a bidder that the results of the underbid analysis showed that his bid was responsive mainly to bidding documents under the provisions of paragraph (39-1) of the Instructions to bidders and after he is completely convinced of the bidder's ability to implement the contract satisfactorily.

## 41. Announcement of Award

**41-1** Employer shall, and prior to the expiry of period of validity of bids, announce in writing the winning bidder by accepting his bid. And that the notification letter identified hereinafter in the Acceptance Letter (Award Letter) in each of the form of contract and the general conditions of the contract shall include the amount payable by the employer to the contractor for the designing, implementing and completing the Works and their maintenance and operation (if so stated) (identified hereinafter in the form of contract and in the general conditions of the contract as Contract Amount).

**41-2** At the same time, employer shall give notice to all bidders of the result of the bid, and to publish on his website or the website of the (UNDP) and (dg Market) as well as the results of bids analysis and contracts concluded and information listed below:

- A. Names of all participating bidders;
- B. Bid prices of each of them upon bids opening;
- C. Name and price of bid evaluated for each bid that has been evaluated;
- D. Names of bidders whose bids have been rejected and the reasons lead to the rejection; and
- E. The name of winning bidder, the amount of his bid, a summary of awarded Works and time set for implementation.

**41-3** Till the preparation of contracts and its signature, notification of award (letter of acceptance) shall be considered a binding contract.

**41-4** Employer shall, as soon as the Notification of Award (Acceptance Letter) is issued, respond to inquiry requests received in writing from bidders that weren't fortunate and inform them the reasons for not being selected.

## 42. Signing of Contract

**42-1** As soon as the Notification of Award (Acceptance Letter) is issued, employer shall provide the winning bidder with (Form of Contract).

**42-2** The bidder shall, within a period no more than (29) day from his receipt of Form of Contract **including the warning period or after the end of the appeal period**, sign the contract and fix its date and returned it to the employer.

## 43. Good Performance Guarantee of the contract

**43-1** Bidder shall, within a period no more than (29) day from the date of Notification of Award (Acceptance Letter) is issued by the employer **including the warning period**, provide a **good** performance bond according to the general conditions of the contract with using the forms (samples) referred in the special conditions' annexes in section 9 (Contract Documents forms) or any forms (samples) approved by the employer. The performance bond shall be issued by an accredited bank in the employer's country or any foreign bank that has a correspondent bank in the employer's country.

**43-2** In case of winning bidder's failure in providing the performance bond referred above, or signing the contract, it will result in canceling of the award and confiscating the bid guarantee and then the employer shall have the right to award the contract to the second bidder whose bid was responsive mainly, and employer is convinced that he has the qualifications to perform the contract satisfactorily.



## Section Two – Bid Data Sheet

### A. General

<b>1-1</b> Instructions to bidders	Invitation number for the submission of bid: --- -----
<b>1-1</b> Instruction	Employer name: -----
<b>1-1</b> Instructions to bidders	Bid's name: ----- Bid's number: ----- Number and description of tables of quantities of the bid: -----
<b>2-1</b> Instruction	Project's name(Point of funding): -----
4-1-A Instructions to bidders	All members of the joint venture or institution (insert who bear or not bear) the full and Joint liability in the implementation of the contract.
4-4	There is a list with the names of ineligible companies prevented from working with the Ministry of Planning /Directorate of Government General Contracts (enter its website

### B. Bidding Documents

7-1 Instructions to bidders	For the purpose of clarifying procedures only, the employer's address is:  Name of authorized person: Floor & room No.: Street No.: City: Country: P.O. Box: Phone No.: Fax No.: Email:
7-4 Instructions to bidders	Pre-bid Meeting shall be held at the time, date and place:  Time: Date: Place:  The employer shall visit the site on: -----

<b>C. Preparation of Bids</b>	
10-1 Instructions to bidders	Language of Bid shall be -----
11-1 Instructions to bidders	Bidder shall provide the additional documents with his bid -----
13-1 Instructions to bidders	Alternative bids: [ insert allowed or not allowed]
13-2 Instructions to bidders	Alternative period for project implementation:] insert allowed or not allowed] provide alternative period for project implementation. If alternative period for project implementation is approved, the preference methodology shall be determined for this purpose in section 3 (Evaluation & Qualification Criteria)
13-4 Instructions to bidders	(insert allowed or not allowed) the bidder may provide alternative technical solutions for parts of the Works shown hereinafter: If the bidder is allowed to provide alternative technical solutions, the preference methodology shall be adopted for this purpose as specified in section 3 of the documents (Evaluation & Qualification Criteria)
16-1-B Instructions to bidders	Period specified in the contract data binding to the contractor for the supply of spare parts, and tools needed to ensure the operation of plants and equipment involved in the works.
18-1 Instructions to bidders	Bidder shall submit his bid to implement ----- Below is a list of the parts and services to be provided on employer's responsibility
18-4 Instructions to bidders	Contract prices to be exempt from taxes and customs duties [insert Yes or No]
18-5 Instructions to bidders	Bid prices [ insert fixed or adjustable]
19-1 Instructions to bidders	Bids prices shall be in currencies: -----
20-1 Instructions to bidders	Period of Validity of Bids ----- day
20-3 (A) Instructions to bidders	For fixed price contracts, the coefficient (factor) of prices adjustment of the bid shall be: <b>(applicable , not applicable)</b>

20-3 (B) Instructions to bidders	For adjustable prices contracts, the coefficient (factor) of prices adjustment of the bid shall be: <b>(applicable , not applicable)</b>
21-1 Instructions to bidders	Bid security (insert required or not required) If the bid security was required, the amount and currency of the bid security shall be:
21-1 (c) Instructions to bidders	(Insert types of bid security approved by the employer)
<b>21-6</b>	<b>If the bidder is a joint venture, they shall submit the bid guarantee in the name of the joint venture (insert any other conditions)</b>
21-7	<b>If the bidder</b> refused to sign the contract, announcement will made for his ineligibility to participate for a period: ----- -----
22-1 Instructions to bidders	In addition to the original bid, bidder shall submit --- ----- additional copy
22-2 Instructions to bidders	The authorization letter of the bidder's representative authorized to sign the contract shall contain the following:
<b>D. Submission and Opening of Bids</b>	
24-1 Instructions to bidders	For the purposes of bid submission, bid shall be submitted to the employer's address shown hereinafter only. Name of person authorized to receive Floor & room No.: Street No.: City: Country: Deadline for submission of bids: Time: Date: Submission of bids electronically (insert allowed or not allowed)  In the case of allowing the submission of bids electronically, the procedures will be as follows:----- -----

27-1 Instructions to bidders	<p>Bids opening shall be at the following address:</p> <p>Floor &amp; room No.:</p> <p>Street No.:</p> <p>City:</p> <p>Country:</p> <p>Time:</p> <p>Date:</p> <p>In the case of allowing the submission of bids electronically, the opening procedures will be as follows:-----</p>
27-3 Instructions to bidders	<p>Signing of Bid Letter and table of quantities of the bidder by employer's representatives (Bid Opening Committee) [ insert required or not required] if it was required, the following procedures shall be adopted: -----</p>
<b>E. Evaluation and Comparison of Bids</b>	
34-1 Instructions to bidders	<p>The Iraqi currency shall be adopted in the evaluation and comparison of bids, and foreign currencies adopted in the bid shall be converted to it for this purpose. The source of conversion rate shall be those mentioned in the bulletin issued by [ insert the bulletin issuer ]</p> <ul style="list-style-type: none"> <li>- The date of the conversion rate shall be the for the bulletin issued on [ insert the specified date]</li> <li>- The foreign currencies mentioned in the bid shall be converted to the Iraqi dinar by adopting one of the alternatives mentioned hereinafter for the purposes of bid comparison</li> </ul> <p>First alternative: <u>whenthebidamountisinIraqidinarin full</u> :  First step: the employer shall be segmenting the bid amount after correcting the amount under article 31 to the amounts specified to it in foreign currencies by adopting the exchange rate specified by the bidder under article (15-1).  Second step: the employer shall convert the amounts which their payment is determined in foreign currencies (after excluding the reserved amounts with keeping the amount of the paragraphs quoted by daily wages when they are required for the purposes of competition) to the Iraqi dinar according to the selling price of foreign currency and at the date specified for them above.</p> <p>Second alternative: <u>when the bid amount is in Iraqi dinar andforeigncurrencies:</u>  The employer shall, after correcting the bid amount under article (31), convert the amounts specified in various foreign currencies (after excluding the reserved amounts with keeping the amount of the paragraphs quoted by daily wages when they are required for the purposes of competition) to the Iraqi dinar according to the selling price of foreign currency in the foreign currency exchange bulletin and at date specified above</p>
35 Instructions to bidders	<p>Preference margin for local bidders is allowed [insert Yes or No] and if Yes [ insert the amount of the margin] as well as the methodology to be followed: -----  -----</p>

36-5	Insert (permitted , not permitted) to review the prices
36-6	Insert ( it is permitted, not permitted) to segment the works and right of the bidder to submit his prices for segments of his works or a group of segments

**Section Three: Criteria of Evaluation and Qualification of the  
Turnkey Project for Executing  
Works  
(Without Pre-Qualification)**

This section includes the criteria required to be adopted by the employer to evaluate the bids and qualify the bidders according to Articles (36) and (38) of the instructions to bidders, and no systematic indicators or other criteria shall be adopted for this purpose. The bidders have to provide all the information required according to the forms specified in chapter fourth (Bid Forms).

## **1. Evaluation of Bids**

### **1.1- Technical Evaluation**

In addition to the criteria stated in item (36/4) (A-C) of instructions to bidders, the following criteria is adopted:

### **1.2- Financial Evaluation**

Any adjustment to the price resulted from the procedures specified hereunder, must be added for purposes of comparing the evaluation results only, to reach an evaluated bid price. The bid prices offered by the bidders must remain unrevised.

#### **1.2.1- Measurable and Removable Deviations**

The measurable and removable deviations of the contractual obligations; the evaluation process must be concluded on the basis of price fulfillment of the conditions of the contract according to the contractual obligations specified in the documents of the bids. The employer will limit these deviations for the purpose of ensuring fair bids comparison.

#### **1.2.2- Time Table**

The period of completing the works, facilities and services is calculated as from the date of commencement specified in the contract data for the purpose of specifying the period of completing the experimental operation which is 3enter period in days .No margin of preference shall be given for earlier completion.

#### **1.2.3- Cost of Operation and Maintenance**

#### **1.2.4- Facilities Effectiveness Guarantees**

#### **1.2.5- Works, Services and Facilities Required to Be Insured by the Employer**

#### **1.2.6- Additional Special Criteria**

### **1-3 Technical Alternatives**

The technical alternatives will be evaluated (if permitted according to Para 13/4)

as shown  
hereunder:

## **2- Qualification of the Bidder**

### **2-1- Updating the information**

The bidder has to continue achieving the criteria required in the previous qualification.

**2-2- Financial Resources**

By using the related forms No. .... listed in section four (Bid Forms), the bidder has to demonstrate the ownership or availability of the financial resources such as cash liquidity,

non-mortgaged properties, debts realized to him or any other financial resources, excluding advance payments expected to be received.

1- Insert the balances of the current account required for this contract:

.....

2- Insert the balances of his current accounts for this contract and the other contractual obligations

.....



## 2-3- Staffs

The bidder has to demonstrate the availability of staffs for key positions to implement the contract and achieve the following requirements:

<b>Ser.</b>	<b>Position</b>	<b>Total experience from executing the works for ( ) years</b>	<b>Specialized experience in similar works ( ) years</b>
1.			
2.			
3.			
4.			
5.			

The bidder shall submit the details of the staffs proposed to be used in implementing the contract, specifying their pervious experiences according to the forms set out in part four (bid forms).

## 2-4- Equipment

The bidder shall demonstrate his ownership or possession of the main equipment listed later on:

<b>Ser.</b>	<b>Type of Equipment and its Specifications</b>	<b>Quantity Required</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		

The bidder shall submit additional details of the equipment suggested to be used in implementing the contract according to the forms set out in section four (bid forms).

## 2.5- Subcontractors

The subcontractors and manufacturers of the supplying paragraphs or master services must achieve the minimum qualification criteria described hereunder against each main para. Failure to achieve these requirements will result in refusing the nominated subcontractor.

<b>Ser.</b>	<b>Para Description</b>	<b>Minimum Qualification Criteria</b>
1.		
2.		
3.		
4.		
5.		

In case the bidder provided an offer to prepare and establish the main clauses specified in the contract, not manufactured or produced by him. The bidder has to include in his bid an authorization from the manufacturing or producing party; the bidder is obliged accordingly to supply and set up equipment and parts of these main clauses in the country of the employer. The bidder shall bear the responsibility of ensuring committing of producers and suppliers to the requirements of clauses (4) and (5) of the instructions to the bidders, and achieve minimum criteria set out above.

**Section Four - Bid Forms  
For Turnkey Contracts of Executing of Works**

**This section contains the forms that have to be filled completely by the bidder, and then submit them as part of his bid.**

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**Form of Bid Submission**

Date: Tender No.:  
Invitation Letter  
No.:

To: (Name and Address of Employer)

We, the undersigned, declare that:

- a- We confirm that we have studied and checked the bid documents and we have no reservations regarding it and to any of the amendments that were concluded according to article (8) of the instructions to bidders .....
  
- b- We submit our offer to execute the works described later on according to what is specified in the bid documents  
.....  
.....
  
- c- The total price of our bid, after excluding any deductions stated in our bid, and described in Para (D) hereunder, amount to:  
.....  
.....
  
- d- The discounts stated in our bid and its method of application is as shown below  
.....  
.....  
.....  
.....  
.....  
.....  
.....
  
- e- Our bid is valid for ..... days as from the final date specified to deliver the bid, in the bid documents, and it remains binding and accepted by us until completion of its period of validity.
  
- f- We undertake to submit the performance guarantee aforementioned in bid documents in case of accepting our bid.
  
- g- We confirm that we, our subcontractors or suppliers hold or will hold nationality certificates from the eligible countries to any part of the contract according to the provisions of article (4-2) of the instructions to bidders.

- h- We confirm that there is no conflict of interests to us or to any of our subcontractors or suppliers to any part of the contract aforementioned in article (4-3) of the instructions to bidders.
- i- We confirm our non-participation in any other bid except for this one, in any capacity whether for the bidder or a subcontractor, pursuant to the provisions of article (4-3) of the instructions to the bidders except the alternate bids submitted by us according to article (13) of the instructions to bidders.
- j- We confirm that no ineligibility decision was issued against us by the employer or placing us in the black list, and our subcontractors or suppliers have no right to any part of the contract, as well as no decision was issued by the United Nations / Security Council in this regard.
- k- We confirm that we are not a governmental entity / or we are a governmental entity which fulfills the requirements specified in article (4-5) of the instructions to bidders.
- l- We state that we have paid / or will pay gifts or fees related to the contracting procedures or implementing the contract.

Name of Recipient	Address	Reason	Amount

(If payment was not made or will not be made to anyone, then mark that with "none")

- m- We are aware that this bid and your written approval thereof according to the letter of acceptance (awarding) which will be issued later, shall be as a contract binding us until preparing an official contract text and implement it.
- n- We are aware that you are not obliged to accept the lowest bids or any other bid received by you.
- o- We undertake to take all actions to ensure, that our employees or any person works for us, will not practice bribery.

Name of Bidder:

Posit

ion: Signature:

Name of the Authorized Person to Sign on our Behalf:

Dated:

Day on



## **Annex of the Bid**

### **Price Adjustment Data Schedules**

In schedules (A), (B) and (C), listed later on, the bidder has to specify the following: (A) its amount payable in Iraqi currency

(B) the suggested sources, basic value and indicators of these components in various currencies. (C) the weight proposed for each component in the payable Iraqi and foreign currency

(D) the adopted conversion factor for the purposes of transferring the amounts into foreign currency.

In large and complex contracts, it might be required to use several equations to adjust the prices according to the nature of works clauses.

**Schedule (A) – Payment in Iraqi Currency**

<b>Code of Indicators for Para Cost Components</b>	<b>Description of Indicators</b>	<b>Source of Indicators Cost</b>	<b>Basic Value and Date</b>	<b>Amount in Bidder's Currency</b>	<b>Weight of Components Proposed by the Bidder</b>
					A=
					B=
					C=
					D=
					E=
				<b>Total</b>	<b>1</b>

**Schedule (B) – Payment in Foreign Currency**

<b>Code of Indicators for Para Cost Components</b>	<b>Description of Indicators</b>	<b>Source of Indicators Cost</b>	<b>Basic Value and Date</b>	<b>Amount in Bidder's Currency</b>	<b>Amount Payable in Foreign Currency</b>	<b>Weight of Components Proposed by the Bidder</b>
						a=
						B=
						C=
						D=
						E=
<b>Total</b>						<b>1</b>

**Schedule (C) – Summary of Payment Currencies**

Alternative (A) – In case the bid was in Iraqi Dinar

For the part of the work ..... [Insert the name of the part of works]

Name of Payment Currency	(A) Amount of Foreign Currency	(B) Exchange Rate (Dinar against what is represented by the Foreign Currency Unit)	(C) Equivalent in Dinar A x B	(D) Percentage of What it Represent of the Bid Net Amount
				$\frac{100 * C}{\text{Bid Net Amount}}$
Iraqi Currency		<b>1.00</b>		
Foreign Currency No. (1)				
Foreign Currency No. (2)				
Foreign Currency No. (3)				
Bid Net Amount				100.00
Reserve Amount in Iraqi Dinar				
Bid Amount				

### Schedule: Summary of Payment Currencies

Alternative (B) – In case of paying in several currencies

(According to article (15-1) of the instruction to the bidders)

Summary of payment in currencies: ..... [Insert the name of the part of works included therein]

<b>Name of Currency</b>	<b>Amount Required to be Paid according to the Bid</b>
Iraqi Currency	
Foreign Currency (1)	
Foreign Currency (2)	
Foreign Currency (3)	

## **Priced Schedules**

### **General**

1. The priced schedules are divided into separate schedules as shown

hereunder: Schedule no. (1): Plans Services Schedule.

Schedule no. (2): Schedule of the quantities of works (Construction Works, erection of Plants works "if any", Equipment and Other Services).

Schedule no. (3): Schedule of plants quantities (if any), equipment with mandatory spare parts supplied from outside of the country of the employer.

Schedule no. (4): Plants (if any), equipment with mandatory spare parts from inside the country of the employer.

Schedule no. (5): Summary of Schedules (1-4).

Schedule no. (6): Proposed Spare Parts

(Optional). Schedule no. (7): After Contract

Services (Optional). Schedule no. (8): Training

Proposals (Optional).

2. The schedule clauses include, generally, a full description of construction works, plants (if any), equipment and services that shall be supplied.

The bidder has to read the requirements of the employer and the rest of the bid documents, and review plans to the extent of ensuring the inclusion of all the requirements in clauses of the bill of quantities before starting the pricing.

The prices and amounts affixed in the schedules by the bidder shall cover the cost of all details of the work completely and include administrative charges and profits.

3. In case the contracts are based on the total amount, the bidder has to submit a proposal to the payments schedule according to the activities shown in (1) above.

4. If the bidders experienced non-clarity and uncertainty of the scope of services of any of the clauses, then they have to request clarification according to the provisions of article (7) of the instructions to the bidders before submitting their bid.

**Schedule no. (1) – Designing Services**

Clause	Specifications	Qty.	Unit Price		Total Price	
			Part in Local Currency	Part in Foreign Currency	Part in Local Currency	Part in Foreign Currency
1	2	3	4	5	3*4=6	3*5=7
Totals in Column 6 and 7 are carried over to Summary Schedule no. 5						

**Name of the Bidder:** \_\_\_\_\_

**Signature of the Bidder:** \_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders.



**Schedule no. (2) – Works (Construction Works, Erection Works of Plants, Equipment and Other Services).**

Clause	Specifications	Qty.	Unit Price in figure and writing		Total Price in figure and writing	
			Part in Local Currency	Part in Foreign Currency	Part in Local Currency	Part in Foreign Currency
1	2	3	4	5	3*4=6	3*5=7
Totals in Column 6 and 7 are carried over to Summary Schedule no. 5						

**Name of the Bidder:** \_\_\_\_\_

**Signature of the Bidder:** \_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders

**Schedule no. (3) – Plants, Equipment with its Mandatory Spare Parts Supplied from Outside of the Country of the Employer**

Clause	Specifications	Country of Origin	Qty.	Unit Price in figure and writing		Total Price in figure and writing	Taxes and Fees
				Foreign Currency	CIF or CIP	Foreign Currency	Local Currency
1	2	3	4	5	6	4*6=7	8

Totals in Column 7 are carried over to Summary Schedule no. 5

--

Name of the Bidder: \_\_\_\_\_

Signature of the Bidder: \_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders.

**Form of Declaring the Country of Origin**

Clause	Specifications	Country

**Schedule no. (4) - Plants, Equipment with its Mandatory Spare Parts supplied from Inside the Country of the employer.**

Clause	Specifications	Qty.	EXW Unit Price in figure and witing	EXW Total Price in figure and writing	Sales Tax	Total Price in figure and writing
1	2	3	4	1 * 2 = 5	6	6 + 5 = 7
Totals in Column 5 are carried over to Summary Schedule no. 5						

**Name of the Bidder:** \_\_\_\_\_

**Signature of the Bidder:** \_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders.

**Schedule no. (5) - Summary**

Schedule No.	Address	Total <sup>1</sup>	
		Foreign	Local
1	Designing Services		
2	Civil Works, Erection and Other Services		
3	Plants, Equipment with its Mandatory Spare Parts Supplied from Outside of the Country of the Employer		
4	Plants, Equipment with its Mandatory Spare Parts supplied from Inside the Country of the employer.		
	<b>The total amount is carried over to a letter in the bid</b>		

**Name of the Bidder:**

\_\_\_\_\_

**Signature of the Bidder:**

\_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders.

**Schedule no. (6) - Proposed Spare Parts**

Clause	Specifications	Qty.	Unit Price in figure and writing		Total Price in figure and writing	
			EXW Spare Parts Local Currency	CIF or CIP Imported Spare Parts Foreign Currency	Part in Local Currency	Part in Foreign Currency
1	2	3	4	5	3*4=6	3*5=7
<b>Total</b>						

**Name of the Bidder:** \_\_\_\_\_

**Signature of the Bidder:** \_\_\_\_\_

Specify the currency according to article (19) of the instructions to the bidders.

**Schedule no. (7) - After Contract Services**

Ser.	Description of Experts	No. of Experts	Period in Months	Monthly Fees in figure and writing		Amount in figure and writing	
				Local Currency	Foreign Currency	Local Currency	Foreign Currency
<b>Total</b>							

**Name of the Bidder:**

\_\_\_\_\_

**Signature of the Bidder:**

\_\_\_\_\_

**Schedule no. (8) - Training Proposals**

Ser.	Level of Trainees	No. of Trainees	Period of Training	Monthly Cost of One Trainee in figure and writing		Amount in figure and writing		
						Total		

**Name of the Bidder:**

**Signature of the**

**Bidder:**

## Technical Proposal

The technical proposal includes the following:

- Site organizing
- The Report which Includes preliminary design Ideas and the detailed description of proposed works
- The Plans including horizontal sections, facades and standard vertical section
- Comments on the requirements of the employer describing how to achieve the main objectives
- Work methodology
- Work progress schedule of designing works
- Preparation activities schedule
- Work execution activities schedule
- Process Schedule and specifications of plants (if any) and the equipment included in the core of the work
- Technical Literature Issued by the manufacturer of plants (if any) and the equipment and items included in the main clauses of the works
- Proposal concerning the training
- Proposal concerning after contract services and supplying of spare parts
- Workers
- Equipment
- Other
- Subcontractors / Manufacturers of the main Items of plants (if any), equipment and services
- Authorization from the manufacturer
- Work progress program for the project



## Site Organizing

**The Report which Includes Preliminary Design Ideas and the Detailed Description of Proposed Works**

## **The Plans Including Horizontal Sections, Facades and Standard Vertical Section**

**Comments on the Requirements of the Employer Describing How to Achieve the Main Objectives**

## **Work Methodology**

## **Work Progress Schedule of Designing Works**

## Preparation Activities Schedule

## Work Execution Activities Schedule



**Process Schedule and Specifications of Plants (if any) and the Equipment included in the Core of the Work**

**Technical Literature Issued by the Manufacturer of Plants (if any) and the Equipment and Items included in the Main Clauses of the Works**

## **Proposal concerning the Training**

## **Proposal concerning after Contract Services and Supplying of Spare Parts**

## Staff

Form of Workers no. (1): Proposed names of the leading staff, the bidders have to submit a list of the efficient leading staffs to fulfill the requirements specified in section three, and submit the information regarding their experiences according to the following schedule:

1	Name:
	Position:
	Scientific Qualification :
	Experience :
2	Name:
	Position:
	Scientific Qualification :
	Experience :
3	Name:
	Position:
	Scientific Qualification :
	Experience :
4	Name:
	Position:
	Scientific Qualification :
	Experience :

As specified in section three

**Form of staff no. (2): Experience Form of the key Staffs**

--

Name of Bidder:

<b>Position</b>		
<b>Personal Information</b>	Name	Date of Birth
	Work Experience	
<b>Current Position</b>	Name of Employer:	
	Work Address:	
	Telephone:	Person in Charge (Director / Employee / Personnel)
	Fax:	Email:
	Position Title:	Employer's Years of Service

Hereunder is the summary of work experience for the past (20) years as from the current date, explaining any technical and administrative experiences related to the current project.

From	To	Company / Project / Position / The Related Technical and Administrative Experiences

## Form of Equipment

**Omit the following information of equipment belonging to the bidder**

Type of Equipment		
Information About the Equipment	Name of Manufacturer	Model and Horsepower
	Productivity	Manufacturing Year
Current Status	Current Work Address	
	Current Description of Its Work	
Its Source	Include the Source of the Equipment or Machinery Owned by the bidder    Rented    Leased    Specifically Manufactured for	

The bidder has to submit the information to demonstrate accurately the possibility of insuring the needs of the main equipment required to implement the contract mentioned in section three (Evaluation and Comparison Criteria), which requires filling a separate form for each equipment listed or proposed by the bidder.

Ownership of Equipment	Name of Owner of the Equipment	
	Owner's Address	
	Telephone: Fax:	Name and position of the Owner:
		Email:
Agreement	Details of Leasing , Renting and Manufacturing the equipment required for the project	

**Other**



**Subcontractors / Manufacturers of the Main Items of Plants (if any), Equipment and Services**

## **Authorization from the Manufacturers**

## **Work Progress Program for the Project**

**Qualifications of Bidders** Required in case of not conducting the Prequalification

In order to demonstrate that the bidder has qualifications mentioned in section three (Evaluation and Comparison Criteria) to implement the contract, the bidder has to submit the required information according to the forms listed later on.

---

**Form no. (1) / Information Form of the Qualifications of Bidders (Individual Company)**

<b>Information of the Bidder</b>	
Legal Name of the Bidder	
In case of joint venture / the legal name for each partner	
Country of Incorporation	
Date of Company's Incorporation	
Legal Address in the Country of Incorporation	
Authorized Representative of the Bidder / Legal (Name, Address, Telephone, Fax, Email Address)	
<p style="text-align: center;"><b>The Enclosures are Copies of the original Documents listed hereunder</b></p> <ol style="list-style-type: none"><li>1- In case of individual company, the items related to incorporation or legal companies federation of the company according to article (4-1), (4-2) of the instructions to bidders.</li><li>2- The authorization of the representative of the aforementioned joint venture according to article (20-2) of the instructions to bidders.</li><li>3- In case of joint venture, a joint venture agreement or a letter of willingness to establish a joint venture is submitted according to article (4-1) of the instructions to bidders.</li><li>4- In case of a company owned by the country and any additional documents not included in Para (1) above, and conforming to article (5-4) of the instructions to bidders.</li></ol>	

**Form no. (2) / Information Form of the Qualifications of Bidders (Joint Venture)** Each

Company participating in the Joint Venture has to fill this Form

<b>Information of the Joint Venture or the Specialized Subcontractor</b>	
Legal Name of the Bidder	

Names of Companies in the Joint Venture or the Specialized Subcontractor	
Country of Incorporation of Joint Venture Establishing Company and the Specialized Subcontractor	
Year of Incorporation of Joint Venture Establishing Company and the Specialized Subcontractor	
Legal Address in the Country of Incorporation for Partners of the Joint Venture and the Specialized Subcontractor	
Name, Address, Telephone, Fax and Email Address of the Representative Authorized by the Joint Venture and the Specialized Subcontractor	

**The Enclosures are Copies of the Original Documents listed hereunder**

- 1- Documents of incorporating the federation of companies or the legal joint venture named above according to Para (4-1) of the instructions to bidders.
- 2- Letter of Authorization of the representative of the joint venture named above according to Para (20-2) of the instructions to bidders.
- 3- In case the companies owned by the country and the documents that prove the legal and financial independence and work according to the commercial laws according to Para (5-4) of the instructions to bidders.

### Form of Unresolved Lawsuits

This form is filled by each bidder, if it was an individual company or each partner in the joint venture.

<b>Unresolved Claims</b>			
<b>Year</b>	<b>Subject of Claim</b>	<b>Value of Unresolved Claim in Tender's currency in figure and writing</b>	<b>Percentage of Unresolved Claim Value from Net Capital in figure and writing</b>

### Financial Form (1) Financial Position

This form is filled by each bidder, if it was an individual company or each partner in the joint venture.

<b>Financial Data for Three Years in Dollar</b>		
Year 1	Year 2	Year 3

#### Information from the Balance Form

<b>Total Assets</b>			
<b>Total Debts</b>			
<b>Net Capital</b>			
<b>Current Assets</b>			
<b>Current Debts</b>			

#### Information from the Certificates of Financial Position

<b>Total Revenues</b>	
<b>Profits Before Tax Accounting</b>	
<b>Profits after Tax Accounting</b>	

Enclosures are copies of the financial position certificates (final balance including all the notes and income certificates for the past three years as shown in conformity with the following conditions:

- All these documents reflect the financial position of the bidder or the partners in the joint venture and it does not include mother companies emanating therefrom.
- The previous financial position shall be issued by a legal auditor.
- The previous financial certificates shall be complete and include all the notes mentioned in the financial certificates.
- The previous financial certificates shall represent the previous accomplished items which a certificate of legal auditing was issued thereon (Interim Financial Certificates not required and will not be accepted).



**Financial Form (2) Average of Annual Revenues for Construction Works**

To be filled by the bidder and each partner in the joint venture

<b>Annual Revenues Date for Three Years (Construction)</b>			
<b>Year</b>	<b>Annual Revenues in the Adopted Currency</b>	<b>Percentage of Transfer in Dollar</b>	<b>Amounts in Dollar</b>
<b>Annual Revenues Average of Construction Works</b>			

The information of annual revenues submitted by the bidder (individual company) or each partner in the joint venture shall represent the amounts of accomplished works and by which advances were submitted to the employer each year for the continuous or accomplished works, after transferring it to dollar at the prevailing exchange rate at the end of the year.

### Financial Form (3) Financial Resources

Specify the financial sources proposed to finance the contract i.e. current accounts, non-mortgaged property assets, debts and any financial resources, the final receivables of current obligations which ensure securing cash liquidity for this contract or contracts as specified in section three (Evaluation and Comparison Criteria)

<b>Financial Resources</b>		
<b>Ser.</b>	<b>Financing Sources</b>	<b>Amount in Tender's Currency or any other currency</b>
1		
2		
3		

**Financial Form (4) Current Contractual Obligations / Continuous Works**

Each bidder as an individual company or any partner in the joint venture shall submit the information of financial obligations of all concluded contracts or to which letters of awarding were issued or for contracts that are close to completion and to which no letter of acceptance was issued.

<b>Name of Contract</b>	<b>Address of Employer's Representative, Telephone, Fax and Email Address</b>	<b>Value of Unaccomplished Works in Tender's Currency or any other currency equivalent to Dollar</b>	<b>Expected Date of Completion</b>	<b>Average of Paid Advances During the Past Six Months in Tender's Currency or any other currency equivalent to Dollar / Month</b>

## Form of Bid Guarantee (Bank Guarantee)

[If needed, the bank/bidder fills this bank guarantee form according to the instructions aforementioned between the brackets.]

---

[Insert the Name of the Bank, Address of the Branch or the Issuing Bureau]

**Beneficiary:** [Insert the name and Address of the Employer]

**Date:** [Insert Date]

**Bid Guarantee No.:** [Insert Number]

We were informed that [Insert name of bidder, if it was joint venture then include full legal names of partners] (hereinafter called "Bidder") has given you his bid dated [Insert Date] (hereinafter called "Bid") to implement [Insert Name of Contract] according to the invitation to the bidders no. [Insert Number].

Moreover, we are aware, according to your conditions that bids must be supported by a bid guarantee.

According to the request by the bidder, we [Insert Name of Bank] are committed according to this document to pay you any amount or amounts that does not exceed in total the amount of [Insert amount in numbers] ([Insert amount in writing]) Iraqi Dinar once we receive from you the first written request accompanied by a written affidavit stating that the bidder has violated his obligation (obligations) under the conditions of the bid, because the bidder:

- (A) Has withdrawn his bid during the validity period of the bid specified in the bid form, or
- (B) Informing him that his bid was accepted by the employer during the validity period of the bid, (1) failure or refusal to implement the contract agreement, if required, or (2) failure or refusal to submit a performance guarantee.

The validity period of this bid guarantee ends: A) if the bidder was awarded the bid, once we receive the contract copies signed by the bidder and good performance guarantee issued to you by the bidder, or B) if the bid was not awarded to the bidder, achieve the closest of the following two events:

- (1) our receipt of a copy of your notification to the bidder that the bid was not awarded, or
- (2) after twenty eight days from the completion of validity period of the bidder's bid.

Therefore, any request of payment under this guarantee must be received by us in the bureau at that date or before it.

This guarantee is subject to the unified laws of the guarantees request, **issued according to the Iraqi Law**

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[Signature (signatures) representative (representatives) authorized (authorized)]

## Section Five: Eligible Countries

### For The Turnkey Contracts of Executing of Works

Qualifying to provide commodities or execute the works or services in the contracts financed by the employer:

1. The employer has the right to allow organizations and personnel of all countries to supply commodities or execute the works or offer services to the projects financed by the Iraqi government, and as an exception, it prevents organizations in countries or the commodities manufactured in the countries from participating in tenders in the following cases:
  - A- **if** the official prevailing legislations or regulations prohibit the employer's country from establishing commercial relations with that country, provided, the employer is convinced that such prohibition will not prevent achieving fruitful competition to supply the commodities or execute the works.
  - B- In response to the decision issued by the United Nations / Security Council under chapter seven of the constitution of the United Nations which prohibit the country of the employer from contracting to import any commodities or execute the works or provide services with that country or pay any amounts to individuals or entities in that country.
2. For the review of the bidders thereon, the commodities, services and organizations in the countries mentioned below are prohibited from participating in this tender according to the mentioned instructions.

a) Regarding Para (1-A)

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b) Regarding Para (1-B)

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## **Part Two - Works Requirements**

### **For the Turnkey Contracts of Executing of Works**

(To be filled by the contracting party accurately)

**Section Six: Employer's Requirements for  
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## **Scope of Works**



## **Special Requirements**

## Specifications

## Supporting Information

**Part Three - Contract Conditions and Forms**  
**For the Turnkey Contracts of Executing of Works**

## **Section seven - General Conditions of the contract**

### **Turnkey for Execution of Works**

# General Conditions of the contract

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## Article one: General Provisions

### 1-1 Definitions:

The following words and expressions, wherever mentioned in this contract conditions (general and special in its two parts (A) and (B)), shall have the meaning assigned to them below, and the words refer to persons or parties shall include companies and other legal entities, unless the context requires otherwise:

#### 1-1-1 Contract

##### 1-1-1-1 Contract

Shall mean contract agreement, letter of award, conditions, employer requirements, bid and any other subsequent documents (if any) that have been included in the contract agreement.

##### 1-1-1-2 Contract agreement

Shall mean contract agreement referred to in paragraph (1-6) includes any memorandums of understanding attached.

##### 1-1-1-3 Employer requirements

Shall mean the document named Employer Requirement as set out in the contract, and any additions and amendments carried out thereto under the contract, and that this document describes the aim, and describes the material that composes the works and / or primary designs and / or technical determinants of works.

##### 1-1-1-4 Bid

Shall mean bid letter signed by the contractor in respect of works and all documents attached hereto (not including the conditions and requirements of the employer if they were attached to the offer) and as stated in the contract.

##### 1-1-1-5 Award Letter

Shall mean the official award letter of the bid letter signed by and conclusive any memorandums agreed and signed between both parties. If the award letter is not issued, then this term shall mean "contract agreement", and then the date on which the "Contract Agreement" is signed shall be the date of issuance of Award letter.

##### 1-1-1-6 Good Performance guarantee and table of payments

Shall mean the documents named as such (if any) and as set out in the contract.

##### 1-1-1-7 Contract data

Shall mean the pages completed by the "employer" and named Contract Data that forms part (A) of the special conditions.

#### 1-1-2 Parties and Individuals

##### 1-1-2-1 The party

Shall mean the employer or the contractor as the context indicated

##### 1-1-2-2 The employer

Shall mean the person named the employer in the Contract Data as well as his legal successors.

##### 1-1-2-3 The contractor

Shall mean the person named the Contractor in the Contract Agreement, and shall include his legal successors.

##### 1-1-2-4 Employer's representative

Shall mean the person named by the employer to undertake the tasks of the engineer of the purpose of this contract in Contract Data or shall be appointed by the employer from time to time according to paragraph (3-1) to act on his behalf.

- 1-1-2-5 Contractor's representative**  
 Shall mean the person named by the contractor to represent him in the contract, or his designee from time to time according to paragraph (4-3) to act on his behalf.
- 1-1-2-6 Employer's personnel**  
 Shall mean employer's representative and his associates referred to in paragraph (3-2) and other of staff, employer's workers and employer's representative as well as any of the individuals who the employer's representative or the employer shall inform the contractor that they are of employer's personnel.
- 1-1-2-7 Contractor's employees**  
 Shall mean the contractor's representative and all used by the contractor on site, including the employees, workers and others of contractor's group or any subcontractor's group, and other persons who assist the contractor in the implementation of works.
- 1-1-2-8 Subcontractor**  
 Shall mean any person named in the contractor as Subcontractor, or any person appointed as such, to implement part of the works, and the legal successors of any of them
- 1-1-2-9 Disputes settlement body (Disputes)**  
 Shall mean a person or three persons named as such in the contract, or any other persons appointed under the provisions of paragraph (20-2) or paragraph (20-3)
- 1-1-2-10 The International Federation of Consulting Engineers referred to as "FIDIC"**
- 1-1-3 Dates, Tests, Periods and Completion**
- 1-1-3-1 Main date**  
 Shall mean the date preceding the deadline for filing tenders in (28) days
- 1-1-3-2 Commencement date**  
 Shall mean the date that determines the commencement of work and shall be notified in accordance with the provisions of paragraph (8-1) unless otherwise provided in the contract data
- 1-1-3-3 Completion period (work implementation period)**  
 It shall mean the specified period to complete the works or any part thereof (as the case may be) under paragraph (8-2) calculated from commencement date, as identified in the contract data, with any extension of this period under paragraph (8/4).
- 1-1-3-4 Tests upon completion**  
 Shall mean such tests stipulated in the contract or agreed between the parties, or those under change orders, which are made under the provisions of "Article Nine" before the receipt of Works or any part thereof (as the case may be) from the employer.

- 1-1-3-5 Initial acceptance certificate**  
 Shall mean the initial acceptance certificate of the works that is issued in accordance with the provisions of "Article Ten"
- 1-1-3-6 Post-completion tests**  
 Shall mean such tests (if any) stipulated in the contract that are conducted according to specifications, after delivery of works or any part thereof (as the case may be) from employer.
- 1-1-3-7 Maintenance period**  
 Shall mean the period which is determined under paragraph (11-1) of the repair notice of defects in the works or any part thereof (as the case), which extends for a period of 12 months unless otherwise provided for in the contract data (with any extension thereof to be made under paragraph (11-3) calculated from the completion date of the works or any part of it, as is specified in the initial receipt certificate of the works under paragraph (10-1)
- 1-1-3-8 Final acceptance certificate of works (Performance Certificate)**  
 Shall mean the certificate issued under paragraph (11-9).
- 1-1-3-9 Day**  
 Shall mean a solar day, and the year shall mean (365) days.
- 1-1-4 Amounts and Payments**
- 1-1-4-1 Contract Amount**  
 Shall mean the amount agreed as indicated in the contract agreement for the preparation of designs, implementation and completion of works and repair any defects including any amendments (if any) under the contract.
- 1-1-4-2 Cost**  
 Shall mean all costs reasonably incurred or may be incurred by the contractor inside or outside the site, including administrative expenses and the like, but shall not include profit.
- 1-1-4-3 Final statement of account**  
 Shall mean the final statement of account identified under paragraph (14-11).
- 1-1-4-4 Foreign Currency**  
 Shall mean any currency determined to pay some part of the contract amount (or all), except for the local currency.
- 1-1-4-5 Local Currency**  
 Shall mean the Iraqi dinar (IQD) or the currency of the country in which the works are implemented.
- 1-1-4-6 Reserve Amount**  
 Shall mean any amount (if any) identified as such in the contract for the purpose of implementation part of the works or to supply materials or mechanical supplies or a to provide services under paragraph (13-5).
- 1-1-4-7 Cash Deductions**  
 Shall mean the total amounts withheld by the employer for payment under paragraph the (14-3), which he shall reimburse under the paragraph (14-9).

- 1-1-4-8 Statement of performed work**  
 Shall mean any statement of performed work provided by the contractor as part of the advance payment request, according to provisions of "Article Fourteen"
- 1-1-5 Works and Implementation requirements**
- 1-1-5-1 Contractor's Equipment**  
 Shall mean all devices, equipment, vehicles and other means necessary for the implementation and completion of works and repair any defects thereto, but shall not include temporary works nor the employer equipment (if any), mechanical supplies or materials or other things that have formed or intended to form part of the permanent works.
- 1-1-5-2 Implementation requirements**  
 Shall mean contractor equipment, materials, mechanical supplies and temporary works or any of them, as appropriate
- 1-1-5-3 Materials**  
 Shall mean objects of all kinds (non-mechanical supplies) that formed or intended to form part of the permanent works, including the materials supplied only (if any) which are required to be provided by the contractor under the contract.
- 1-1-5-4 Permanent Works**  
 Shall mean permanent works that will be designed and implemented by the contractor under the contract
- 1-1-5-5 Mechanical Supplies**  
 Shall mean devices, equipment, vehicles that formed or intended to form part of the permanent works, including transportation bought for the employer for the purpose of implementing or operating the project
- 1-1-5-6 Part**  
 Shall mean any part of the works stipulated in the **Contract Data** as part of the works (if any).
- 1-1-5-7 Temporary Works**  
 Shall means all temporary works of every kind (except for contractor equipment) which are required to be at site for the implementation and completion of permanent works, and repair any defects thereto.
- 1-1-5-8 Works**  
 Shall mean permanent and temporary works, or any of them as appropriate
- 1-1-6 Other Definitions**
- 1-1-6-1 Contractor Documents**  
 Shall mean notes calculations and computer programs, drawings, manuals, models and other documents of a technical nature (if any) provided by the contractor under the contract.
- 1-1-6-2 Country**  
 Shall mean the Republic of Iraq or the country in which the site (or most of the site) is located where the implementation of permanent works is required therein
- 1-1-6-3 Employer Equipment**  
 Shall mean devices, equipment and vehicles (if any) provided by employer for the purpose of being used by the contractor in the implementation of works as defined in the specification, but shall not include such mechanical supplies that employer has not received yet.

- 1-1-6-4 Force Majeure**  
As defined in "Article Nineteen".
- 1-1-6-5 Laws**  
Shall mean all Iraqi legislations, regulations, instructions and orders issued by any public authority formed by law in the Republic of Iraq
- 1-1-6-7 Performance Guarantee**  
Shall mean the guarantee (or guarantees, if any) required under paragraph (4-2)
- 1-1-6-7 Site**  
Shall mean the places in which permanent works shall be implemented including work spaces, storage spaces and delivery location of mechanical supplies and materials, as well as any other places which the contract specifically stipulates as part of the site.
- 1-1-6-8 Change (Change Order)**  
Shall mean any change in works under which any change order is issued or approved as a change under the provision of "Article Thirteen"

## **1-2 Interpretation**

In the contract, unless where the context requires otherwise:

- a) Words refer to one of the sexes shall include the other sex
- b) Words that refer to the singular also include the plural and words refer to plural also include the singular.
- c) Provisions that include the word "approve" or "approved" or "agreement" require that such approval be documented in writing.
- d) "Writing" or "written" means editing by handwriting or printer or printing press or electronic printing so it forms a permanent record.

As for marginal words and other titles, they are not taken into account in the interpretation of these conditions.

## **1-3 Communications**

Where these conditions stipulate the giving or issuing any approvals or certificates or consent or estimates or notices or requests, these communications shall:

- a) Be written and delivered by hand (against notice of receipt) , or to be sent by post or by someone or sent electronically as set out in the **Contract Data**
- b) Be delivered or transferred or sent to the consignee address indicated in the contract data, however:
  - (1) If the consignee has sent a notice of change of his address, then it shall be sent accordingly
  - (2) If the consignee did not identify another address when requesting acceptance or approval, it may be sent to the address from which the request was issued.

It shall not refrain from giving such approvals or certificates or estimates or consent or delay their issuance.

## **1-4 Law and Language**

This contract is subject to Iraqi laws.

The language of the contract and correspondences shall be as set out in the Contract Data, and in the event that the contract is made in more than one language, reference shall be made in the special conditions to the language adopted when there is a difference in interpretation.



## **1-5 Priority of documents**

The set of documents that comprise the contract are considered explanatory to each other, but for the purposes of interpretation of the contract, the priority of preference among the documents shall be in the following sequence:

- (1) Contract agreement
- (2) Special conditions
- (3) General conditions
- (4) Award Letter
- (5) Employer requirements
- (6) The bid and any other documents that form an integral part of the contract

## **1-6 Contract Agreement**

Both parties shall conclude the contract agreement within (28) days after the contractor receive the Award Letter, unless stated otherwise in the **Contract Data**. And this agreement shall be according to the sample attached to the special conditions. And the contractor shall pay the duty stamp and other similar expenses (if any) that may incurred under the law at the conclusion of this agreement.

## **1-7 Waiver**

No party shall have the right to waive the contract or any part thereof or any interest or benefit in the contract or thereunder. But each party may:

- a) Waive the contract or any part thereof with the prior approval of the other party, the latter alone has the discretion in this regard.
- b) Transfer his dues or what is owed to him of the amount under the contract as a guarantee for the benefit of any bank or financial institution.

## **1-8 Care and provision of documents**

All "Contractor Documents" shall remain kept under contractor's care till delivered to employer. The contractor shall, unless provided otherwise in contract data, provide to employer (6) copies of each of "Contractor Documents".

Contractor shall maintain a copy of the contract, leaflets referred to in the specifications and contractor documents (if any), plans, changes, and other communications relating to the contract. The employer personnel are entitled to access to all these documents at all reasonable times.

If one of the parties discovered an error or a defect of a technical nature in any of the documents that have been prepared for use in the implementation of works, then this party shall notify the other party immediately of such error or defect.

## **1-9 Confidentiality**

Both parties shall treat contract details as private and confidential to the extent necessary for the implementation of specific commitments hereunder, or to comply with applicable laws. And the contractor shall not publish or allow publishing or disclosing any specifics of the works in any commercial dealing or technical research or elsewhere without obtaining the prior approval of the employer.

## **1-10 Employer use of Contractor's documents**

The contractor shall, in the relation between the parties, reserve the intellectual rights in terms of "contractor's documents" and designs that he prepared (or being prepared in his favor).

The contractor shall, as soon as he signs the contract agreement, be deemed that he has given the employer a full undiminished right to reproduce or use or handle contractor's documents, including amendments thereto, and this right:

- a) Shall be deemed applied during the actual or intended lifetime for the operation of parts of the works related, whichever is longer
- b) Shall authorize any person which the ownership of that part of the works devolves the right to reproduce, use and handle of contractor's documents to complete the works till the completion, operation, maintenance, modification, repair and demolishing of works.

- c) Shall allow the use of contractor's documents of computational nature and its software, by any computer on site or elsewhere determined by the contract, including any replacement of any computer provided by the contractor.

The employer (or his representative) shall not allow to take a third party who uses or reproduces or handles contractor's documents and other design documents prepared by him (or have been prepared for his favor) without the consent of the contractor, for purposes other than allowed under this "paragraph".

### **1-11 Contractor use of employer's documents**

The employer shall, in the relation between both parties, maintain copyright and other intellectual property rights for each of the specifications, drawings and other documents prepared by the employer (or that had been prepared for his favor).

The contractor may, at his own expense, use or handle these documents for the purposes of this contract. The contractor shall not, unless there is necessity required by the contract, to allow a third party to use, reproduce or handle such documents, except as may be necessary for the purposes of this contract.

### **1-12 Confidential details**

Contractor shall not disclose to employer any information he referred to as being confidential in his bid. And the contractor shall disclose any other information required by the employer reasonably for the purposes of verification of the contractor achievement of the requirements of the contract.

### **1-13 Compliance with laws**

The contractor shall, in the context of his implementation of the contract, comply with the applicable laws, and unless otherwise provided in the special conditions:

- a) The employer shall obtain (or will obtain) the necessary permits on planning instruction or regulation or licensing related to permanent works, and any other licenses that have been identified in the employer's requirements and the employer shall, in this context, protect the contractor against any damage as a result of the failure of the owner to do so.
- b) The contractor shall send notifications, pay fees and taxes and obtain permits and approvals required by laws in terms of the implementation and completion of works and repair any defects thereto. And the contractor shall also bear any damages that may affect the employer as a result of the failure of the contractor to do so.

### **1-14 Shared and individual responsibilities**

If the contractor (in accordance to laws applicable) formed a joint venture or a Consortium (coalition) or any gathering of two or more in a form differs from the company, then the following should be considered:

- a) These persons shall be deemed jointly liable and individually to the employer in the implementation of the contract
- b) That the persons to inform the employer of the name of the Consortium (coalition) president, and so that the president of the Consortium (coalition) has the contractor's authority and managing these people.
- c) That the contractor shall not change the composition of the Consortium (coalition) or its legal being without the prior approval of the employer.

## **1-15 Employer's Inspection and check**

The contractor shall allow the employer and / or his representative to carry out inspection on the site and his accounts and records related to the implementation of that contract, in the contracts resulting from the contracting procedures which adopted the direct call approach or the single tender, and that accounts and records shall be allowed to be audited by auditors appointed by the employer if necessary.

The contractor shall, in general and for all contracts, preserve paragraph (15-6) which stated that in the event that the contractor exercised actual hindrance of the employer's right to carry out inspection and auditing referred to in this paragraph (1-15) in the case of having involved in any of the cases of corruption and fraud, And the consequent procedures to terminate the contract, the contractor is considered unqualified under **the order of the provisional coalition authority (disbanded) No. 87 for the year 2004 or any law that replaces it.**

## Article two: Employer

### 2-1 Right of access to site

The employer shall give the contractor right to enter to all parts of the site, **to execute the works**, at the time (or times) specified in the contract data, but the right to enter and possession shall not be exclusive to the contractor alone.

If stated in the contract that the employer shall give the contractor the right **to access and enablement** of any foundations or construction or Mechanical supplies or access road, then the employer shall do so on the dates and in the manner specified in the specification, but the employer may withhold the **to access and enablement** until he receives the performance guarantee.

If a date for the delivery of the site has not been specified in the tender attachment, the employer shall give the contractor the right to enter the site and its **enablement** within the timings which enable the contractor to commence the implementation of the works and proceed according to the work program referred in paragraph (8-3).

If the Contractor incurred a delay and / or cost as a result of employer's failure to enable him to enter the site or its **enablement** during that time, the contractor shall give notice to the engineer to assess the contractor's entitlements in this regard, taking into account the provisions of paragraph (20-1) to decide:

- a) Any extension to completion period due to this delay, if the completion is delayed or will be delayed, according to the provisions of paragraph (8-4)
- b) Any cost with a reasonable profit margin, to be added to the contract amount.

Contractor shall, after receiving this notice prepare the estimates resulted thereto under paragraph (3-5) whether by agreement or carry out estimation in respect thereof. However, if the employer delayed (and to the extent to which this delay) due to an error or delay by the Contractor, including any error or delay in submitting, " contractor's documents" then in such a case the contractor shall not be entitled to any extension or compensation for any cost or profit.

### 2-2 Permits or Authorizations or Approvals

The employer (if he is in a position to do so) shall provide reasonable assistance to the contractor (upon his request) with respect to the following:

- a) Obtain copies of the countries' laws related to the contract of what is not available regularly.
- b) Contractor requests to obtain permits or authorizations or approvals required under the country's laws:
  - (1) In regard of the requirements of paragraph (1-13) (Compliance with laws)
  - (2) To supply implementation requirements, including customs clearance
  - (3) To export contractor's equipment when removed from site.

### 2-3 Employer personnel

Employer shall be responsible for his personnel and other contractors' employees working with him in site to ensure:

- a) Cooperation with contractor in his efforts according to the provisions of paragraph (4-6)
- b) Oblige to provide safety procedures as required by the contractor under items (A,B,C) of paragraph (4-8)

### 2-4 Financial arrangements of employer

The employer shall provide necessary evidences in a period preceding the date of commencement by (28) days that he has secured the necessary financial arrangements which enable him to repay any claim of the contractor on an urgent basis under the provisions of "Article Fourteen" (cost of the contract & payments). The employer shall notify the Contractor of any changes he makes to those financial arrangements in detail.

## **2-5 Employer's Requirements**

If the employer believes that he has a right to receive a payment, under any provision of these terms, or for other reasons related to the contract, and / or any extension of the notice period to repair the defects, then he or the Engineer shall give notice to contractor and provide him with details. In spite of this, it is not required of him to send any notice relating to amounts owed to him about water, electricity and gas consumption under paragraph (4-19), or for equipment and materials provided by the employer pursuant to paragraph (4-20), or for any other services required by the Contractor. The notice should be sent as soon as practicable and not later than 28 days from the date on which the employer becomes aware of the incident or the circumstances that led to the emergence of such claims, as for the notice of extension of " notice period to repair defects" it must be issued prior to its termination. These details should refer to the "article or paragraph" in the contract or other bases of claim, and shall include validation of the employer's claim of such amounts and / or periods of extension that he believes he has a right to under the contract. And the engineer shall, in such a case, examine such claims under the provisions of paragraph (3-5) of the agreement or the preparation of estimates for:

(1) Any amounts (if any) due to employer from the contractor

(2) Any extension (if any) for maintenance period under paragraph (11-3)

Employer can include these amounts as deductions from the amounts realized or will be realized to the contractor, and the employer is entitled to put a seizure or make a deduction only from amounts realized to contractor, otherwise make a claim under this paragraph or under item (A) and / or (F-B) of paragraph (14-6).

## **Article three: Employer Management**

### **3-1 Employer representative**

The employer shall have the right to appoint his representative under the law and in this regard, he shall notify the contractor of this and provide him with the name, address, work tasks and the power of his representative. The contractor's representative shall implement the tasks assigned to him and exercise his powers granted by the employer. The contractor's representative shall be authorized with full employer's powers under the contract except those referred in (Article Fifteen), or if the employer notified the contractor otherwise. If the employer wishes to replace any person who has been appointed as the his representative, then he shall give notice to the contractor informing him so in a period of not less than 14 days, showing the name, address, tasks, powers and the date of his commencement.

### **3-2 Other personnel of Employer**

(The employer or his representative - from time to time) may assign to any of his assistants the performance of any of the duties or delegate him any of the powers conferred upon him as he may cancel such a notification or authorization. Those include assistants, resident engineer, and/or any independent inspectors appointed to inspect the mechanical supplies or materials or their selection. Such assignment or authorization or revocation shall not be effective only after receipt of a copy thereof by the contractor. It is conditioned in these assistants to be experienced enough and qualified to perform their duties and carry out the authority entrusted to them, and be experienced in the use of the communication language specified in paragraph (1-4) of the contract.

### **3-3 Authorized persons**

The employer's representative and his assistants, who have been assigned duties or authorize them with powers, shall issue instructions to the contractor, and act within the authority limits specified to them under the authorization. And any authentication or audit or certificate or approval or check or inspection or issuance of instructions or notice or suggestion or request or choice or perform any similar action carried out by an authorized person shall be deemed as if issued by the employer, and in spite of this:

- a) Unless otherwise provided in correspondence of the authorized person, the contractor shall not be exempt from responsibility under the contract, including responsibility for errors, deletions, irregularities and non-conformities.
- b) Any failure of the person authorized by the employer to refuse any work or mechanical supplies or materials shall not mean approving them, and therefore it shall not prevent the exercise of the employer's right to dismiss these works or mechanical supplies or materials.
- c) If the contractor objects on any estimates or instructions issued by the person authorized by the employer, the contractor shall have the right to refer the matter to the employer, which in turn without delay, shall either confirm or reject or amend its contents.

### **3-4 Instructions**

The employer may issue instructions to the contractor if they are necessary to enable the contractor to perform his obligations under the contract. And such instructions should be issued in writing and specify the obligations in reference to the paragraph or articles contained in the contract relating thereto. If any of such instructions include a change, then action shall be taken in accordance with the provisions of (Article thirteen).

The Contractor shall receive instructions from the employer or his representative or any of the employer's representative assistants authorized to issue such instructions.

### **3-5 Estimations**

Where these conditions require that the employer works under this paragraph for the purposes of the agreement or to prepare estimates for any order (mater), employer shall consult with the contractor in serious effort to reach an agreement. If no agreement is reached, it must be on the employer to prepare an estimate in an equitable manner under the provisions of the contract, taking into account all the relevant circumstances. Then the employer shall notify the contractor of any agreement or estimates reached with the supporting details.

And both sides shall adhere by the agreement and estimates included in the notice, and in the event that the contractor provide a notice to the employer, including his disagreement on any of the estimates within 14 days of receiving notice of the employer, then each of the parties shall resort to Dispute Resolution Body with regard to this dispute pursuant to the provisions of paragraph (20-4).

## Article Four: Contractor

### 4-1 Contractor's General obligations

The contractor shall design, implement and complete the works pursuant to contract's provisions and to repair any defects thereto, and works shall be appropriate and in conformity with the requirements of the works to be established as described in the contract. Contractor shall provide mechanical supplies and "Contractor's Documents" specified in the contract, all his implementing personnel, implementation requirements, consumables and other things and services, whether of a temporary or permanent nature, which is required of him to perform the design tasks, implementation and completion of works and repair any defects thereto. All materials, equipment and services involved in the works shall be of qualified origins as specified by the employer.

Works include any work necessary to achieve the employer's requirements or the obligations specified in the contract and works (even if it is not contained in the contract) necessary for the stability, completion, safety and quality of the performance of works.

Contractor shall be

responsible for the efficiency, stability and safety of all site operations and all methods of construction. The Contractor shall - whenever requested by the employer - to provide the employer with arrangements and methods details of implementation of works that the contractor proposed to be followed to carry out works. The contractor shall not make any material change on these arrangements or methods without informing the employer in advance of his procedures.

### 4-2 Good Performance guarantee

The contractor shall issue (on his own expense) a **good** performance guarantee till the proper completion of works by the value and type of currency specified in the **Contract Data**, and if the amount is not specified in that attachment then the provision of this "paragraph" shall not apply. The contractor shall provide **good** performance guarantee to the employer within (28) days from the issuance of Award Letter or upon the signing of the contract agreement by both parties. The guarantee shall be issued by a bank or a financial institution approved by the employer, and shall be prepared according to the sample attached to the special conditions, or in another form approved by the employer. Contractor shall ensure that **good performance guarantee** be in force till the contract implements and completes works and repair any defects thereto. But if the guarantee conditions contain a date for its expiration, and it found out that the contractor shall not be authorized to receive the "Final Acceptance Certificate" in a date precedes the deadline for its expiration in 28 days, then he shall extend the validity of the guarantee till the completion of works and repair any defects thereto. Employer shall not submit any claim in terms of **good** performance guarantee only in regard of the amounts payable under a contract. Employer shall indemnify and protect the contractor against all damages, losses and expenses (including litigation fees and expenses) that may result from employer's claim in regard to the guarantee, to the extent which the employer shall be deemed unjust in his claim. Employer shall return the **good performance guarantee** to the contractor within (28) days from the date under which the contractor entitled the receipt of the Certificate of Performance. In addition to the conditions mentioned in this paragraph, and whenever the employer decides the need to increase or decrease the amount of the contracting as a result of the changes in rates or legislations or as a result for change order by more than 25% for any amount of the contract specified in a particular currency, then the contractor shall, based on employer's request, take immediate actions to increase or decrease the amount of the **good** performance guarantee in accordance to the state requirements in that currency and by equal proportion.



#### **4-3 Contractor representative**

The contractor shall appoint "Contractor Representative" and shall give him full authority necessary on his behalf under contract's requirements. The contractor shall, unless the contractor representative was named in the contract, provide to employer – to obtain his approval – the name and qualifications of the

person proposed by the contractor to be his representative. And if not approved or withheld subsequently by the employer pursuant to the provisions of paragraph (6-9) (Contractor Personnel), or if the representative fails in performing his job as a representative of the contractor, then the contractor shall provide, in the same manner, the name and qualifications of another person who is suitable for this appointment.

The contractor shall not be entitled to cancel the use of his representative or to replace him without the employer's prior approval. The contractor representative shall receive instructions on behalf of the contractor pursuant to paragraph (3-4).

The contractor representative may delegate part of his powers or tasks or authorities to any eligible person, and to cancel such delegation at any later time. But such delegation or cancellation is not considered effective only if approved by the employer, having received advance notice signed by the contractor representative includes the name of the authorized person, his qualifications and powers or tasks or authority that authorized to him or that is canceled.

Contractor representative and all these people must be well-versed in using the language of communication specified under paragraph (1-4), and otherwise the Contractor shall secure experienced translators on an ongoing basis within working hours and with the number required by the employer.

#### **4-4 Subcontractors**

The contractor shall not assign all works to subcontractors but he may assign to them part of the works after obtaining the written approval of the employer. And the contractor shall be responsible for the acts and faults of any subcontractor or his agent or employees as if such acts or faults are of the contractor himself and in the event of reference to this in the special conditions, the contractor shall provide a notice to the employer in a period no less than 28 days includes:

- a) All information and details of the subcontractor that intended to be approved including his previous experience.
- b) The date expected to commence the work of any subcontractor.
- c) Date of actual commencement of such work on site.

The contractor shall undertake to obligate his subcontractors with the same conditions which binds him in paragraph (1-12) related to maintaining confidentiality. The contractor shall provide fair opportunity for local contractors to work as subcontractors in the implementation of works awarded to him.

#### **4-5 Named Contractor**

According to this paragraph, the named subcontractor shall be the subcontractor who the employer shall oblige the contractor to approve based on article thirteen of these conditions, and the contractor shall have the right not to approve the subcontractor who has been nominated by the employer in case of having reasonable objections against him, provided that he shall give a notice to employer explaining the justifications in support of his objection on the nomination.

#### **4-6 Cooperation**

The contractor shall, as stipulated in the contract or in response to the employer's instructions, provide appropriate facilities to carry out any of the works of:

- a) Employer's personnel
- b) Any other contractors used by the employer
- c) Workers with any public authorities legally formed, who are used to implement works on site or nearby, other than the works included in the contract

Such instructions will be considered changes to the extent to which the contractor is exposed to bear unforeseen costs that are not expected from experienced contractors to be marked (noticed) before the date of tender submission. Such services required by these users or other contractors may include the use of contractor equipment, temporary works and arrangements for access to the site, which is the responsibility of the contractor.

The Contractor shall be responsible for all his works at the site, and to coordinate his works with works that are executed by other contractors who are in worksite as referred to in the employer's requirements.

If it is required from the employer under the contract to give the contractor possession of any foundation or facility or mechanical supplies or the right to access under the "contractor documents" then the Contractor shall provide the employer of such documents at the time and in the manner specified in the employer's requirements.

#### **4-7 Dimensions Installation**

The contractor shall install works for cardinal points, alignments (Erectness), reference levels described in the contract. And the contractor shall be responsible for the accuracy of the installation for all parts of the works, and he shall repair any fault in works places or levels or measures or alignments.

#### **4-8 Safety Procedures**

The contractor shall:

- a) Adhere to all safety instructions required to be applied
- b) Care for the safety of all persons who are entitled to be present at site
- c) Use reasonable efforts to maintain the site and works free of unnecessary barriers, with a view to avoid the vulnerability of these people to danger.
- d) Provide fencing, lighting and guarding and monitoring of works to be completed and delivered under the provisions of "Article Ten".
- e) Provide any temporary works (including roads, walkways, barriers and fences) which may be necessary, due to the implementation of works, for the use and protection of the public, the owners and users of the site adjacent to the land.

#### **4-9 Quality Assurance**

The Contractor shall set up a system of quality assurance to prove adherence to the requirements of the contract, provided that the system be compatible with contract details, and the employer is entitled to carry out checks on any of the manifestations of this system. Details of all the procedures and conformity documents shall be provided to the employer - to inform him - before engaging in any of the design and implementation phases, and upon issuing any document of a technical nature to the employer, it should appear on this document what proves the prior approval from the contractor himself on it.

The compliance with quality assurance system shall not relieve the contractor of any of his duties or obligations or responsibilities contained in the contract. However, if the employer decides that there is a need for a particular system to ensure the quality of the works, he would have to show this in the special conditions.

#### **4-10 Site Date**

The employer shall put under the disposal of the contractor – for his information – before the "Main Date" what he has of data regarding the subsurface and hydrological conditions on site, including the environmental phenomenon.

And he shall also put under the contractor's disposal any information he required after the Main Date.

The contractor shall bear the responsibility for reviewing and checking these data. And the employer shall not bear any responsibility for the accuracy or adequacy and/ or completion of these data only what is provided for in paragraph (5-1).

#### **4-11 Adequacy of "Contract amount"**

It is assumed that the contractor is convinced with the accuracy and adequacy of the "contract amount".

And unless set out otherwise in the contract, the "contract amount" includes all contractor's obligations under the contract (including the reserved amounts – if any) and all things necessary for the implementation and completion of works in a proper manner and to repair any defects thereof.

#### **4-12 Unforeseen Material Conditions (obstacles beyond the control of contractor)**

Unless stipulated otherwise in the contract:

- a) It is assumed that the contractor has received all the necessary information regarding the risks, emergencies and any conditions that may affect or hinder the works.
- b) That upon contractor signature on the contract, the contractor has accepted his full responsibility in his expectation for any difficulties and costs for the successful completion of the work.
- c) No amendment of the contract value to cover any difficulties and unexpected costs shall be made.

#### **4-13 Right of passage and Facilities**

Unless stipulated otherwise in the contract, the employer shall insure (without any cost on the contractor) access road and site possession including the special or temporary right to pass that are deemed necessary for works. The contractor shall secure on his own responsibility and cost any additional facilities outside the site required by the implementation of works.

#### **4-14 Intervention Avoidance**

The contractor shall not intervene unnecessarily or improperly in the following:

- a) The public's wellbeing (comfort)
- b) Access to, use and occupy all roads and passages, whether public or private, within the property of the employer or others. And the contractor shall compensate the employer and protect him from damages and expenses (including litigations' fees and costs) for everything results from any unnecessary or improper intervention or hindrance.

#### **4-15 Access roads**

The contractor shall be deemed that he investigated the availability and suitability of access roads to the site at the Main Date, and that he is satisfied of their conditions. And the contractor shall make reasonable efforts to avoid damage to roads or bridges, protecting them from damage as a result of the movement of the Contractor or his employees, and that include the use of appropriate vehicles and roads.

Except as otherwise provided in these conditions:

- a) The Contractor shall be responsible (among the parties) for any maintenance that may be required for access roads due to his use of them.
- b) Contractor shall provide the signals and instructions necessary along these roads. And get the required permits from the relevant authorities regarding his use of roads, signals and instructions.
- c) The employer shall not be responsible for any claims that might result from the use or otherwise of any access road.
- d) The employer shall not guarantee the availability of access roads or their suitability.
- e) The contractor shall bear the cost incurred due to the lack of or adequacy of these access roads to be used.

#### **4-16 Transport of implementation requirements**

Except as otherwise provided in these special conditions:

- a) The Contractor shall notify the employer in a period not exceeding (21) days from the date of the arrival of any mechanical supplies or main parts of other implementation requirements to the site.
- b) The Contractor shall be responsible for packaging, loading, transporting, receiving, unloading, storing and protecting all implementation requirements and other necessary things for works.
- c) The Contractor shall compensate the employer and protect him from any damages or losses or expenses (including litigation's fees and costs) that may result from any damage occur as a result of the transport of implementation requirements, and negotiate and pay claims that may result from transport process.

#### **4-17 Contract Equipment**

The Contractor shall be responsible for all his equipment. The Contractor equipment that has been brought to the site shall be deemed dedicated exclusively to the implementation of the works. The Contractor is not entitled to remove from site any major parts of equipment without employer's approval, but such approval is not required in connection with transport vehicles of implementation supplies or contractor employees.

#### **4-18 Environmental Protection**

The Contractor shall take all reasonable steps to protect the environment (inside and outside the site), and limits the creation of inconvenience or damage to individuals and property as a result of pollution or noise or otherwise, which could result from the implementation processes. The Contractor shall also ensure that the emissions and the amount of surface drainage resulting from the activities and flow, shall not to exceed the values allowed in the specification or the values specified in the applicable laws.

#### **4-19 Electricity, Water and Gas**

The Contractor shall be responsible for the provision of power, water and other services he might require, except as stipulated below. The contractor has the right to use electricity, water, gas and other services available at the site for the purpose of implementation of the works, according to details and against prices set forth in the specification, and the contractor shall provide, on his own responsibility and expense, any tools required for such uses and for measuring the quantities he consumed.

Agreement shall be made on the amounts of consumed quantities and their prices (under specific prices) for such services, or are estimated pursuant to paragraph (2-5) to calculate the employer's claims, and paragraph (3-5) to make estimates, and contractor shall pay these amounts to the employer.

#### **4-20 Equipment & Materials provided by Contractor**

The employer shall allow the contractor to use "employer's equipment" - if any - in the implementation of works according to the details and arrangements for prices specified in the employer's requirements, and unless otherwise provided in the employer's requirements:

- a) The employer shall be responsible for his equipment, with the exception of those referred to in item (b) below.
- b) The Contractor shall be responsible for any piece of "employer equipment" while the Contractor employees operate or drive or possess or control it.

Quantities and use allowances to be determined "according to specified price" for the use of the employer's equipment in agreement or by estimation in accordance with the provisions of paragraphs (2-5, 3-5) and the Contractor shall pay these amounts to the employer.

The employer shall provide the contractor - at no charge – with materials he is obliged to provide (if any) in accordance with the details specified in the employer's requirements. And the employer shall provide, on his own responsibility and cost, these materials at the time and place specified in the contract, the contractor shall, while visibly check them, inform the employer immediately of any shortage or defect or deficiency in them. The employer, unless agreed otherwise between the parties, shall immediately repair any shortage or defect or deficiency.

After such visible check, these materials shall be in contractor's possession for free and under his protection and control, but contractor's obligation to check and protect them shall not relieve the employer of liability for any shortage or deficiency or defect unless it can be detected through visible check.

#### **4-21 Work Progress Reports**

Unless specified otherwise in the Special Conditions, the contractor shall prepare monthly work progress reports and deliver them to the employer in (6) copies, provided that the first report shall cover the period till the end of the month that follows the commencement date, and then reports shall be issued monthly, within (7) days from the last day of the period assigned to it.

Submitting of reports shall continue until the contractor performs all the remaining works and deficiencies until the completion date specified in the Work Receipt Certificate.

Each report shall contain the following:

- a) Diagrams and details of the progress of work including each stage of the design and contractor's documents, purchase orders, manufacturing process, delivery to the site and the construction, installation and testing stages.
- b) Photographs showing the conditions of manufacturing and the progress of work at the site.
- c) In terms of the manufacture of the main items of equipment and mechanical supplies: mention the names of manufacturers, manufacturing locations, the percentage of progress and the dates of expected and actual completions:
  - (1) For the commencement of manufacture
  - (2) For inspection operations by the contractor
  - (3) For tests
  - (4) For shipping and delivery to site

- d) Data of the implementing contractor assets and his construction equipment as described in paragraph (6-20).
- e) Copies of quality assurance documents, and test results and materials certificates. f) List of notices for change orders relating to employer's claims in accordance with paragraph (2-5) and contractor's claims in accordance with paragraph (20-1).
- g) Public safety statistics, including details relating to any serious incidents and any activities related to environmental aspects and public relations.
- h) Comparison between the actual progress of the implementation of works and the planned progress, with statement of details of the facts or circumstances that may hinder the completion according to the contract, a statement of the actions being taken (or to be taken) to avoid delays.

#### **4-22 Site Security**

Unless specified otherwise in the Special Conditions:

- a) Contractor shall be responsible for keep outside the unauthorized persons to access the site.
- b) The presence of persons authorized to be present at the site is restricted to contractor's personnel and employer's personnel and any other persons that the employer or engineer give notice to contractor in their regard as persons authorized by employer's other contractors at the site.

#### **4-23 Contractor operations on site**

The contractor shall restrict his operations in the site and any other areas that the contractor may acquire and approved by the employer as being work areas. And he shall take all necessary precautions to keep contractor's equipment and his personnel within the boundaries of the site and these other areas, so as to prevent encroachment on neighboring lands.

The Contractor shall, during the implementation of works, maintain the site free of all unnecessary barriers, and stores or remove surplus equipment after coordination with the engineer, and to clean the site of all debris, waste and temporary works that are no longer needed.

The Contractor shall, upon the issuance of the initial acceptance certificate, clean all the site sections and works, and removes the surplus equipment and materials, as well as waste and debris, temporary works, so as to leave those sections of the site and works clean and in a safe position. But the contractor may maintains the site until the end of the "maintenance period" and what he needs of implementation requirements till the fulfillment of his obligations under the contract.

#### **4-24 Antiquities**

All fossils or money or valued finds or antiques or installations and other remains or material of geological or archaeological value which are found at site shall be placed under the care of the employer and disposal. The Contractor shall take all reasonable precautionary measures to prevent his personnel or any other persons from removing or damaging any of these findings.

The Contractor shall, at his discovery of such findings, notify the employer immediately of their existence and the employer must instruct on how to deal with it.

If the Contractor incurs a delay in the implementation period and / or cost as a result of compliance with those instructions, he shall send another notice to the employer to assess his entitlements, taking into account the provisions of paragraph (20-1) with respect to the following:

- a) Extending the completion period due to this delay, if the completion was delayed or will be delayed, under paragraph (8-4).
- b) Any such cost, to be added to contract value.

The employer shall, after receipt of this other notice, act in accordance with paragraph (3-5) to agree on it or carry out estimates for these matters.

## **Article Five: Design**

### **5-1 General obligations of the designs**

Contractor is assumed that he conducted, prior to Main Date, a thorough study of the employer requirements (including design criteria and calculations if any). And shall be responsible for preparing the designs and works and the accuracy of the information contained in employer requirements aforementioned except for what will be mentioned later.

The employer will not be responsible for any errors or inaccuracies, or deleting of any kind in its requirements as originally set out in the contract and it will not be supposed that he provides any definition for the accuracy or completeness of any data or information other than what is assumed to be mentioned later. Any data or information that has been delivered to the contractor from the employer or otherwise, will not relieve the contractor of responsibility for the design development and implementation of the works

However, the employer shall be responsible for the accuracy of parts of the requirements listed later and the data and information submitted by him (or on his behalf) that are set out below: -

- a) Parts, data and information recorded in the contract being not interchangeable, or are the responsibility of the employer.
- b) Definitions describing the goals of constructing the works or any part thereof.
- c) Test criteria and performance of performed works
- d) Parts, data and information that the contractor cannot make a change thereon unless otherwise stipulated in the contract.

### **5-2 Contractor Documents**

Contractor documents include all of the technical documentation installed in the employer's requirements, and the documentation required to achieve systems authentication, and all documents as described in paragraph (5-6) (Documents as it has been implemented) and paragraph (5-7) (Operation & Maintenance Evidence).

Unless otherwise indicated in the employer's requirements, contractor documents shall be written in correspondence language specified in paragraph (1-4).

The Contractor shall prepare all his documents and any other documents necessary to guide contractor personnel.

If employer's requirements stated that contractor documents provided to the employer shall subject for review then it shall be provide enhanced with a notification in accordance with the conditions set forth later in this paragraph: -

- (1) Review period shall mean the period necessary for employer to carry out review
- (2) Exclusive of contractor documents and any documents that no reference to being subject to review. Unless otherwise provided in the employer's requirements, any period of review must not exceed

21 days from the date of receipt by the employer of contractor document enhanced by a notice. Notice must provide for the readiness of the documents for review under this paragraph and for

use, and the notice must also state that the contractor document matches the contract or

reference to the extent that it does not match with it.

The employer, during the review period, shall give notice to the contractor in the event of failure of contractor document of fulfilling contract requirements (explaining aspects of the failure). In the event of failure of contractor document to achieve requirements it must be corrected and re-submitted again for review pursuant to the provisions of this paragraph and on his account. For any part of works and to the extent that the parties' agreement to the contrary: -



- a) Commencement won't be made for this part of the works before the end of review period on all contractor documents related to the design and implementation of that part.
- b) That part of the works shall be implemented under the contractor documents as been provided to review.
- c) And if the contractor wishes to amend any design or document already has been submitted for review, he shall give notice to the employer immediately.

At that, the

Contractor shall submit updated documents to the employer under the procedures referenced above.

Any agreement (under articles above) or any review (under this paragraph or otherwise) will not relieve the contractor from any obligation or responsibilities.

### **5-3 Contractor Undertakings**

The contractor undertakes that designs, contractor's document, implementation methods and works are performed under the following controls:

- a) The laws in force in country of the project.
- b) Documents consisting of the contract as modified and repaired under change orders.

### **5-4 Specifications and technical instructions**

The designs, contractor documents, implementation methods and the work performed shall be according to the technical specifications and the laws of (environment and the construction of buildings) approved in the country of the project.

And that the approved laws are the laws and standards set forth in the employer's

requirements and approved in the manufacture and implementation of the works. These laws and specifications are prevailing upon receipt of the works or its parts under Article Ten. When referring to the specifications in the contract, it refers to the last update approved in the Main Date unless stated otherwise.

If there is a change in the approved specifications or were updated after the signing of the contract and become bound to act accordingly in the state through legislation. The Contractor shall give notice to the employer, together with a claim (if it so required). And then:

- a) Contractor shall determine the extent of contractor eligibility for compensation
- b) Determine whether claim for compensation from contractor will result in Issuing change order.

Then, employer shall Issue a change order under Article Thirteen.

### **5-5 Training**

The Contractor shall secure training to employer staff in the area of operation and maintenance of works under what is specified in the employer's requirements. If the employer's requirements stipulated that training must be carried out before the work receipt procedures then the initial acceptance certificate shall not be issued under paragraph (10-1) until the completion of training.

### **5-6 Documents as implemented**

Contractor shall develop and maintain a complete set of works implementation documents (as implemented) marked with the location and dimensions, and details of such works as been implemented. The retention of these documents shall be at site and are used in particular to complete the preparation of these documents finally. Provided that two copies shall be delivered to the employer before the detection procedures and the receipt works test.

In addition, the Contractor must provide the employer with works plans, as implemented,

for the purposes of review under paragraph (5-2) and the contractor shall obtain the employer approval as far as the dimensions and the coordinates, and details concerned before the he issued the receipt of works certificate.

The Contractor shall provide the employer with the exact number and type of plans (as implemented) concerned under what was specified in the employer documents. And works shall not be considered completed for the purposes of receipt under paragraph (10-1) only after the receipt of the employer of these documents.

### **5-7 Operation and Maintenance Evidence**

The contractor shall, prior to carrying out check and test of work receipt, provide the employer with evidence of operation and guidelines maintenance, including all the details to facilitate the task of the employer to operate and maintenance, dismantle, re-install, calibration and repair of the equipment involved in the works.

Works will not be considered completed for the purposes of receipt under paragraph (10-1) until the employer receive the final evidence of operating and maintenance in full details and any specified evidence in the employer's requirements for operation and maintenance purposes.

### **5-8 Design Errors**

If errors or omissions or irregularities or contrast or mismatch or any shortcomings in the documents of the contractor. The Contractor shall repair it and repair implemented works whereby and on his own account with obtaining acceptance and approval of the employer under this article.

## **Article Six: Employees and Workers**

### **6-1 Appointment of Employees and Workers**

Unless otherwise stated in the employer documents, the contractor shall make arrangements to appoint the necessary employees and workers, local or others, and the payment of their wages and their accommodation, food and transport requirements. The contractor shall appoint workers and employees with experience and qualifications from local sources within the country of works to the extent possible and reasonable.

### **6-2 Wages rates and Working conditions**

The contractor shall pay wage rates and to takes into account the conditions of employment so its level shall not be less than what is followed by the commerce and Industry personnel in the area where the works are implemented. If no such rates or conditions exist, the Contractor shall pay the wage rates taking into account the conditions of labor so it shall not be less than the general level of wages or conditions that are observed locally by employers to commercial or industrial jobs similar to those carried out by the contractor.

The contractor shall inform his employees of their responsibility for the payment of income tax realized on them in the country of works for their salaries and wages and bonuses and any grace related to those taxes under the laws of the country of works and the contractor shall conduct such tax deductions from income generated by his employees under those laws.

### **6-3 Employer Personnel**

The Contractor shall not use or try to attract the services of any of the employees or workers who are working within employer's members.

### **6-4 Work Rules**

The contractor shall comply with all labor laws applicable to its employees, including laws relating to employment, health, public safety and care, residence and immigration, and he shall takes into account all their legal rights. The contractor shall also require his employees to comply with applicable laws, including safety regulations at work.

### **6-5 Work Hours**

No works shall be implemented on site during local public holidays recognized or outside the usual working hours set out in the contract data, unless:

- a) Was stipulated otherwise in the **Contract Data** ;
- b) Approved by the employer ; or
- c) Continue in work is inevitable, or necessary to save the lives of persons and properties or to preserve the safety of works, and in such case the contractor shall notify the employer thereof forthwith.

### **6-6 Employees and Workers Escort**

Unless otherwise provided in the employer's requirements, the employer shall provide and protect the facilities and the necessary life support supplies for his employees, and he shall provide the facilities provided in employer's requirements.

### **6-7 Health and Safety**

The contractor shall take reasonable arrangement at all times to maintain the health and safety of his employees, and to provide - in collaboration with local health authorities - the necessary health staff , first aid facilities, bedroom for patients and ambulance, to be ready at all times on site and common accommodations for contractor's employees and employer's personnel, and to provide as well appropriate arrangements for the requirements of public health and to prevent the spread of epidemics.

The contractor shall appoint a person in charge of safety and prevention, for the prevention of accidents at the site, so that this person is of suitable qualifications to be responsible for matters of safety and accident prevention, and to be authorized with power to issue instructions and to take the necessary measures to

prevent accidents and to take preventive measures, and in this context, the contractor shall provide for this prevention officer whatever is necessary to enable him to exercise his powers and responsibilities.

The contractor shall also sent the employer details of any incident happened as soon as it occurs, and that he shall carry out record-keeping and submit reports related to public health and safety and damage that may fall on property as required by the employer reasonably.

For the purpose of protection of Acquired Immune Deficiency Syndrome (AIDS), the contractor shall implement the awareness programs regarding Acquired Immune Deficiency Disease through these service providers approved and to take the necessary measures to guarantee that no transmission and spread of the disease among his employees and to the local citizens and ensure prompt diagnosis and assist people injured.

The Contractor shall, through the contract (including the defects repair period):

- (1) Conduct campaigns, every two months (the minimum), to gather information, spread awareness and provide counseling for the staff and workers (from employees of the contractor and subcontractors, consultants, truck drivers and site providers), and citizens in adjacent neighborhoods about the responsibility, risks, effects, and practices that should be avoided as much as the matter relates to ensure non transmission of disease-causing and diseases resulted from sexual relations, particularly with HIV.
- (2) Secure means to maintain the non- transmission of infection during those sexual acts for both sexual.
- (3) Carry out periodical surveys and diagnose and determine treatment and referral to local programs (local health centers) specialized in the treatment of sexually transmitted disease and HIV (unless otherwise agreed) for the all contractor's employees and workers working at the site.

The contractor shall puts in his program to implement works required to be implemented pursuant to the provisions of paragraph (8-3), an applicable program for his employees and workers at the site and their families to ensure non transmission of infection, contracting sexual diseases and HIV include prevention measures and costs necessary to do so under this paragraph and its specifications. And the program shall include details of its components and resource to be secured and employed to achieve it, and contract procedures for its implementation and the program shall also by support by analysis of the speculative cost enhanced by supporting documentation. Payment to the contractor for the preparation and implementation of this program shall be no more than the amounts specified for this purpose.

## **6-8 Contractor Control**

The contractor shall provide all staff necessary for planning, guidance, arrangement, management, inspection and test of works throughout the implementation period and then, for any period required for the Contractor to perform his obligations.

Control should be carried out by a sufficient number of qualified persons using the communication language (pursuant to the provisions of paragraph (1-4)) and with the operations that will be implemented (including methods and techniques required and risks likely exposed to and ways to prevent accidents), up to the implementation of the works in a satisfactory and safe manner.

## **6-9 Contractor Personnel**

Contractor personnel shall be of suitable adequacy, skill and experience each in his career or his craft and approved by the employer, and the employer can ask the contractor to expel (or to work to expel) any person employed in the site or in the works, including the contractor's representative, if that person was:

- a) Excessive in his behavior or careless on an ongoing basis.
- b) Carry out his duties in an incompetent or neglect manner.
- c) Fails to apply any of contract's provisions.
- d) Excessive in practicing a behavior that threatens the safety or health or environment protection.

And in such case, the contractor shall appoint (or work to appoint) a proper replacement.

### **6-10 Workers records and Contractor equipment**

The Contractor shall provide the employer with detailed records to show what is available at the site of numbers of contractor's personnel classified by skills, and number of his equipment classified by types. These records shall be provided to the employer each month, using the models (samples) approved by the employer, till the contractor performs any work known to be remaining on completion date specified in the "initial acceptance certificate of works."

### **6-11 Undisciplined Behavior**

The contractor shall take at all times all treasonable precautions to prevent any riots or override the law or breach of procedure by the contractor personnel or themselves, and preserves the security and protection of persons and property at the site and neighbored.

### **6-12 Foreign Labor**

The contractor has the right to bring foreign labor from outside the country of works in necessary numbers to implement the works within the limits allowed by laws applicable. The contractor shall guarantee the entry of such labor under entry visas and legal work permits. The employer may, at contractor's request, provide immediate assistance to the contractor for obtaining the local, regional, and government permissions to bring in foreign labor needed to work.

The contractor shall be responsible for returning his personnel to the place where they were hired from or their previous residences. In the event of the death of any of them or one of their family members residing with them, the contractor shall as well be responsible for securing the necessary measures to bring them back to their homeland or bury them.

### **6-13 Necessary Supplies for Food**

The Contractor shall prepare the necessary arrangements to prepare adequate food supplies as specified in the specification and in reasonable prices for his personnel of concerned parties in the implementation of the contract.

### **6-14 Water Supply**

The Contractor shall be familiar with the conditions of the site and ensure safe drinking water and for other purposes for the use of his personnel.

### **6-15 Prevention of Harmful & Annoying Insects**

The Contractor shall, throughout the contract period, take the necessary measures to protect his personnel working at the site from the harmful and annoying insects in order to reduce risks to workers' health. The contractor shall adhere to implement the instructions issued by the local health departments in the selection and use of pesticides for this purpose.

### **6-16 Alcoholic Liquors & Drugs**

The contractor shall not import or sell or barter or otherwise distribute any alcoholic beverages or drugs or allow to supply or sell or trade or distribute any of it by his personnel in contrary to what is applicable in the laws of country of works in this regard.

### **6-17 Weapons & Ammunitions**

The Contractor shall not give or barter or distribute to any person any weapons or ammunition of any kind or permit any of his personnel to do so.

### **6-18 Celebrations and Religious Events**

The Contractor shall respect occasions recognized by state, rest days and any other religious habits.

### **6-19 Funerals Ceremonies**

The contractor shall be responsible for taking the required measures under local and necessary instructions for the funeral ceremony of any of his local personnel, who dies during his work and under applicable local conditions.

### **6-20 Use of force and threat in the appointment of workers**

The contractor shall not appoint any worker under the use of force or threat of any kind, and that any kind of work or performance of service in which the appointment of personnel was not voluntarily, it is deemed that it has been made by use of force and is subject to penalties.

### **6-21 Prohibition of Child Labor**

The Contractor shall not hire children in any of the works of economic exploitation nature, or that it expose him or deprive him from education or that are harmful to his health or his body and his mind or his behavior and his psychology and his social growth.

### **6-22 Reports of Workers' operations**

The Contractor shall maintain complete and accurate reports of the procedure for the appointment of workers at the site and that these reports shall include name, age, sex, working hours and wages paid to all his workers and these reports should be summarized monthly and be ready for the engineer review during normal working hours. And they shall be submitted within the rest of the other details to be submitted by the contractor to the engineer under paragraph (6-11). (Workers and equipment reports)

## **Article Seven: Mechanical Supplies and Manufactured Materials**

### **7-1 Implementation Method**

The contractor shall manufacture mechanical supplies, produce and manufacture materials, and all other implementation works as follows:

- a) In the manner specified in the contract (if any)
- b) In a keen and decent manner befit the principles of the professional and recognized industry.
- c) By using adequately equipped facilities and non-hazardous materials (unless otherwise provided for in the contract).

### **7-2 Samples**

The Contractor shall provide samples to the employer, for review under the specified procedures in contractor's documents described in paragraph (2-5) and as stipulated in the contract and on his account provided that a label shall be put on each sample to indicate the origin and purpose of their use in the works.

### **7-3 Inspection**

Employer's personnel must have in all reasonable times, the following:

- a) Easy access to all parts of the site and to all places in which natural materials are obtained from.
- b) They could during the production, manufacturing and construction, (on-site and off), testing and inspecting, measuring and examining the materials and workmanship, and check the progress of mechanical supplies and the production and manufacturing of materials.

The Contractor shall provide to employer's members full opportunity to carry out these activities, including the provision of access and facilities, permits and safety tools, note that the contractor carry out such acts does not relieve him from any obligation or liability.

As it comes to works that the employer's representatives must examine or check or inspect or measure and / or test them, the Contractor shall notify the employer when the supplying of such works is made and before cover them or hide them and packaging them with a view to storage or transport. The employer would then to conduct examination, inspection, measurement or testing without any delay, or that the contractor knows he does not need to make detected on them. If the contractor fails to notify the employer, it entails - when requested by the employer - to disclose the works that have been covered, and then return it to its former position and repair defects in which the contractor bears all the costs that ensue.

### **7-4 Test**

Shall apply what is contained in "paragraph" on all tests set forth in the contract except for the tests that are made after the completion (if any).

Unless otherwise provided in contract data, the contractor shall provide all tools, supporting materials, documents and others of information, electricity, equipment, fuel and consumables, tools, labor, materials, qualified and experienced staffs, and others what is required to conduct the tests set out in an effective manner. And he shall also agree with the employer at the time and place to hold the test for any of the mechanical supplies, materials and other parts of the works.

The employer may, pursuant to the provisions of "Article Thirteen" to change the location or the details of tests the set forth, or to order the contractor to carry additional tests. And if it is found as a result of these changed or additional tests that the mechanical supplies, materials or hardware that has been tested does not conform to the requirements of the contract, the cost of implementing these changes borne by the contractor, regardless of the other provisions of the contract.

Employer shall send notice to the contractor before (24) hours at least informing him of his intention to attend the tests. If the employer or his representative did not attend at the time and place agreed, then the contractor can continue to carry out tests, unless issued written instructions from the employer otherwise, these tests shall be deemed as if they had been conducted in the presence of the employer.

If the Contractor incurs a delay and / or a cost due to his compliance with these instructions, or as a result of a delay caused by the employer, the contractor shall give a notice to the employer to assess his dues in related thereto, taking into account the provisions of paragraph (20-1), regarding:

- a) Extending the completeive period due to the delay, if the completion had been delayed or will be delayed, under the provisions of paragraph (8-4).
- b) Or any such cost to be added to contract value.

The employer shall, after receipt of such notice, to carry out works pursuant to provisions of paragraph (3-5) by agreement thereto, or make estimates for these matters.

The Contractor shall submit to the employer, without delay, certified tests reports. If the employer finds that the tests have been approved, then he shall approve the test certificate, or he shall issue to the contractor a letter to that effect. The employer shall, if was not present at the tests, accept the results of the readings as correct.

## **7-5 Rejection**

If the contractor fails to conduct any tests required under the contract, or if it found that as a result of any test or inspection, measurement or check, that any of the mechanical supplies, materials or manufactured items to be defective, or that it does not comply with the requirements of the contract, the employer may reject the mechanical supplies or materials or manufactured items by giving notice to the contractor, with a statement of the reasons for the rejection. Subsequently, the contractor shall repair the defect in the item rejected so it shall be compatible with the requirements of the Contract.

If the employer request re-test of any mechanical supplies, materials or manufactured items, then he shall re-conduct the tests under the same conditions or circumstances. If it found as a result that the employer has incurred additional costs due to the rejection and re-test, the contractor shall, pursuant to paragraph (2-5), pay this additional cost to the employer.

## **7-6 Repairs Works**

In spite of any tests or an earlier issuance of a previous certificate, the employer has the authority to issue instructions to the contractor, including the following:

- a) Remove any mechanical supplies or items in breach of contract's requirements or replace them.
- b) Remove and return any part of works in breach of contract's requirements.
- c) Implement any work, in the opinion of the employer, is deemed urgently required for the safety of works, due to an accident or unforeseen event or for any other reason.

If the contractor fails to comply with any instructions specified in paragraph (3-4), the employer shall be authorized to use any other person to carry out such work and pay him in exchange for his work. Other than that to the extent in which the contractor is entitled to a payment in connection with this work, the contractor shall, pursuant to paragraph (2-5) pay to the employer all the expenses resulting from such failure.

## **7-7 Ownership of Mechanical Supplies and Materials**

Any items of the mechanical supplies and materials to the extent it complies with the country's laws shall become the property of the employer (free from any lien or right of third parties) as of date which comes closest to the following:

- a) When it entered to installed in the works; or
- b) When the contractor shall become authorized to receive payment that includes allowance for mechanical supplies and materials, in the event of work suspension pursuant to paragraph (8-10).



## **7-8 Returns of Property Right**

The Contractor shall, unless otherwise stated in the specifications, to pay royalties and rents and other payments related to the following:

- a) Natural items obtained from outside the site; and
- b) Disposal of debris, the result of excavations and other excess material off site (whether natural or manufactured), unless the contract involves the allocation of places to put the debris within the site.

## **Article Eight: Commencement, delayed completion and work suspension**

### **8-1 Commencement of work**

Unless otherwise specified in the contract agreement:

- a) The employer shall send the contractor a notice of the work commencement date before (7) days at least.
- b) The date of commencement shall be within 42 days from the date the contract shall be in force and effective under paragraph (1-6)

The contractor shall start with the design and implementation as soon as practical after the date of commencement and shall continue in work thereafter in due speed without any delay.

### **8-2 Completion Period**

The contractor shall perform all the works, and any part thereof (if any), during the completion period specified for entire works or any part thereof (as the case may be), and includes:

- a) Accomplish success in "test upon completion".
- b) Complete all works specified in the contract, as required for entire works or any part thereof, so it can be deemed completed for delivery purposes under paragraph (10-1).

### **8-3 Work Program**

The Contractor shall provide the employer time work program within (28) days from the date of commencement. And he shall also submit a revised program at any time it found out that the previous program is no longer in line with the actual progress or with the Contractor's obligations. Unless otherwise stated in the contract, any of the work programs shall include the following:

- a) The order in which the contractor intends to implement the works thereunder, including the expected timing for each stage of the works.
- b) Review periods of contractor's documents under paragraph (5-2).
- c) Statement of the sequence and timing of inspections and tests specified in the contract.
- d) Supporting report covers:
  - 1) Overall description of the implementation methods proposed to be adopted by the contractor for each major stage of implementation.
  - 2) Approximate numbers for the preparation of Contractor's personnel classified according to skills and numbers of contractor's equipment for each major stage of implementation

Unless the employer - within 21 days of the date of receipt of the program - comment upon and inform the contractor about the extent of non-conformity of the program to the contract, the contractor shall have the right to carry out implementation thereunder, taking into account his other obligations under the contract. And employer personnel shall be authorized to rely on this program when planning to perform their activities.

The Contractor shall send a notice to the employer, immediately, for any possible future events or circumstances that could adversely affect the implementation of works or delay implementation.

If the employer at any time notified the contractor that the work program is no longer complies with the contract (indicating the extent of non-conformity) or it is not commensurate with the actual progress of the implementation and the planned objectives of the Contractor, then the contractor shall provide a modified program to the employer pursuant to the provisions of this "paragraph".

### **8-4 Extension of Completion Period**

The contractor shall have the right – (with subject) to paragraph (20-1) – to have extension for completion period if a delay occurred or was expected to occur, and its impact on the delivery date of works for the purpose of applying paragraph (10-1), for any of the of the following reasons:

- a) Change, unless agreement was made on amending the completion period under paragraph (13-3).
- b) Any reason for delay justifies the extension of completion period under any of such conditions.
- c) Any delay or hindrance attributed to employer's behavior or his personnel, or any

other contractors working for him at site.  
If the contractor considered himself authorized to an extend to "completion period" then he shall notify the employer thereon pursuant to paragraph (20-1) and when the contractor estimates each period extension under paragraph (20-1) he may reconsider his earlier estimates and he may increase, but he shall not decrease the total extension for completion period.

### **8-5 Delays due to authorities**

The delay or hindrance shall be considered a cause of delay according to Para (b) of item (8-4), in the following cases:

- a) the contractor responded seriously in following the procedures established by the competent authorities legally.
- b) These authorities have caused delay or hindered of the contractor's work.
- c) That this delay or hindrance was not foreseeable

### **8-6 Rate of Work Progress**

If it found out at any time:

- a) That the actual progress is very slow so that completion becomes unattainable during the completion period.
- b) That the progress of work is delayed (or will be delayed) from the timing of the current program referred to in paragraph (8-3).

And this was not due to one of these reasons set out in paragraph (8-4), then the employer can issue instructions to the contractor pursuant to paragraph (8-3) to develop a revised work program, supported by a report shows the revised methods which the contractor intends to follow to accelerate the rate of work progress and complete it within the completion period.

Unless the employer instructed otherwise, the contractor shall start to adopt the revised methods that may require the increase of working hours and / or the numbers of contractor's personnel and / or implementation requirements, on contractor's responsibility and cost. But if these revised methods lead to employer bears additional costs, then the contractor shall – pursuant to the provisions of paragraph (2-5) – pay such additional costs to the employer, in addition to any delay compensations (if any) under paragraph (8-7) subsequently.

### **8-7 Delay Compensations**

If the contractor fails to fulfill the obligation to complete the works pursuant to the provisions of paragraph (8-2), he shall pay the employer pursuant to the provisions of paragraph (2-5) delay penalties resulting from such failure, and such penalties shall be in amount set forth in **Contract Data**, for each day pass between the period specified for completion and the date set out in the initial acceptance certificate for works. However, the total fines payable under this "paragraph," should not exceed the maximum delay penalties (if any) as stipulated in the **Contract Data**.

Delay penalties are all what the contractor shall pay for this failure, except for the case of termination of the contract by the employer under paragraph (15-2) before works completing, these penalties shall not relieve the contractor from his obligation to complete the works or of any of his duties, obligations or other responsibilities under the contract and shall not prejudice the impose of these penalties against the employer in compensation for damage suffered by him as a result of the delay.

### **8-8 Work Suspension**

The employer - at any time - may issue instructions to the contractor to suspend work in any part of the works or all. The contractor during this suspension, shall protect, store and maintains the works or part thereof against any deterioration, loss or damage.

The employer may also explain the reasons for suspension in his notification. If the reason for suspension is the responsibility of the contractor, then the provisions of the following paragraphs (8-9, 8-10, 8/11) shall not apply.

### **8-9 Consequences of Work Suspension**

If the Contractor incurs delays in completion period and / or in a cost due to its compliance with the employer's instructions to suspend the work pursuant to paragraph (8-8), and / or resume work, the contractor shall give a notice to the employer of this, to estimate the contractor's entitlements pursuant to paragraph (20-1) with respect to:

- a) Any extension in completion period due to this delay, if completion was delayed or will be delayed under paragraph (8-4).
- b) Payment of any cost, for the purpose of adding it to contract amount.

After the employer receives the notice, he shall reconsider it according to the provision of paragraph (3-5) to be agreed upon or prepare his estimates in regard of these matters. Note that the contractor shall not entitle any extension to completion period or recover the cost incurred due to his carrying out repairs to what resulted of defect in his design or materials or workmanship or any failure from his part in the protection or storage or maintain works pursuant to the provisions of paragraph (8-8).

### **8-10 Payment for Mechanical Supplies & Materials in case of Work Suspension**

The contractor shall be entitled to be paid the value of the mechanical supplies and / or materials (as it is on the date of work suspension) which are not supplied yet to site, if:

- a) The work in mechanical supplies or the supply of mechanical supplies and / or materials has been suspended for a period exceeds (28) days.
- b) The contractor considers these mechanical supplies and / or materials have become property of the employer according to the instructions issued by the employer.

### **8-11 Prolonged Suspension**

If work suspension continues under paragraph (8-8) for a period exceeds (84) days, (unless otherwise indicated in the special conditions), the contractor may demand from the employer to allow him to resume the work, and if the employer did not allow the contractor to resume the work within the (28) days following the date of demand, the contractor may, after giving notice to employer, deal with this suspension as it is a cancellation under the provisions of "Article Thirteen" for that affected part of works. But if the suspension affects the entire works, the contractor may send a notification to terminate the contract from his side pursuant to the provisions of paragraph (16-2).

### **8-12 Resumption of work**

If instructions or permission issued from the employer to resume work, then both parties collectively shall, carry out detection on works, mechanical supplies and materials affected by the suspension, and the contractor shall repair any damage or defect or loss suffered during such suspension period, after receiving direction from the engineer of so under Article Thirteen (changes and amendments).

## **Article Nine: Tests upon completion**

### **9-1 Contractor Obligations**

The Contractor shall carry out "tests upon completions" in accordance with the provisions of this "article" and paragraph (7-4), after submitting the documents required from him under paragraph (5-6) (documents as implemented), (5-7) (Operation & Maintenance Evidence).

The contractor shall inform the employer by notification of at least (21) days from the date when the contractor is ready to carry out any of the tests upon completion. Unless otherwise agreed, these tests shall be made within (14) days after this date, on the day or days determined by the employer.

Unless specified otherwise in the Special Conditions, the completion test shall be carried out according to the following steps:

- a) a test prior to the initial acceptance certificate of works that includes the proper test for systems and equipment involved in the works as well as testing their performance during operation on (hot or cold) to determine the ability of such systems and equipment to perform their work properly in preparation to second stage referred to in paragraph (b) later.
- b) A test for the initial acceptance of works that includes a certain operation tests to ensure that works or the part included in the receipt can be operated properly as specified to it in all operating conditions.
- c) Pilot test to ensure that the works or the part included in delivery are operating in an efficient manner under the contract.

The Contractor shall, during the pilot tests and upon the steadiness of works in stable conditions, give notice to the employer informing him of the readiness of works to conduct any completion tests, including performance test that will outline the extent to which works are to the specifications set out in the employer's requirements for performance guarantees.

Pilot operation shall not include the initial notification of receipt of the works under Article Ten unless otherwise indicated under data contract. Any outcome resulting from the operation of works would be entitled to the employer.

Employer shall, when evaluating the results of "tests upon completion", take into appropriate permit to consider any use of works under the knowledge of the employer on performance and other characteristics of the works. Contractor shall provide a report supported by those tests to the employer when works of any department are considered have passed tests upon completion stage under items (a, b, c) above.

### **9-2 Delayed Tests**

If the employer delayed tests upon completion without justification, then the provisions of paragraph (7-4) and / or paragraph (10-3) shall apply in terms of intervention in conducting the tests.

And if the contractor delayed tests upon completion without justification, then the employer may sent a notification to the contractor requesting him to conduct the tests within (21) days from the date of receiving the notice, and the contractor shall conduct the tests within such period in the day or days determined by the contractor provided that he send a notification to the employer in this regard.

But if the contractor fails to conduct "tests upon completion" within the (21) days period, employer's personnel may conduct the tests on the contractor's responsibility and cost, and these tests shall be deemed as if were conducted in the presence of the contractor and their results shall be accepted as true.

### **9-3 Re-test**

If works or any part thereof fails to pass "tests upon completion" then the provisions of paragraph "7-5) shall apply. Employer or contractor may request re-test the part of work fails in the tests, provided the tests shall be redone under the same conditions and circumstances.

### **9-4 Failure to pass tests upon completion**

If works or any part thereof fails to pass "tests upon completion" after re-conduct them under paragraph "9-3", and then the employer shall be authorized to take any of the following procedures:

- a) Order to repeat the tests upon completion once again under paragraph (3-9)
- b) If that failure leads to employer material loss of taking full advantage of the works or any part thereof, the employer may reject the works or any part thereof (as the case may be), and in this case, the employer shall have the right to obtain same penalties set forth within the provisions of item (11-4-C).
- c) The employer shall issue initial acceptance certificate for works.

In the case of the application of item (c) above, the contractor shall continue in performing all his other obligations under the contract and the contract amount shall be reduced by an amount that is appropriate to cover the decrease realized value for the employer as a result of this failure. And if this reduction that is related to the failure is not determined in the contract (or its calculation has been identified), the employer may request evaluate the reduction in one of the following two methods:

- 1) Agreed upon between parties (such as full compensation for this failure only) and the compensation shall be paid before the issuance of the initial acceptance certificate of works.
- 2) It shall be evaluated and paid under the provisions of paragraphs (2-5) and (3-5).

## **Article Ten: Receipt of Works from Employer**

### **10-1 Receipt of Works and Works sections**

With the exception of the text in paragraph (9-4) with respect to the failure to pass the "tests upon completion", the employer shall receive works when:

- 1) Works have been completed under the contract, including the matters determined in paragraph (8-2) related to completion period, and save as what is allowed under section (a) below, and
- 2) The initial acceptance certificate for works has been issued, or deemed as have been issued in accordance with the provisions of this "paragraph."

The contractor may request the employer to issue "the initial acceptance certificate of works" in a period of not less than (14) days from the date on which works – in the opinion of the contractor - have been completed and ready for delivery. If the works are divided into sections, the contractor shall submit a request to hand over any part thereof in the same manner. The employer needs to carry out the following, within (28) days after the date of receipt of contractor request:

- a) issue "the initial acceptance certificate of works" in which he determines the date which the works or any part thereof is considered completed under the contract, except any secondary works and defects remain that shall not materially affect the use of works – or any part thereof – for the purpose for which it was established, (till the completion of such works and the repair of such defects) ; or
- b) Reject the request, stating the reasons, and determining the work that the contractor shall complete so the initial acceptance certificate of works can be issued. And the contractor shall complete such work before sending another notification to receive the works under the provisions of the paragraph.

But if the employer did not issue the initial acceptance certificate of works or rejects the contractor's request during the (28) days period, and the works or the section (as the case may be) have been completed substantially under the contract, then the initial acceptance certificate of work shall be deemed as if is actually issued on the last day of that period.

### **10-2 Receipt of parts of works**

Receipt of parts of works or their use by employer is not allowed unless stipulated in the contract or agreed upon between the parties.

### **10-3 Intervention in the conduct of tests upon completion**

If the contractor was unable to conduct "tests upon completion" - for a period exceeding 14 days - for any reason attributed to the employer, the Contractor shall conduct "tests upon the completion" at a later convenient date... If the Contractor incurs delays in completion period and / or costs as a result of such delay in conducting "tests upon completion", the contractor may give notice to the employer to evaluate his entitlements, taking into account the provisions of paragraph (20-1), regarding:

- a) Any extension for completion period resulting from this delay, if the completion is delayed or will be delayed, under paragraph (8-4); and
- b) Any such cost with profit margin to be added to the contract amount.

The employer shall – after receiving the contractor notice – carry out pursuant to paragraph (3-5) by agreement or prepare estimates related thereto.

## **Article Eleven: Responsibility for defects**

### **11-1 Completion of remaining works and Repair defects**

In order for contractor works and documents, and any part of them, to be in a condition required by the contract (except as may result from the normal expected consumption and use) at the expiry of the maintenance period relating thereto, or immediately after in the shortest practical possible period, the contractor shall:

- a) Complete any remaining work as of the date specified in the initial acceptance certificate of works, within a reasonable time according to employer's instructions.
- b) Implement all works required to repair defects or damage according to employer's instructions (or his representative), on or before the expiration of the maintenance period in such Works or any part thereof (as the case may be).

If a defect occurred or damage happened, the employer (or his representative) shall give notice to the contractor.

### **11-2 Cost of Repairing Defects**

The contractor shall bear the cost of all works referred to in item (11-1-B) on his own responsibility and cost, if it was and to the extent that such works attributed to:

- a) Designs of works except part of designs that are under the responsibility of the employer (if any).
- b) The inaccurate operation and maintenance caused by reasons of the responsibility of the contractor under paragraph (5-6) and up to paragraph (5-7) or others.
- c) Any failure of the contractor in adherence to any other obligation.

But if and to the extent to which such works attributed to any other reason, "does not belong to the contractor", in whole or in part, employer (or on his behalf) shall inform the contractor without delay, and in such a case, the provisions of paragraph (13 - 3) relating to make changes shall apply.

### **11-3 Extension of maintenance period (during the maintenance period)**

The employer shall have the right to extend the notice period of the Defects in the works or any part thereof, under paragraph (2-5), in a period equal to the maintenance period listed in the tender offer attachment and for no longer than two years, and to the extent that such works, or any part thereof, or any major item of mechanical supplies (as the case may after receiving) cannot be used for the purposes intended, due to the existence of a defect or damage.

If the supply of mechanical supplies and / or materials or their installation suspended under the provisions of paragraph (8-8) or at the contractor instructions under the provisions of paragraph (16-1), the contractor's obligations under the provisions of this "article" shall not apply to any defects or damage that may occur two years after the deadline in which the maintenance of such mechanical supplies and / or materials expire, if the suspension did not occur.

### **11-4 Failure to repair defects**

If the contractor fails to repair any defect or damage within a reasonable period, the employer (or his representative) may send a notice to the contractor reasonably in which he specify a another date to repair such defects or damage prior to its expiry.

If the contractor fails to repair the defect or damage at the time referred to, and this resulted that the repair shall be on the contractor's expense, in accordance with paragraph (11-2), the employer may take any of the following procedures (by his choice):

- a) Performs the work himself or through others, in a reasonable manner and on contractor's expense, but with no responsibility on the contractor for this performed work. In such case, the contractor shall - according to paragraph (2-5) -



- pay the employer costs reasonably incurred to repair the defect or damage.
- b) Request employer to reach an agreement or to prepare his reasonable estimates to reduce the contract amount in exchange thereof according to the procedures of paragraph (3-5).
  - c) If the defect or damage leads to deprive the employer to take full advantage of the works or any major part of which substantially, he may terminate the entire contract or terminate it for that major part which cannot be used for the intended purpose. And without prejudice to any other rights entail to him under contract or other reasons, the employer may recover all amounts paid to the contractor for works or for that part (as the case may be), adding to them the expenses of funding, dismantling, site evacuation and returning of mechanical supplies and materials to the contractor.

#### **11-5 Removal of defective works**

If the defect or damage cannot be repaired at the site on an urgent basis, the contractor may - after obtaining the employer approval - to transport from site for the purpose of repairing any parts of the mechanical supplies that are defective or damaged, but such approval may require assigning the contractor to increase the value of performance guarantee equivalent to full replacement value of such mechanical supplies that have been removed, or to provide another guarantee appropriate in respect thereof.

#### **11-6 Subsequent Tests**

If repair works for any defect or damage have an impact on the performance of the works, the employer may request re-perform any of the tests described in the contract, including completion tests and / or after complete checks, provided that such request be done within (28) days from the date of completion of repair the defect or damage. Such tests shall be made under the same conditions under which the previous tests, were conducted but the cost of re-conducting them shall be borne by the party who is responsible for the defect or damage as may be specified under paragraph (11-2) with respect to the cost of the repair works.

#### **11-7 Right of access to site**

Until the issuance of the initial acceptance certificate of works, the contractor has the right to access to all parts of the works and view the operation and performance records. Unless in conflict with reasonable security considerations of the employer.

#### **11-8 Duty of contractor to search for causes**

The Contractor shall - if so requested by the employer - to search under the supervision of the employer for the reasons for any defect in the works. And unless the cost of repairing defects at the contractor's expense under the provisions of paragraph (11-2), the employer shall estimate the cost of the process of searching for reasons, with a reasonable profit margin, in accordance with the provisions of paragraph (3-5), either by agreement or by preparing estimates needed, to be added to the amount of the contract.

### **11-9 Performance Certificate**

The contractor shall not consider that he has completed the performance of his obligations only after the employer issue "final acceptance certificate for the works" to the contractor, indicating the date on which the contractor is considered that he has completed the obligations required under the contract.

The employer shall issue a "certificate" within (28) days after the expiration of the last period of maintenance, or at the earliest opportunity after the contractor has submitted all "contractor's documents," and he completed all works and has been checked entirety, including any repair of defects in them, and if the employer has not been able to issue the final acceptance certificate for the works in view of this:

- a) It is assumed the issuance of the final acceptance certificate for works on the (28) day of the date specified for its issuance under this paragraph.
- b) The site shall be evacuated under paragraph (11-11) and the responsibility of the employer shall cease under paragraph (1) of paragraph (14-14).

The "final acceptance certificate for the works" only without others is considered to be representative to accept the works

### **11-10 Unfulfilled Obligations**

After the issuance of "final acceptance certificate for works" each party shall remain liable for the fulfillment of any obligation that he did not accomplish to date. Therefore, the contract shall remain valid between the parties till the determination of the nature and extent of unfulfilled obligations.

### **11-11 Site Evacuation**

The contractor shall, upon receipt of final acceptance certificate of works, remove from site what remains of contractor's equipment, surplus materials, debris, waste and temporary works. And if the all such mechanical supplies and equipment was not removed within (28) days from the date of employer receipt of a copy of "final acceptance certificate of works", the employer shall have the right to sell or dispose of their remnants. And the employer shall be authorized to recover the costs he incurred to complete the sell or disposal process and recover the site.

The contractor shall be paid any surplus balance of the sale proceeds. But if the value of what has been gained is less than what the employer spent, then the contractor shall pay the remaining balance to the employer.

## **Article Twelve: After-Completion Tests**

### **12-1 After-Completion Tests Procedures**

If the contract stated on after-completion tests, and not otherwise provided for in the Special Conditions, then pursuant to the provisions of this article:

- a) The contractor shall secure electricity, fuel and materials and the presence of his representatives and equipment to conduct the test.
- b) The contractor shall secure any equipment, machineries and the adequate number of his experienced and qualified personnel to conduct the after-completion tests in an efficient manner.
- c) The contractor shall conduct the after-completion tests in the presence of the employer and / or his representative as requested by any of the parties.

The after-completion tests shall be conducted at the nearest reasonable opportunity after receiving the works or part of the works from the employer. The employer shall give (21) day notice to the contractor from the expected date to conduct the post-completion tests. Unless agreed otherwise, tests shall be conducted within 14 days from this date and on days determined by employer.

The Contractor shall coordinate and evaluate the results of the tests and prepare a detailed report of this, and appropriate action of the impact of the damage caused by the early use of the works from the employer shall be taken.

### **12-2 Delaying tests**

If the contractor incurred any additional amounts as a result of delays in conducting the tests by the employer after completion, the Contractor shall:

- a) Give notice to employer
- b) Submit a claim of any amounts incurred as a result of this, plus a profit margin under paragraph (20-1) to be added to the cost of contract.

As soon as the employer receives notice from the contractor, he shall start determining these amounts and profit margin and agreed upon, under paragraph (5-3). If the post-completion tests not been achieved yet for works or any part thereof during the maintenance period (and any period to be agreed upon between the parties) for any reasons not attributed to the contractor, then the works or part of the works required to undergo "test upon completion" has passed the required completion test.

### **12-3 Re-test**

If the works or any part thereof fails in the "post-completion test":

- a) Action should be taken pursuant to item (11-1-B); and
- b) Re-test shall be done for parts of the work that failed in the test or the need to re-conduct the post-completion test under the same terms and conditions.

If the contractor incurred any additional amounts attributed to reasons referred in item (11-2/ A-D), the contractor shall under paragraph (2-5) pay such amounts to employer.

#### **12-4 Failure to pass After-Completion Tests**

Works or parts of works can be considered have passed the test based on the following conditions:

- a) Failure of works or any part thereof in passing any or all post-completion tests;
- b) If reference is made to the amount payable by the contractor in the contract (or to its calculation) for damages (other than those related to performance efficiency) resulted from failure of works in the tests;
- c) Payment of such amounts by the contractor during maintenance period.

If the works or part thereof fails in passing the post-completion tests and the contractor proposed a treatment or repair for works or that part which fails the test, then the employer (or his representatives) shall give notice to the contractor to enter in the works at the appropriate times for him to enter in the works to implement such repairs and the contractor shall be present to implement such repairs or treatments and achieve tests during a reasonable period from the date of receiving the notice from the employer (or his representatives) and during the period convenient to the employer. But if the contractor did not receive such notice during the period specified to repair the defects, the contractor shall not be responsible for this obligation and the works of that part of works (as the case may be) shall pass the post-completion test.

If the Contractor incurs any additional amounts as a result of any unreasonable delay of the employer in securing the entry of the contractor to the works or equipment involved in the work to uncover the reasons for the failure of works and equipment in the post-completion test or to perform treatments and repair, the Contractor shall carry out the following:

- a) Give notice of this to the contractor; and
- b) Submit his claims for the amounts resulting from such delay with profit margin under paragraph (20-1) and shall be added to the contract cost.

The employer shall, after receiving the contractor's notice, proceed under paragraph (5-3) to agree or determine such amounts and profit margin realized to the contractor.

## **Article Thirteen: Changes and Amendments**

### **13-1 Authority to make Change**

The employer can, at any time before the issuance of works receipt certificate and after the employer's approval, to initiate changes in the works, both through instructions he issued, or request the contractor to submit a proposal for consideration. And that such change shall not include the deletion of any work being executed by other contractors.

The Contractor shall adhere to each change (change order) and implement it, unless the Contractor gives notice, without delay, to the employer informing him:

- a) That he cannot obtain the implementation requirements needed to implement the change works on time;
- b) That the change will reduce the safety or the validity of works; and
- c) That the change will significantly affect the achieving of Undertakings Schedule.

The employer shall, during his receipt of contractor's notice, cancel or confirm or review the instruction in terms of the change proposed by him.

### **13-2 Engineering Assessment**

The contractor can, at any time, to submit to the employer a written proposal, which shows his opinion, that if adopted, it:

- a) Will accelerate the completion of the work;
- b) Will reduce the cost of works (for the benefit of the employer) in terms of implementation or maintenance operations or the operation of works;
- c) Will elevate the efficiency or value of works performed for the benefit of the employer; and
- d) Will achieve another advantage for the employer in general.

The preparation of this proposal shall be made at the expense of the Contractor, and shall conform to the requirements of changes procedure specified in paragraph (13-3) later.

### **13-3 Change Procedures**

If the employer requested a suggestion (proposal) from the contractor, before issuing instruction to a change, the contractor shall respond to the request in writing as soon as practical, either by showing the reasons for his inability to comply (if this is the case), or he shall present the following:

- a) A description of the works proposed to be carried out and the timetable for their implementation;
- b) Contractor's proposals for any amendment required to be made on the timetable in accordance with paragraph (8-3), and its impact on the duration of the completion of the works; and
- c) Contractor's proposal to calculate the change value.

The employer shall, as soon as practical, after receiving contractor's proposal (under paragraph (13-2) of otherwise) responds to contractor either by approving or disapproving, or he shall send his notes thereto, note that the contractor shall not postponed the implementation of any work during waiting for the answer and that any instructions to implement a change, with any request for requirements of costs registration, shall be issued by the employer to the contractor, and the contractor shall notify him of receiving such instructions.

As soon as instruction to conduct change or approve it, the employer under paragraph (3-5) shall reach an agreement on or determine the amount to be added to the amount of the contract and these amounts will include a reasonable profit margin and such amounts shall be determined by Contractor's claim under paragraph (13-2) If applicable.

### 13-4 Payment by Currencies Payable

If the contract stated the payment of contract amount in more than one currency, then upon agreement on any change of prices or approved it, or carry out an estimates in this regard, as mentioned above, the amount that will be paid in each currency of the currencies payable shall be determined.

Accordingly, reference should be made to the actual or expected percentages of currencies used for payment in terms of the cost of the work changed, and the percentages of various currencies specified for payment of the contract value.

### 13-5 General Reserve Amount

Each reserve amount has been allocated in whole or in part in accordance with the instructions of the employer shall be used only, and the contract amount be amended accordingly. The total amount paid to the contractor shall not include only such amounts related to work or implementation requirements or services for which the reserve amount is allocated, according to the employer's instructions. And for each reserves amount, the employer may issue his instructions concerning the following:

- a) For work implemented by the contractor (including the mechanical supplies or materials or services required to be provided) and its value as a change shall be estimated under paragraph (13-3); and
- b) Mechanical supplies or materials or services that are bought from the contractor, and required to be added to the contract amount:
  - 1) Actual amounts paid by the contractor (or payable by him); and
  - 2) An amount for administration expenses and profit, calculated as a percentage from such actual amounts by applying the relevant percentage (if any) as determined in **Contract Data**.

The contractor shall, when requested by the employer to do so, to submit prices proposals and evidentiary invoices, documents, accounts or receipts.

### 13-6 Daily Paid Work

The employer may, issue instructions to implement the change on the basis of daily paid work for small businesses or of contingent nature, and is then evaluated under the "daily paid work" schedule covered by the contract, and by the procedures specified later. But if there is no "daily paid work" schedule covered by the contract, the provisions of this paragraph shall not apply.

The Contractor shall - before installing the purchase orders of implementation requirements - submit to the employer priced offers, also he shall, when submitting payment request, submit invoices and documents and accounts or receipts relating to the implementation of any of such items.

With the exception of any items which have not been identified in "daily paid work" schedule for payment, the contractor shall submit daily accurate statements (in two copies) include the following details for resources that were used in the implementation of the previous day's work:

- a) Names, jobs and work duration of contractor's personnel;
- b) Determination of types and operating time of contractor's equipment and the use of temporary works; and
- c) Quantities and types of mechanical supplies and materials used.

Contractor shall sign one copy of each statement if he approved it or finds it correct (true), and then return it to the contractor. The contractor then shall provide a priced statement of these resources to the employer prior to include them in the next payment statement under provisions of paragraph (14-3).

### **13-7 Amendments Due to Legislative Change**

Unless specified otherwise in the Special Conditions, the contract value shall be amended to consider any increase or decrease in the cost as a result of any change in the country's laws (including the enactment of new laws and cancel or amend existing laws) or in the judicial interpretations or official government interpretations thereto, if such change made after the Main Date, and resulted an impact on contractor's performance of his obligations under the contract.

If the contractor incurred (or will incur) delay and / or additional costs as a result of such changes in the laws or in the interpretations, that made after the Main Date, the Contractor shall send a

notice to the employer to assess his entitlements thereon, taking into account the provisions of paragraph ( 20-1), regarding:

a) Extending completion period due to the delay happened, if the completion is delayed or will delay, under paragraph (8-4); and

b) Any such cost, to be added to the contract amount.

The employer shall, after receiving such notice, pursuant to the provision of paragraph (3-5), reach an agreement in this regard or to make necessary estimates concerning these issues.

In addition to the above, the contractor shall not be entitled to any extensions in work duration if that delay has already taken into account in the extension of contract duration, and not cost shall be paid for this if it was taken into account in the inputs of prices review list under paragraph (13-8) (Amendments Due to Costs Change).

### **13-8 Amendments Due to Costs Change**

If there is a context allows to review and amend contract value for increase or decrease occurs in work wages and prices of materials and any components of implementation, the amendment for contract value shall be calculated according to the mechanism determined in **Contract Data**.

## Article Fourteen: Contract Amount and Payments

### 14-1 Contract Amount

Unless provided otherwise in the **Contract Data**:

- a) Payment should be made for works performed by relying on the total amount of the contract and any amendments thereto under the contract;
- b) The contractor shall pay all taxes, fees and wages required to be paid under the contract, and the contract amount shall not be amended due to such expenses unless what is stated in paragraph (13-7) ; and
- c) In addition to what is mentioned in item (b) above, contract's equipment including spare parts necessary for its maintenance and imported by him for the purpose of implementation the works shall be exempt from customs duty and taxes when imported and for equipment entered as Customs Temporary Admission.

### 14-2 Advance Payment

Employer shall pay the contractor an advance payment as a loan without interest for the purpose of preparing the work and secure cash flow when the contractor submits the guarantee required of him under the provision of this "paragraph". In addition to the mechanism referred to in the **Contract Data**.

In case no reference in the **Contract Data** to the following:

- a) The amount of the advance payment, then this paragraph shall not apply;
- b) Payment method of advance payment (determine the number of its installments and timing of its payment), then it shall fully paid for one time;
- c) The method of determining payment currencies of advance payment, the same percentage determined thereto in the method of payment of contract amount shall adopted; and
- d) The method and the percentage recovery of the advance payment then. Shall be recovered in the same percentage of its value in the contract amount after deducting the reserve amount and from the progress advances.

The employer shall pay the first installment of the advance payment after receiving:

- 1) Contractor's request thereunder pursuant to the provisions of paragraph (14-3);
- 2) Performance guarantee under paragraph (4-2) ; and
- 3) Advance payment guarantee equal in its value to the amount of the advance payment and it shall be issued from a bank or a financial institution approved by the employer and this guarantee shall be in the form attached to the Special Conditions or any other form approved by the employer.

The employer shall guarantee the validity of the advance payment till the payment of the value of the advance to the employer in full, but the value of such cost may be reduced first hand as much as recovered from the contractor, and if the conditions of the guarantee specified its expiry date, and the advance was not recovered within (28) day period before the date of expiry, then the contractor in this event shall extend its validity until the contractor pays its value in full.

Unless otherwise stated in the **Contract Data**, the recovery of advance payment shall be made

by partial deductions from progress advances and the partial deductions shall be determined by the percentages determined in the **Contract Data** (or if this was determined under item (d) above) and the deduction shall be made from net amount of the progress advances realized to the contractor after discounting the advances and the cash deductions and till the recovery of the advances proposed.

If the advances are not recovered before the issuance of the initial acceptance certificate of works or before the termination of the contract under the provision of "Article Fifteen", or termination of the contract under the provisions of "Article Sixteen", or termination of contract under the provisions of "Article Nineteen" – as the case may be – then the balance of the unpaid advances shall become due and payable immediately from the contractor to the employer, as well as the case in termination of contract under the provision of Article Fifteen (Termination of contracting by employer) and paragraph (19-6) (Termination of contract optionally, payment and discharge of performance responsibility).



### 14-3 Applications for interim advances certificates

The contractor shall provide the employer after the end of the period specified in the contract (if not stated at the end of each month) a statement of advances for works performed (in number of copies required) so the statement shall be organized based on the sample approved by the employer, indicating herein the details of the amounts, that the contractor considers are due to him, and attached thereto the supporting documents, including the monthly report for work progress during this month under the provisions of paragraph (4-21).

The statement shall include claim of the following items if advances, as applicable, that should be expressed in various payment currencies in which the contract amount is paid thereunder per the following order:

- a) The estimated contractual value for works performed and contractor's documents provided till the end of the month and include the changes, except what is mentioned in (b) and (f) above;
- b) Any amounts to be added or deducted for piece amendments due to legislation change or due to costs change pursuant to the provisions of paragraphs (13-7, 13-8);
- c) Any amount to be deducted as cash deductions, by percentage specified in the **Contract Data** deducted from total amounts due above, till the cash deductions with the employer reach the maximum value of the cash deductions (if any), as specified in the **Contract Data**;
- d) Any amounts to be added to the advance payment (if there is more than one installment) and their deduction for the purpose of their recovery under the provision of paragraph (14-2);
- e) Any other amounts or deductions that may be realized under any of contract provisions, including those resulted from the provisions of "Article Twenty); and
- f) Deduction of amounts paid in all previous advance payments certificates.

### 14-4 Schedule of payments

If the contract contains a schedule of payments specifying the payment method of contract amount in installments, then and unless provided otherwise in the said schedule:

- a) Installments specified in the schedule of payments shall be the estimated contractual values for the purpose of item (14-3-a) above pursuant to the provisions of paragraph (14-5) ; and
- b) If these installments weren't identified by reference to the actual progress in work implementation, and it found out that the actual progress of the works performed is less or more than what is specified in the schedule of payments, then the employer shall start applying the provision of paragraph (3-5) to agree on or prepare a corrected installments that take into account the extent of delay in work progress to which the determination of previous installments was based on.

But if the contract did not contain schedule for advances, then the contractor shall provide non-binding estimated for the advances he expect to be due to him at the end of each quarterly cycle, provided that the first estimate shall be within (42) day after commencement date, and the submitting of the corrected estimates shall continue at the end of each chapter (quarterly), till the issue of a works receipt certificate.

### 14-5 Mechanical Supplies and Materials to be used in works (Preparations)

If the contractor entitled to progress advances (under the contract) for the equipment involved in the works and materials that did not arrive to the worksite till the date of provision of the advances request, then the installment shall not be paid unless:

- a) The equipment and materials has arrived to the project's country and marked its ownership to the employer according to the employer's instructions; and
- b) The contractor delivered to the employer insurance documents and bank guarantee issued in the form and from a party approved by employer and in the amount and type of work for progress advances.

The same form of advance payment referred in paragraph (14-2) can be adopted for bank guarantee and shall be valid till the arrival of equipment and material to site and store it properly and provide security necessary against loss and damage and corrosion.

#### 14-6 Issue of interim Advances

No amount shall be paid to the contractor, till the employer receives and approves the performance guarantee. And after that the employer shall, within a period of (28) days from receiving the statement of advances and the supporting documents, issue a notice to the contractor of his reservations on any item in the statement explaining the justifying reasons, and the payment of advances shall not be stopped only in the following cases:

- a) If anything supplied or any work performed by the contractor does not conform to the contract, the cost of repair or replacement can be withheld till the completion of such repair or replacement; and
- b) If the contractor has failed (or is failed) in the performance of any work or obligation according to the contract, and been notified by the employer, the value of such work or obligation may be withheld till the work or obligation is being performed.

The employer may in any advances certificate, carry out any correction or amendment was to be carried out properly the value of any previous advance payment certificate. And any advance payment cannot be considered as indication of employer's satisfaction or approval or consent or conviction.

#### 14-7 Payment to Contractor

Unless provided contrary to what is mentioned in paragraph (2-5), the employer shall pay the contractor:

- a) The first installment of the advance payment within (42) days from the effective date of the contract, or within (21) days from the date of employer's receipt of performance guarantee pursuant to paragraph (4-2) and for the advance payment guarantee pursuant to paragraph (14-2) whichever comes last;
- b) The certified amount for each progress advance except final advance, within (56) days after receiving the statement (detection) and its supporting documents; and
- c) The certified amount of the final payment payable within (42) days after receiving the final payment statement (detection) and the letter of the release of the final payment pursuant to the provisions of paragraph (14-1) and paragraph (14-12).

Payment should be made to the contractor for each amount due in the specified currency, and to deposit the amount in the bank account designated by the contractor in the country of payment (for this currency) specified in the contract.

#### 14-8 Delayed Advances

If the contractor did not received any advance payment due to him under paragraph (14-7), he has the right to receive funding expenses for any delayed amounts paid to him, in mixed accounts a month for the period of delay, this period shall be calculated from the date of payment mentioned in paragraph (14-7), regardless of the date of issuance of the progress advance (in the case of item (14-7-b)).

Unless otherwise stated in the **Contract Data**, the financing charges are calculated on the basis of the annual discount rate set by the Central Bank in the currency of payment, plus (3%), to be paid in the specified currency.

The Contractor shall be entitled to receive this payment without formal notice or ratification, and without prejudice to any other right or compensation, provided that the percentage of funding expenses shall not exceed the percentage in accordance with the laws in force in the country of implementation of the works, unless otherwise provided for in the **Contract Data**.

## 14-9 Payment of Cash Deductions

When the initial acceptance certificate of works shall be issued and such works have passed successfully in all the required tests (including post-completive tests), employer shall release half the cash balance of deductions to the contractor. If the initial acceptance certificate of works was issued for part of the works, then half the cash deductions shall be released in a percentage equal to the value of that portion of the total value of the works and after the success of that part in all tests.

The Contractor shall be entitled, upon expiration of the last period of maintenance periods; to recover the cash balance of deductions remained with the employer. In the case of the expiration of the maintenance period for the part of works, the percentage representing that part of the remaining cash balance of deductions shall be returned.

If repairs for works under the provisions of Article eleven or twelve appeared, then the employer has the right to withhold the estimated cost of such repairs from the value of cash deductions remaining till the completion of its implementation.

The percentage of representation of any part of the works will be the percentage representing the value of that part to the total value of the works, as described in the contract. If such percentage of that part was not included in the contract, any of the cash deductions for that part under this paragraph shall not be released.

Unless specified otherwise in the Special Conditions, the Contractor shall be entitled, after the issuance of the initial acceptance certificate of works and obtain the consent of the employer to release the first half of the cash deductions, provide a bank letter of guarantee from an accredited bank (in the form referred to in the attachment to Special Conditions) in return for the release of second half of the cash deductions and that the letter of guarantee, which is in the same amounts and currency for the second half off cash deductions, be valid till the contractor completes the works and repair any defects similar to the letter of guarantee for **good** performance referred to in paragraph (4-2).

Once the employer receives a letter of guarantee in return for the release of cash deductions, the employer shall pay cash deductions. This form to release the second half of cash deductions is contrary to what is stated in the second phrase of this paragraph and it is an alternative proposal and employer shall release the letter of guarantee in return for the release of the second half of cash deductions within (21) days from the date of his receive the final acceptance certificate of works. If the letter of guarantee for the good performance referred to in paragraph (4-2) and its amount was more than half of cash deductions upon the issuance of the initial acceptance, then thesecond half of the cash deductions shall be released without the need for a new letter of guarantee in return for its amount.

But if the amount of the letter of guarantee for the good performance is less than the half cash deductions, at which time, the remaining half cash deductions in return for a letter of guarantee shall be released by the difference between the amounts of the letter of guarantee for good performance and the half cash deductions remaining.

## 14-10 Statement of Final payment (statement of Completion payment)

The Contractor shall provide the employer, during a period not exceeding (84) days from the date of receipt of the initial acceptance certificate of works, a statement of final payment - in (6) copies - with the supporting documents, according to the requirements of paragraph (14-3), indicating herein:

- a) The value of all works that have been performed under the contract until the date specified in the initial acceptance certificate of works;
- b) Any other amounts that the contractor has a right therein; and
- c) Estimates of any other amounts that the contractor considers it will be entitled to him under the contract, provided that separate details for each amount of the amounts estimated in the statement of completion advances shall be provided.

Then the contractor shall verify the advance sue under the provisions of paragraph (14-6) and payment under the provisions of paragraph (14-7) and from this disbursement of the Final payment shall not be made only after the contractor provides confirmation of receipt by Subcontractors and supplier of materials approved to their dues till the advance prior to the completion advance.

#### **14-11 Application for Final Account Certificate**

The contractor shall provide the employer within a period of (56) day from the date of his receipt of the final acceptance certificate of works, a draft of statement of final account – in a number of copies required – with the supporting documents, in the sample approved by the employer, stating the details of the following:

- a) The value of all works that have been implemented under the contract; and
- b) Any other amounts the contractor deems that he is entitled to it under the contract, or otherwise.

If the employer disapproves the draft of the statement of the final account, or was not able to validate a part of it, the contractor shall provide the necessary additional information required by the employer reasonably, and the contractor shall amend it in the form agreed by both parties, note that this statement in the form approved, called in this condition (Statement of Final Account). However, if it found out as a result of the subsequent discussion between the parties, and any amendments on the draft of the Statement of Final Account agreed upon, that there is a dispute, the employer shall pay the parts of the draft of the Statement of Final Account agreed upon pursuant to the provisions of paragraph (14-6) and (14-7).

After that, if the dispute is finally settled under the provisions of paragraph (20-4), or settled under the provisions of paragraph (20-5), the contractor then shall prepare and provide "Statement of Final Account" to the employer supported by the documents listed later and as stipulated in the Special Conditions of the contract:

- 1) Clearance from the competent authorities about the foreign labor of this contract;
- 2) Clearance from the competent authorities proving he paid all the dues of employees registered on the contract;
- 3) Clearance from the General Authority of Customs and the General Authority of taxes; and
- 4) Confirmation of receipt of subcontractors and suppliers of materials approved to all their dues.

#### **14-12 Letter of the release of Final payment certificate**

The contractor shall, when providing the statement of the final account, to deliver to the employer a written acknowledgment proving in it that "statement of the final account" represents a final and complete settlement for all amounts due to contractor under the contract or related thereto.

It can be stated in this acknowledgment that it shall not become effective until after the return of the performance guarantee to the contractor and his receive for the remainder of the balance of the amounts due to him, in this case the release of the final account certificate shall take effect from this date.

#### **14-13 Issue of the final payment certificate**

Pursuant to the provisions of item (c) of paragraph (14-7), employer shall pay the final dues to the contractor after calculating the amount of the previous advances that were paid to him and any deductions under paragraph (2-5).

#### **14-14 End of employer's responsibility**

The employer is not liable to the Contractor of anything or something resulting from this contract (or associated with it), or the implementation of the works, only to the extent that the contractor presented thereon a claim for an amount expressly:

- a) Within "Statement of Final Account", and
- b) Within "Statement of Final Advance" described in paragraph (14-10), except for the things or matters emerging after the issuance of the initial acceptance certificate of works.

Anyway, what is stated in this "paragraph" shall not limit the employer's responsibility under his obligations in compensation, or of employer's responsibility for any cases of fraud or willful default or negligence behavior from his side.

## 14-15 Payment Currencies

The "contract amount" shall be paid in the currency or currencies specified in the table of payments currencies, and unless stated otherwise in the contract data, and if the payment will be made in more than one currency, the payment shall be made as follows:

- a) If the "contract amount" specified in local currency only:
  - 1) The percentages or amounts of the local currency and foreign currencies and fixed exchange rates that will be used in calculating payments shall be, as defined in the contract agreement, unless the parties have agreed otherwise.
  - 2) Payment and conducting deductions concerning reserve amounts, pursuant to the provisions of paragraph (13-5), and prices amendments due to legislation pursuant to paragraph (13-7), shall be made in currencies and percentages applicable.
  - 3) As for other payments and discounts referred in items (14-3, a, b, c, d) they shall be paid in currencies and percentages specified in item"(a-1)" above.
- b) Payment for compensation specified in the **Contract Data**, should be carried out in currencies and percentages specified in the schedule of payment currencies.
- c) As for other payments paid by the contractor to the employer, they shall be paid in the currency in which the amounts were spent with the knowledge of the employer, or in any other currency to be agreed upon between the two parties.
- d) If the amount payable to the employer from the contractor in certain currency exceeds the amount payable from the employer to the contractor in this currency, employer may discount the balance of such amount from the amounts due to the contractor in other currencies.
- e) If the prices of foreign currency exchange were not determined in the table of payment currencies, then prices of currency exchange rates that were prevailed at the Main Date as decided by the central bank in the country (the country of implementation) shall be adopted.

## Article Fifteen : Work Withdrawal and Contract Termination by Employer

### 15-1 Notification of Correction:

If the contractor failed in performing any obligation under the contract, the employer, after giving written notice requesting to him to correct this failure and remedy it within a period of (15) days, has the right to lay the hand on the site and works and the contractor shall out of them if his request of correction of this failure was not responded to.

### 15-2 Contract Termination by Employer

First: The employer is entitled to withdraw the work in the following cases without referring to the court:

- a) If the contractor failed in providing good performance guarantee under paragraph (4-2) or to respond to notice of correction as mentioned in paragraph (15- 1)
- b) If the (contractor) goes bankrupt or announce his Insolvency.
- c) If the contractor submits a request for bankruptcy or insolvency. If the contractor failed without a reasonable cause to continue the work in accordance with the provisions of "Article Eight";
- d) If a decision is issued by the competent court to place the (contractor's) funds under the control of bankruptcy trustee (sindiak).
- e) If the contractor makes a reconciliation that preserves him from bankruptcy or waives his rights to his creditors.
- f) If the contractor agrees to implement the contract under the supervision of the control board of his creditors
- g) If the contractor is a company that has announced liquidation, excluding the optional liquidation for the purpose of merger or reformation.
- h) if the contractor waives the contract.
- I) If the contractor awards parts of the works to subcontractor without obtaining the approval of the employer.
- J) If the funds of the contractor are seized by a court of competency and this seizure may lead the contractor unable to fulfill his obligations.
- K) If the contractor offered or presented to any person (directly or indirectly) a bribe, gift or bonus or commission or a financial donation as a induction or a reward for:
  - 1) Act or omission (performance or non-performance) of work related to the contract; and
  - 2) Show favoritism or lack thereof in favor of or against the interests of any person related to the contract, or if he promised any of contractor's personnel or his agents or sub-contractors or promised to give any bribe (directly or indirectly) to any person or bonus as described in paragraph (f), but offer any legal incentives and rewards to contractor's personnel shall not require the termination of the contract.
- L) If the delay percentage of work progress, in any time during the period of works execution, is more than what is stipulated in the special conditions.
- M) If the engineer approved in writing to the employer that the following cases are realized:
  - That the contractor has waived the contract refrained from signing the contract text in spite of his commencement of work.

- That the contractor has failed, without an acceptable excuse, to continue the works or the work progress is stopped for a period of (30) thirty days after receiving a written notice from the engineer that he must continue the works.
- That the contractor fails in removing the materials from the site or works demolition or replacing them within thirty days after receiving a written notice from the engineer that it has been decided to refuse the mentioned materials and works according to the provisions of contract.
- That the contractor has not implemented the works in accordance with the contract or has intentionally negligent and careless in fulfilling his obligations according to the contract.
- That the contractor has contracted with a subcontractor concerning any part of the contract in form that harm the quality of work or violate the instructions of the engineer.
- If it is clear to the employer that the contractor has practiced an administrative corruption, fraudulent, collusion, oppression or obstruction, etc. shown in the Para (15/6) below.

In any of these cases or circumstances, the employer may, after informing the Contractor in writing (warning him) for a period of 15 days, withdraw the work and keep the contractor out of the site.

The choice of the employer to withdraw the work should not affect any other rights of the employer realized to him under the contract, or otherwise.

The Contractor shall, in such a case, leave the site and delivers the engineer the required implementation supplies and all "contractor's documents" and any design documents prepared by the contractor or have been prepared in his favor.

However, the contractor shall do his utmost to implement immediately any reasonable instructions included in the notice which is sent by the employer, in relation to:

1. Waiver any subcontracting
2. Save the lives or properties or for works safety.

After work withdrawal, the employer is entitled to complete the works and / or use any other institutions to complete it. Then the employer and these institutions may use any of contractor's supplies, contractor's documents, and other designs documents prepared by the contractor, or those that have been prepared for his account.

Employer shall then, give notice to that contractor's equipment or temporary works will

be released to the contractor at the site or adjacent to it, and the contractor shall immediately remove them on his responsibility and expense. only if it is found that the contractor has not to date paid any dues to the employer owed by him, the employer may sell the implementation supplies to collect his entitlements, and if a balance remained from the sale proceeds after the recovery of dues, then such balance shall be paid to the contractor.

Second: The employer, when the contractor violates the execution of contract works and the work reaches the final stages and the contracting party has the ability to execute the other works, then the contracting party has the right to form a speedup committee that undertakes the completion of works according to the conditions and procedures stated in the contracts guide in this regard.

### **15-3 Assessment Contract Termination Date:**

The engineer - and as soon as practicable - after the notice of termination of the contract has become effective under the provisions of paragraph (15-2), shall agree pursuant to the provisions of paragraph (3-5) on the value of the works and implementation requirements and contractor's documents and any other amounts accruing to the contractor in exchange for works performed under the contract, or make estimates about them.

### **15-4 Payment after Contract Termination**

The employer may, after the notice of termination of the contract has become effective under paragraph (15-2), carry out the following:

- a) Proceed with the procedures related to his claims according to the provisions of paragraph (2-5).
- b) Stop the payment of any amounts to the contractor until the verification of the costs of works implementation, their completion and repair any defects therein, and determine the delay penalties accruing on the contractor (if any), and any other costs incurred by the employer.
- c) Deduct any losses and damages incurred by the employer and any additional costs paid up to the completion of the works of from Contractor's account, after calculating any amounts accruing to the contractor for termination of the contract under paragraph (15-3), and after the recovery of such losses, damages, additional costs, the employer shall pay any remaining balance to the contractor.

## 15-5 Employer's Right to Contract Termination

First: the employer has the right to terminate the contract in the following cases:

- i- The employer has the right to terminate the contract in any time for the public interest, whereby he issues a warning concerning that to the contractor, and the termination shall be considered valid after the pass of (28) days after the contractor receives the mentioned warning or from the date of returning the good performance guarantee to him by the employer, whichever is later to the public interest in accordance with the order of the provisional coalition authority (disbanded) No. 87 for the year 2004 or any law that replaces it.
- ii- If the contractor fails in completing a large part of the contract for a period more than (90) ninety days for reasons beyond his will, in accordance with the conditions and procedures stated in the contracts guide in the regard.
- iii- If the execution of the contracting obligation becomes impossible and both parties agreed to termination.

Second: the employer has no right to terminate the contract in accordance with this paragraph, in order to execute the works by himself or to arrange to be executed by another contractor, to avoid the termination of contract by the contractor in accordance with the Para (16/2) (Termination by Contractor)

Third: after this termination, the contractor has to stop the work and remove its equipment in accordance with provisions of Para (16/3) and then accounts will be settled by applying the provisions of Para (16/4) (Payment on Contract Termination).

## 15-6 Fraud and Corruption Practices

If it became clear to the employer that the contractor is carrying out any of the practices of administrative corruption, fraud or collusion or oppression, or hindrance, or during the competition to win the contract or its implementation, then the employer shall have the right and within (14) days after giving notice to the contractor thereof, terminate the contract and remove him from the site and apply the provisions of "Article Fifteen" as if the removal has been made under paragraph (15-2) (Termination by the Employer).

If it became clear that any of contractor's personnel is involved he practices of administrative corruption, fraud or collusion or oppression, or hindrance during the implementation of the works, then this personnel shall be removed the site in accordance with the provisions of paragraph (9-6) (Contractor's Personnel).

The employer shall adopt the following definitions for the purpose of these texts:

- 1) "Corrupt practices" shall mean provide or give or receive or solicit directly or indirectly any object of value to influence the work of an official in a public position during contracting procedures or the implementation of the contract;
- 2) "Fraudulent practices" shall mean any misrepresentation or deletion of any facts in order to influence the contracting procedures and the implementation of the contract;
- 3) "Collusion practices" shall mean any planning or coordination between two or more bidders, with the knowledge or without the knowledge of the employer in order to develop a fake and non-competitive prices;
- 4) "Coercive practices" shall mean harm or threatening to harm, directly or indirectly, persons or their property to influence their participation in the contracting procedures or influence the implementation of the contract;
- 5) Practicing hindrance and shall mean:  
**First:** Shall mean willful destruction or forgery or alteration in documents or withholding evidence necessary for investigation or provide false testimony to investigators to hinder the investigation of the employer's administrative corruption practices, fraud or collusion or coercive practices or threat or harassment or hinder any party and prevent him from providing any information relating to the investigation or prevent him from follow-up the investigation.  
**Second:** Practices that hinder the employer from following-up audit and review procedures based on the item (3-1-e) of the instructions to bidders.



## Article Sixteen: Work Suspension and Contract Termination by Contractor

### 16-1 Contractor's Right to Suspend Work

If the employer failed to secure the necessary financial arrangements of the contract under paragraph (2-4), or if the employer did not comply with the timings of payments due to the contractor pursuant to the provisions of paragraph (14-7), the contractor may, after giving notice of not less than (21) days to the employer, suspend work (or to slow down the implementation process) until the Contractor receives installment accrued to him, as the case may be, according to what is contained in the notification.

This procedure from contractor side shall not prejudice his right to collect funding expenses that may realize to him under provisions of paragraph (14-8), or his right to terminate the Contract pursuant to provisions of paragraph (16-2).

If the contractor received later on the installment owed to him before he gives the notice of termination, he shall resume normal work, as soon as practicable.

If the Contractor incurred delays in completion period and / or a cost as a result of work suspension (or slowing down the implementation process) under the provisions of this "paragraph", he shall give notice to the employer thereof, to assess his requirements in respect thereto, taking into account the provisions of paragraph (20-1) , Concerning:

- a) Extend the completion period due to such delay, if the completion was delayed or will delay under the provisions of paragraph (8-4);
- b) Any such cost with a reasonable profit margin, to be added to the contract value. And after employer receives such notice, he shall proceed with procedures under the provisions of paragraph (5-3) to be agreed on or make estimates on these matters.

### 16-2 Contract Termination by Contractor

The contractor shall have the right to terminate the contract in the following cases:

- a) If the contractor did not receive reasonable evidence on the employer securing the necessary financial arrangements for the contract under paragraph (2-4) and after (42) days of giving notice thereto to the employer pursuant to the provisions of paragraph (16-1) (Contractor's right to suspend work);
- b) If the contractor did not receive any amount owed to him under interim payment certificate within (42) days from the **expiry of the deadline** under which the employer shall make payment under the provisions of paragraph (14-7) (excluding discounts, which deduction is realized regarding employer claims under paragraph (2-5);
- c) If the employer breached substantially in the performance of his obligations under the contract in a manner that may cause physical and adverse effect on the economic equilibrium of the contract and / or the ability of the contractor to perform the contract;
- d) If the employer breached the obligation to adhere to the provisions of paragraph (1-7) relating to waiver;
- e) If a prolonged suspension of work occurred, thus affecting the implementation of the entire works, as provided for in paragraph (8-11); and
- f) If it appears that the employer has become insolvent or under liquidation, or lost liquidity, or an administrative order issued against him or that he had held a financial settlement with its creditors, or any incident has happened with the same effect of any of these acts or accidents (under applicable laws ).

In any of these events or circumstances, the contractor may, after giving (14) day written notice to the employer, terminate the contract, but the contractor may, by notice, terminate the contract immediately if any of the cases, (e) or (f) above occurred. The choice of contractor to terminate the contract shall not prejudice any other rights realized to him under the contract or for other reasons.

### **16-3 Stoppage of work & Removal contractor's equipment**

After any of the notifications related to the termination of the contract by the employer under the provisions of paragraph (15-5), or the termination of the contract by the contractor under the provisions of paragraph (16-2), or to the voluntary termination as a result of force majeure under the provisions of paragraph (19-6), shall become valid, the contractor shall commence immediately with the following:

- a) Stop the implementation of any works, but if the implementation of such works has been instructed in respect thereof from the employer for the purpose of protecting persons or property or to the safety of the works;
- b) delivery of contractor's documents (documents pertaining to the contract) and mechanical supplies, materials and other works that have been paid for to him; and
- c) Remove all other implementation requirements from the site, except as what is required for safety matters, and that he shall leave the site.

### **16-4 Payment on Contract Termination**

The employer shall, after the notification of contract termination under paragraph (16-2) has become valid, carry out the following:

- a) The return of performance guarantee to the contractor;
- b) Payment of contractor's dues according to the provisions of paragraph (19-6); and c) Payment of amounts resulted from any damage or other loss incurred by the contractor as a result of such termination.

## **Article Seventeen: Risks and Responsibility**

### **17-1 Penalties**

The contractor shall indemnify and protect against damage both employer and his personnel and agents against all claims, damages, burdens and costs (including litigation's costs and fees) in relation to the following:

- a) Bodily injury or illness or morbidity or death suffered by any person whatsoever whether arising out of or during or due to the designs, or for the implementation and completion of works and repair any defects therein, unless they are attributed to the negligence or willful act or rescind of the contract by the employer or his employees or any of their agents; and
- b) Damage or loss to real estate or personal property (except for works) and to the extent to which this damage or loss:
  - 1) Resulting from or during or because of the designs and implement or completion of works or repair any defects therein; and
  - 2) Unless and to the extent attributable to any negligence or willful act or rescind of the contract by the employer or its employees and any of their agents or any person employed by any of them directly or indirectly.

The employer shall compensate and protect the contractor and its employees and their agents against any claims, damages, losses or expenses (including litigation's expenses and fees) with respect to the following:

- 1) Bodily injury or illness or morbidity or death attributable to negligence or willful act or rescind of the contract by the employer or his employees or any of their agents; and
- 2) Any other matters in which the responsibility to be excluded from insurance cover, mentioned it in items (d -1.2, 3) of paragraph (18-3).

### **17-2 Contractor care of works**

The contractor shall be fully responsible for care of works and implementation requirements as of commencement date till the issuance of "initial acceptance certificate of works" (or deemed to be issued) under paragraph (10-11), where such responsibility shall be transferred to the employer, this concept applies to any section or part of the works were the "initial acceptance certificate of works" is issued (or deemed to be issued) therein. After such responsibility shall be transferred to the employer accordingly, the employer shall remain responsible for the care of any work remains at the date specified in the "initial acceptance certificate of works" till the completion of such remaining works.

If any damage or loss incurred on works or contractor's documents during the Contractor's responsibility for care, for any reason (with the exception of the risks described in paragraph (17-3) later), the contractor shall repair the loss or damage at his own expense and responsibility , till the works and implementation requirements and contractor's documents comply with the contract.

Contractor shall remain responsible for any damage or loss that may result from the actions of the contractor after the issuance of the initial acceptance certificate of works, and for any damages or losses that may occur after issuing the initial acceptance certificate of works but resulted from a previous incident that the contractor was responsible for.

### **17-3 Employer Risks (Excepted risks)**

The risks referred in paragraph (17-4) that are listed later are the ones that have a direct impact on the implementation of works:

- a) War or hostilities (whether war was declared or not), or invasion or the acts of foreign attack;
- b) Insurgency or acts of terrorism or sabotage from people who are not of contractor's employees and revolution or insurrection or seizure of power by force, or civil war in the country;
- c) Strikes or riots or disorderly movements (disturbing the peace) within the state from individuals who are not of contractor's employees;
- d) Ammunitions, explosive substances or ion radiation or pollution by nuclear radiation in the country, with the exception of what is due to the use of contractor for such ammunition or explosive materials or radiation;
- e) Pressure waves caused by aircraft and air transport onrushing in the speed of sound or faster than the speed of sound;
- f) The use of the employer or his works to any part of the permanent works, with the exception of what is stipulated in the contract;
- g) The design of any part of the works that has been prepared by employer's employees or others who the employer deemed responsible for them; and
- h) Any operation of the forces of nature, which deemed unforeseen, or which cannot be expected to take appropriate preventive measures against it by an experienced contractor.

### **17-4 Consequences of Employer Risks**

If resulted from any of the risks listed in paragraph (17/3) above any loss or damage to the works or implementation requirements or contractor's documents, the contractor shall give notice to the employer immediately, and repair the damage or loss to the extent required by the employer.

If the Contractor incurred a delay in the implementation and / or a cost due to the repair of such damages or losses, he shall send give notice to the employer to assess his requirements, taking into account the provisions of paragraph (20-1), regarding:

- a) The extension of completion period due to this delay, if the completion delayed or will delay, under the provisions of paragraph (8-4) ; and
- b) Any such cost, to be added to the contract value.

The contractor shall, after receiving a subsequent notice, to act according to paragraph (3-5) by agreement or make assessment on these matters.

### **17-5 Intellectual and industrial property rights**

The expression "infringement" in this paragraph shall mean: any infringement (or alleged infringement) on any rights such as patented invention or registered designs, copyrights, or labels or trade name or trade secrets or other intellectual or industrial property rights relating to work, and the term "claim" shall mean any claim (or proceedings to demand) alleges the occurrence of an infringement.

If the any party did not give notice to the other party about any claim within (28) day from the date of receiving a claim, the first party (in this paragraph) shall be deemed have waived his right in compensation under the provisions of this "paragraph".

Employer shall compensate the contractor and protect him from any claim of infringement, if the claim:

- a) Has occurred as a result of the contractor's compliance with the provisions of the contract, of which cannot be avoided; and
- b) Resulted from employer use of any works:
  - 1) For a purpose not intended for, or that can be deduced from the contract, reasonably;

- 2) Connected to anything the contractor has not supplied, except if this is use is known to the contractor before the "Main Date" or it is stipulated in the contract.

The contractor shall compensate the employer and protect him from any other claim that may arise from or in connection to:

- 1) Contractor's designs and the manufacture, implementation and installation of works;
- 2) Use of contractor's equipment; and
- 3) Optimal use of the equipment.

If any party is entitled to compensation under the provisions of this "paragraph," the compensator party shall negotiate on his account to settle the claim through judicial or arbitral proceedings that may ensue, and the other party shall assist in challenge the claim at the request of the compensator party and on his account. And the other party and his employees shall refrain from providing any acknowledgment that could be unfair against the compensator party, only if the compensator party has failed to hold negotiation or litigation or arbitration at the request of the other party.

### **17-6 Limitation of Liability**

any party shall not be liable to the other party about the loss of use of any of the works, or loss of profit from any contract, or loss of opportunity to win other contracts, or for any indirect or sequent damage or loss, which caused to other party due to the contract, except for what is stipulated in the delay penalties under paragraph (8-7) and the cost of repairing defects under paragraph (11-2), and payment after contract termination under paragraph (15-4), and payment on termination under paragraph (16-4) and fines under paragraph (17-1) and consequences of Employer Risks under clause (17-4-b), and the intellectual and industrial property rights under paragraph (17-5).

The overall responsibility borne by the contractor to the employer under the contract or in relation thereto shall not exceed the amount specified in the **Contract Data** or "Contract amount" specified in the contract (if an amount has not been determined in the contract data) and with the exception of:

- supply of electricity and water in accordance with paragraph (4-19);
- employer's equipment and materials provided by him free of charge, in accordance with paragraph (20-4);
- compensations, in accordance with paragraph (17-1);
- Intellectual and industrial property rights, in accordance with paragraph (17-5).

The provisions of the "paragraph" shall not limit the responsibility of the infringer (violator) party in any of the cases of fraud or willful default or misconduct carelessly from him.

### **17-7 Use of offices and Residence of the Employer**

Contractor shall take full responsibility to take care of headquarters and residence departments of employer's representatives at the sites (if any) and as determined in the employer's requirements, starting from the date of delivery of the site to the contractor until the date of the evacuation due to the evacuation of works (if the evacuation is at a later date to the date specified in the initial acceptance certificate of works).

If any loss or damage occurred at the above-mentioned headquarters during the validity of the contractor's liability resulting from any reason whatsoever, but it is not due to the employer. The Contractor shall and at its own expense repair the damage and replace the missing parts, according to the employer's requirements.

## Article Eighteen: Insurance

### 18-1 General requirements of Insurance

The term "insurer party" in "this article" - for each type of insurance, shall mean this responsible party for obtaining and maintaining insurance cover provided for from any of the "materials" of this article.

Whereas the contractor is the "insurer party", he shall procure insurance with insurance bodies and with acceptable insurance conditions to the employer, so such conditions shall be compatible with any general terms agreed upon by the parties prior to the date of "Letter of Award", since these agreed conditions shall have precedence over the provisions contained in this "article".

Whereas the employer is the "insurer party", he shall procure insurance with insurance bodies and with acceptable insurance conditions to the contractor, so such conditions shall be compatible with any general terms agreed upon by the parties prior to the date of "Letter of Award", since these agreed conditions shall have precedence over the provisions contained in this "article".

If it is required in the insurance policy to provide compensation for joint insurance (i.e., for the parties jointly), the insurance cover shall be applied for each insured party independently as though it has been issued a single policy to him. But If the insurance policy stipulated to provide compensation "for additional participants" i.e. to any other persons, non-insured parties under the provisions of this "article", then:

- 1) The contractor shall act on behalf of those additional participants other than employer's personnel whereas the employer shall be their representative.
- 2) Those additional participants shall not be authorized to receive payments directly from the insurance body or to have any direct dealing with such insurance body.
- 3) The insurer party to ask all these additional participants to comply with the conditions contained in the insurance policy.

And it is required in every insurance policy against loss or damage, that its compensation to be paid in necessary currencies to compensate for the loss and damage, and that the payments offered by the insurance bodies shall be used for the purpose of compensation for the loss or damage.

The "insurer party" in question shall provide other party, during the periods specified in the **Contract Data** (which is calculated by the commencement date) the following:

- a) A proof that he has issued the required insurance documents under this "article".
- b) Copies of the insurance documents related to the insurance on works and contractor's equipment under paragraph (18-2) and insurance against personal injuries and property damage under paragraph (18-3).

And the "insurer party" shall, on payment of each premium, provide copies of receipts to the other party.

Each party shall adhere to the conditions listed in any of the insurance policies. And the "insurer party" shall inform the insurance body of any changes on the works and to make sure of the validity of the perpetuation of insurance documents under the provisions of this "article".

No party shall be entitled to make any substantial amendments to the terms of any insurance policy without the prior approval of the other party. And if another insurance body carried out (or tried to carry out) any amendment to the terms of the insurance, the party which the insurance body notified of amendment first, shall notify the other party immediately of the matter.

If the "insurer party" fails to obtain and maintain any of insurance required of him under the terms of the contract, or failed to provide proof acceptable and copies of documents in accordance with the requirements of this "paragraph", the other party (by his choice and without prejudice to any of his rights or procedures) shall be entitled to obtain insurance documents required for certain events, and to pay the consequent premiums, and the insured party shall reimburse the value of these premiums to the other party, and the value of the contract amounts shall be amended by the amounts paid.

Any provision of this "article" shall not represent a limitation on any of the duties or obligations or responsibilities of the contractor or the employer under any other provisions in the contract or for

other reasons. Both the contractor and / or the employer shall bear any amounts that are not insured or are not collected from the insurance bodies, each according to what is required of him under these duties or obligations or responsibilities, except for the situation where the "insurer party" fails to issue and maintain the insurance policy that can be issued, and is required under the provisions of the contract and the other party did not agree to cancel it and he, in turn, did not conclude insurances to cover this breach, so any amounts which can be recovered from the insurance for issuance of such insurance document, shall be borne by the "insurer party."

The payments paid by any party to the other party, shall be subject to the provisions of paragraph (2-5) relating to the employer's claims or paragraph (20-1) relating to the contractor's claims, as applicable.

The contractor shall be entitled to procure insurance related to the contract (including but not limited to insurance referred to in Article Eighteen with insurance companies and countries eligible.

## 18-2 Insurance on contractor works and equipment

The "contractor" shall procure insurance on works, mechanical supplies, materials and the contractor's documents in an amount equal to its the full replacement value plus cost of demolition and transfer of rubble and professional fees and profit, and this insurance shall apply as of the date in which a proof is required to be provided under item (18-1-a) until the date of issuance of the, " initial acceptance certificate of works."

And the "contractor" shall also maintain the perpetuation of insurance cover to the date of the issuance of "performance certificate" against any loss or damage, where the contractor or his subcontractors are responsible for reasons occurred before the issuance of the "initial acceptance certificate of works," and against any loss or damage that may cause by the contractor or subcontractors while carrying out defects repair in accordance with the provisions of article "Eleventh" and article "Twelve."

The "contractor" shall procure insurance on contractor's equipment in an amount not less than its total replacement value including the expenses of delivery to the site, taking into account that this insurance is effective for each machine during transportation to the site and until no longer needed as contractor's equipment.

Unless otherwise stated in the contract data, the insurance according to this paragraph shall:

- a) Be valid and sustained by the contractor as insurer party
- b) Be in the name of parties jointly, who are entitled jointly to obtain the insurance amount from insurance bodies, and then shall be saved or allocated to the party that will bear the cost of repairing the damage or loss.
- c) Cover all damage or loss resulting from any case not mentioned within the employer's risks under paragraph (17-3).
- d) Cover as well every damage or loss related to the risks mentioned in item (c) of paragraph (17-3) of employer's risks with an amount deductible for each incident but shall not exceed the amount specified in the **Contract Data**, (and if no amount has been specified, then item (d) shall not apply).
- e) Nonetheless, the insurance on damage or loss or replacement can be excepted for the following:
  - 1) Any part of the works to be in defective condition due to a defect in design, materials or manufacturing (but the insurance cover must be maintained for any other parts damaged as a result of this situation directly, but not for the reasons set forth in item (2) below).
  - 2) Any part of the works suffered damage or loss due to re-establish other parts of the works, if this other part in a defective condition due to a defect in design, materials or manufacturing.
  - 3) Any part of the works delivered to the employer, except to the extent that the contractor is responsible for the compensation of damage or loss.
  - 4) Implementation requirements when they are not available in the country, taking into account the provisions of paragraph (14-5) with respect to the mechanical supplies and materials intended to be used in the works.



If it find out – after one year of the date of signing the contract – that the insurance cover described in item (d) above is no longer available on reasonable commercial basis, the contractor shall as "insurer party" give notice to the employer concerning the matter attached to it the supporting details. And then the employer shall:

- 1) Entitle – taking into account the provisions of paragraph (5-2) – to obtain the amount from the contractor equal to this reasonable commercial insurance cover that the contractor expected to be paid against such cover; and
- 2) Be deemed that he approved its cancelation from insurance, unless he acquires the insurance cover on reasonable commercial basis, under the provisions of paragraph (18-1).

### **18-3 Insurance against bodily injury and damage to property**

The "insurer party" shall procure insurance against the liability of each of the parties due to any death or bodily injury or any loss or damage can be caused to any tangible properties (except for works and contractor's equipment insured under the provisions of paragraph (18-2) or to any persons insured under the provisions of paragraph (18-4), due to what can be resulted from the implementation processes carried out by the contractor before the "final acceptance certificate of works."

The value of this insurance for each accident shall not be less than the amount specified in the **Contract Data**, without any maximum limit to the number of occurrences, (and if the contract did not mention any amount in this regard, the provisions of this paragraph shall not apply).

Unless otherwise stated in the contract data, the following for Insurance contained in this "paragraph" should be taken into account:

- a) To be issued and maintained by the contractor as "insurer party"
- b) The insurance shall be in the name of parties jointly
- c) That its extent shall be extended to include liability against loss and damage to employer's properties resulting from the implementation of contractor of contract's works (except for the matters insured according to paragraph (18-2)).
- d) In spite of this, it could exclude liability to the extent that it may arise with for:
  - 1) Employer's right to implement permanent works on or over or under or through any land, and to occupy (operate) this land for Permanent Works
  - 2) The damage that is considered a result of unavoidable obligations of the contractor to the implementation of works and repair any defects in it.
  - 3) Any case included in the risk of the employer in paragraph (17-3), unless its insurance cover is available in reasonable commercial terms.

### **18-4 Insurance on contractor's employees**

The Contractor shall hold and maintain in force liability insurance against claims, damages, losses and expenses (including litigation's fees and expenses) that may result from injury or illness, or morbidity or death of any person used by the contractor or any of his workers. The employer and his representatives shall be included also in compensation under such insurance policy, except that this insurance cannot cover any losses or claims to the extent that result from any act or negligence by the employer or his representatives.

This insurance shall be sustained effectively and continuously for the time period in which these people are involved in the implementation of works, as for the personnel of any subcontractor, the subcontractor can procure insurance for them, but the contractor remains responsible for compliance with the provisions of this "article".

## **Article Nineteen: Force Majeure**

### **19-1 Definition of Force Majeure**

The term "Force Majeure" shall mean in this "article" any exceptional event or circumstance characterized as being:

- a) Beyond the control of any party;
- b) Such party could not take precaution against it reasonably prior to the conclusion of the contract;
- c) Such party could not ward off or avoid it reasonably when it occurs; and
- d) Does not attributable substantially to the other party.

The force majeure may include, but are not limited to any of the following types of facts or exceptional circumstances, as long as all of the conditions listed above (a, b, c, d) have been achieved:

- 1) War or hostilities (whether war was declared or not), or invasion or acts of foreign aggression;
- 2) Insurgency or acts of terrorism or sabotage from people who are not of contractor's employees and revolution or insurrection or seize power by force, or civil war in the country;
- 3) Strikes or riots or disorderly movements (disturbing the peace) within the state from individuals who are not of contractor's employees;
- 4) Ammunitions, explosive substances or ion radiation or pollution by nuclear radiation in the country, with the exception of what is due to the use of contractor for such ammunition or explosive materials or radiation;
- 5) Natural disasters such as earthquakes or typhoons or storms or volcanic activity.

### **19-2 Notification of Force Majeure**

If one of the parties was not able to (or will not be able to) perform any of his contractual obligations due to force majeure, he shall give notice to the other team informing him of the incident or circumstances that forms a force majeure, and to determines in this notice the obligations that became (or will become) impossible to fulfill. And this notice shall be issued within (14) days after the date on which the party became aware (or It is assumed that he has become aware) of the incident or circumstance which forms a force majeure. The party who sent the notice shall be deemed excused (pardoned) from performing his obligations as long as the force majeure is in effect that prevents him from performing his obligations.

Regardless of any other provision in this "Article", the provision of force majeure shall not apply on the obligations of any party to pay to the other party his dues under the contract.

### **19-3 Duty to Reduce Delays**

Each Party shall make every reasonable effort, at all times, to minimize the delay in performing his obligations under the contract, as a result of force majeure. Each party shall also inform the other party when his influence by force majeure is ceased.

#### **19-4 Consequences of Force Majeure**

If the contractor was prevented from performing his main obligations under the contract as a result of force majeure upon which a notice was sent pursuant to the provisions of paragraph (19-2), and incurred as a result thereof a delay in completion period and / or cost, the contractor shall be entitled, taking into account the provisions of paragraph (20-

1), to the following:

- a) Extending the completion period due to such delay, if the completion was delayed or will delay, under the provisions of paragraph (8-4); and
- b) Recovering any cost, including the cost of repair or re-implementation of works and / or replace the goods damaged or have been damaged due to any force majeure to the extent that could not be compensated by an insurance policy referred to in paragraph (18-4), if the incident or circumstance of the type described in any of the items (1.2, 3.4) of paragraph (19-1), and whether any of the events described in items (4.3, 2) occurred in the country of works.

The employer shall, after receipt of this notice, proceed under paragraph (3-5) to agree on or prepare estimates of the cost mentioned.

#### **19-5 Force Majeure Affecting Sub-contractor**

If any subcontractor is entitled under any contract or agreement of works to any exemption as a result of force majeure under additional conditions or conditions broader than those specified in this Article, those events or additional or broader conditions of force majeure does not exempt the contractor in case of his non-performance and shall not authorize him to any exempt under the provisions of this "Article".

#### **19-6 Termination of Contract Optionally , Payment and Discharge of Performance Responsibility**

If the performance in the implementation of all the works could not be carried out substantially for (84) days continuously due to force majeure upon which a notice was sent under paragraph (19-2) or sequential periods exceeding in total more than (140) days due to the same force majeure that a notice has been sent thereto, then any party may send a notice to the other party to terminate the contract. In this case, the termination of the contract becomes effective after (7) days from the date of sending the notice; the contractor shall start with the stop work procedures and remove his equipment, pursuant to the provisions of paragraph (16-3).

Upon termination of the contract in this manner, the employer shall pay to the contractor:

- a) Amounts payable for any work performed and has a specified price in the contract;
- b) Cost of mechanical supplies and materials that its purchase has been fixed and received from the contractor or contracted to be supplied, and in such case these mechanical supplies and materials shall become the property of the employer (and under his responsibility) as soon as he pays their prices, and the contractor shall deliver and place them at the disposal of the employer;
- c) Any cost or other responsibility incurred reasonably and necessary by the contractor under such circumstances and as a result of his anticipation to complete the works;
- d) The cost of the removal of temporary works and contractor's equipment from the site, and bring it back to its stores in the country (or to any other place provided that it shall not exceed the cost of returning it back to its country); and
- e) The cost of repatriation (deportation) of contractor's personnel and workers that have been used to implement the works full time, upon the termination of this contract.

### **19-7 Discharge of Performance Responsibility by Law**

Irrespective of any other provision in this article, if any event or circumstance raised beyond the control of the two teams (including force majeure, but is not limited to it), and made the fulfillment of the contractual obligations of one or both parties impossible or contrary to law, or leads under the law that governs the contract to exempt the parties from continuing to perform any other obligation under the contract. Then and after notice from either party to the other party of that circumstance or event:

- a) Both parties shall be exempted from continuing in the performance of any other obligation, but without prejudice to the rights of any of them in terms of any previous breach of contract; and
- b) The amount that employer shall pay to the contractor; it is the same as payable under the provisions of paragraph (19-6) above, as if the contract had been terminated thereunder.

## Article Twenty: Claims, Disputes and Arbitration

### 20-1 Contractor's Claims

If the Contractor considers himself entitled for extension of the "completion period" and / or any additional payment under any "item" of these conditions, or for other reasons related to the contract, he shall give notice to the employer stating the incident or circumstances which led to such claim. This notification shall be sent as soon as practicable, within a period not exceeding (28) days from the date the contractor aware or should have been aware of such incident or circumstance.

If the contractor failed to send notification during such (28) day period, the completion period shall not be extended, and the contractor shall not be entitled to any additional payment and thus, the employer's responsibility shall be cleared with respect to such claim. Otherwise, the following provisions of this "paragraph" shall apply.

The Contractor shall also give any other notices that are required under the contract, and provides supporting details to the claim, for all that related to the incident or circumstance mentioned.

The Contractor shall keep and retain updated records, which is required to enhance the claim, either on-site or anywhere else is acceptable to the employer.

The employer may - without being obliged to acknowledge his responsibility for it - after receiving any notice under this "paragraph", monitor record-keeping and / or to instruct the contractor to continue the make entries in these updated records. The Contractor shall make available to the employer the opportunity to review and check such records, and give him copies thereto (if requested).

The Contractor shall also give notice to the employer within (42) days from the date of his knowledge of the incident or circumstance that led to this claim (or the date on which he was imposed to know of it), or during any other period proposed by the contractor and approved by the employer, an adequately detailed claim and comprehensive of the details supporting the basis of the claim and extension of the period and / or additional installment claimed. But if the incident or the circumstances which led to this claim has a continuous effect:

- a) The detailed claim that has been provided shall be considered interim;
- b) The contractor shall continue sending the interim claims monthly, showing in each of them the period of the accumulated delay and / or the claimed amount, and other supporting details as required by the employer reasonably; and
- c) The Contractor shall send his final claim within (28) days after the date of expiry of the effects of the incident or circumstance, or during any other period proposed by the contractor and approved by the employer.

The employer shall, within (42) days from the date of receiving a claim, or any other details supporting a previous claim – or within any period he proposed and approved by the contractor – to make a claim and respond to it either by approval or disapproval with stating his detailed remarks on it, and he may also request any other necessary details. In spite of that, he is obliged to give his response to the grounds of the claim during the period referred to above.

Employer shall, within the (42) day period referred above, proceed with the estimates procedures under paragraph (5-3) to determine or estimate the following:

- 1) Any extension in completion period (whether before or after its expiration) pursuant to the provisions of paragraph (8-4) ; and / or
- 2) Additional payment (if any) that the contractor is entitled to under the provisions of the contract.

Each certificate shall include payment of amounts of any additional payment which its maturity can be proven reasonably under any of the relevant provisions of the contract. And until to provide adequate details to establish the authenticity of the allegation for the entire the claim, the contractor entitlement in regard thereof, will be restricted to that part of the claim, who was able to prove his claim thereon.

If the employer did not respond within the time limit specified in this article, any party is entitled to consider the claim unacceptable from the employer, and any of the parties is entitled to refer the claim to dispute resolution body to take the right decision pursuant to the provisions of paragraph (20-4).

The requirements of this "paragraph" shall be deemed additional to those mentioned in any "paragraph" that may apply on the claim, and if the employer failed to adhere to the provisions of this "paragraph" or any other "paragraph", then the extent (if any) of the impact of the failure on the proper investigation of the claim shall be taken into account when evaluate any extension in the "completion period" and / or any additional payment properly, only if this claim has been excluded under this "paragraph".

## **20-2 Appointment of Settlement of Dispute Board (Board):)**

Settlement of disputes shall be carried out in "Settlement of Dispute Board" pursuant to the provisions of paragraph (20-4). Both parties shall name the members of the board jointly within (28) days of notice by one party to the other party that he will resort to raise his complaint to the "Settlement of Dispute Board" pursuant to the provisions of paragraph (20-4).

"The Board" consists, as specified in the **Contract Data**, from one person or three persons of appropriate qualification (Members). And he must be good at communication specified in the contract fluently and be an expert in methods of construction used in the implementation of works, as well as his experience in the interpretation of contract's documents and if the number of members has not been determined and has not been agreed by the parties on it, then the number shall be three.

If the "Board" consists of three members, each party shall nominate one member to obtain consent of the other party on him, and then the two members so appointed shall propose the third member and the parties must agree on the third member, who shall be appointed chairman of the board.

And if there is a list of nominated arbitrators referred to in the contract, then the member's names shall be selected among the names mentioned in it, except for any person unable or do not wish to accept the appointment as a board member.

Drafting of the agreement shall be made between both parties and the only member of Board (arbitrator) or each member of the three members so reference should be made to the general conditions relating to "the Convention on the settlement of disputes," attached as an appendix to these general conditions of the contract, with any amendments agreed upon among themselves. As for the wages of the only member of the Board or all of the three members' wages and any other expert the " Board" consult with, it must be determined between the two parties upon the agreement on the terms of appointing the "members," and both parties shall jointly pay those wages.

If any member of the Settlement of Dispute Board refrains from work or he became unable to perform his duties due to death or disability or due to resignation or terminate the appointment , a replacement shall be appointed in the same manner in which the replaced member was appointed or to be agreed upon as described in this paragraph.

The appointment of any member can be terminated by the agreement of the two teams together, and not from the employer or contractor individually. Unless otherwise agreed by the parties, the

term of appointment of the "Board" (including each member of it) ends when the Settlement of Dispute Board submit his decision on the merits of the dispute pursuant to the provisions of paragraph (20-4), only if another disputes raised to "Settlement of Dispute Board " at the same time pursuant to the provisions of paragraph (20-4), then that termination shall be postponed until the Board completes the submission of its decisions with regard to such disputes.

## **20-3 Failure to agree on the appointment of the (Board)**

If any of the following cases apply specifically:

- a) Both parties did not agree on the appointment of the sole board member at the date specified in paragraph (20-2) ;
- b) Any party failed to name a member (to be approved by the other party) or failed in approving the member proposed by the other party of the Settlement of Dispute Board that consist of three member at the date mentioned above;
- c) Both Parties did not agree on the appointment of the third member (Board Chairmen) at the date mentioned above
- d) Both parties did not agree on the appointment of any alternate member within a period of (42) days from the end of the task of the sole member of the board or one of the three members of the board, due to his refusal or due to the death or disability to perform the tasks or due to the resignation or termination of appointment.

Then, the appointment party (authority) or the person named in the **Contract Data**, at the request of either party, or both, shall make the necessary consultation with both parties to appoint such board member. This appointment shall be final and definite, and both parties shall pay the bonus of the person or the party (authority) who made the appointment equally.

#### **20-4 Decisions by Settlement of Disputes Board (Board)**

Unless specified otherwise in the Special Conditions:

If a dispute of whatever kind raised between the parties, in connection of or as a result of the contract or the implementation of works, including any dispute on any certificate or estimates or instructions or opinion or value determination by the engineer, then and after the appointment of the "Settlement of Dispute Board" pursuant to the provisions of paragraphs (20-2) and (20-3), any party can refer the dispute in writing to the "Board" to be studied and take a decision on it, with sending two copies of such notice to the other party, provided that note should be made that referral of such dispute is in accordance with the provisions of this "paragraph."

If the "Board" consists of three members, then the board shall be deemed that it has received the notice of referral the dispute to it in accordance with the provisions of this "paragraph" at the date which the chairman of the board receives such notice.

Both parties shall submit to the Board all additional information without delay, and to provide a possibility of access to the appropriate location and facilities, which may be requested by the "Board" for the purpose of enabling the board to make a decision on that dispute, it is assumed implicitly that the board will not work as an arbitration body.

The "Settlement of Dispute Board" shall, within a period not exceeding (84) days from the date of receipt of the notice of dispute referral to it or receive the advance payment, whichever is later under Article (6) of the attachment to the general conditions of the resolving disputes agreement or such other period as proposed by the "Board" approved by the parties, make a decision about it and conditioned that this decision to be reasoned and include a reference that it was issued pursuant to the provisions of this paragraph. However, in the case of non-payment of any of the parties to any amounts owed to any of the arbitrators in full accordance with the provisions of Article (6) of the attachment mentioned above. The board shall not submit its decision on the merits of the dispute until the payment of full dues. The decision of the "Board" binding on both parties and they should implement it, unless it is (or until it will) revised by amicable settlement or through arbitration proceedings as will be mentioned later. And unless the contract has been abandoned or revoked or terminated, the contractor shall, in such a situation, continue in the implementation of works in accordance with the provisions of the contract.

If any team is not satisfied with the "Board" decision, it shall within (28) days after the date of receipt of the decision, to send notice to the other party informing him of his dissatisfaction. And if the "Board" has not been able to issue its decision within a period of (84) days (or as agreed otherwise) from the date of receipt of dispute referral request (or receipt of its dues), then either party may, within a period of (28) days following the period of (84) days elapsed, notify other team of his dissatisfaction and willingness to resort to arbitration.

In any of these cases, the subject of dispute and the reasons for dissatisfaction with the notification should be outlined, and also noted that it has been issued under the provisions of this "paragraph" with the exception of what will be mentioned later in paragraphs (20-7 and 20-8), neither party may start arbitration proceedings on the dispute, unless a notice of dissatisfaction was issued as defined in the "paragraph."

But if the "Board" issued its decision on any different matter between the parties, and no notice of dissatisfaction was sent to it by any party within (28) days after the date of receipt of the decision, the decision of the "Board" shall become final and binding on both parties.

## **20-5 Amicable settlement**

If a notice of dissatisfaction is issued pursuant to paragraph (20-4) above, both parties shall attempt to settle the dispute amicably before start with the arbitration procedures. And Unless the Parties agree otherwise:

Arbitration proceedings may be commenced on or after the fifty sixth day of the date of notice of dissatisfaction and the desire to resort to arbitration, even if the dispute is not been settled amicably.

## **20-6 Arbitration:**

Unless otherwise provided in the special conditions and unless the dispute has been settled amicably, any dispute about the Council's decision (if any) in respect thereof, which has not become final and binding, shall be settled by arbitration. And unless the parties agree otherwise:

- a) For contracts with foreign contractors, the arbitration shall be conducted under the rules and procedures of international arbitration adopted by the International arbitral tribunal specified in the contract data, such as those issued by the International Chamber of Commerce or UNCITRAL or Arab Arbitration Chamber for contractors.
- b) Unless specified otherwise, the arbitration shall be conducted in Iraq.
- c) Arbitration awards shall be subject to the Iraqi laws.
- d) The language of communication specified under paragraph (1-4) (Law and Language) shall be adopted in the arbitration procedures.
- e) For contracts with local contractors, the arbitration rules under the Iraqi laws shall be adopted.

Arbitral tribunal shall have full authority to detect, review and revise any certificate or estimates or instructions or opinions or evaluation, and any decision issued by the Settlement of Disputes Council with respect to the dispute.

Any of the parties shall not be limited in the proceedings before the arbitral tribunal concerning the evidences or arguments previously put forward in front of the "Council" before making its decision, or the reasons mentioned in the notice of dissatisfaction, and any decision of the "Council" shall be considered as acceptable evidence in the arbitration.

Is may be started before or after the completion of the works, and any obligations of the parties or the "Council" shall not be affected if the arbitration proceedings started during the implementation of the works.

## **20-7 Non-compliance to the Board decision:**

In the event of the failure of one of the parties to comply with the final and binding decision of the Settlement of Disputes Council, the second party shall be entitled to, without prejudice to any of his other rights, assign such non-compliance to arbitration under the provisions of Paragraph (6-20) and in such a situation the provisions of paragraphs (20-4) (relating to the Council's decision) and (20-5) concerning amicable settlement shall not apply.



## **20-8 – Expiration of the period of Appointment of (the Board):**

If a dispute arises between both parties whether war related to the contract or what arises from it or for executing the works, and there were "no council to resolve the dispute" because of the expiration of its term of appointment or for other reasons, then:

- a- Para (20/4) which is related to the decision of the council, and Para (20/5) related to amicable settlement cannot be applied.
- b- The dispute can be referred directly to arbitration according to the provisions of Para (20/6).

## **Section Eight– Special Conditions of Contract**

### **For the Trunkey Contracts**

The special conditions stated hereunder are complementary to the general condition of contract whenever and wherever there is a dispute, and their provisions shall prevail over those set forth in the general condition of contract.

### A- Data of the Contract

General Conditions	Item No.	Data
Name and Address of Employer	2/2/1/1 and 3/1	(insert employer )
		(insert his address including Phone, Email, Website, Fax)
Employer Representative	4/2/1/1 and 1/3	(insert name of employer's representative ) (insert his Address, Phone, Email)
Works Completion Period	3/3/1/1	( ) days If the works were in several parts, refer to a summary schedule of completion of each part
Maintenance Period	7/3/1/1	( ) calendar days
Work Parts	6/5/1/1	If the works were in several parts, refer to the work parts schedule
Electronic Submission of the Bids	3/1	Insert (applicable , not applicable)
Governing Law of the Contract	4/1	(insert the Governing Law of the Contract)
Adopted Language in the Contract	4/1	(insert the adopted language (languages)
Communication Language	4/1	
Date of the Contract Conclusion	6/1	(insert date)
Date of the Site Delivery	1/2	The signed site receipt shall be from the commencement date, excluding the parts set out later(if it is applicable, with detailed description for these parts: ----- days after the commencement date
Good Performance Guarantee	2/4	Good Performance Guarantee is a form of Bank Guarantee (insert the percentage that it represents from the accepted price value with the same currency (currencies) of accepted contract value
Daily Working Hours	5/6	(insert daily working hours)
Work Progress Schedule	3/8	In case the contractor fails to submit a valid work progress program, he will subject to a penalty of (insert proposed penalty)
Delay Compensation (Delay Penalty)	7/8 & 15/14 (B)	(insert delay penalty amount per day <b>and the equation of its calculation</b> ) if the contract included delivering project parts by stages, to notice the schedule at the end of data
Minimum Delay Penalty	7/8	-----% of final contract amount
Long Term Suspension	11/8	If the work suspension continued, in accordance with Para 8/8, for a period exceeding ( ) days the engineer is permitted to notify the contractor to resume the work

Reserve Amounts	13/5 (B, Second)	(in case there is a general reserve amount, insert its percentage of the contract value)
Adjustments because of changes in legislations	13/7	If the work suspension continued, in accordance with Para 8/8, for a period exceeding ( ) days the engineer is permitted to notify the contractor to resume the work.
Adjustments due to Cost Variables	13/8	(insert allowed or not allowed) in case it allowed insert the mechanism to amend cost
Late Advances	14/8	If the contractor received any advance payment due to him according to Para (14/7), he has the right to receive the financing expenses for any delayed amounts to be paid to him (insert applicable, not applicable)
Contract Value	14/1 (B)	Is the contract amount exempted from taxes and custom duties? (insert yes or no
Maximum Advance Payment	14/2	-----% of the contract amount ( the contracting party has to consider the proportions specified in the instructions of implementing the prevailing investment budget and the procedures of the collecting these advances)
Advance Payment Refunding	14/2	(Insert the refunding date of the first installment) (Insert the refunding percentage for each installment ) (Insert the refunding date of the last installment) ( the contracting party has to consider the limits of these proportions according to the instructions of the investment budget prevailing at that time and the procedures of the collecting these advances)
Cash Deductions Percentage	14/3	-----%
Cash Deduction Limits	14/3	-----% of the amount of the accepted contract
Name of party who issued the annual deduction percentage in order to specify the amount of financing expenses for delaying in paying interim payments.	14/8	If applicable (Insert the name of the financial organization) , not applicable)
Final Advance (upon receiving the works	14/10	The contractor has to submit to the engineer within a period not exceeding ( ) days from the date he receives the preliminary acceptance certificate of the work, the statement of the final account

Payment after work withdrawal	15/4	(to consider the prevailing legislations in the payment of contractor's dues)
The right of the contractor in terminating the contract	16/2	Insert ( Applicable – not Applicable)
Maximum responsibility borne by the contractor toward the employer	17/6	(Insert one of the two alternatives set forth later on) multiplied by (factor less or more than one) in the accepted value of the contract, or (insert a higher value for the commitment of the contractor)
Insurance Documents Submission Insurance Confirmation Insurance Policies	18/1	(Insert the period specified to submit the document of insurance and insurance policy. The period is between 14-28 days ----- day ----- day
Maximum insurance deductions amount of damages arising from the works of the employer to any part of the works	2/18 (D)	(insert the maximum amount of deductions)
Minimum Insurance amount for the risks of third	3/18	(insert the insurance amount of the third party)
Term of Appointment of the Disputes Resolution Council	3/18	( ) day from the date of commencement
Forming of Disputes Resolution Council	2/20	( ) either (one member) ( ) or (three members)
Name List of adopted experts of Disputes Resolution Council	2/20	(when the council of Disputes Resolution Council consists of one member only, insert the list of adopted experts: and also if more than one member)
The party that appoints the members of Disputes Resolution Council	3/20	(Insert the name of party resorted to nominate the experts for the council of resolving the disputes)
Procedural Rules for arbitration	6/20 A	(insert the adopted rules for arbitration)
Arbitration	6/20 B	(insert the place of arbitration and governing law)

**Schedule: Summary of Parts Comprising the Works**

Part Name/its description according to Para (6/5/1/1/1)	Part Completion Date according to Para (3/3/1/1)	Delay Penalty according to (Para 7/8)

## **B- Special Conditions**

### **Article 14-1 Contract Value**

(Alternative Text for Para (E))

In addition to the provisions set forth in Para (B), the equipment of the contractor along with spare parts imported for the purposes of project implementation shall be subject to a temporary exemption from taxes and custom duties upon their entry for the first time, provided that the contractor shall deposit with the customs authorities at ports or border points, a bank guarantee for the import valid up to the completion date of contract plus six months added thereto, with a value equal to the total payable amount of custom duties and taxes for the these equipment and their spare parts, in case the contractor does not export them to outside Iraq upon the completion of contract, and the contractor shall also submit a copy of this guarantee certified by the Custom Commission to the employer immediately after the entry of different implementation equipment and spare parts, or upon the completion of contract, to submit a statement of the value of these equipment and spare parts required to be exited, about its subsequent situation, to the Customs Commission , by adopting depreciation criteria and other criteria used by the Customs Commission for this purpose in accordance with the prevailing laws.

The tax and customs duties payable, as a result of implementation equipment and their spare parts, are incurred on the contractor as shown below:

- 1) For the difference between the value of the equipment and spare parts value of their conditions upon their entry to Iraq for the first time and their value upon their export to outside Iraq, and
- 2) For the difference between the value of the equipment and spare parts value of their conditions upon their entry to Iraq for the first time, in case they are left in Iraq and not exporting them after the completion of contract

In case the contractor pays tax and custom duties for any equipment and spare parts within 28 days from being claimed thereof by the Customs Commission, the amount of bank guarantee, for the export guarantee of the equipment and spare parts that has been exported to outside Iraq, shall be reduced; otherwise, the entire guarantee amount shall be retained by the Customs Commission.

### **Article 6-23 - Work Regulators**

(Added paragraph to Sixth Chapter of the General Conditions of Contract)

The Contractor shall abide by and adhere to the provisions of Labor and Social Security Law applicable in Iraq, including the rights of workers to join and choose their professional unions.

### **Article 6-24 Non-Discrimination and Equal Opportunities**

(Added paragraph to the Sixth Chapter)

the contractor shall not issue employment decisions depending on the personal characteristics that are not related to the professional requirements, and he has to adopt the principle of equality in opportunities and justice in the employment of workers, and not to use discrimination and favoritism

in work relations in all what is related to the fixing of wages, incentives, work conditions, training opportunities, entertainment, contract termination, retirements or discipline, and he must act according to the national labor laws to meet the requirements of this paragraph, and any procedures taken by the contractor to correct the course of any of the above favoritism practices shall not be considered as discrimination.

**Section Nine: Annexes of the Special Conditions and Contract  
Forms**

**For the Turnkey Contracts**

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**Notification of Award**  
**(Letter of Acceptance)**

{To be written on a paper with the letterhead of the employer}

[Enter the number]

[Enter the date]

**To: (name of employer (work owner and his address)**  
**Sub. / Award of Works [Enter the number and identification of the contract]**

We would like to inform you that approval has been obtained for your bid dated [Enter date] to execute the works of [enter contract name and number as specified in the contract data], with the accepted contract amount of [Enter the amount in figures and writing] [Enter currency] as corrected and adjusted according to the Instructions to Bidders, and it has been accepted.

for acknowledgement and provide us with the good performance guarantee within 28 days as from the above letter of acceptance, according to the form specified in the Ninth Section (Annex of the Special Conditions and Contract Forms in the Bid Documents), and attach herewith a copy of the Contract Agreement Form.

With appreciation,

Enclosures

Contract Agreement Form

Authorized Person

Signature: .....

Name and Capacity of

Position:.....

Name of Employer : .....

## Contract Agreement

This agreement has been concluded on [Enter the day, month, and year], between the first party [Enter the Contracting Party and its address], (who is called hereinafter "The Employer"), and the second party [Enter the Contractor and its address], where the employer intends that the contractor executes the works specified in the contract [Enter the name and number of contract], and the employer has accepted the bid of the contractor to execute and complete these works and to handle any defect therein.

Both parties have agreed on the following:

1. The meanings of words and expressions stated in this agreement shall have the same meanings stated against them in the contract documents.
2. Each of the documents listed below shall be considered as it forms, or be read or interpreted as an integral part of this contract agreement, and the this contract agreement shall govern all the other documents of contract.

(1) - Letter of Acceptance (Awarding) (2) - Special

Conditions of the Contract (3) - General Conditions

(4) - Specifications

(5) - Drawings

(6) - Complete Schedules

(7) - Bid Letter

(8) - Adjustments of the Bid Letter under No. .... (if any)

3. The contractor shall undertake to execute and complete works, and to handle any defect therein in all regards, according the requirements and conditions of contract against the amounts are to be to him by the employer , as set forth in the contract agreement.
4. The employer shall undertake to pay to the contractor, against his execution and completion of works and handling any defect therein, the contract value or any other due amount pursuant to the provisions of contract at the times and by methods prescribed in the contract.

The parties, who have concluded this agreement, witness to execute it according to the prevailing laws [enter the numbers of laws and their dates], on the date, month and year mentioned above.

Signature: .....  
[Enter the name of the employer]

Signature:.....  
[Enter the name of the contractor]

## Good Performance Guarantee

### Bank Good Performance Guarantee (unconditional)

[The **winner bank/bidder**, which provides the guarantee, shall fill out this form of good performance guarantee according to the instructions mentioned between the brackets, in case the employer needed this kind of guarantee]

[Enter the name of bank and branch address or issuing office] **Beneficiary:** [Enter the name and address of the employer] **Date:** [enter the date]

**Good Performance Guarantee No.:** [Enter the number]

We have been notified that [Enter the name of contractor] (**called hereinafter as "the Contractor"**) has concluded the contract No. [Enter Bid No.] **dated with you, to execute** [Enter the name of contract and a brief description of the works required] (**called hereinafter as " the Contract"**)

Accordingly, we understand, according to contract conditions, that the good performance guarantee is required.

At the request of the contractor, we, [Enter the name of bank], commit irrevocably to pay any amount(s) not exceeding in total the amount of [Enter the amount in figures] ([Enter the amount in writing]) Iraqi Dinars<sup>1</sup>, immediately after we have received from you the first written request accompanied by an affidavit stating that the bidder is in violation of his obligation(s) under the contract, without the need that you confirm or clarify the base of your request.

This guarantee shall expire after before (28) days from the issuance date of the acceptance certificate, specified in the copy of certificate to be submitted to us, or on [Enter the date in day, month and year], whichever is earlier<sup>2</sup>; therefore, any payment order, under this guarantee, we shall receive it on that date or before.

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<sup>1</sup> The guarantor (bank) will enter an amount that represents a percentage of the contract value specified in this contract.

<sup>2</sup> Enter the date for the twenty eight days after the expected expiry date. The employer shall be aware that in case of extending the expiry date of contract, the employer will need to request an extension for this guarantee from the guarantor. the request shall be in writing and before the expiry date prescribed in the guarantee. upon the preparation of this guarantee, the employer may deem proper to add the following text to the form, at the end of the paragraph before the last: " The guarantor accepts to extend this guarantee for one time and for a period not exceeding [six months] [one year], in response to the written request of the employer for such extension, provided that such request shall be submitted to the guarantor before the expiry of guarantee".

This guarantee is subject to the unified laws of claiming guarantees, and the publications of the International Chamber of Commerce under No. 458, excluding subparagraph (2) of the sub- article 20(A) which has been deleted herein.

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[The signature(s) of the authorized representative(s) of the bank]

## Advance Payment Guarantee

[The **winner bank/bidder**, which provides the guarantee, shall fill out this form of bank guarantee according to the instructions mentioned between the brackets, in case the employer requested this kind of guarantee]

[Enter the name of bank and branch address or issuing office]

**Beneficiary:** [Enter the name and address of the employer]

**Date:** [enter the date]

**Advance Payment Guarantee:** [Enter the number]

We have been notified that [Enter the name of contractor] (hereinafter called as "The Contractor") has entered into the bid contract No. [Enter Bid No.], dated with you, to execute [Enter the name of contract and a brief description of the works required] (hereinafter called as "The Contract")

We understand, according to contract conditions, that the advance payment shall be granted against the advance payment with the amount mentioned hereunder.

At the request of the contractor, we, [Enter the name of bank], commit irrevocably to pay any amount(s) not exceeding in total the amount of [Enter the amount in figures] ([Enter the amount in writing])<sup>3</sup>, immediately after we have received from you the first written request accompanied by an affidavit stating that the bidder is in violation of his obligation(s) under the contract, because the contractor has used the advance payment for purposes other than the costs of works preparation.

This guarantee stipulates, in order to pay up any claim or payment under this guarantee, that the contractor shall have received the aforementioned advance payment to his account [Enter the number] in [Enter the name and address of bank].

The maximum amount of the guarantee shall be continually reduced, by the amount recovered from the advance payment returned by the contractor, as the referred to by the copies of interim data or payment certificates submitted to us. The validity of the guarantee shall expire, as maximum, after we receive a copy of the interim payment certificate, which indicate that 80 percent of the contract value

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<sup>3</sup> The guarantor will enter an amount that represents the advance payment amount.

has been approved for payment, or on [Enter the date in day, month and year], whichever is earlier<sup>4</sup>; therefore, any payment order, under this guarantee, we shall receive it on that date or before.

This guarantee is subject to the unified laws of claiming guarantees, and the publications of the International Chamber of Commerce under No. 458.

[Enter the signature(s) of the authorized representative(s) of the bank]

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<sup>4</sup> Enter the expected of expiry date end. The employer shall be aware that in case of extending the expiry date of contract, the employer will need to request an extension for this guarantee from the guarantor. the request shall be in writing and before the expiry date prescribed in the guarantee. upon the preparation of this guarantee, the employer may deem proper to add the following text to the form, at the end of the paragraph before the last: " The guarantor accepts to extend this guarantee for one time and for a period not exceeding [six months] [one year], in response to the written request of the employer for such extension, provided that such request shall be submitted to the guarantor before the expiry of guarantee".

## Guarantee of Second Half Release of the Cash Deductions

[Enter the name of bank and branch address or issuing office]

**Beneficiary:** [Enter the name and address of the employer]

**Date:** [Enter the date]

**Bank Guarantee of Cash Deductions:** [Enter the number]

We have been notified that [Enter the name of contractor] (hereinafter called as "The Contractor") has concluded the contract No. [Enter the symbolic number of contract] dated with you [Enter the date of Signing the Contract] to implement [Enter the name of contract and a brief description of the works] (hereinafter called as "The Contract")

We, according to contract conditions, understand that whenever the Provisional Acceptance Certificate is issued for the works and the approval granted to pay the first half of the cash deductions, and release of payment [Enter the second half of the cash deductions or the difference between of cash deductions and the amount of good performance guarantee, if the amount of good performance guarantee is less than the half of cash deductions on the date of the Provisional Acceptance Certificate], the it will be done against the Bank Guarantee of Cash Deductions.

At the request of the contractor, we, [Enter the name of bank], commit irrevocably to pay any amount(s) not exceeding in total the amount of [Enter the amount in figures] ([Enter the amount in writing]), immediately after we have received from you the first written request accompanied by an affidavit stating that the bidder is in violation of his obligation(s), under the contract, in handling and repairing the defects and flaws that appear during the maintenance period (Defect Liability Period).

It is also required for paying any compensation or payment, according to this guarantee, that the contractor shall have received the second half of the aforementioned deductions in his account No. \_\_\_\_\_ deposited in [Enter the name and address of bank] bank.

This guarantee is valid for (21) days from the date on which the employer had has received the Performance Certificate (Final Acceptance Certificate) issued by the engineer, also any claims to pay any due amounts, according to this guarantee, shall be sent to our bank not later than the expiry date of the aforementioned guarantee.

This guarantee is subject to the unified laws of claiming guarantees issued by the International Chamber of Commerce under No. 458.

[The signature(s) of the authorized representative(s) of the bank]