

WAY FORWARD AGREEMENT

This Way Forward Agreement ("WFA") is entered into on the day of 14th June, 2022 by and between:

Sky Palaces Real Estate Development LLC, a company organized and existing under the laws of United Arab Emirates, and having its registered office at P.O. Box 12501, Dubai, United Arab Emirates ("Employer"); and

UGAZ Specialized Piping and Related Fitting Contracting L.L.C., a company organized and existing under the laws of United Arab Emirates, and having its registered office at P.O. Box 1871, Dubai, United Arab Emirates ("Subcontractor"),

(each a "Party" and collectively the "Parties").

WHEREAS,

- (A) Roberts Construction LLC and Pizzarotti S.A. – Dubai Branch ("RPJV") and the Employer entered into a Main Contract dated 10 April 2019 ("Previous Main Contract") for the construction of a project known as Dorchester Collection Hotel & Residences on Plot No. BB.B03.018 (the "Site") in Business Bay, Dubai, United Arab Emirates (the "Project").
- (B) RPJV entered into subcontract ref. 17001DH/MWA/MEP/35-29-12/UGAZ dated 11 August 2021 with the Subcontractor (the "Previous Subcontract") for the Gas Supply System package on the Project ("Subcontract Works").
- (C) The Subcontractor has completed part of the Subcontract Works that form part of the Previous Subcontract.
- (D) The Main Contract was terminated by the Employer on 28 February 2022.
- (E) The Employer entered into a contract with Khansaheb Civil Engineering LLC ("New Main Contractor") on 25 March 2022 for the completion of the Project (the "New Main Contract").
- (F) The Subcontractor has agreed to enter into a new subcontract with the New Main Contractor for the completion of all remaining Subcontract Works for the amount of AED 374,640.00 (excl. VAT) (the "New Subcontract").
- (G) Under the Previous Subcontract, an amount of AED 37,408.00 (excl. VAT) owed by RPJV to the Subcontractor remains unpaid as at the date of this WFA ("Outstanding Amount").
- (H) The Employer has, as a gesture of good will, undertaken to pay the Outstanding Amount to the Subcontractor on the terms and conditions set out in this WFA provided that the Subcontractor enters into the New Subcontract with the New Main Contractor.

NOW THEREFORE, the Parties agree as follows:

- 1. The Subcontractor acknowledges that it has a duty of care towards the Employer for the Subcontract Works executed and completed under the Previous Subcontract and the Subcontractor further undertakes that it has used all professional skill, judgment, due care and diligence in the execution of the works under the Previous Subcontract and shall continue to use under the New Subcontract.
- 2. The Subcontractor warrants that it has in its possession all relevant certificates, warranties and documents in respect of the works under the Previous Subcontract that are required by the various regulatory authorities and will promptly provide these to the Employer upon request.



3. The Subcontractor warrants to the Employer that it has complied with the obligations in the Previous Subcontract and that all work performed and all materials, plant and equipment supplied by the Subcontractor in the performance of the Previous Subcontract are:
 - (i) at least of the quality and to the standard required by the Previous Subcontract;
 - (ii) to the extent that the level of quality or standard are not stipulated in the Previous Subcontract, of good workmanship and merchantable quality; and
 - (iii) fit for the purpose or purposes for which they are required.
4. At completion of the Subcontract Works, the Subcontractor shall provide (or procure from its suppliers, as the case may be) all warranties and guarantees for materials, plant, equipment and workmanship, as required by the Previous Subcontract or the New Subcontract, for the benefit of the Employer.
5. The Subcontractor has provided a statement for works it considers were completed on the Project under the Previous Subcontract. This includes:
 - a) Certified Works
 - b) Uncertified Works
 - c) Materials on Site
 - d) Unrecovered Balance of Advance Payment
 - e) Accrued Retention
6. The Employer and the Subcontractor have agreed an amount of AED 1,465,166.00 owed under the Previous Subcontract (the "**Outstanding Amount**") comprising:
 - a) AED 18,872.00 (excl. VAT) for works completed up to 28 February 2022 (after deduction of retention); and
 - b) AED 18,536.00 (excl. VAT) for retention accrued up to 28 February 2022.
7. The Employer shall subject to the above and upon signing of this WFA, commit to the release of the Outstanding Amount to the Subcontractor by way of a bank transfer in two instalments (the "**Instalments**") as follows:
 - a) the Employer shall release the first instalment of AED 18,872.00 plus VAT (the "**First Instalment**") to the Subcontractor within 30 days of signing of the WFA, issue of the Performance Security and the issue of a tax invoice in the same amount;
 - b) the Employer shall release the first retention instalment of AED 18,536.00 plus VAT (the "**First Retention Instalment**") to the Subcontractor within 30 days of issuance of the Performance Certificate under the New Main Contract and the issue of a tax invoice in the same amount.
8. The Subcontractor acknowledges and agrees that the Outstanding Amount is in full and final payment and satisfaction of all amounts or entitlements due to the Subcontractor under the Previous Subcontract and the Subcontractor shall have no claim against:
 - a) the Employer for liabilities, damages, costs and expenses due or payable (whether now or in the future) which the Subcontractor may have against the Employer in respect of the Previous Subcontract; or
 - b) RPJV for liabilities, damages, costs and expenses due or payable (whether now or in the future) which the Subcontractor may have against RPJV in respect of the Previous Subcontract.
9. The Subcontractor undertakes to enter into the New Subcontract with the New Main Contractor on the New Main Contractor's standard terms and conditions of subcontract within 7 days of the date of this Way Forward Agreement.
10. The Subcontractor shall provide security for its performance under the New Subcontract in the amount of AED 56,000.00 in the form of an unconditional and irrevocable bank guarantee issued by a locally registered bank in Dubai for the benefit of the Employer (or another entity as directed



Handwritten signature in blue ink.

by the Employer) and on terms acceptable to the Employer (the "**Performance Security**"). Upon receipt of the Performance Security (and subject to execution of this WFA and the New Subcontract), the Employer shall return any bank guarantees and/or security cheques issued pursuant to the Previous Subcontract that are in its possession.

11. Upon execution of this WFA and the New Subcontract, and issue of the Performance Security, the Employer shall instruct to RPJV to terminate the Previous Subcontract.

GENERAL CONDITIONS

12. The Parties agree that it is a condition precedent to this WFA coming into existence that the Subcontractor and the New Main Contractor execute the New Subcontract and the Subcontractor issues the Performance Security to the Employer. If the preceding conditions precedent are not met, the Parties agree that this WFA will be void ab initio.
13. The Parties agree to keep the terms of this WFA confidential and to merely communicate the content of this WFA internally on a need-to-know basis.
14. Any dispute, controversy or claim arising out of, relating to or in connection with this WFA, including any question regarding its existence, validity or termination ("**Dispute**"), shall be resolved in accordance with this paragraph:
- a) In the event of a Dispute, the Party alleging the Dispute shall provide written notice to the other Party giving particulars of the Dispute (the "**Notice of Dispute**").
 - b) Within 30 days of receipt of the Notice of Dispute, the Parties shall attempt to hold a meeting in an effort to resolve the Dispute.
 - c) If the Dispute is not settled amicably, irrespective of whether a meeting was held, the Dispute shall, within 60 days of the Notice of Dispute, be referred to arbitration in accordance with the Dubai Internal Arbitration Centre (DIAC) Rules.
 - d) The seat of the arbitration shall be Dubai, UAE.
 - e) The language of the arbitration shall be English.
 - f) The number of arbitrators shall be one (1).
15. This WFA shall be governed by and construed in accordance with the laws applicable in the emirate of Dubai and the federal laws of the United Arab Emirates.



IN WITNESS WHEREOF, this WFA has been executed in two (2) counterparts by the Parties by their duly authorized representatives on the date first above written.

For and on behalf of and with the authority of the

SUBCONTRACTOR

Signature: _____

Name: Faisal El Mais

Title: Operation Manager

Stamp:

In the presence of: Fouad Maksoud

Signature: _____



For and on behalf of and with the authority of the

EMPLOYER

Signature: _____

Name: ISHAN GARGA & MARK ADENIK

Title: AUTHORIZED SIGNATURES

Stamp:

In the presence of: Christopher Thomas

Signature: _____



DORCHESTER COLLECTION HOTEL & RESIDENCES (PLOT 18)

18-Aug-22

VALUATION OF REMAINING SUBCONTRACT WORKS

Ver. 1

Trade Package: LPG Works

Subcontractor: UGAZ Specialized Piping and Related Fitting Contracting LLC

Subcontract Ref: 17001DH/MWA/MEP/35-29-12/UGAZ

ORIGINAL SUBCONTRACT WORKS		TOTAL VALUE OF SUBCONTRACT WORKS	VALUE OF WORKS COMPLETED TO 28-FEB-2022	VALUE OF WORKS UNDER NEW SUBCONTRACT
A	LPG works	560,000.00	33.1%	185,360.00
Sub-Totals		560,000.00	33.1%	185,360.00

VARIATIONS		TOTAL VALUE OF SUBCONTRACT WORKS	VALUE OF WORKS COMPLETED TO 28-FEB-2022	VALUE OF WORKS UNDER NEW SUBCONTRACT
	None	-	-	-
Sub-Totals		-	-	-

MATERIALS ON SITE		TOTAL VALUE OF SUBCONTRACT WORKS	VALUE OF WORKS COMPLETED TO 28-FEB-2022	VALUE OF WORKS UNDER NEW SUBCONTRACT
	None	-	-	-
Sub-Totals		-	-	-

Totals		560,000.00	33.1%	185,360.00
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NOTES

- 1) The amount included at "Payments to Date" is subject to final validation by the Employer's Representative. The Subcontractor shall provide evidence substantiating the amount paid to date under the previous subcontract.
- 2) Payment of amounts due under the previous RPJV subcontract (including retention) will be made pursuant to the terms of the WFA between the Employer and the Subcontractor.
- 3) The subcontract shall provide security for its performance of the Subcontract Works in the amount of AED 56,000.00 in the form of an unconditional and irrevocable bank guarantee for the benefit of the Employer.

NEW SUBCONTRACT	
Value of Remaining Subcontract Works	374,640.00
Value of Remaining Variation Works	-
Less Value of Materials on Site at 28-Feb-22	-
New Subcontract Price	374,640.00

WORKS COMPLETED TO 28-FEB-22	
Value of Completed Subcontract Works	185,360.00
Value of Completed Variation Works	-
Value of Materials on Site at 28-Feb-22	-
Value of Works Completed to 28-Feb-22	185,360.00
Less Cash Retention to 28-Feb-22 (10%)	18,536.00
Less Payments to Date (incl. Advance Payment)	147,952.00
Outstanding amount for Works Completed to 28-Feb-22	18,872.00

All amounts exclude VAT

