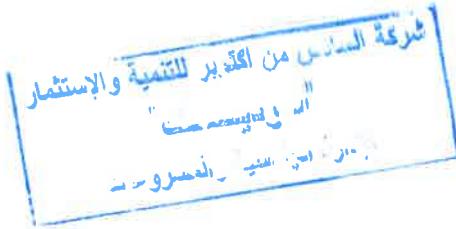


## SECTION 3 CONDITIONS OF CONTRACT - PARTICULAR



## PARTICULAR CONDITIONS

### 1.1 DEFINITIONS

Insert the following definitions in lieu of the definitions in Sub-Clause 1.1.

- (a) (i) "Employer" means:

Sixth of October for Development & Investment Company (SODIC)  
Km 38 Cairo / Alexandria Desert Road,  
Sheikh Zayed City, Giza, Egypt  
PO Box: 119 Sheikh Zayed  
Tel:+202 3857 0061/2/3  
Fax: +202 3857 0060

The Employer's Representative is Mr. Yasser El Said. Any reference to the Employer wherever made in any of the Contract Documents shall mean reference to the Employer's Representative and vice versa.

- (iv) "Engineer" means the individual, firm, company, named by the Employer to act as "Engineer" and/or architect for the supervision of Works including its representatives, successors and permitted assigns Engineer for the purposes of the Contract.

- (b) (v) Is amended by the addition of the following words at the end:

The word 'Tender' is synonymous with 'Bid' and 'offer' and the words 'Tender Documents' with 'Bidding Documents'.

- (c) (i) "Commencement Date" means the date for commencement pursuant to Clause 41.1.

- (iii) "Programme" means the programme to be submitted pursuant to Clause 14.

- (f) (vi) "Section" or "Milestone" means a part of the Works specifically identified in the Contract as a Section or Milestone

- (vii) "Site" means the places provided by the Employer where the Works are to be executed and any other places used by the Contractor and approved by the Engineer for the installation of temporary facilities for the Contractor and/or Engineer and/or Employer, and/or for the storage and fabrication of materials and equipment to be incorporated in the Works.

### THE ENGINEER

#### 2.1 ENGINEER'S DUTIES AND AUTHORITY

"The Engineer shall obtain the specific approval of the Employer before carrying out his duties in accordance with the following Sub-Clauses:

- Sub-Clause 14.1 Programme to be Submitted  
Sub-Clause 40.1 Suspension of Work  
Sub-Clause 44.1 Extension of Time for Completion



- Sub-Clause 44.3 Interim Determination of Extension
- Sub-Clause 46.1 Rate of Progress
- Sub-Clause 48.1 Taking over Certificate
- Sub-Clause 48.2 Taking Over of Sections or Parts
- Sub-Clause 51.1 Variations
- Sub-Clause 58.2 Use of Provisional Sums

Any determination made without obtaining such approval shall be considered null and void. The Contractor shall have the responsibility to verify that such approval has been obtained. The Employer shall have the right to review, amend and revise the duties or authorities of the Engineer, at any time during the Contract duration."

#### 4.1 SUBCONTRACTING

Add the following at the end of Sub-Clause 4.1:

"The Contractor shall comply with the requirements of the Federation of Construction & Building Contractors in Egypt."

#### 4.3 SUBCONTRACTING, ADDITIONAL REQUIREMENTS

Add new Sub-Clause 4.3 as follows:

"In addition to obtaining the Engineer's consent pursuant to Sub-Clause 4.1, the Contractor shall:

- (a) notify the Engineer within 14 days following the Commencement Date, and before commencing work on Site, of any parts of the Works he intends to subcontract for which approval of the Engineer is required under Sub-Clause 4.1. For each subcontract the following shall be provided:
  - (i) the name, address and telephone and fax numbers of the Subcontractor;
  - (ii) the nature and scope of the works to be subcontracted;
  - (iii) information on the Subcontractor's experience of similar works and details of the Subcontractor's site supervision, sources of labour and equipment and financial capabilities, in sufficient detail to enable the Engineer to determine if the Subcontractor is able to undertake and complete the subcontract works within the time and to the standards required by the Contract;
  - (iv) the approximate value of the subcontract works based on the Contract prices;
  - (v) the percentage of (iv) above and the overall percentage of subcontracted works as a proportion of the Contact Price;
  - (vi) confirmation that the subcontract includes terms and conditions and all obligations and responsibilities contained in the Contract, in so far as these apply to the subcontract;
- (b) notify the Engineer, at least 21 days prior to the date that the Contractor requires approval from the Engineer, of any proposed change to the Subcontractors notified under (a) above and of any additional parts of the Works he proposes to subcontract. Similar information to that listed under (a) above shall be given for each subcontract;

- (c) include in his monthly reports to the Engineer, with copy to the Employer, details of all subcontracts entered into, the names of the Subcontractors and the numbers of staff and labour for each Subcontractor on Site during the month."

#### 4.4 ASSIGNMENT AND SUBCONTRACTING, ADDITIONAL REMEDIES

Add new Sub-Clause 4.4 as follows:

"Without prejudice to the remedies under Sub-Clause 63.1 or any other clause in the Contract, if the Contractor assigns or subcontracts the whole or any part of the Works in contravention of Sub-Clauses 3.1 or 4.1 or if a Subcontractor assigns or subcontracts the whole or part of the subcontract works in contravention of Sub-Clause 4.3, the Engineer may, subject to the prior consent of the Employer, take action in respect of either or both of the following:

- (a) instruct the Contractor to dismiss and remove immediately, or within such other time as may be specified in the instruction, the Subcontractor or the Sub-subcontractor from the Site;
- (b) deduct from monies otherwise due to the Contractor, up to 15% of the value of the works assigned, subcontracted or sub-subcontracted, based on the Contract Price, as estimated by the Engineer.

If there are insufficient monies due to the Contractor to cover the deduction referred to above, the Employer shall have the right to call on the Contractor's Performance Security in order to recover the said monies.

The Contractor shall not be entitled to any extension of time for completion under Sub-Clause 44.1 arising out of any delay caused by the dismissal and removal of the Subcontractor or sub-subcontractor from the Site."

#### CONTRACT DOCUMENTS

##### 5.1 LANGUAGE/S AND LAW

- (a) The language is English
- (b) The law is that in force in the Arab Republic of Egypt

The Ruling Language is English.

##### 5.2 PRIORITY OF CONTRACT DOCUMENTS

Replace the words "... follows..." in line 6 and subsequent lines to the end of this Sub-Clause with the following:

"... stated in the Form of Agreement."

##### 6.3 DISRUPTION OF PROGRESS

Add the following paragraph at the end of Sub-Clause 6.3:

"The Contractor is aware that the Works are proceeding on a fast-track basis and as such, the drawings included in the Tender and the Contract are progress drawings and are not completely

coordinated. Modifications that appear on completed drawings that do not materially affect the design intent will not be considered as a basis for additional compensation. All conflicts between drawings and technical specifications noticed by the Contractor shall be brought as soon as practicable to the attention of the Engineer."

### GENERAL OBLIGATIONS

#### 8.1 CONTRACTOR'S GENERAL RESPONSIBILITIES

Add the following paragraph at the end of Sub-Clause 8.1:

"The Contractor shall take into consideration any special regulations regarding traffic and material movements that may be imposed by the Egyptian government and other authorities having jurisdiction, in the preparation of his Tender, Schedule and the in execution of the Works. The said regulations whether existing or imposed after the signature of the Agreement cannot be used as a basis for additional time and/or cost claims by the Contractor. For the avoidance of doubt, the Contractor is deemed the sole bearer of the traffic and material movement's regulations risk throughout the Project duration."

#### 8.3 CONTRACTOR'S FAILURE TO CARRY OUT INSTRUCTIONS

Add the following new Sub-Clause 8.3

"In case of default on the part of the Contractor in carrying out the Employer's instructions within a reasonable time, the Employer shall be entitled to employ and pay other persons to carry out the same and if such work is work which the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer."

#### 10.1 PERFORMANCE SECURITY

Delete Sub-Clause 10.1 and substitute with the following:

"The Contractor shall provide security for his proper performance of the Contract to the Engineer within 14 days from the Commencement Date. The Performance Security shall be in the form of a first-class bank guarantee in accordance with the specimen attached hereto. The amount of the bank guarantee shall be in the sum stated in the Appendix to Contract. The guarantee shall be payable on the Employer's first demand and issued by or through a bona fide Egyptian bank acceptable by the Employer. When providing such security to the Employer, the Contractor shall notify the Engineer of so doing.

Without limitation to the provisions of the preceding paragraph, whenever the Engineer determines an addition to the Contract Price as a result of a change in cost and/or legislation or as a result of the total cost of Variations, the Contractor, at the Engineer's written request, shall promptly increase the value of the Performance Security by an equal percentage.

The cost of complying with the requirements of this Clause shall be borne by the Contractor."

#### 10.3 CLAIMS UNDER PERFORMANCE SECURITY

Delete Sub-Clause 10.3 entirely.

### 11.1 INSPECTION OF SITE

Delete sub-clause 11.1 and substitute with the following:

"The Employer shall have made available to the Contractor, before the submission by the Contractor of the Tender, such data on the site Conditions including but not limited to the hydrological and sub-surface conditions and the executed works as have been obtained by or on behalf of the Employer from investigations undertaken relevant to the Works but the Employer takes no responsibility as to the correctness, accuracy or validity of this information, and the Contractor shall be responsible for his own interpretation and shall carry his own investigation if necessary.

The Contractor shall be deemed to have inspected and examined the Site and its surroundings and information available in connection therewith and to have satisfied himself (so far as is practicable, having regard to considerations of cost and time) before submitting his Tender, as to:

- (a) The form and nature thereof, including the sub-surface conditions,
- (b) The hydrological and climatic conditions,
- (c) The executed Works preceding his Works,
- (d) The extent and nature of work and materials necessary for the execution and completion of the Works and the remedying of any defects therein, and
- (e) the means of access to the Site and the accommodation he may require and, in general, shall be deemed to have obtained all necessary information, subject as above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Tender."

### 12.1 SUFFICIENCY OF TENDER

Delete Sub-Clause 12.1 in its entirety and substitute with the following:

"Regardless of any information provided by the Employer or the Engineer, the Contractor shall be deemed by its own means and at its own responsibility to have satisfied itself as to the correctness and sufficiency of and all conditions, Contract Documents, with due consideration to their order of priority as included in item (2) of the Agreement, and circumstances affecting the Contract Price and the rates and prices stated in the Bills of Quantities. This applies to: (1) the Site and its surroundings; (2) climatic conditions; (3) the extent and nature of the Works; (4) the superintendence; (5) labor; (6) Plant and Equipment and all other requirements, whether of a temporary or permanent nature; (7) the applicable laws, statutes, and ordinances; (8) other provisions having the force of law, by-laws and regulations; (9) the Time for Completion for the whole of the Works and for each Section of the Works, as to the milestone dates (if any); and (10) generally as to all other circumstances, risks and contingencies which may be relevant to the performance and observance of all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and to the payments to be made to the Contractor in respect thereof."

### 12.2 NOT FORSEEABLE PHYSICAL OBSTRUCTIONS OR CONDITIONS

Delete paragraph (b) of Sub-Clause 12.2 and Add the following paragraph at end of Sub-Clause 12.2

"No costs shall be payable to the Contractor that are associated with any extension of time determined under this Sub-Clause.

Since the Contractor has to investigate and identify utilities and since this research is within his obligations, the following will not be considered as unforeseeable physical obstructions or conditions:

- (a) any existing utility from whatsoever kind within the Works area, either acknowledged by the Contractor prior to the Start of the Works or not,
- (b) the nature of the soil in any part or section of the Works and
- (c) any required partitioning of the Works and temporary usage of incomplete parts or sections of the Works. Such requirement being issued either by the Engineer or by the local authorities.”

#### 14.1 PROGRAMME TO BE SUBMITTED

The Programme shall be submitted within 14 days from the Commencement Date.

Add the following text at the end of Sub-Clause 14.1:

“As a minimum standard for the Programme to be submitted by the Contractor, the Contractor shall consider within the Programme an appropriately detailed logic-linked Programme for the Works, in a commercially acceptable software, based on the Critical Path Method (CPM), and in conjunction with the Contractor's method of construction approved by the Employer; including, but not limited to, key resources, key interfaces and a respective narrative.

Any resubmission required till obtaining the Engineer's approval shall be within 7 days from a written notice by the Engineer. Furthermore, “Float” is not solely for the Contractor's use, and it is defined as the amount of time between the early start date and the late start date or between the early finish date and the late finish date of any activity in the Approved Programme.

The Employer shall, should the Contractor fail to submit the Programme within the stipulated 14 days from the Commencement Date, withhold all payments due, or may become due to the Contractor, until such time the Programme have been submitted in-line with the above mentioned requirements, industry norms and in accordance with Section 6 – Annex A2 - Schedule And Milestone Requirements.”

#### 14.2 REVISED PROGRAMME

Delete the text of Sub-clause 14.2 and substitute with the following:

“If at any time it appears to the Employer and/or the Engineer that the actual progress of the Works does not conform with the Programme of Works to which approval has been given under Sub-Clause 14.1, the Contractor shall produce, at the request of the Employer and/or the Engineer, a revised Programme of Works showing the modifications to such programme necessary to ensure completion of the Works within the Time for Completion. The Contractor shall produce any such revised Programme of Works to the Employer and the Engineer within seven 7 days of being requested to do so by the Employer and/or the Engineer. The revised Programme of Works thus produced shall be subject to review and approval of the Employer and the Engineer. The Contractor shall on a monthly basis annotate a copy of his current Programme of Works to indicate progress achieved during the month and provide a copy thereof to the Employer and the Engineer within seven 7 days of the end of each calendar month.



In the event of delays, the Contractor shall describe action(s) to be taken by him to overcome the adverse conditions and to maintain the planned construction programme. If, in the opinion of the Employer and/or the Engineer, the Contractor falls behind progress, the Contractor shall take steps as necessary to improve the progress and shall submit, for review and approval of the Employer and the Engineer, revised programmes to demonstrate that the Milestone dates will be achieved, all without additional cost to the Employer and without affecting the Employer's right to recover all costs in accordance with the Contract.

Failure of the Contractor to fulfil the conditions of this Sub-Clause, following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4."

#### 14.3 CASH FLOW ESTIMATE TO BE SUBMITTED

The cash flow shall be submitted within 14 days from the Commencement Date.

Add the following text at the end of Sub-Clause 14.3:

"Any resubmission required till obtaining the Engineer's approval shall be within 7 days from a written notice by the Engineer.

Failure of the Contractor to fulfil the conditions of this Sub-Clause, following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4."

#### 14.5 REPORTS AND SUBMITTALS

Add the following new Sub-Clause 14.5

"The Contractor shall submit to the Employer, with a copy to the Engineer, the following reports, at its own expense, during the duration of the execution of the Works:

##### A. Daily Manpower and Equipment Reports

The Contractor shall prepare and submit to the Employer and Engineer, two copies of daily manpower and equipment reports indicating the total number of manual personnel by craft and non-manual personnel including those of its Subcontractors working at the Site as per the form acceptable to the Employer, and the major Construction Equipment in working order, including that of its Subcontractors utilized for the execution of work at the Site. These daily reports shall be summarized on a weekly basis and the summary submitted to Employer and Engineer. Contractor shall include a separate list of items being worked on by the manpower reported.

##### B. Monthly Contract Progress Report

The Contractor shall prepare and submit to the Employer and Engineer, two copies of Monthly Contract Progress Report, within the first 7 days of each calendar month, indicating the following:

- A narrative summary of Contract history to date, including description of progress achieved, list of significant milestone events accomplished and related dates.
- Narrative descriptions of major near-term events scheduled and their impact on Contract (2 weeks look ahead schedule)
- An updated Programme of Works including details as above.
- Cumulative percent complete progress curves; planned, actual, forecast, total project, each category as determined by Employer and Engineer.

- Photographs of progress of the Works.

None of the data contained in the report shall be considered as a valid Notice pursuant to any of the Contract provisions.

C. Final Contract Report

Contractor shall submit a final Contract Report with detailed cost breakdown of Variation Orders to meet the requirements of Employer's code of accounts. Employer's code of accounts breakdown will include cost for items such as engineering, Plant, manual and non-manual labour including man-hours, and Construction Equipment for the execution of the Works.

Failure of the Contractor to fulfil any of the above obligations (A) to (C), following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4."

19.1 SAFETY, SECURITY AND PROTECTION OF THE ENVIRONMENT

Add new paragraph "(d) & (e) & (f)" after paragraph "(c)" as follows:

"(d) The Contractor shall at all times take the necessary precautions to reasonably protect the site from rats and other pests and reduce the dangers to health and the general nuisance occasioned by the same.

(e) The Contractor shall have sole responsibility for implementing a project safety programme. The Contractor shall co-ordinate with other contractors and subcontractors on safety matters and shall participate in regular periodic safety meetings with the Engineer.

(f) The Contractor shall appoint a qualified and approved safety officer to deal with all matters of safety and protection against accidents to staff and labour. The Contractor shall furnish safety equipment and enforce the use of such equipment by his employees, agents and Subcontractors. In the event of an accident, the Contractor shall immediately inform the Engineer and shall give a full written report of the accident to the Engineer."

Add the following paragraph at the end of Sub-Clause 19.1:

Failure of the Contractor to fulfil any of the above obligations (a) to (f), following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4."

20.4 EMPLOYER'S RISKS

Delete Sub-Clause 20.4 and substitute with the following:

20.4 SHARED RISKS

The term "Force Majeure" means any event arising beyond the control of either party, which either party could not foresee and/or reasonably provide against and/or which prevents either party from performing duties under the Contract. Force Majeure includes but is not limited to the following:

- a. War, revolution, insurrection, or hostilities (whether declared or riot).
- b. A riot, civil commotion, or a civil uprising (other than among Contractor's employees).



- c. Earthquake, flood, tempest, hurricane, lightning, or other natural disaster.
- d. Acts of terrorism and terroristic explosions.
- e. Strike, lockout, or other industrial disturbance (other than among Contractor's employees).

In the event that the performance of the Contract is delayed by Force Majeure, either party shall, within 7 days of the commencement of any such delay, give the other party written notice thereof including a statement describing Force Majeure and its effect upon the performance of the Contract. If the delay is excusable, the Employer and Contractor shall, within 7 days after receipt of such notice, consult regarding action to be taken.

In the event of a Force Majeure, Contractor, unless directed otherwise in writing by the Employer, shall continue to undertake and perform the duties set forth in the Contract as far as reasonably practicable.

Within 15 days after the termination of any such delay, Contractor shall file a written notice to the Employer specifying the efforts which Contractor undertook to prevent or to minimize the effects of the Force Majeure, the actual duration of the delay and the delay impact with respect to each of the affected milestone dates.

Failure to give either of the above notices or evidence that Contractor did not use its best efforts to prevent or to mitigate the effects of the delay shall be sufficient grounds for denial of an extension of time.

The Employer will evaluate Contractor's notice specifying the actual duration of the delay and the delay impact and an equitable adjustment to the time of performance of the affected milestone date(s) will be mutually agreed and accordingly the Employer will make his determination.

The Contractor shall not be entitled to any other compensation due to the Force Majeure.

If a Force Majeure event delays the performance of the Contract beyond a continuous period of 30 days, the two parties shall meet to mutually agree how to proceed with the Works."

## 20.5 BACK-CHARGES

Add new Sub-Clause 20.5 titled as above and its wording as follows:

"The Contractor shall take all necessary precautions to prevent and avoid damages to existing building finishes, systems, and equipment. The Contractor shall be responsible for notifying the Employer and the Engineer of any damage encountered during the execution of the Works.

The Employer may in addition to any other amounts which he retained under the Contract, retain from any sums otherwise owing to Contractor amounts sufficient to cover the full costs of any of the following:

1. Damage caused by the Contractor to any existing works;
2. Contractor's failure to comply with any provision of this Contract or Contractor's acts or omissions in the performance of any part of the Contract, including, but not limited to, violation of any applicable law, order, rule or regulation, including those regarding safety, hazardous materials or environmental requirements; and/or



3. Correction of defective or nonconforming work by redesign, repair, rework, replacement or other appropriate means when the Contractor states, or by its actions indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time.

The performance of back-charge work by the Employer shall not relieve Contractor of any of its responsibilities under this Contract including but not limited to express or implied warranties, specified standards for quality, contractual liabilities and indemnifications, and meeting the Contract Milestones."

#### 21.1 INSURANCE OF WORKS AND CONTRACTOR'S EQUIPMENT

Add the following words at the end of sub-paragraphs (a) and (b) Sub-Clause 21.1:

"It being understood that such insurance shall provide for compensation to be payable to fully rectify the loss or damage incurred. To this end, unless otherwise sanctioned by the Engineer, the amounts recovered from the Insurer shall be provided in the joint names of the Employer and the Contractor."

#### 21.2 SCOPE OF COVER

Delete the following words from the second line of paragraph (a):

".... from the start of work at the Site...." and Replace with the words "... from the first working day after the Commencement Date."

Add new paragraphs (c) and (d) under Sub-Clause 21.2 as follows:

- (c) in addition to the Site anywhere in the Arab Republic of Egypt.  
(d) It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract."

Add the following at the end of Sub-Clause 21.2.

"The insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred."

#### 21.3 RESPONSIBILITY FOR AMOUNTS NOT RECOVERED

Add the following words at the beginning of Sub-Clause 21.3:

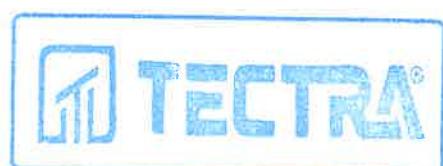
"Provided that the Contractor has fully complied with the provisions of Clause 21.1 of these Conditions....."

Add the following words at the end of Sub-Clause 21.3:

"All deductibles and excess shall be borne by the Contractor"

#### 21.4 EXCLUSIONS

Delete Sub-Clause 21.4 and substitute with the following:



There shall be no obligation on the Contractor to insure against the risks listed in Sub-Clause 20.4.

### 22.3 INDEMNITY BY EMPLOYER

Delete Sub-Clause 22.3 and substitute with the following:

### 22.3 INDEMNITY

Contractor hereby releases and shall indemnify, defend and hold harmless the Employer from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature in connection with or incidental to the performance of this Contract, whether arising before or after completion of the Works hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of Contractor, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf other than the exceptions defined in Sub-Clause 22.2.

### 25.1 EVIDENCE AND TERMS OF INSURANCES

Delete sub-clause 25.1 and substitute with the following:

The Contractor shall provide evidence to the Engineer and/or the Employer prior to the start of work on Site that the insurances required under the Contract have been effected and shall, within 28 days of the Commencement Date, provide copies of the insurance certificates and policies to the Employer and the Engineer.

Failure of the Contractor to fulfil the conditions of this Sub-Clause, following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4.

### 31.2 FACILITIES FOR OTHER CONTRACTORS

Delete Sub-Clause 31.2 and substitute with the following:

### 31.2 FACILITIES FOR AND LIAISON WITH OTHER CONTRACTORS

"The Contractor shall cooperate and liaise with any other contractor or operators working on or adjacent to the Site and shall ensure integration of their programmes with his own and allow full access as reasonably required by other contractors in order to carry their works. The Contract Price is deemed to include the cost of carrying out these activities. This shall also include the work of other contractors whose work forms an integral part of the Works.

The following details, without limitation, the role of the Contractor in that regard:

- (a) The Contractor shall assume the "lead role" and is deemed responsible to cooperate with and coordinate the required interfaces with other contractors working on or adjacent to the site and identify appropriate milestone dates for critical activities in the Contractor's Programme to ensure that the required interfaces are timely developed.
- (b) Interface issues between the Contractor and any other contractors and/or the mutual dependencies of each will require careful assessment and programming and the cooperation of each contractor is of paramount importance. The Contractor shall cooperate with the other contractors, once appointed and coordinate his activities alongside them

within the Contractor's baseline Programme current at any time during the progress of the Works. It is also agreed that the Contractor acknowledges and accepts liability for an overall coordinating function between his works and those of other contractors.

- (c) The Contractor shall make available to other contractors only such temporary works and facilities that are on site which shall be deemed to include, but not necessarily limited to, the use of access roads, pavings and paths, access to all parts of the Site including access for delivery and distribution of all Goods; use of scaffolding, hoisting and lifting equipment, lighting, power and water supplies, providing space for other contractors' own offices and for the storage of his Goods including utility supplies and the use of any mess rooms (but not the cost of providing food and beverages etc), sanitary, health and welfare facilities.
- (d) The Contractor shall take all necessary steps to protect and provide security for the safekeeping of the Site areas used by other contractors and for all Goods and Equipment stored thereon for the entire duration of the Works.
- (e) Due to the nature of the Works and its relationship to other contracts, reasonable allowance is deemed to have been made by the Contractor for any out of sequence working, disruption associated with the relevant interfaces and any occasional intermittent working that may be expected."

### 33.1 CLEARANCE OF SITE ON COMPLETION

Add the wording "within 30 days" after the wording "Upon the issue of any Taking-Over Certificate the Contractor shall".

## LABOUR

Add new Sub-Clauses 34.2 to 34.6 as follows:

### 34.2 PERMITS

The Contractor shall obtain all permits and other permissions required for the employment of his staff. The Employer will provide assistance in obtaining such, permits etc. but without thereby incurring any liability towards the Contractor.

### 34.3 EMPLOYMENT OF PERSONS IN SERVICE OF OTHERS

The Contractor shall not recruit or attempt to recruit his staff and labour from amongst persons in the service of the Employer or the Engineer.

### 34.4 LABOUR LAWS

The Contractor shall comply with all laws and regulations regarding the employment of labour in the Arab Republic of Egypt, including any such laws or regulations that come into force after the date of the Tender.

### 34.5 SUPPLY OF WATER

The Parties have agreed that the Contractor shall be responsible for construction and mobilization water source and consumption at its own cost, and shall provide a temporary water source(s) whenever required. Further, in case the main water feeder is provided by the authorities during the construction phase, the Contractor shall be provided with a single point of water source at the Site

boarder, and the Contractor shall be responsible for distribution according to construction requirements, and shall be responsible for the consumption, which will be back charged by the Employer from the Contractor's payments. In the event of water cut-off or that water supply to the Site is not adequate for the needs of the Works, the Contractor shall provide its own water source(s) and other facilities as required to fulfill requirements at no additional cost to the Employer.

#### 34.6 SUPPLY OF ELECTRICITY

The Parties have agreed that the Contractor shall be responsible for construction and mobilization electrical source and consumption at its own cost, and shall provide a temporary electrical source(s) whenever required. Further, in case the main electricity feeder is provided by the authorities during the construction phase, the Contractor shall be provided with a single point of electricity source at the Site boarder, and the Contractor shall be responsible for distribution according to construction requirements, and shall be responsible for the consumption, which will be back charged by the Employer from the Contractor's payments. In the event of power cut-off or that power supply to the Site is not adequate for the needs of the Works, the Contractor shall provide generators and other facilities as required to fulfill requirements at no additional cost to the Employer.

#### 34.7 ACCIDENTS

The Contractor shall have among his staff on Site an officer dealing only with questions regarding the safety and protection against accidents of all staff and labour. This officer shall be qualified for this work and shall have the authority to issue instructions and shall take protective measures to prevent accidents. In the event of an accident, the Contractor shall immediately inform the Engineer and shall give a full written report of the accident to the Employer.

Failure of the Contractor to fulfil the conditions of this Sub-Clause, following a written notice of the Engineer or the Employer, shall give rise to the enforcement of Sub-Clause 60.4.

#### SUSPENSION

##### 40.1 SUSPENSION

Replace paragraphs (c) and (d) of Sub-Clause 40.1 with the following:

"(c) necessary by reason of climatic conditions on the Site or from any of the risks defined in Sub-Clause 20.4, or

(d) necessary for the proper execution of the Works or the safety of the Works or any part thereof (save to the extent that such necessity arises from any act or default by the Engineer or the Employer),"

#### COMMENCEMENT AND DELAYS

##### 41.1 COMMENCEMENT OF WORK

Replace the paragraph with the following:

The Contractor shall commence the Works as soon as is reasonably possible but in any case the Parties agreed on the Commencement Date to be the date stated in the Appendix.

##### 44.1 EXTENSION OF TIME FOR COMPLETION

Replace paragraph (c) of Sub-Clause 44.1 with the following:

- (c) exceptionally adverse climatic conditions, in the event the Contractor can clearly demonstrate that the occurrence of such conditions is exceptional as compared to events recorded in official weather records for the area of the project over the last 25 years.

Add the following paragraphs at the end of Sub-Clause 44.1:

In determining any extension of the Time for Completion under this Sub-Clause, the Engineer/Employer shall be entitled to take into account the effect of work omitted by any order issued by him pursuant to Sub-Clause 51.1.

Whenever the Contractor is requesting an extension to the Time for Completion pursuant to this Sub-Clause, the Contractor shall submit to the Employer, within (28) days from the date of such act, event or omission giving rise to the Contractor's application for an extension to the Time for Completion, particulars inclusive of the following;

- (i) Particulars of the act, event or omission giving rise to the Contractor's application to which the Contractor consider himself entitled, together with the contractual basis for such application,
- (ii) The status of the Works at the time of such act, event or omission,
- (iii) A detailed fragmentary network (fragnet), reflecting the particulars of the act, event or omission, in a chronological order, and inclusive of a report of the relations between each activity of the fragnet,
- (iv) A detailed Time Impact Analysis, detailing the resultant impact on the Time for Completion and how the fragnet was linked to other activities,
- (v) An analysis of how remaining float prior to the act, event or omission has been used to minimise the impact on the Time for Completion,
- (vi) An analysis detailing activities that can be re-sequenced to minimize the impact on the Time for Completion, and
- (vii) Any other supporting information that may be required by the Employer.

In the event that an act, event or omission giving rise to the Contractor's application for an extension to the Time for Completion, has a continuing effect, as further detailed pursuant to Sub-Clause 44.3, that it is not practicable for the Contractor to submit final particulars within 28 days as detailed above, the Contractor shall submit interim particulars at intervals of not more than 28 days, inclusive of items (i), (ii), (iii), (iv) and (v) above, with final particulars within 28 days of the end of the act, event or omission giving rise to the Contractor's application, inclusive of the above noted items (i) to (vii).

#### 45.1 RESTRICTION ON WORKING HOURS

Delete the entire text of Sub-Clause 45.1 and substitute with the following:

45.1.1 Subject to any provision to the contrary contained in the Contract, none of the Works shall, save as hereinafter provided, be carried on during the night or on Fridays or on declared public holidays in the Arab Republic of Egypt, without the consent of the Engineer after due consultation with the Employer and the Contractor, except when work is unavoidable or absolutely necessary for the saving of life or property or for the safety of the Works, in which case the Contractor shall

immediately advise the Engineer. Provided that the provisions of this Clause shall not be applicable in the case of any work which it is customary to carry out by multiple shifts.

45.1.2 The Contractor shall apply in writing for permission for extended work, night work, Friday work, work during public holidays and work outside normal working hours as determined by applicable relevant rules and regulations in Egypt at least two (2) working days before its commencement. If granted all the work at night shall be carried out by the Contractor without unreasonable noise and disturbance.

45.1.3. All work carried out outside of normal working hours will be subject to the Contractor complying at his own expense with the requirements of the applicable rules and regulations in the Arab Republic of Egypt.

45.1.4. Where extended work, night work, Friday work, work during public holidays and work outside normal working hours is permitted and approved, all additional costs of supervision incurred by the Employer will be borne by the Contractor. The Contractor may carry out extended work, night work, Friday work, work during public holidays and work outside normal working hours with the prior approval of the Engineer and/or the Employer on activities that do not require supervision, in which case supervision costs will not occur. Determination of the requirement for supervision shall be at the sole discretion of the Engineer and/or the Employer.

45.1.5 Contractor shall provide adequate lighting facilities to enable the Works to be carried out in a proper manner. Lighting shall be to the satisfaction of the Engineer.

#### 46.2 RATE OF PROGRESS

Add new Sub-Clause 46.2 as follows:

"If the Contractor failed or refused to take the necessary steps to expedite progress after 7 days of receipt of the Engineer's/Employer's notification as stated in Sub-Clause 46.1, the Employer shall have the right to take the necessary measures as deemed appropriate to meet the Programme requirements, and the costs incurred thereof shall be deducted by the Employer from any monies due or to become due to the Contractor or be recoverable as a debt. This shall be without prejudice to the Employer's rights or the Contractor's obligations under the Contract."

#### 47.1 LIQUIDATED DAMAGES FOR DELAY

Add the following paragraph at the end of Sub-Clause 47.1:

The Employer and the Contractor recognize that time is of the essence and that the Employer will suffer financial as well as non-pecuniary losses if the Works are not completed within the time specified in this Contract, plus any extensions thereof allowed in accordance with the Conditions of Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Employer if the Works are not completed on time. Accordingly, instead of requiring such proof, the Employer and the Contractor agree that as liquidated damages for delay, but not as a penalty, the Contractor shall pay the Employer the amount stipulated in the Appendix to Contract for each week of delay, or part thereof, in respect of Sections, Milestones, Substantial Completion and Taking-Over. The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

The said sum shall be due to the Employer by the sole fact of the delay without any previous notice and without having to establish the damage which in all cases be considered as ascertained.

#### 47.3 ENGINEER'S ADDITIONAL FEES

Add new Sub-Clause 47.3 as follows:

If, by reason of any delay for which the Employer is entitled to payment of liquidated damages under Sub-Clause 47.1, the Employer is obliged to pay additional fees for his Engineer's supervisory staff on Site, the Employer shall be entitled to recover the amount of such additional fees from the Contractor in a manner similar to that set out for the recovery of liquidated damages under Sub-Clause 47.1.

#### 48.1 TAKING OVER CERTIFICATE

Add the following paragraph at the end of Sub-Clause 48.1:

Provided that, in any case, no Taking Over Certificate shall be issued or shall be deemed to have been issued until the Contractor has provided to the Engineer.

- a) Operation and maintenance manuals required under the Contract in respect of the Works or Section (if applicable), and
- b) The as-built up Drawings for the Works or Section.
- c) Original Warranty Certificates for all Electrical / Mechanical / MEP Works, in accordance with the requirements included in the Specifications (if any).

#### 48.3 SUBSTANTIAL COMPLETION OF PARTS

Add the following paragraph at the end of Sub-Clause 48.3:

Occupancy by other contractors to perform work: The Contractor is to allow access to all areas of the site and the use of these areas by other contractors to perform their works. Such access and occupancy shall not constitute completion or acceptance of the Works.

### DEFECTS LIABILITY

#### 49.1 DEFECTS LIABILITY PERIOD

Add the following paragraph at the end of Sub-Clause 49.1:

In respect of defects appearing after the interconnection of two or more Sections which have been taken over separately, the Contractor's responsibility shall remain in existence for all interconnected Sections until the latest of the Defects Liability Periods have expired.

The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works cannot be used by reason of a defect or damage. If only part of the Works is affected, the Defects Liability Period shall be extended only for that part.

### ALTERATIONS, ADDITIONS AND OMISSIONS

#### 51.1 VARIATIONS

Delete 51.1(b) and substitute Sub-clause 51.1(b) as amended to read as follows:

- (b) Omit any such works without payment to the Contractor of any profit lost on the omitted works.

## 51.2 INSTRUCTIONS FOR VARIATIONS

Add the following after the second sentence of sub-clause 51.2:

The Contractor shall proceed with the varied work immediately upon receipt of a written instruction to that effect from the Engineer, regardless of whether or not an agreement on price has been reached.

## 52.3 VARIATIONS EXCEEDING 15 PER CENT

Rename this Sub-Clause as follows:

## 52.3 VARIATIONS EXCEEDING 25 PER CENT

Amend in lines 2 and 13 as follows:

Replace 15 per cent by 25 per cent.

Add the following paragraph at the end of sub-clause 52.3:

"In addition, the Employer may decide upon agreement with the Contractor, to award extra works in other Phases or Packages not forming part of the scope of the Contract and in this case the above limit of 25% will be considered waived."

## 53.4 FAILURE TO COMPLY

Delete Sub-Clause 53.4 and substitute with the following:

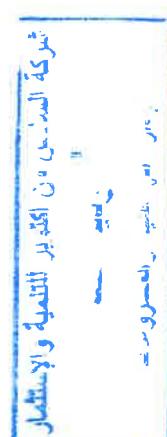
Notwithstanding any other provision of the Contract, including without limitation the provisions of Sub-Clause 60.9 of the Conditions of Contract, if the Contractor fails to comply with any of the provisions of the Contract, including without limitation the provisions of Sub-Clauses 6.3, 6.4, 12.2, 44.2, 44.3, 52.2, 53.1, 53.2 and/or 53.3 of the Conditions of Contract, in respect of any act, event or omission of whatever nature which in the opinion of the Contractor should result in an increase in the Contract Price and/or an extension of the Time for Completion, such failure shall constitute on the part of the Contractor a definitive and irrevocable waiver of, and release of the Engineer and the Employer from, any and all claims arising from any such act, event or omission and the Contractor shall be irrevocably stopped from raising any claims arising from any such act, event or omission thereafter.

## 53.5 PAYMENT OF CLAIMS

Delete Sub-Clause 53.5 and substitute with the following:

The Contractor shall include in applications for monthly Payments pursuant to Clause 60 only those amounts in respect of claims which have the prior written agreement of the Engineer.

## 53.6 UNABSORBED OVERHEAD



Add new Sub-Clause 53.6 as follows:

Payment shall be made to the Contractor for recovery of unabsorbed overhead costs and/or prolongation costs only when the Contractor demonstrates full compliance with the following:

- a) The Contractor shall demonstrate that the work was delayed solely by actions for which the Employer is entirely responsible. Delay to the work is defined as any time the projected end date of the work is extended beyond the current contract completion date and the most recent date predicted for completion of the work on the accepted schedule update current as of the time of the delay.
- b) To demonstrate such an impact, the Contractor shall prepare and submit a detailed Time Impact Analysis including a list of all delay events deemed to be introduced by the Employer and/or the Engineer which clearly shows that the current controlling operation has been or will be delayed or prolonged solely by some action of the Employer and has or will cause the time of completion of the work to be delayed past the current contract completion date and the most recent date predicted for completion of the work on the accepted schedule update current as of the time of the delay. A delay to the controlling operation may only arise after the first working day on the project has occurred.
- c) The Contractor shall demonstrate that the project's cash flow has been or will be substantially adversely impacted as a direct and sole result of such delay. Substantial impact to the project's cash flow for the work is defined as a reduction of at least ninety percent of the projected cash flow for the entire project for a period of at least one month or more.
- d) The Contractor shall also document that:
  - i. The delay caused by the Employer was of an unknown or uncertain duration at the time the delay arose;
  - ii. That the contractor was required to remain on standby during the delay period;
  - iii. The contractor was unable to re-sequence or reorganize the work in order to continue working and maintain cash flow for the project;
  - iv. That the delay to the project's end date did not simply result from additional work caused by change orders which did not result in a substantial impact to the project's cash flow; and;
  - v. That there was no concurrent delay during this period of time.
- e) Provided that the Contractor complies fully with all of the above requirements, unabsorbed overhead costs shall be calculated in strict accordance with world-wide established procedures, subject to the Employer's approval. The Contractor shall be required to provide sufficient back up documentation to support the costs utilized in such procedures.
- f) The Contractor shall submit his annual audited financial statement(s) for the Employer for every year in which the work was performed in order to document the numbers used in the formula.  

- g) Any payment of unabsorbed overhead costs shall not be subject to any other mark-ups for overhead or profit. If payment is made for unabsorbed overhead costs under this section, such payment shall be adjusted by subtracting the amount of overhead cost paid to the



Contractor on change order work during the period in which the unabsorbed overhead occurred.

### 53.7 DISALLOWANCE

Add new Sub-Clause 53.7 as follows:

Costs which shall not be allowed or paid in change orders or claim settlements under this Contract include, but are not limited to, interest cost of any type; claim preparation or filing costs; legal expenses; the costs of preparing or reviewing proposed change orders or change order proposals concerning change orders which are not issued by the Employer; lost revenues; lost profits; lost income or earnings; rescheduling costs; costs of idled equipment when such equipment is not yet at the site or has not yet been employed on the work; lost earnings or interest on unpaid retainage; claims consulting costs; the costs of corporate officers or staff visiting the site or participating in meetings with the Employer; any compensation due to the fluctuation of foreign currency conversions or exchange rates; or loss of other business.

## CONTRACTOR'S EQUIPMENT, TEMPORARY WORKS AND MATERIALS

### 54.9 TEMPORARY FACILITIES AND SERVICES FOR THE EMPLOYER AND ENGINEER

Add new Sub-Clause 54.9 as follows:

If the Contractor fails to provide and maintain any of the Temporary Works and services required for the use of the Employer and Engineer and their staff then the Engineer shall be entitled to provide and maintain such Temporary Works and services and shall be entitled to recover from the Contractor the cost thereof or may deduct the same from any monies due or that become due to the Contractor.

## MEASUREMENT

### 56.1 WORK TO BE MEASURED

Add the following at the end of this Sub-Clause.

For the purpose of ascertaining and determining the value of the Works as stated in this Clause, the Measurement of the Works as executed and associated As-Built Drawings shall be carried out by the Contractor progressively and timely, and submitted to the Engineer for his approval.

## CERTIFICATES AND PAYMENT

### 60.1 MONTHLY STATEMENTS

Delete the text of sub-paragraph (c) and substitute with the following:

"(c) In respect of major items of materials brought by the Contractor to the Site for incorporation in the Permanent Works, the Contractor shall (a) receive a credit in the month in which these materials are brought to the Site and (b) be charged a debit in the month in which they are incorporated in the Permanent Works, both credit and debit to be determined by the Engineer in accordance with the following:



- i. No credit shall be given unless the following conditions have been met to the Engineer's satisfaction:
  - a. the materials are in accordance with the Specifications of the Works;
  - b. the materials have been delivered to the Site and are properly stored and protected against loss, damage or deterioration;
  - c. the materials are delivered to the Site in the times stated in Section VI – Schedule and Milestone Requirements;
  - d. the Contractor's records of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer; and
  - e. the materials are to be used within a reasonable time.
- ii. the amount to be debited and credited to the Contractor, in respect of materials brought to the Site by the Contractor for incorporation in the Works, shall be limited to percentages and items specified in the Appendix to Contract.
- iii. the amount to be debited to the Contractor for any materials incorporated into the Permanent Works shall be equivalent to the credit previously granted to the Contractor for such materials pursuant to this Sub-Clause (c) (ii) above, as determined by the Engineer.
- iv. Any amounts credited to the Contractor in respect of materials under this Sub-Clause, shall be subject to the amortization of Advance Payment."

## 60.2 MONTHLY PAYMENTS

Delete Sub-Clause 60.2 and substitute with the following:

The Contractor's statement shall be approved or amended by the Engineer in such a way that, in his opinion, it reflects the amounts due to the Contractor in accordance with the Contract, after deduction, other than pursuant to Clause 47, of any sums which may have become due and payable by the Contractor to the Employer.

Within 28 days of receipt of the statement referred to in Sub-Clause 60.1, the Engineer shall determine the amounts due to the Contractor and shall issue to the Employer after the approval of the Engineer the Interim Payment Certificate certifying the amounts to the Contractor, subject:

- (a) firstly, to the retention of the amount calculated by applying the Percentage of Retention stated in the Appendix to Contract, to the amount to which the Contractor is entitled under Sub-Clause 60.1 until the amount so retained reaches the Limit of Retention Money stated in the Appendix to Contract, and
- (b) secondly, to the deduction, other than pursuant to Clause 47, of any sums which may have become due and payable by the Contractor to the Employer.

Provided that the Engineer shall not be bound to certify any payment under this Sub-Clause if the net amount thereof, after all retentions and deductions, will be less than the minimum Interim Payment Certificates stated in the Appendix to Contract.

In case there is difference of opinion as to any item included in the Contractor's Statement or its value, the Engineer's opinion shall prevail.

Notwithstanding the terms of this Clause or any other Clause of the Contract, no amount shall be certified by the Engineer for payment until the Performance Security has been provided by the Contractor and approved by the Employer.

#### 60.4 CORRECTION OF CERTIFICATES

Add the following at the end of Sub-Clause 60.4:

Without limiting the Engineer/Employer's power under this Sub-Clause, the Engineer/Employer shall have the power to reduce the value of any payment certificates or hold any payment certificates if, in his opinion, the Contractor is not discharging his responsibilities with regard, but not limited to, the following:

- (a) provision of shop drawings, samples, progress reports, submittals and the like under Clauses 6, 7 and 14.5
- (b) provision of or revisions to the Programme, resource schedules and Cash Flow estimate under Clause 14
- (c) safety and security measures under Clause 19
- (d) provision or renewal of insurances under Clauses 21, 23 and 24
- (e) provision or renewal of Bank Guarantees
- (f) compliance with statutes and regulations under Clause 26
- (g) compliance with Sub-Clause 32.1
- (h) provision of temporary facilities for the Employer and Engineer.
- (i) works are not progressing to a level to complete the Works as described in the approved programme and to meet the approved critical milestones.

If the Contractor does not take, within a reasonable time period, the necessary corrective measures to eliminate the reasons for the Engineer's reduction as aforesaid, the Employer may, without prejudice to any other rights he may have by law or under the Contract, withhold payments due or to become due to the Contractor until the said measures have been taken by the Contractor to the satisfaction of the Engineer.

#### 60.5 STATEMENT AT COMPLETION

Add the following sentence (d) before the last paragraph of Sub-clause 60.5 as follows:

- (d) Proof that the Contractor has paid and fulfilled the requirements of the social insurance of his staff and labours regarding the executed works.

#### 60.10 TIME FOR PAYMENT

Delete Sub-Clause 60.10 and substitute with the following:

The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 47, be paid by the Employer to the Contractor within 21 days after such Interim Payment Certificate has been delivered to the Employer, or, in the case of the Final Payment Certificate referred to in Sub-Clause 60.8, within 56 days, after such Final Payment Certificate has been delivered to the Employer. In the

event of the failure of the Employer to make payment within the times stated, the Employer shall pay to the Contractor interest at the rate stated in the Appendix to Tender upon all sums unpaid from the date by which the same should have been paid. The provisions of this Sub-Clause are without prejudice to the Contractor's entitlement under Clause 69 or otherwise.

#### 60.11 CURRENCY OF ACCOUNT AND PAYMENTS

Add new Sub-Clause 60.11 as follows:

Payments to the Contractor by the Employer shall be made in the currencies in which the Contract Price is payable and as indicated in the Contract Agreement.

#### 60.12 ADVANCE PAYMENT

Add new Sub-Clause 60.12 as follows:

- (a) After issuing the NTP, and after the provision by the Contractor of the Performance Security in accordance with Clause 10.1, and after provision by the Contractor to the Engineer of an approved advance payment guarantee in the sum stated in the Appendix to Contract, in terms similar to the form annexed to these Conditions, the Engineer shall, pursuant to this Clause, certify under a separate "Advance Payment Certificate" and the Employer shall pay, in accordance with Sub-Clause 60.10, an advance payment in the sum stated in the Appendix to Contract. The advance payments shall not be subject to the deduction of retention.

Repayment of the advance payments shall be made monthly by the deduction of the same value of the advance payment made to the Contractor from the gross amount of all payments certified, including variation orders and material delivered to Site, in accordance with Sub-Clause 60.2,

Provided that upon issue of the Taking Over Certificate for the whole of the Works or upon happening of any of the events specified in Sub-Clause 63.1 or termination under Clause 65, 66 or 69, the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

- (b) The advance payment shall be used by the Contractor exclusively for mobilization expenditures and the supply of the required materials in connection with the Works. Should the Contractor misappropriate any portion of the advance payment, it shall become due and payable immediately, and no further loan will be made to the Contractor thereafter.

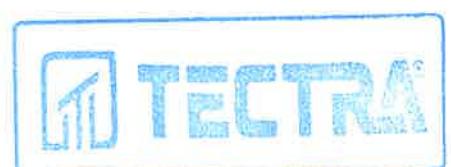
#### 60.13 SOCIAL INSURANCE

Add new Sub-Clause 60.13 as follows:

"The Employer shall withhold the applicable percentage of the social insurance from each payment certificate. The withheld percentage shall be released to the Contractor upon receipt of the clearance certificate issued from the Social Insurance Authority for the payment of the applicable social insurance by the Contractor."

#### 60.14 TAXATION

Add new Sub-Clause 60.14 titled as above and its wording as follows:



The prices in the Contract are deemed to include all taxes, customs duties, import duties, sales and business taxes on goods and/or services, and income and other taxes that may be levied.

The Contractor is obliged under the civil liability and criminal liability to provide the authorities with the value added taxes (VAT) according to the provisions of law No. 67 of 2016, and as amended. Whereas the Contractor shall within 28 days from the commencement date submit an evidence that he has informed the general authority of value added taxes (VAT) and periodically to manifest the clearance of so paying such taxes.

### REMEDIES

#### 63.1 DEFAULT OF CONTRACTOR

Delete the text of sub-paragraph (d) and substitute with the following:

"(d) despite previous warning from the Engineer or the Employer, in writing, is otherwise persistently or flagrantly neglecting to comply with any of his obligations under the Contract, or"

#### 65.2 SPECIAL RISKS

Delete Sub-Clause 65.2 and substitute with the following:

The special risks are the risks defined under paragraph (a) of the Shared risks in Sub-Clause 20.4, insofar and limited that these risks relate to the country in which the Works are to be executed.

#### 65.5 INCREASED COSTS ARISING FROM SPECIAL RISKS

Delete Sub-Clause 65.5 and substitute with the following:

"The Contractor's entitlement for increased costs arising from special risks shall be limited to entitlements pursuant to Sub-Clause 65.3"

### SETTLEMENT OF DISPUTES

#### 67.3 ARBITRATION

Delete from lines 6 and 7 the words "unless otherwise specified in the Contract, under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators" and substitute with the following:

"under the rules of Cairo Regional Center for International Commercial Arbitration by three arbitrators".

Add the following at the end Sub-Clause 67.3:

Arbitration shall be in accordance with the following provisions:

1. Arbitration shall be according to the Egyptian Law
2. Arbitration shall be in English
3. Arbitration shall be take place at Cairo Regional Center for International Commercial Arbitration, Cairo, Egypt.



### NOTICES

## 68.2 NOTICE TO EMPLOYER AND ENGINEER

Employer's address:

**Sixth of October for Development & Investment Company (SODIC)**  
Km 38 Cairo / Alexandria Desert Road,  
Sheikh Zayed City, Giza, Egypt  
PO Box: 119 Sheikh Zayed  
Tel:+202 3857 0061/2/3  
Fax: +202 3857 0060

### CHANGES IN COST AND LEGISLATION

#### 70.1 INCREASE OR DECREASE OF COST

Delete Sub-Clause 70.1 and substitute with the following:

The Contract Price, and the rates and prices set out in the Bills of Quantities, shall not be subject to change in respect of rise or fall in the cost of labour and/or materials or any other matters affecting the cost of the execution of the Works, and, regardless of the nature and/or cause of such increase or decrease.

As a limited exception, there shall only be added to or deducted from the Contract Price such sums in respect of rise or fall in the cost of steel reinforcement material and ready-mix concrete used, in case of the Contractor's supply to the concrete, according to the following stipulations and procedure:

##### A. For Steel Rebar:

In cases of price fluctuation of the steel reinforcement material, the increment or the decrement to be applied to the material supply base rate shall be calculated for the actual executed materials based on the following:

- 1.1. The price fluctuation value shall be determined according to the provisions hereunder.
- 1.2. The price fluctuation value (calculated in item 1.1 above) shall be multiplied by 1.05 to cover for the materials wastage.

##### B. For Ready Mix Concrete:

In cases of price fluctuation of the ready mix concrete used, the increment or the decrement to be applied to the material supply base rate shall be calculated for the actual executed materials based on the following:

- 2.1. The price fluctuation value shall be determined according to the provisions hereunder.
- 2.2. The value calculated in item 2.1 above shall be multiplied by the quantity of poured ready-mix concrete (according to approved Design Mixes).



For the avoidance of doubt, the equations below show how the fluctuation shall be applied in cases of price increment or decrement for steel rebar and ready-mix concrete:

For Steel Rebar:

Price adjustment for the *actual executed* materials in case of the price increase or decrease  
[(Current Rate – Base Rate) x 1.05] x quantity of steel rebars installed

For Ready Mix Concrete :

Price adjustment for the *actual executed* materials in case of the price increase or decrease of each of the following:

**Cement:**

-New Concrete rate = Old Concrete rate + (New Cement rate as announced by CAPMAS - Old Cement Base Rate) x (Cement Content)

**Diesel:**

-New Concrete rate = Old Concrete rate + ((New Diesel rate as announced by competent authorities / Old Diesel Base Rate) -1) x 0.04 x Concrete Price)

**Base Coarse Aggregate:**

-New Concrete rate = Old Concrete rate + (New Coarse Aggregate average rate as substantiated by Contractor and approved by Employer - Old Coarse Aggregate Average Base Rate) x 0.8

**Additives**

-New Concrete rate = Old Concrete rate + (New Additives average rate as substantiated by Contractor and approved by Employer - Old Additives Base Rate) x Additives Content as per approved concrete mix approved design

**Agreement on the Current and Base Rates**

The Base Rates are as follows:

|  |   |
|--|---|
| <b>Steel</b>                           | 17,000 EGP/ton ex-factory                 |
| <b>Cement</b>                          | 1,200 EGP/ ton ex-factory for cement bags |
| <b>Base coarse aggregate - Average</b> | 210 EGP / M3                              |
| <b>Diesel</b>                          | 7.25 EGP/ Litre                           |
| <b>Additives - Average</b>             | 13 EGP/ Litre                             |



The Old Concrete rates are as follows:

|                                     |                  |
|-------------------------------------|------------------|
| <b>Ready Mix concrete Grade 170</b> | 780.52 EGP/ M3   |
| <b>Ready Mix concrete Grade 200</b> | 780.52 EGP/ M3   |
| <b>Ready Mix concrete Grade 250</b> | 876.95 EGP/ M3   |
| <b>Ready Mix concrete Grade 300</b> | 927.28 EGP/ M3   |
| <b>Ready Mix concrete Grade 350</b> | 1,020.20 EGP/ M3 |

The difference in rate (addition or omission) shall be determined by the following factors, by the order of their precedence:

- i. Rate from Central Agency for Public Mobilization and Statistics "CAPMAS";
- ii. Agreement between the parties as to the new rate;
- iii. Actual original invoices, excluding any transportation or additional costs. Ex-factory invoices are recommended.

For the purposes of establishing the difference in rate, the rate shall increase only to the extent that it has not occurred due to a Contractor-caused delay in maintaining progress in accordance with the Programme.

The difference in rate (addition or omission) shall apply only to the net steel reinforcement and/or ready-mix concrete as incorporated in the Works and measured accordingly.

The Contractor shall provide documentary evidence (which may include but is not limited to supplier quotes, purchase orders, invoices, delivery notes,...) substantiating to the Employer's satisfaction the difference in rate, which shall be a condition precedent to the Contractor's entitlement to payment of the said difference for the steel reinforcement and/or ready-mix concrete incorporated in the Works.

## 70.2 SUBSEQUENT LEGISLATION

Delete Sub-Clause 70.2 and substitute with the following:

"The rates and prices in the Bill of Quantities are deemed to include for the cost of all duties, levies and charges payable to the Government of the Arab Republic of Egypt under any National or local government statute, ordinance, decree, regulation, law or by-law in force in as of the date of issuing signing the Contract Agreement. If after the date of Contract signature and during Contract execution, there may be any legislative changes in law(s), with regard to taxes, social insurances and/or announced diesel prices, which cause direct additional or reduced cost to materials intended to form part of the Permanent Works, such additional or reduced cost shall be determined by the Employer and shall be added to or deducted from the Contract Price, but in any case such additional or reduced cost shall not exceed the actual incurred costs on the remaining Works, subject that they are compliant with the Clause 14.1 Programme, and shall exclude any impact on the Contractor's indirect costs, overheads or profits, and shall take into consideration the Contractor's utilization of the Advance payments made by the Employer.

The Parties agreed that the Base Rate for Diesel (officially published), for the purpose of this Sub-Clause, is EGP 7.25 per litre. In addition, the Parties agreed to allow for the fluctuation of such by +/- 5%, without an entitlement to either Party to adjust the Contract Price."

#### CURRENCY AND RATES OF EXCHANGE

#### 72.3 CURRENCIES OF PAYMENT FOR PROVISIONAL SUMS

Delete the words "Sub-Clauses 72.1 and 72.2" from the 4th line and substitute with the words "Sub-Clause 60.11".

#### ADDITIONAL CLAUSES TAXATION AND IMPORT DUTIES

##### 73.1 LOCAL TAXATION

The Contractor shall pay all business taxes, value added taxes (VAT) on goods and Contractor's activities, profits tax and income tax chargeable in the Arab Republic of Egypt on the Contractor's activities in connection with the Contract. The Contract Price shall be deemed to include for all such taxes.

##### 73.2 INCOME TAX ON STAFF

The Contractor's staff, personnel and labour will be liable to pay personal income tax in respect of such of their salaries and wages as are chargeable under the laws and regulations of the Arab Republic of Egypt. The Contractor shall perform such duties with regard to deductions of such tax as may be imposed on him by such laws and regulations.

##### 73.3 CUSTOMS AND IMPORT DUTIES ON IMPORTED ITEMS ETC.

The Contract Price shall include all customs duties and charges, import duties, business taxes, and any other costs of importation such as insurance, port clearance, transportation to the Site etc. on the Plant, materials and supplies (permanent, temporary and consumable) acquired for the purpose of the Contract and on the services performed under the Contract.

##### 73.4 CUSTOMS DUTIES ON CONTRACTOR'S EQUIPMENT

The Contractor shall abide by all laws in the Arab Republic of Egypt concerning the importation of Contractor's Equipment for use in the Works and shall pay all customs and import duties and provide such guarantees concerning the re-export of Contractor's Equipment as may be demanded by the relevant authorities. The Contract Price shall be deemed to include for all such costs.

#### OTHER ADDITIONAL CLAUSES

##### 75.1 TERMINATION OF CONTRACT FOR EMPLOYER'S CONVENIENCE

The Employer may in his absolute discretion terminate the Contract for his convenience at any time by giving the Contractor Fourteen (14) days' prior written notice, whereupon the Contractor shall stop performance of the Works and take such action as the Employer may reasonably direct (including in respect of any work then in hand). In the event of such termination, the Contractor shall proceed as provided in sub-clause 65.7 and the Employer's obligations to the Contractor in

regard to payment shall be only for the Works and Materials that have been delivered that are approved by the Consultant and the Employer.

In case of such, the Contract shall be considered ipso facto rescinded, without the need for any precedent tribunal decision(s); whether Court Judgment/Authorization or Arbitral Procedures, whereas the Parties have expressly agreed that the prior notice required under this Sub-clause for enforcement, are dispensed herewith.

## 75.2 DETAILS TO BE CONFIDENTIAL

The Contractor shall treat the Contract Documents and details of the Contract as private and confidential and save in so far as may be necessary for the purposes of the Contract, shall not disclose the same or any particulars thereof to any person, nor publish any particulars thereof in any trade or technical paper, publicity material or elsewhere without the consent of the Engineer. All documents provided to the Contractor shall be used only for the purposes of the Contract.

All of the Contractor's and sub-contractor's staff are to sign Confidentiality Agreements on their first day of work on the Contract. This is to apply to both on and off site personnel.

## 75.3 PUBLICITY

- 75.3.1 The Contractor or any agents in his employ shall not make any announcement or give or disclose any information concerning this Contract or the Project or the Works or any part thereof. No announcements may be released for publication in any form without the written approval of the Employer.
- 75.3.2 The Contractor or any of his Subcontractors shall not erect a placard or advertisement within or near the Site without written approval by the Employer.
- 75.3.3 The Contractor shall not use the Employer's name in connection with the Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without prior approval. This prohibition specifically includes, but is not limited to, any public release (either through print or broadcast news media), any articles prepared for internal or external publication, technical papers, and discussions with journalists.
- 75.3.4 All advertisements or placards within the Site shall be removed within thirty (30) days of the date of completion of the Works, unless otherwise agreed in writing by the Employer.
- 75.3.5 The Contractor shall not use Employer's name or Job Site's live shots (photos) catalogues, presentations, brochures and the like during the execution and/or after the completion without having Employer's explicit written approval, the Employer shall have the right to object on the entity this information will be disclosed to, as well as the quality of such photos, shots catalogues, presentations, brochures and the like. Should the Employer objects, the Contractor shall not proceed of doing so.

## 76. WAIVER

Contractor is obligated to adhere strictly with all conditions stipulated under this Contract, none of them shall be considered waived by the Employer unless such waiver is communicated by the Employer in writing.

Any failure and / or delay by the Employer in exercising rights, privilege and / or remedy provided under this Contract or by law, or to properly notify Contractor in the event of breach, shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

**77. COURT ORDER AND ARBITRAL DECISION WAIVER**

Notwithstanding anything to the contrary, the Contractor expressly waives any requirement on the Employer to obtain a prior court order or a prior arbitral decision in exercising any of his rights under the Contract.

**78. SEVERABILITY**

In the case of any court or jurisdiction held any provision of this Contract invalid or unenforceable, thus shall not affect the validity of any other provisions in this Contract, which shall remain in the full force and effect.

**79. SURVIVAL**

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the termination or expiration.

**80. PAYMENT TO LOWER-TIER**

Contractor agrees to furnish the Employer if requested to do so, with a periodic evidence of periodic and timely paying of its indebtedness, if Contractor fails to pay to its lower-tiers or others or fails to provide such evidence, the Employer after giving 15 days' notice may withhold any money due to Contractor until such indebtedness is paid.

**81. MILESTONES AND INTERMITTENT WORKING**

Due to the nature of work and due to the presence of other Contractors on-site, reasonable allowance is deemed to have been made by the Contractor for disruption with relevant interfaces with other contractors, and occasional intermittent working may be expected, and the Contractor waives any claim against the Employer in this respect. The Contractor is responsible to directly coordinate his Works with the works of other Contractors and shall promptly inform that Employer and the Engineer in case of any conflicts those may affect the progress of the Works.

The Employer will identify to the Contractor in due course and at a reasonable time during the Project duration any additional milestones that shall be incorporated in his time schedule.

**82. DUTY TO MITIGATE**

The Contractor shall exercise all reasonable efforts to limit and minimize damages he may incur as a result of the Employer's default or non-performance under the Contract. This shall be reflected in two aspects: first, the Contractor shall take all reasonable steps to minimize its loss; and secondly, the Contractor shall not take unreasonable actions or steps that may increase or add to damages, either time or cost, that he may incur as a result of such. Further, the Contractor shall, within 14 days from the Employer's request, submit evidence of all meaningful attempts taken by him to mitigate such damages.

**83. OTHER ADDITIONAL CLAUSES**

- All tools and equipment and machinery provided by the Contractor are considered a guarantor of all dues to the Employer and are mortgaged in favour of the Employer during the project duration. Contractor is not entitled to transfer or dispose of it only after the completion of the works and / or with the consent of the Employer.
- The Employer is not responsible for the provision of places for the accommodation / housing of workers, in case of availability of places.
- It is entirely forbidden to use the facilities under construction to house or accommodate any workers unless approved by the Employer in writing.
- The Contractor is obligated to be in fully coordination with the security, safety and administrative departments on Site before and during the course of execution and to fully comply with all instructions and procedures.
- The Contractor is obligated to carry all insurances for him and his workers and equipment, all in accordance with applicable and complementary laws, and any subsequent laws / regulations issued during the implementation, and refrain from running any worker who is not registered and does not carry insurance card, Contractor strictly must not employ any worker less than 19 years old.
- Contractor shall provide all necessary tools / equipment / PPE, to ensure the compliance with safety requirements.
- The Contractor shall remove any equipment or individual from the job Site immediately upon Employer's request or his representative or his authorized representative because of non-compliance with terms of the contract or breach of instructions and conditions. Any cost and/or delay(s) emerged from such removal should be carried solely by the Contractor.
- Contractor is committed to use suitable means of transport and to take all necessary measures to prevent damage to public roads and bridges, which used to and from the Site.

