



**CONSTRUCTION AND DELIVERY OF MAIN WORKS AT
EXIT 10 – AL HAMRA DEVELOPMENT**

KINGDOM OF SAUDI ARABIA

**SUB-CONTRACT AGREEMENT
BETWEEN**

**MUHSEN RAFA AL-SHAMRI EST FOR CONTRACTING
(CONTRACTOR)**

AND

**MADA AL MABANEI COMPANY
(SUB-CONTRACTOR)**

FOR

**MASONRY LABOUR WORKS AT EXIT 10 AL HAMRA
DEVELOPMENT**



An Agreement made the 21 Day of November 2023

BETWEEN

M/s. MUHSEN RAFA AL-SHAMRI EST FOR CONTRACTING

Of/whose registered office is at Ali Bin Al-Husain Street Naseem Dist., P.O. Box 320770, Riyadh 12626, KSA
Company Registration No. 1010213670 (Hereinafter called the 'Sub-Contractor') of the other part.
(Hereinafter called the 'Contractor' or "SPML" or "Main Contractor") of the one part and

M/s. MADA AL MABANEI COMPANY

Of/whose registered office is at PO box 23763, JEDDAH AL-SALHIYA, , KSA Company Registration No. 7002873847 (Hereinafter called the 'Sub-Contractor') of the other part.

Whereas the Contractor has entered into a Contract (hereinafter called "the Main Contract") particulars of which are set out in the First Schedule hereto.

And Whereas the Sub-Contractor having been afforded the opportunity to read and note the provisions of the Main Contract (other than details of the Contractor's prices thereunder), has agreed to execute upon the terms hereinafter appearing the works which are described in the documents specified in the Second Schedule hereto and which form part of the works to be executed by the Contractor under the Main Contract:

NOW IT IS HEREBY AGREED as follows:

- Definitions**
1. (1) In this Sub-Contract (as hereinafter defined) all words and expressions have the same meaning as in the Main Contract unless otherwise provided or where the context otherwise requires.
 - (a) "the Main Contract" means the contract, particulars of which are given in the First Schedule hereto.
 - (b) " Sub-Contract" means this Agreement together with such other documents as are specified in the Second Schedule hereto but excluding any standard printed conditions that may be included in such other documents unless specified in the said Schedule.
 - (c) "the Sub-Contract Works" means the works described in the documents specified under the Second Schedule hereto.
 - (d) "the Main Works" means the Works as defined by the Main Contract.
 - (e) "the Price" means the sum specified in the Third Schedule hereto as payable to the Sub-Contractor for the Sub-Contract Works or such other sum as may become payable under the Sub-Contract.
 - (f) "Sub-Contractor's Equipment" means all appliances or things of whatsoever nature required by the Sub-Contractor in the fulfilment of his obligations under the Sub-Contract but does not include materials or other things intended to form or forming part of the Sub-Contract Works.
 - (2) Words importing the singular also include the plural and vice-versa where the context requires.



(3) The headings and marginal notes shall not be deemed to be part thereof or taken into consideration in the interpretation or construction thereof or of the Sub-Contract.

(4) All the references herein to clauses are references to clauses numbered in this Agreement and not those in any other document forming part of the Sub-Contract unless otherwise stated.

General

2. (1) The Sub-Contractor shall design (to the extent provided for by the Sub-Contract) execute, complete and maintain the Sub-Contract Works in accordance with the Sub-Contract and to the complete satisfaction of the Contractor and of the Engineer.

(2) The Sub-Contractor shall provide all superintendence, material, Sub-Contractor's Equipment, Temporary Works and everything whether of a permanent or temporary nature required for the design, execution, completion and maintenance of the Sub-Contract Works, except as otherwise agreed in accordance with Clause 4 and set out in the Fourth Schedule hereto.

(3) The Sub-Contractor shall not assign the whole or any part of the benefit of this Sub-Contract nor shall he sub-let the whole or any part of the Sub-Contract Works without the prior written consent of the Contractor. Provided always that the Sub-Contractor may without such consent assign either by way of charge in favour of Sub-Contractor's bankers of any monies, which is or may become due to him under this Sub-Contract or assignment to the Sub-Contractor's insurers of the Sub-Contractor's right to obtain relief against any other party liable.

(4) Copyright of all Drawings, Specifications and the Bill of Quantities (except the pricing thereof) supplied by the Employer or the Engineer or the Contractor shall not pass to the Sub-Contractor but the Sub-Contractor may obtain or make at his own expense any further copies required by him for the purposes of the Sub-Contract. Similarly, copyright of all documents supplied by the Sub-Contractor under the Sub-Contract shall remain in the Sub-Contractor but the Employer and the Engineer and the Contractor shall have full power to reproduce and use the same for the purpose of completing, operating, maintaining and adjusting the Works.

(5) The Sub-Contractor shall not communicate directly with the Employer and the Engineer or their representatives on any matters relating to the Sub-Contract and the Main Contract works. All communications with the Employer and the Engineer must be directed through the Contractor. All correspondence related to the Project works must be addressed to the Contractor.

Main Contract

3. (1) The Sub-Contractor shall be deemed to have full knowledge of the provisions of the Main Contract (other than the details of the Contractor's prices there under as stated in the bills of quantities or schedules of rates and prices as the case may be), and the Contractor shall, if so requested by the Sub-Contractor, provide the Sub-Contractor with a true copy of the Main Contract (less such details), at the Sub-Contractor's expense.

(2) Save where the provisions of the Sub-Contract otherwise require, the Sub-Contractor shall so design (to the extent provided for by the Sub-Contract) execute, complete, remedy any defects therein and maintain the Sub-Contract Works such that no act or omission of his in relation thereto shall constitute, cause or contribute to any breach by the Contractor of any of his obligations under the Main Contract and the Sub-Contractor shall, save as aforesaid, assume and perform hereunder all the obligations and liabilities of the Contractor under the Main Contract in relation to the Sub-Contract Works.

Nothing herein shall be construed as creating any privity of contract between the Sub-Contractor and the Employer.

(3) The Sub-Contractor shall indemnify the Contractor against every liability which the Contractor may incur to any other person whosoever and against all claims, demands, proceedings, damages, costs and expenses made against or incurred by the Contractor by reason of any breach by the Sub-Contractor of the Sub-Contract.

Muhsen Rafa Al-Shamri

For Contracting Est.

C.R. 1010213670 - C.C. No. 161407

Riyadh

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(4) The Sub-Contractor hereby acknowledges that any breach of the Sub-Contract by him may result in the Contractor committing breaches of and becoming liable to damages under the Main Contract and other contracts made by him in connection with the Main Contract Works and may occasion further loss or expense to the Contractor in connection with the Main Contract Works and all such damages, losses and expenses are hereby agreed to be within the contemplation of the parties as being probable results of any such breach by the Sub-Contractor. In such event, the Contractor may, without prejudice to any other method of recovery, deduct such damages from monies otherwise becoming due to the Sub-Contractor.

(5) This Sub-Contract is back-to-back with the Main Contract with regard to terms and conditions and including all technical and administration obligations pertaining thereto, except the payment terms and conditions mentioned in this sub-contract.

Temporary Works, Contractors Equipment &/or Facilities

4. (1) Unless otherwise stated in the Conditions of Sub-Contract, the Contractor shall not be required to provide or retain any Temporary Works for the Sub-Contractor. However, the Contractor shall permit the Sub-Contractor, in common with the Contractor and/or such other sub-contractors as the Contractor may allow, for the purposes of executing and completing the Sub-Contract Works and remedying any defects therein, to use such Temporary Works as are from time to time provided by the Contractor in connection with the Main Works. No such permission shall impose any liability on the Contractor in respect of the use of such Temporary Works by the Sub-Contractor, his servants, agents, or workmen, nor relieve the Sub-Contractor of any statutory and or other obligation to test or inspect the Temporary Works to be used by his servants, agents or workmen or to provide suitable Temporary Works for their use.

(2) The Contractor shall provide at the Site the Contractor's Equipment and/or other facilities (if any) specified in Part 1 of the Fourth Schedule hereto and shall permit the Sub-Contractor, in common with the Contractor and/or such other sub-contractors as the Contractor may allow, to have the use thereof for the purposes of executing and completing, but not of maintaining the Sub-Contract Works, upon such terms and conditions (if any) as are specified in the said Schedule, but the Contractor shall have no liability to the Sub-contractor in respect of any failure to provide such Contractor's Equipment or facilities, if such failure is due to the circumstances outside the Contractor's control, nor in respect of any inadequacy or unfitness for the Sub-Contractor's purposes of any Contractor's Equipment or facilities so provided.

(3) The Contractor shall also provide for the exclusive use of the Sub-Contractor the Contractor's Equipment and/or other facilities (if any) specified in Part II of the Fourth Schedule upon such terms and conditions (if any) as are specified in the said Schedule, but the Contractor shall have no liability to the Sub-Contractor in respect of any failure to provide such Contractor's Equipment and facilities, if such failure is due to circumstances outside the Contractor's control, nor in respect of any inadequacy or unfitness for the Sub-Contractor's purpose of any such Contractor's Equipment or facilities so provided.

(4) The Sub-Contractor shall indemnify the Contractor against any damage or loss whatsoever arising from the misuse by the Sub-Contractor, his servants, agents or workmen of the Contractor's Equipment and/or other facilities provided for his use by the Contractor.

Site Working & Access

5. (1) The Sub-Contractor shall in the execution of the Sub-Contract Works on the Site observe the same hours of working as the Contractor, unless otherwise agreed, and shall comply with all applicable rules and regulations governing the execution of the work, the arrival at and the departure from the Site of materials and Sub-Contractor's Equipment and the storage of materials and Sub-Contractor's Equipment on the Site.

(2) The Contractor shall from time to time make available to the Sub-Contractor such part or parts of the Site and such means of access thereto within the Site as shall be necessary to enable the Sub-Contractor to execute the Sub-Contract Works in accordance with the Sub-Contract, but the Contractor shall not be bound to give the Sub-Contractor possession or exclusive control of any part of the Site.

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(3) The Sub-Contractor shall permit the Contractor, the Engineer and any person authorized by either of them, other Contractors employed by the Contractor or the Employer during working hours to have reasonable access to the Sub-Contract Works and to the places on the Site where any work or materials therefor are being executed, prepared or stored and the Sub-Contractor shall also permit or procure reasonable access for the Engineer, the Contractor and any person authorized by either of them to such places off the Site where work is being executed or prepared by or on behalf of the Sub-Contractor in connection with the Sub-Contract Works.

(4) The Sub-Contractor shall co-ordinate the Sub-Contract Works with the works and activities of the Contractor, other sub-contractors and/or workers engaged on the Site. The Sub-Contractor shall not communicate with the Employer or the Engineer or any consultants, contractors, employers or agents employed by the Employer in respect of the Sub-Contract Works without the prior written approval of the Contractor.

Commencement & Completion

6. (1) Within 7 days, or such other period as may be agreed in writing, of receipt of the Contractor's written instruction so to do, the Sub-Contractor shall commence the execution of the Sub-Contract Works and shall thereafter proceed with the same with due diligence and without any delay, except such as may be expressly sanctioned or ordered by the Contractor. Subject to the provisions of this clause, the Sub-Contractor shall complete the Sub-Contract Works in accordance with the Contractor's programming requirements all the time in order to ensure completion of the Sub-Contract Works and the Main Works within the Contract time period. The Sub-Contractor shall ensure that the progress of the Sub-Contract Works comply in all respects with the requirements of the Contractor's Programme.

(2) The Sub-Contractor shall submit within 7 days of commencing work in accordance 6 (1) a detailed programme of the Sub-Contract Works showing completion of the Sub-Contract Works in accordance with clause (1) above. The Sub-Contractor's programme shall be updated and modified as reasonably required by the Contractor to suit the Contractors programming requirements.

(3) If the Sub-Contractor shall be delayed in the execution of the Sub-Contract Works by any circumstance or occurrence pertaining to the Sub-Contractors scope of works (other than a breach of this Sub-Contract by the Sub-Contractor) entitling the Contractor to an extension of his time for completion of the Works under the Main Contract then the Sub-Contractor shall be entitled to such extension of the Period for Completion as may in all the circumstances be fair and reasonable.

Provided always that in any case it shall be a condition precedent to the Sub-Contractor's right to an extension of the Period for Completion that he shall have given written notice to the Contractor of the circumstances or occurrence which is delaying him within 7 days of such delay first occurring together with full and detailed particulars in justification of the period of extension claimed in order that the claim may be investigated at the time and enable the Contractor to meet his obligations under the Main Contract. In any such case the extension shall not exceed the extension of time awarded under the Main Contract.

(4) Where differing Periods of Completion are specified for different parts of the Sub-Contract Works, then for the purposes of the preceding provisions of this Clause each such part shall be treated separately in accordance with sub-clause (3) above.

(5) Nothing in this Clause shall be construed as preventing the Sub-Contractor from commencing off the Site any work necessary for the execution of the Sub-Contract Works at any time before receipt of the Contractor's written instructions under sub-clause (1) of this Clause.

(6) The Contractor shall notify the Sub-Contractor in writing of all extensions of time obtained under the provisions of the Main Contract which affect the Sub-Contract.



Rate of Progress

7. (1) If, at any time;
(a) the Sub-Contractor is in breach of Clause 6(1) or
(b) the rate of progress of the Sub-Contract Works, in the opinion of the Contractor, is too slow to ensure completion of the Sub-Contract Works or any section within the Sub-Contractor's Time for completion, then, the Contractor may notify the Sub-Contractor in writing and the Sub-Contractor shall thereupon take such measures as are necessary, approved by the Contractor or as instructed by the Contractor, to expedite the progress so as to complete the Sub-Contract Works or any section within the Sub-Contractor's Time for completion. Such approval of measures or instructions by the Contractor to accelerate the progress of Sub-Contract Works will not entitle the Sub-Contractor for any adjustment in the Time for completion and/or the Sub-Contract price for taking such measures.

(2) The Sub-Contractor specifically acknowledges the Contractor's right to instruct the Sub-Contractor to arrange or to otherwise arrange on behalf of the Subcontractor, at Sub-Contractor's expense, for shipment by air (or whatever means) of any of the Sub-Contractor's Plant or materials where late delivery of such products would, in the opinion of the Contractor, result in delays to the Sub-Contractor's works within the Time for completion.

(3) Pursuant to sub-clause 7(1) & 7(2) the Sub-Contractor shall adopt adequate measures to expedite the progress of works to recover delays, which may require the Sub-Contractor, subject to Engineer's approval, to implement new methods of working, increase in working hours and mobilizing additional resources. If these measures adopted by the Sub-Contractor result in additional costs to the Contractor, the Engineer or the Employer, due to additional supervision, etc., such costs shall be recoverable from the Sub-Contractor's account and shall be deducted from any monies due or to become due to the Sub-Contractor.

(4) If the Sub-Contractor fails to take adequate measures to expedite the Progress and to recover delay as instructed, pursuant to sub-clause 7(1) & 7(2) the Contractor may give 7 days written notice of its intention to carry out the works by his own workforce or by an alternate Sub-Contractor and all direct and indirect costs incurred by the Contractor due to this shall be recoverable from the Sub-Contractor and can be deducted from the monies due or to become due to the Sub-Contractor. These costs shall be in addition to any liquidated damages for the delays pursuant to the main Contract.

(5) Also, the Contractor, upon issue of a notice to the Sub-Contractor as in sub-clause 7 (4), reserves the right to delete certain portions from the Sub-Contract scope of works as deemed necessary as a consequence of the Sub-Contractor's non-performance or delay, and appoint an alternate Sub-Contractor to carry out these works, and the amount so spent shall be charged back to the existing Sub-Contractor at the rates and prices agreed with the alternate Sub-Contractor.

(6) In the event of the Sub-Contractor's delayed or slow performance, the Contractor reserves the right to accelerate the Sub-Contract scope of works on behalf of the Sub-Contractor through deployment of additional material, manpower and machinery as required and recover all associated costs from the Sub-Contractor.

Instructions & Decisions

8. (1) The Sub-Contractor shall comply with all instructions given by the Contractor in respect of the Sub-Contract Works.



(2) Subject to Clause 9 (Variations), the Sub-Contractor shall in relation to the Sub-Contract Works comply with all instructions and decisions of the Engineer and of the Engineer's Representative which are notified and confirmed in writing to him by the Contractor, irrespective of whether such instructions and decisions were validly given under the Main Contract. The Sub-Contractor shall have the like rights (if any), to payment against the Contractor in respect of such compliance as the Contractor has against the Employer under the Main Contract.

(3) The Contractor shall have the like powers in relation to the Sub-Contract Works to give instructions and decisions as the Engineer has in relation to the Main Works under the Main Contract and the Sub-Contractor shall have the like obligations to abide by and comply therewith and the like rights in relation thereto as the Contractor has under the Main Contract. The said powers of the Contractor shall be exercisable in any case irrespective of whether the Engineer has exercised like powers in relation thereto under the Main Contract.

Variations

9. (1) The Sub-Contractor shall make such variations of the Sub-Contract Works, whether by way of addition, modification or omission, as may be:

(a) ordered by the Engineer under the Main Contract and confirmed in writing to the Sub-Contractor by the Contractor; or

(b) agreed to be made by the Employer and the Contractor and confirmed in writing to the Sub-Contractor by the Contractor; or

(c) ordered in writing by the Contractor.

Any order relating to the Sub-Contract Works, which is validly given by the Engineer under the Main Contract and constitutes a variation thereunder shall for the purposes of this Clause be deemed to constitute a variation of the Sub-Contract Works, if confirmed by the Contractor in accordance with paragraph (a) hereof.

(2) The Sub-Contractor shall not act upon an unconfirmed order for the variation of the Sub-Contract Works, which is directly received by him from the Employer or the Engineer. If the Sub-Contractor shall receive any such direct order, he shall forthwith inform the Contractor's representative in charge of the Main Works thereof and shall supply him with a copy of such direct order, if given in writing. The Sub-Contractor shall only act upon such order as directed in writing by the Contractor, but the Contractor shall give his directions thereon with all reasonable speed.

(3) The Sub-Contractor shall not refuse to carry out or delay the commencement of any variation work pending an agreement as the relevant adjustment (if any) to the Sub-Contract price.

(4) Save as aforesaid the Sub-Contractor shall not make any alteration or modification of the Sub-Contract Works.

(5) Variations carried out in accordance with this Clause shall be valued as provided in Clause 10 and payment made in accordance with Clause 16.

Valuation of Variations

10. (1) All authorized variations of the Sub-Contract Works shall be valued in the manner provided by this clause and the value thereof shall be added to or deducted from the Sub-Contract price as appropriate

(2) The value of all authorized variations shall be ascertained by reference to the rates and prices, if any, specified in this Sub-Contract for the like or analogous work, but if there are no such rates and prices, or if they are not applicable, then such value shall be such as is fair and reasonable in all the circumstances. In determining what is a fair and reasonable valuation regard shall be had to any valuation made under the Main Contract in respect of the same variation. In any case such value will be limited by the amount determined by the Engineer and paid to the Contractor under the Main Contract for the Variation Order with respect to the Sub-Contract Works.

(3) Where an authorized variation of the Sub-Contract Works, which also constitutes an authorized variation under the Main Contract is measured by the Engineer thereunder, then provided that the rates and prices in this Sub-Contract permit such variation to be valued by reference to that measurement, the Contractor shall permit the Sub-Contractor to attend any measurement made on behalf of the Engineer and such measurement made under

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the Main Contract shall also constitute the measurement of the variation for the purposes of this Sub-Contract and it shall be valued accordingly.

(4) Where a variation requires for any new rate which has no reference in the contract the Subcontractor shall provide a minimum of 3 (three) quotes / invoices for major materials. Where the price or rate is required for the Contractor to provide to the Employer under the Main Contract, the Sub-Contractors price and supporting documents shall be provided within 3 Weeks or any other time that the Contractor instructs.

Notices & Claims

11. (1) Without prejudice to the generality of clause 3 and unless otherwise stated in the conditions of Sub-Contract, whenever the Contractor is required by the terms of the Main Contract to give any return, account or notice to the Engineer or to the Employer, the Sub-Contractor shall in relation to the Sub-Contract Works give a similar return, account or notice or such other information in writing to the Contractor as will enable the Contractor to comply with such terms of the Main Contract and shall do so in sufficient time to enable the Contractor to comply with such terms punctually.

(2) Subject to the Sub-Contractor's compliance with this sub-clause, the Contractor shall take all reasonable steps to secure from the Employer such contractual benefits, if any, as may be claimable in accordance with the Main Contract and the Sub-contractor shall in sufficient time afford the Contractor all information and assistance that may be requisite to enable the Contractor to claim such benefits. On receiving any such contractual benefits from the Employer, the Contractor shall in turn pass onto the Sub-Contractor such proportion thereof as may in all the circumstances be fair and reasonable, it being understood that, in the case of any claim of the Contractor for an additional payment, the Contractors receipt of payment therefor from the Employer shall be a condition precedent to the Contractors liability to the Sub-Contractor in respect of such claim.

(3) If by reason of any breach by the Sub-Contractor of the provisions of sub-clause (1) of this clause the Contractor is prevented from recovering any sum from the Employer under the Main Contract in respect of the Main Works, then without prejudice to any other remedy available to the Contractor for such breach, the Contractor may deduct such sum from the moneys otherwise due to the Sub-Contractor under this Sub-Contract.

(4) "any notices, correspondence or submissions or any other documentation relating to variations, claims and all contract related issues are to be addressed to the Contractors Project Director on site and shall be copied to; -

Jubersalman143@gmail.com

Any such correspondence including variations, claims or other contractual documentation issued by the Subcontractor that does not comply with this clause will be deemed to be invalid.

12. Without prejudice to the generality of the related Clause under the Main Contract, the Sub-Contractor shall comply with the requirements of the Main Contract as to the bringing on to and removal from the Site of Constructional Plant, Temporary Works, materials and other things and in so far as any items thereof are hired by the Sub-Contractor, he shall comply with all the requirements of the Main Contract as to the terms of such hiring and as to the furnishing of information and certificates in relation thereto.

13. (1) The Sub-Contractor shall at all times indemnify the Contractor against all liabilities to other persons (including the servants and agents of the Contractor or Sub-Contractor) for bodily injury, damage to property or other loss which may arise out of or in consequence of the execution, completion and maintenance of the Sub-Contract Works and against all costs, charges and expenses that may be occasioned to the Contractor by the claims of such persons.

(2) The Sub-Contractor shall also at all times indemnify the Contractor against and from any claim alleging an infringement of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Sub-Contract Works.



Maintenance & Defects

14. (1) If the Sub-Contractor shall complete the Sub-Contract Works before the completion of the Main Works, or where under the Main Contract the Main Works are to be completed by sections, before the completion of the section or sections in which the Sub-Contract Works are comprised, the Sub-Contractor shall maintain the Sub-Contract Works in the condition required by the Main Contract to the satisfaction of the Engineer and Contractor and shall make good every defect and imperfection therein, from whatever cause arising, until such completion of the Main Works or section thereof is achieved and subject to Clause 15 (Insurance), shall not be entitled to any additional payment for so doing unless such defect or imperfection is caused by the act, neglect or default of the Employer, his servants or agents under the Main Contract or of the Contractor, his servants or agents under the Sub-Contract.

(2) After the completion of the Main Works or of the last of the sections thereof in which the Sub-Contract Works are comprised, as the case may be, the Sub-Contractor shall maintain the Sub-Contract Works and shall make good such defects and imperfections therein as the Contractor is liable to make good under the Main Contract for the like period and otherwise upon the like terms as the Contractor is liable to do under the Main Contract.

(3) Twelve (12) Months after completion of the Works or Section, as applicable (and, for Works that are subject to the Law of the country on decennial liability, without prejudice to the Contractor's decennial liability during the decennial liability period prevailing under the Law of the Country.

Insurances

15. (1) The Sub-Contractor shall effect insurances against such risks as are specified in Part I of the Fifth Schedule hereto and in such sums and for the benefit of such persons as are specified therein as well as under the Main Contract, and unless the said Fifth Schedule otherwise provides, shall maintain such insurances from the time that the Sub-Contractor first commences the execution of the Sub-Contract Works until he has finally performed his obligations under Clause 14 (Maintenance and Defects). Provided that the Sub-Contractor shall insure against a liability in respect of any person employed by him on the Sub-Contract Works in such manner that the Employer and/or the Contractor is indemnified under the policy.

(2) The Contractor shall maintain in force until such time as the Main Works have been completed or ceased to be at his risk under the Main Contract, the policy of insurance specified in Part II of the Fifth Schedule hereto. In the event of the Sub-Contract Works, or any Constructional Plant, Temporary Works, materials or other things belonging to the Sub-Contractor being destroyed or damaged during such period in such circumstances that a claim is established in respect thereof under the said policy, then the Sub-Contractor shall be paid the amount of such claim, or the amount of his loss, whichever is the less, and shall apply such sum in replacing or repairing that which was destroyed or damaged. Save as aforesaid the Sub-Contract Works shall be at the risk of the Sub-Contractor until the Main Works have been completed under the Main Contract, or if the Main Works are to be completed in sections, until the last of the sections in which the Sub-Contract Works are comprised has been completed, and the Sub-Contractor shall, make good all loss or damage occurring to the Sub-Contract Works prior thereto, at its own expense.

(3) Should the Sub-Contractor fail to produce Insurer's Certificates of Insurance and copies of relevant policies when required, then until proof of compliance with the above insurance obligations is provided by the Sub-Contractor, the Main Contractor may take out the relevant insurances at the Sub-Contractor's expense.

Payments

16. (1) Unless otherwise stated in the Third Schedule the Sub-Contractor shall submit to the Contractor, 7 days before the date specified in the First Schedule (the "Specified Date") or otherwise as agreed, during the execution of the Sub-Contract Works, a written statement of the value of all works properly done under the Sub-Contract and of all materials delivered to Site for incorporation in the Sub-Contract Works. Such written statement shall be in such form and contain such details as the Contractor may reasonably require and the value of work done shall be calculated in accordance with the rates and prices, if any, specified in the Sub-Contract, or if there are no such rates or prices, then by reference to the Price. Also, such statements shall be accompanied by supporting documents, as required under the Main Contract.

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(2) The Contractor shall make application for payment in accordance with the Main Contract and subject to the Sub-Contractor having complied with sub-clause 16(1) the Contractor shall include in such application the Sub-Contractor's statement for value of work done and, if allowable under the Main Contract, for materials delivered to the Site by the Sub-Contractor and the Contractor shall use his best endeavours to obtain payment of all sums due to him in respect of the Sub-Contract Works under the Main Contract.

(3) Within 14 days of his receiving, from the Employer on account of the Main Works, any payment which includes a sum in respect of the Sub-Contract Works, the Contractor shall pay to the Sub-Contractor in respect of the work done or materials provided by the Sub-Contractor and allowed for in such Payment Certificate issued by the Engineer under the Main Contract, a sum calculated in accordance with the rates and prices specified in this Sub-Contract, or by reference to the Price, as the case may require, but subject to a deduction of retention monies at the rate specified in the Third Schedule hereto until such time as the limit of retention, (if any), therein specified has been reached and any other deductions as applicable.

(4) The Contractor shall be entitled to withhold or defer payment of all or part of any sums otherwise due pursuant to the provisions hereof where:

(a) the amounts included in any Statement together with any other sums which are the subject of an application by the Contractor under the Main Contract in accordance with Sub-clause 16(2), but after all retentions and deductions, are insufficient in the aggregate to justify the issue of an Interim Payment Certificate by the Engineer under the Main Contract,

(b) The amounts included in any Statement are not certified in full by the Engineer,

(c) A dispute arises or has arisen between the Sub-Contractor and the Contractor and/or the Contractor and the Employer involving any question of measurement or Quantities or any other matter included in any such Statement.

(d) a dispute arises or has arisen between the Sub-Contractor and the Contractor and/or the Contractor and the Employer involving any question of measurement or Quantities or any other matter included in any such Statement.

(5) Also, notwithstanding any other provision of the Sub-Contract, the Contractor may withhold or deduct from any payment due to the Sub-Contractor, the amounts which the Contractor deems necessary or appropriate to protect him from any liability or loss because of any one or more of the following reasons:

- Defects and deficiencies in Sub-Contract Works, whether or not payment has been made;
- Any material supplied, or work done by the Sub-Contractor is not in accordance with this Sub-Contract and the Main Contract. In such case, the cost of rectification or replacement may be withheld until rectification or replacement has been completed by the Sub-Contractor to the satisfaction of the Engineer and the Contractor;
- Failure by the Subcontractor to execute the Sub-Contract Works in accordance with the Programme;
- Failure by the Sub-Contractor to comply with Local Government and Service authorities' rules and regulations governing the Contract, whether such rules and regulations were introduced before or after the date of this Sub-Contract.
- Failure by the Sub-Contractor to provide the Payment Verification Notices to confirm that he has received his payments and made all such payments to his suppliers/Subcontractors.
- Failure by the Sub-Contractor to provide any Warranty, Guarantee or the like as called for by the Main Contract

(6) In the event of the Contractor withholding or deferring any payment he shall notify the Sub-Contractor of his reasons therefor as soon as reasonably practicable.

(7) Any payments made by the Contractor shall be treated as payments on account only until the Final payment is made. Any interim payment made by the Contractor shall not be deemed to indicate the Contractor's acceptance, approval, consent or satisfaction of works executed or the Percentage or Quantities of works executed as applicable.



(8) No amounts are payable to the Sub-Contractor by the Contractor pursuant to Sub-clause 16(3) until the following have been provided by the Sub-Contractor and approved by the Contractor:

(a) The Sub-Contract Agreement, duly executed by the Sub-Contractor and delivered to the Contractor in duplicate;

(b) The Performance Security in accordance with the Sub-Contract.

(c) The evidence of Insurance Policies in accordance with the Clause 15;

(d) Complete breakdown of all fixed prices in the Sub-Contractor's Bill of Quantities, subject to approval of the Contractor.

(e) The licences required;

(f) The Collateral Warranty (where required) in the required format has been signed off and stamped by the Subcontractor and an original has been received by the Contractor; and

(f) Any other documents required in accordance with the Sub-Contract or specified in the Schedules hereto.

(9) Within 28 days of the Contractor's receipt of Retention monies under the Main Contract in which the Sub-Contract Works are comprised, which is by way of release either of the first or second half of the retention monies for the Main Works, the Contractor shall pay to be Sub-Contractor the first or second half as appropriate of the retention monies held under this Sub-Contract, subject to any adjustment, including any deduction to which the Contractor is entitled pursuant to this Sub-Contract, subject to the Sub-Contractor's compliance with the following documentations as required by the Main Contract:

(a) As-built drawings, Undertakings, Warranties, Guarantees or Certificates;

(b) the Sub-Contractor has fully complied with the Sub-Contract and signed and returned to the Contractor the Deed of release; and

(c) any other documents required by the Employer or the Engineer in accordance with the Main Contract.

Determination of the Main Contract

17. (1) If the Contractor's employment under the Main Contract is terminated, or if the Main Contract is otherwise terminated, for any reason whatsoever before the Sub-Contractor has fully performed his obligations under this Sub-Contract, then the Contractor may at any time thereafter by written notice to the Sub-Contractor forthwith terminate the Sub-Contractor's employment under the Sub-Contract and thereupon the Sub-Contractor shall, subject to Clause 12, with due expedition remove his staff and workmen and Sub-Contractor's Equipment from the site.

(2) If the Sub-Contractor's employment is terminated as aforesaid, and subject to Sub-clause 17(3), the Sub-Contractor shall be paid for the following, insofar as such amounts or items have not already been covered by payments on account made to Sub-Contractor;

(a) For all Sub-Contract Works properly executed on the site prior to the date of termination at the rates and prices provided in the Sub-Contract;

(b) For all approved materials and Plant properly brought and left on the site by the Sub-Contractor prior to the date of termination for subsequent incorporation in the Sub-Contract Works;

(c) for any products properly prepared or fabricated off-site, complying with Sub-Contract and/or Main Contract specifications, prior to the date of termination for subsequent incorporation in the Sub-Contract Works, provided the Sub-Contractor delivers such products to the site or to such other place as reasonably directed by the Contractor;

Provided always that:

(i) The products shall be priced at net invoice value;

(ii) the Sub-Contractor shall not be entitled to any further payment as a result of termination of his employment under this Clause 17, including but not limited to, loss of anticipated overheads and profit and opportunity or any other indirect or consequential damages; and

(iii) The Sub-Contractor's entitlement for payment on termination shall be capped and limited to that payment received by the Contractor from the Employer under the Main Contract with respect to the Sub-Contract Works.

Provided always that nothing herein shall affect the rights of either party in respect of any breach of this Sub-contract committed by the other prior to such termination.

(3) If the Contractor's employment under the Main Contract is terminated, or if the Main Contract is otherwise terminated, by the Employer in consequence of any breach of this Sub-Contract by the Sub-Contractor, then the provisions of the preceding Sub-clause as to payment shall not apply, but the rights of the Contractor and the Sub-

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Contractor hereunder shall be the same as if the Sub-Contractor had by such breach repudiated this Sub-Contract and the Contractor had by his notice of termination under Clause 18 elected to accept such repudiation

**Sub-Contractors
Default**

18 (1) If:

- (a) The Sub-Contractor has repudiated the Sub-Contract;
- (b) The Sub-Contractor has failed to commence or proceed with the Sub-Contract Works with due diligence after being required in writing so to do by the Contractor;
- (c) The Sub-Contractor has failed to execute the Sub-Contract Works or perform his other obligations in accordance with the Sub-Contract after being required in writing so to do by the Contractor;
- (d) The Sub-Contractor refuses or neglects to remove defective materials or remedy defective work after being instructed in writing so to do by the Contractor;
- (e) The Sub-Contractor is deemed by Law unable to pay his debts as they fall due or enters into voluntary or involuntary bankruptcy or enters into a deed of arrangement with his creditors or, being a company goes into liquidation, (other than a voluntary liquidation for the purposes of reconstruction),
- (f) The Contractor is required by the Engineer to remove the Sub-Contractor from the Main Works after due notice in writing from the Engineer to the Contractor in accordance with the Main Contract;

then, in any such event and without prejudice to any other rights or remedies, the Contractor may, by written notice to the Sub-Contractor, forthwith terminate the Sub-Contractor's employment under this Sub-Contract and thereupon Sub-clause 18(2) shall apply.

(2) If the Sub-Contractor's employment is terminated pursuant to Sub-clause 18(1), the Contractor shall be entitled to:

- (a) take possession of all materials, Plant, Equipment and other things whatsoever brought on to the Site by the Sub-Contractor and may, by himself or by any other Sub-Contractor appointed newly by the Contractor, use them for the purpose of executing, completing and maintaining the Sub-Contract Works and may, if he thinks fit, sell all or any of them and apply the proceeds in or towards the recovery of monies otherwise due to him from the Sub-Contractor;
- (b) Withhold further payment to the Sub-Contractor;
- (c) Recover all costs to be spent by the Contractor in rectification of the defective Sub-Contract Works and the additional costs incurred by the Contractor to complete all outstanding Sub-Contract Works;
- (d) Recover from the Sub-Contractor all costs, expenses, losses and damages incurred by the Contractor in connection with or arising out of the termination of this Sub-Contract;
- (e) Without prejudice to any other right or remedy, retain the Performance Guarantee (if any) provided by the Subcontractor under this Sub-Contract and demand payment therefrom pending settlement of the Contractor's claims; and
- (f) Utilize all means available to the Contractor to recover monies due from the Sub-Contractor under this Clause 18.

(3) Upon such a termination, the rights and liabilities of the Contractor and the Sub-Contractor shall, subject to the preceding sub-clause, be the same as if the Sub-Contractor had repudiated the Sub-Contract and the Contractor had by his notice of termination under this Clause elected to accept such repudiation.

(4) The Contractor may, in lieu of giving a notice of termination under this Clause, take part only of the Sub-Contract Works out of the hands of the Sub-Contractor and may by himself or any other contractor execute and complete such part of the Sub-Contract Works and remedy any defects therein and in such event the Contractor may recover his costs of so doing from the Sub-Contractor, or deduct such costs from monies otherwise becoming due to the Sub-Contractor.

(5) Upon termination of the Sub-Contract pursuant to Clause 18, the Subcontractor shall promptly;

- (a) provide to the Contractor a complete report and inventory of the status of the Sub-Contract Works including stored and manufactured components, and all required documentation needed to take over the Sub-Contract Works;

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- (b) assign to the Contractor all the Sub-Contractor's subcontracts, supply contracts and construction equipment rental agreements for continuation of the Sub-Contract Works;
- (c) settle any and all outstanding debts due to Sub-Contractor's Sub-Contractors or suppliers;

(d) remove products, Sub-Contractor's Equipment, waste and other facilities as instructed by the Contractor. The Sub-Contractor shall not remove any products, Sub-Contractor's Equipment, waste and other facilities from the site without the express written permission of the Contractor; and

(e) deliver to the Contractor all information, engineering, design and documentation required for the completion of the Sub-Contract Works including its maintenance and operation.

Termination for Convenience

19 (1) This Subcontract may be terminated by written notice from the Contractor, upon the occurrence of any of the following:

- a. In the event that any failure by the Subcontractor to execute the Subcontract Works or to perform its material obligations or to proceed with the Subcontract Works with due diligence in accordance with this Subcontract is not remedied within thirty (30) days of written notice thereof by the Contractor; or
- b. In the event of the cancellation or termination of the Main Contract for any reason whatsoever; or
- c. If the Subcontractor has delayed the completion of the Subcontract Works by the number of days for which the maximum amount of Liquidated Damages can be paid in accordance with this Subcontract; or
- d. In the event that the Subcontractor becomes insolvent, commits any act of bankruptcy, enters into bankruptcy or debt settlement proceedings, or enters into any similar situation pursuant to the laws of its country; or the Subcontractor;

e. fails to comply with Parent Company Guarantee or Performance Security obligations; abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Subcontract;

g. gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission, or other thing of value, as an inducement or reward:

(i) for doing or forbearing to do any action in relation to the Sub-contract; or

(ii) for showing or forbearing to show favour or disfavour to any person in relation to the Sub-contract; or

(iii). if any of the Subcontractor's Personnel, agents or subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward or, lawful inducements.

Then in such event and without prejudice to any other rights or remedies the Contractor may have under this Subcontract Agreement or at law, the Contractor may by written notice to the Subcontractor forthwith terminate this Subcontract.

Termination of this Agreement howsoever caused shall not prejudice the rights or obligations of either of the Parties that have accrued prior to termination.

In the event of termination of the Agreement, as a result of the termination of the Main Contract for reasons attributable to the Contractor only, the Contractor shall reimburse the Subcontractor all direct costs incurred by the latter as a result of such termination, with the exception of any claims for loss of profits, loss of orders or loss of production by the Subcontractor.

Disputes

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20 (1) If a dispute of any kind whatsoever arises between the Contractor and the Sub-Contractor in connection with, or arising out of, the Sub-Contract or the execution of the Sub-Contract Works, whether during the execution of the works or after their completion and whether before or after repudiation or other termination of the Sub-Contract, then the Contractor or the Sub-Contractor may give a notice of such dispute to the other party, in which case the parties shall attempt for the next 56 (fifty-six) days to settle such dispute amicably before the commencement of Arbitration.

(2) Any dispute which has not been amicably settled within 56 (fifty-six) days after the day on which notice of dispute is given pursuant to Sub-clause 20(1), shall be finally settled under the Rules of Commercial Conciliation and Arbitration of the Riyadh Chamber of Commerce and Industry, or such other arbitral institution that may be substituted for the Riyadh Chamber as referred to in the Third Schedule hereto, by an Arbitral Tribunal consisting of three members, one member from each party being appointed within 28 (twenty-eight) days of one party receiving a written notice from the other party to commence Arbitration proceedings. The third member shall be mutually chosen by the first two members and shall chair the Tribunal and issue its decision which shall be by a majority vote and shall be binding on both parties. If either party fails to appoint an Arbitrator within the appointed time, or if a decision as to the appointment of a third member cannot be reached within 28 days of the last appointment of the member by the parties, the matter of appointment of such member(s) shall be referred by either party to the Riyadh Chamber of Commerce and Industry.

(3) The decision of the Arbitral Tribunal shall be final and binding on both parties. The Arbitral Tribunal shall have the power to open up, review and revise or accept any decision, opinion, instruction, determination, Certificate or Valuation of the Contractor related to the dispute.

(4) The language of Arbitration shall be English and the place of Arbitration shall be Riyadh. The Law governing the procedure and administration of the Arbitration shall be the Law of the Kingdom of Saudi Arabia.

(5) All costs of the Arbitration shall initially be shared equally between the parties. The Arbitral Tribunal shall have the right when making its award to allocate such costs between the parties as it shall reasonably think fit and justified.

(6) In the event of any dispute arises between the Contractor and the Sub-Contractor, unless the Sub-Contract has already been repudiated or terminated, the Sub-Contractor shall continue to proceed with the Sub-Contract Works with all due diligence complying with the Sub-Contract conditions.

(7) If a dispute of any kind whatsoever arises between the Employer and the Contractor in connection with, or arising out of, the Main Contract or the execution of the Main Works, whether during the execution of the Main Works or after their completion and whether before or after repudiation or other termination of the main Contract, including any dispute as to any opinion, instruction, determination, Certificate or Valuation of the Engineer, and the Contractor is of the opinion that such dispute touches or concerns the Sub-Contract Works, then the Sub-Contractor shall not proceed according to Sub-clause 20(1) & 20(2) to refer such dispute for settlement thereunder and shall instead participate with the Contractor in the Main Contract dispute resolution procedure. In such event the Sub-Contractor shall give the Contractor all possible assistance and participate in the Arbitration proceedings with the Employer so far as the Sub-Contract Works are concerned. The Contractor shall give the Sub-Contractor reasonable opportunity to present his arguments through the Contractor.

Law of the Contract

21. The Law of the Country applying to the Main Contract shall apply to this Sub-Contract. The Law of the Kingdom of Saudi Arabia.

Bonds & Securities

22. The Sub-Contractor shall obtain (at his cost) the Bonds, Security Performances and the like (if any) as set out in the Fifth Schedule hereto in the sums and currencies stated and for the benefit of such persons as are specified therein and shall maintain such Bonds and Securities from the time that the Sub-Contractor first commences the execution of the Sub-Contract Works until he has finally performed his obligations under Clause 14 (Maintenance & Defects) unless specified otherwise in the Fifth Schedule. The Bonds and Securities shall be issued to the

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Contractor within 14 days of the Notice of Award, it is a condition precedent that no payments will be made, including the Advance Payment until the Performance Guarantee, if required, is received by the Contractor.

Confidentiality

23. Each Party undertakes that it shall not during the term of this Agreement or at any time thereafter use, divulge or communicate to any person, except its professional representatives or advisors or as may be required in order to perform its obligations hereunder or otherwise as may be required by law or any legal or regulatory authority, any information relating to the business, technical 'know-how', customers, financial or other affairs of the other party which is not in the public domain (Confidential Information) which may have or may in future come to its knowledge and each of the Parties shall use its reasonable endeavours to prevent publication or disclosure of any Confidential Information.

Corrupt Practices

24. Each Party warrants and undertakes that it or their servants, has not paid or received, and has not undertaken to pay or receive, any bribe, pay-off, kick-back or commission and it has not in any other way or manner paid or received any other sums, in whatever currency and whether in Saudi Arabia or any other country or state, or in any manner given or offered to give or receive any unlawful gifts and presents to any person or organizations to procure the execution of this Agreement or any such transactions envisaged by this Agreement.

Special Conditions

25. The following shall, where necessary, take precedence over the foregoing clauses and sub-clauses and the further conditions in Appendix A; -

- (a) Should it be requested by the Employer the Subcontractor will enter into a Novation Agreement with the Employer whereas the Subcontractor becomes directly employed by the Employer or its nominee;
- (b) If, for any reason, the Main Contract with the Contractor is Terminated by the Employer, the Subcontractor shall, on notice by the Employer to do so, promptly execute a deed of novation substantially in the form set out in Appendix J (*Form of Novation Agreement*);
- (c) where the Subcontractor is performing any design works, the Subcontractor shall take-out and maintain professional indemnity insurance on the same terms as are required of the Contractor under the main Contract;
- (d) In addition to the requirements of Clauses 18 and 19, the Contractor (at the Employers/Engineer's instruction) can terminate the subcontract at will at any time on the basis that the Subcontractor shall be paid for all work properly carried out and reimbursed all reasonable costs properly incurred up to and including termination (including the cost of demobilisation) but without payment of any compensation for loss of profit or expectation or contribution to overheads;
- (e) The Contractor (at the Engineer's request) can instruct the removal and replacement of any employees or agents of the Subcontractor whose performance or conduct is considered by the Employer/Engineer to be unsatisfactory, without cost to the Contractor or Employer and with no entitlement to any extension of the time for completion as a consequence thereof;
- (f) The Subcontractor is required to cooperate in all aspects with the Contractor in respect of the submission of the Contractors Applications for Interim Payment; and
- (g) the Subcontractor is required to sign and issue to the Contractor within 7 (Seven) days of receiving any payment, a Payment Verification in respect of the Contractor's payments to the Subcontractor for Works carried out under this Agreement, in part or in whole by the Subcontractor. The receipt of this signed Verification will be a condition precedent to subsequent payments.
- (h) Ensure that unencumbered title in any plant, equipment or materials provided for the works passes to the Contractor prior to the date on which the same is to become the property of the Employer.
- (i) Wave any liens or other encumbrances (whether for non-payment or otherwise) to which the Sub-Contractor or any of his suppliers would otherwise be entitled to; and

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- (j) Provide a Waiver in the terms of (i) above and an indemnity in respect of any consequences of any suppliers or the like exercising any lien or encumbrance, in both cases in favour of and to be directly enforceable by the Employer.
- (k) If the Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Engineer, prior to this date, instructs the Contractor to assign the benefit of such obligations to the Employer, then the Contractor shall do so and the Sub-contractor agrees to such assignment. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Employer for the work carried out by the Subcontractor after the assignment takes effect.
- (l) The Defects Notification Period in respect of any defects repaired, replaced, reformed or otherwise remedied during the applicable Defects Notification Period shall be extended until the later of: (i) the end of the Defects Notification Period, and (ii) a further twelve (12) months after the date of completion of such repair, replacement, reformation and/or remedy. However, in no event shall the Defects Notification Period extend beyond the period specified in the Contract Particulars.
- (m) The Sub-Contractor is fully responsible for all physical tie-ins to connection points that are necessary for the completion of the Works, and all risk in relation thereto shall lie with the Sub-contractor;

26. (1) The Subcontractor acknowledges that its access to the Site will not be exclusive and that Other Contractors and other parties may perform work on the Site concurrently with the Works. The Subcontractor shall; -

- (a) Co-operate with the Other Contractors to ensure the coordination of the work of the Other Contractors with the execution of the Works including timeframes, programmes and schedules for completion of the Works;
- (b) Take such actions as are necessary to facilitate the work of the Other Contractors.
- (c) Through the Contractor, co-ordinate its own activities with those of the Consultants and Other Contractors so as not to obstruct, disrupt or delay work being performed by the Consultants and Other Contractors; and
- (d) Allow appropriate opportunities for carrying out work to the Employer's Personnel; any Consultants and the personnel of any Governmental Authority, public or private utility or other undertaking which has any jurisdiction with regard to the Site, the Works, the Component Project and/or the Project or with whose systems or property the Site, the Works, the Component Project and/or the Project is or will be connected.
- (e) Wherever the Subcontractor requires special access to the Site, the Sub-contractor shall notify the Contractor at least 35 days in advance of the date when the Sub-contractor's programme requires such special access. If the Subcontractor fails to notify the Contractor in accordance with the requirements of clause 11, the Subcontractor shall not be entitled to any extension of time, additional payment, Costs adjustment to the Sub-Contract Price or any other relief as a result of such failure.

(2) If any part or parts of the Works are dependent for their support or execution upon work being carried out by any Other Contractors, the Subcontractor, through the Contractor, shall either monitor the carrying out of such work or inspect such work and report any apparent defects or non-conformities to the Contractor in good and sufficient time to enable the Contractor to give notice to the Engineer such that works can progress without causing any delay or disruption to the Subcontractor.

Step-In Rights

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27. (a) If, in the Employer's opinion, the Contractor is in substantial breach of any of the provisions of the Main Contract and thereafter provides notice to the Contractor and the Subcontractor of its request to step into such Subcontract, the Employer may exercise its right under any Collateral Warranty with a Subcontractor to step into such Subcontract on behalf of the Contractor;
- (b) in the event of the Employer exercising his rights under sub-clause 29(a) above, the Contractor and the Subcontractor shall, on notice from the Employer to do so, promptly execute a deed of novation substantially in the form set out in Appendix J (*Form of Novation Agreement*);

Changes in Legislation and Employment Regulations

28. (a) There will be no adjustment to the Sub-Contract Price or any extension of time in respect of any changes in any of the Laws of the Country or in the Laws or Regulations of any other country which cause additional or reduced cost to the Sub-Contractor in the execution of this Subcontract;
- (b) There will be no adjustment in the Sub-Contract Price or any extension of time for any changes in the Labour Laws or Regulations of the Country governing the employment of labour including any changes in the levels of Saudization requirements which will be complied with in all respects in full accordance with all current and any future legislation.

Special Conditions in respect of the Covid (Coronavirus) Pandemic

29. (a) There will be no adjustment to the Sub-Contract Price and time for Completion in respect of any restrictions, special conditions, precautionary measures or any other working conditions imposed as a result of any changes to the, or new, Laws, Rules or Regulations relating to the Covid Pandemic (or any mutations or events resulting there from).

Waiver

30. Subject to this Clause (30), no relaxation, forbearance, delay or indulgence by the Contractor in enforcing any of the terms and conditions of the Sub-Contract or the granting of time by the Employer to the Contractor or Contractor to Subcontractor shall prejudice, affect, or restrict the rights of the Contractor under the Contract, nor shall any waiver by the Contractor of any breach of the Subcontract operate as a waiver of any subsequent or continuing breach of the Sub-Contract.

No approval, expression of satisfaction, comment, review, test, inspection, payment or certificate made or given (or any failure to make or give or attend the same) by the Employer or by the Engineer under the Main Contract, shall relieve the Contractor of any of its obligations, risks or liabilities under the Main Contract or the Subcontractor under the Sub-Contract.

Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, dated and signed by an authorised representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.

31. Record Keeping and Access to Documents

The Subcontractor shall make and keep accurate records of its work and services under the Subcontract and Main Contract as required by applicable Law for the Works, whether in writing or stored on any other medium whatsoever where appropriate and or required by Law and the applicable design standard for the Works, including:

- (a) all documents referred to in the Contract(s);
- (b) design calculations (if the Sub-contractor is carrying out any design of the Works);



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- (c) estimates, calculations and mark ups for Variations and claims;
- (d) records as to progress of the work under the Contract;
- (e) results of the examination and testing of any work, Plant or Materials;
- (f) quality assurance records and reports;
- (g) records relating in any way to delays, Variations and daywork and all expenses incurred by the Contractor in connection with the Contract and the Works;
- (h) all consultants' reports obtained by the Contractor in relation to the work under the Contract; and
- (i) such appropriate and up to date records as are required for the Sub-Contractor's to satisfy its obligations under Main Contract Sub-Clause 6.4 (Labour Laws).

Electronic versions of all records referenced in this Clause 31 (Record Keeping and Access to Documents) shall be kept by the subcontractor.

If it is required for the performance under this sub-contract the Contractor, Employer, its advisers, auditors and nominees, and the Contractor shall have the right to inspect at the Sub-Contractor's offices and, subject to mutual agreement with the Sub-Contractor, copy the whole or part of any record or document referred to in this Sub-Clause (Record Keeping and Access to Documents) subject to fourteen (7) days' notice.

Notwithstanding anything to the contrary contained in the Sub-contract, the Contractor may defer any direction or certification required of the Contractor under any provision of the Sub-Contract until after an inspection carried out in accordance with this Clause 31 (*Record Keeping and Access to Documents*) which relates to the giving of the relevant direction or certification. The sub-contractor shall fully co-operate with the Contractor, Employer, and its advisers, auditors and nominees and the Engineer when making an inspection.

Subject to the regulations and/or applicable Law, the sub-contractor shall not destroy the records referred to in this Clause 31 (Record Keeping and Access to Documents) for a period of ten (10) years after their creation without the prior written approval of the Contractor and shall, if so required by the Contractor, hand over a copy of such of those records as is identified by the Employer to the Contractor and reasonably required for this sub-contract as and when directed by the Contractor.

32. Progress Reports

Monthly progress reports shall be prepared by the sub-contractor and submitted to the Contractor in digital and two (2) copies in paper formats. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within seven (7) days after the last day of the period to which it relates.

Reporting shall continue until the sub-contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Muhsen Rafa Al-Shamri

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Each report shall include:

- (a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection, testing, commissioning and trial operation;
- (b) photographs showing the status of manufacture and of progress on the Site;
- (i) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
 - (ii) commencement of manufacture;
 - (iii) Contractor's inspections;
 - (iv) tests: and
 - (v) shipment and arrival at the Site;
- (c) The details described in Sub-Clause 6.10 of the Main Contract (records of Contractor's Personnel and Equipment to enable the Contractor to provide record of the Sub-Contractors personnel and equipment to the Engineer copies of quality assurance documents, test results and certificates of Materials;
- (d) list of notices given under Sub-Clause 11 (Notices & Claims);
- (e) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations;
- (f) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays; and
- (g) such other matters as may be set out in the Contract or reasonably required from time to time by the Contractor, Engineer or the Employer.

33. Engineer's and Contractor's Overtime

If the Contractor, Engineer, or any of their assistants appointed pursuant to Sub-Clause 3.2 of the Main Contract (Delegation by the Engineer) are obliged to supervise the sub-contractor's operations in excess of the Engineer's normal working hours as specified in the Main Contract Particulars, the Cost to the Contractor and / or Engineer of such overtime, as calculated based on the overtime rates provided in the Main Contract Particulars, shall be borne by the sub-contractor. Payment of such amount shall be made to the Engineer by the Employer who shall deduct the same from monies certified in the Main Contractor's Payment Certificate as otherwise being due to the Contractor which shall in turn be deducted by the Contractor in the sub-contractor's payment certificates.



34. Schedule of Project Requirements

The Subcontractor acknowledges and accepts that Main Contract Schedule 1 - Schedule of Project requirements document is fundamental to the successful completion of the project and the Subcontract agrees to implement these requirements in their entirety so that the Contractor meets his own obligations under the Main Contract or otherwise

Document - **Saudi Entertainment Ventures (SEVEN) – Main Contract Tender Documents Schedule of Project Requirements Exit 10 Development – Main Works.**

35. "THIRD PARTY COLLATERAL WARRANTY" means each third party collateral warranty that the contractor is required to procure from relevant third parties (third party collateral warranty) substantially in the form of main contract or form provided in Appendix J.

(NOT APPLICABLE)

The Sub-Contractor shall, within fourteen (14) days of a request to do so from the Employer and/or the Contractor, provide an executed Third-Party Collateral Warranty in favour of:

- (a) purchasers, tenants, end users or operators of the Project or part of the Project; and/or
- (b) an Affiliate.

36. SUBCONTRACTOR COLLATERAL WARRANTY" means each Subcontractor collateral warranty that the contractor is required to procure from relevant Subcontractors pursuant to Main Contract Sub-Clause 4.4 (e) (*Subcontractors*) substantially in the form of Main contract or form provided in Appendix J.

The Sub-Contractor shall, within fourteen (14) days of a request to do so from the Employer and/or the Contractor, provide an executed Subcontractor Collateral Warranty in the required form.

(NOT APPLICABLE)

37. "PARENT COMPANY GUARANTEE" means the parent company guarantee to be provided by the contractor (if specified in the contract particulars) in accordance with sub-clause (*parent company guarantee*) substantially in the form (*form of parent company guarantee*) provided in Appendix J.



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The Sub-Contractor shall deliver to the Contractor a duly executed Parent Company Guarantee from the entity specified in the Contract Particulars, as soon as reasonably practicable and, in any event, no later than thirty (30) days after the Commencement Date. Notwithstanding any other provision of the Contract, compliance with this Sub-Clause (*Parent Company Guarantee*) is a condition precedent to the entitlement of the Sub-Contractor to receive any payment from the Contractor under the Contract, except the Advance Payment, and no payment shall be due or payable until this Sub-Clause (*Parent Company Guarantee*) is satisfied.

38. PERFORMANCE SECURITY (NOT APPLICABLE)

The Sub-Contractor shall deliver to the Contractor a duly executed Advance Payment Bond and Performance Bond, each such instrument to be on-demand, unconditional and in a form, and issued by a financial institution or institutions, acceptable to the Employer, as soon as reasonably practicable and, in any event, no later than thirty (30) days after the Commencement Date.

Notwithstanding any other provision of the Contract, compliance with this Sub-Clause (*Performance Security*) is a condition precedent to the entitlement of the Sub-Contractor to receive any payment including the Advance Payment from the Contractor under the Contract and no payment shall be due or payable until this condition is satisfied.

Whenever the Sub-contract Price is increased by ten per cent (10%) or more, the Sub-contractor shall arrange for and ensure that the amount of the Performance Bond is increased by ten percent (10%) of such revised Sub-contract Price.

The Sub-contractor shall ensure that the Performance Bond, Advance Payment Bond and the Parent Company Guarantee (if applicable) are valid and enforceable until such time as:

- a. in the case of the Performance Bond and the Parent Company Guarantee, the Performance Certificate has been issued to the Sub-contractor; and
- b. in the case of the Advance Payment Bond, the amount of the Advance Payment has been repaid in full to the Contractor.

If the Performance Bond and/or Advance Payment Bond will, in accordance with its terms, expire prior to the time when Sub-Clause (*Performance Security*) requires the Sub-contractor to ensure that it remains valid and enforceable, the Sub-contractor shall, not less than twenty-eight (28) days before its expiry, deliver to the Sub-contractor a duly executed replacement Performance Bond and/or Advance Payment Bond for the same amount as the bond being replaced, and otherwise satisfying the requirements of this Sub-Clause

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(Performance Security). On receiving the replacement bond, the Sub-contractor shall return the previously provided bond to the Sub-contractor within fourteen (14) days.

If (i) a Performance Security becomes invalid or unenforceable for any reason, or (ii) the issuer of a Performance Security suffers a drop in its long-term credit rating or becomes insolvent, the Contractor shall, within seven (7) days of becoming aware of the events in (i) and (ii), provide an acceptable replacement Performance Security (such replacement Performance Security and its issuer to be subject to the Contractor's prior written approval). If the Sub-contractor fails to provide the Contractor with a replacement bond as required under Sub-Clause (Performance Security) the Employer may immediately call on the outstanding balance of the bond (required to be replaced) and hold the proceeds as security for compliance by the Sub-contractor with its obligations and liabilities in respect of the Subcontract. The Contractor may make deductions against the proceeds so held in respect of any claim for which it would have been entitled to bring in relation to the bond (which should have been provided). If the Sub-contractor subsequently provides a replacement bond as required (and for the amount required under the Subcontract less the total of any deductions made by the Contractor under this Sub-Clause (Performance Security)), the Contractor shall return the balance of the proceeds (without any interest) to the Sub-contractor.

Each Performance Security shall be returned to Sub-contractor immediately after it expires in accordance with its terms and all liabilities under the applicable Performance Security have been fully discharged.

All fees, taxes and expenses associated with procuring, preparing, completing and stamping (if applicable) each Performance Security shall be paid by the Sub-contractor.

39. Where the value of the Subcontracted works is greater than SAR [250,000,000], the Subcontractor shall pursuant to sub-clause 36 provide the Employer with a Subcontractor collateral warranty. Provision of Subcontractor collateral warranties, where applicable, shall be a condition precedent to the Sub-contractor's entitlement to any payment under this Subcontract.

40. ANTI-CORRUPTION AND BRIBERY

In the performance of obligations under the Sub-contract, the Sub-Contractor undertakes that it and its agents, employees and subcontractors shall not carry out, procure or permit any Prohibited Act in any circumstances and shall comply with all applicable Laws, rules, regulations and orders of any applicable jurisdiction, including but not limited to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Anti-Bribery Law issued in Saudi Arabia pursuant to Royal Decree No. (M/36) dated 29/12/1412H, the Bribery Act 2010 and the United States Foreign Corrupt Practices Act (1977). The Subcontractor hereby represents, warrants and covenants that it will neither receive nor offer, pay or promise to pay, either directly or indirectly, anything of value to a Public Official in connection with any business opportunities which are the subject of the Subcontract. Furthermore, the Subcontractor shall notify the Employer and the Contractor immediately in writing with full particulars in the event that the Subcontractor receives a request from any Public Official for illicit payments or becomes aware of any apparent breach of this Sub-Clause (Anti-Corruption and Bribery).



The Subcontractor represents and warrants that it has neither before nor after the date of the Subcontract committed any Prohibited Act and shall:

- a. answer, in reasonable detail, any written or oral inquiry from the Employer and the Contractor related to the Subcontractor's compliance with this Subcontract;
- b. co-operate with the Employer, the Contractor and/or any Authorities in relation to any investigation in respect of matters relating to bribery and corruption in respect of this Subcontract;
- c. remove any personnel from the Works who is found to have committed a Prohibited Act; and
- d. defend, indemnify and hold the Employer and the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a failure by the Subcontractor to comply with this Sub-Clause (Anti-Corruption and Bribery).

40. **WORKING HOURS**

No work shall be carried out on the Site on locally recognised days of rest, or outside the normal working hours stated in any applicable Laws, unless:

- a) otherwise stated in the Contract;
- b) the Engineer and/or Contractor gives consent (and this is not in breach of the Labor Law as amended by Royal Decree No. (M/46) dated 5/6/1436H) (or any subsequent amendment(s)); or
- c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer and/or Contractor.

41 **The Sub-Contract Price**

The Sub-contract Price shall be the total, all-inclusive fixed rate Re-Measurable Sub-contract Price.

The Sub-contractor shall pay all taxes (excluding value added tax in the Country, and such value added tax shall be separately specified by the Sub-contractor in each Statement), duties (including customs duties where applicable) and fees required to be paid by him under or in connection with the Sub-contract, and the Sub-contract Price shall not be adjusted for any of these costs (including any costs arising as a result of any taxes, duties (including customs duties where applicable) or fees assessed on the Subcontractors).

Any quantities which may be set out in the Bill of Quantities or other Schedule are of no contractual effect and are not to be taken as the actual and correct quantities of the Works which the Sub-contractor is required to execute and the Sub-contractor bears the risk of any deviations from such quantities.

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The Sub-Contract Price shall not be subject to any adjustments or escalation except as expressly provided in the Sub-contract.

43. Sub-contractor's Warranty against Collapse (Not Applicable)

Notwithstanding the undertakings and warranties in relation to design and construction, the Sub-contractor shall be liable to and indemnifies the Employer and the Contractor against the partial or total collapse of the Works for a period of ten (10) years from the date of issuance of the Performance Certificate.

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FIRST SCHEDULE

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PARTICULARS OF THE MAIN CONTRACT

Main Contract Agreement ref. 63.21 Dated 06 January 2022

Between

M/s. MUHSEN RAFA AL-SHAMRI EST FOR CONTRACTING Building S3,
Riyadh Front,
P.O. Box 320770, Riyadh 12626, KSA
Kingdom of Saudi Arabia

As Employer

And

MADA AL-MABANEI COMPANY, JEDDAH AL-SALHIYA, KSA Company Registration No. 7002873847,
PO box 23763.

Kingdom of Saudi Arabia

As Contractor

Brief Description of Main Works:

CONSTRUCTION AND DELIVERY OF MAIN WORKS AT EXIT 10 – AL HAMRA DEVELOPMENT

The development is a two-level facility and one level of parking in the basement. The total GFA is 67,998m². The complex is to have the following main offerings distributed around various atriums:

- The Atrium - the central zone with a hubless Ferris Wheel, connecting all the districts.
- The Thrill district dedicated for the adrenalin seekers containing E-kart, main event FEC and Clip-n-Climb.
- Festive District - a district catering to all tastes (Wave House, Bowling including F&B, Black Box, AMC Cinema).
- Wonder District - contains Discovery and Aerodium and is intended for the little explorers.

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- Wellness District - a health and fitness focused zone with a Lifestyle Wellness District - a health and fitness focused zone with a Lifestyle fitness club.
- Food District for those seeking a unique culinary experience.

Specified Date

The "Specified Date" Pursuant to Clause 16 – (Payment) is 25th of each calendar month. The works shall be estimated to this date but applications received 7 days prior to this date.

Payment in accordance with clause 16 – (Payment)

Minimum amount of Interim Certificates under Main Contract: (NOT APPLICABLE)

1,000,000SAR



SECOND SCHEDULE

(A) Further Documents forming part of the Sub-Contract

It is clearly understood that you have access to and have gone through the Drawings, Specifications and Contract Terms and Conditions consisting of:

This Agreement (including these Five Schedules and Appendices A to J inclusive and all documents referred to therein)

(B) Sub-Contract Works

The scope of work comprises of the following: -

Subcontractor's Scope

- Review of Drawings,
- Provision of Site Engineers/ Project Manager to coordinate works,
- Provision of all Supervision,
- Installation of block work including accessories, stiffener columns/beams, lintels, core filling of hollow blocks, DPC etc., all as per the drawings and specifications. at all locations as directed on Exit 10 Development Project, Riyadh - K.S.A.
- Cut bend and installation of rebars for stiffener columns/beams, starter bars and lintels by SubContractor Installation and dismantling of scaffolding as required by the Subcontractor.
- Installation of formwork for the stiffener columns/beams and lintels by Sub-Contractor.
- Concrete pouring for the stiffener columns and lintels by Sub-Contractor.
- Preparation of mortar using premix bags by Sub-Contractor.
- Racking of joints and curing will be done by Sub-Contractor
- Deployment of resources will be through the written instruction by the Project Manager.
- Safety and Authority requirements to be followed strictly, any violations to be deducted from the account of the by the Subcontractor.
- Food, PPE, Accommodation & Transportation will be on account of by the Subcontractor.
- All the hand tools, power tools etc. required for installation of Block work is by the Subcontractor.
- Horizontal Shifting from the lifting point to the area of works is by the Subcontractor.
- Any excess wastage than market standards will be deducted from the Subcontractor.
- All the openings as per the drawings shall be formed at no additional cost.
- Any damages to the works will be deducted from the Subcontractor Payment.
- No extra cost for any revisits required as per Site requirement.
- Deduction for openings of area 1 sq.m and above will be deducted from the Block work area.
- the Subcontractor shall deploy resources as and when required on the site as directed by Project Manager.
- The Subcontractor should provide assistance to the Contractor for raising inspection requests. For any quality issues, amount for rectification will be hold until rectified to the Satisfaction of Engineer.
- Housekeeping/clearing rubbish to work skips by the Subcontractor.

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- Block Work started shall be installed to full height as per drawings, if stopped at intermittent height additional cost paid more than the BOQ rate to another Subcontractor for installing balance height will be deducted.
 - Qty is re-measurable as per installation on site. Invoice shall be submitted every month by 25th with inspection request ,mark-up drawings signed by Site Engineer and measurement details.
 - Attendances as per attached Responsibility Matrix
 - The scope of work shall not be limited to the items included in the enclosed Bill of Quantities, which may be varied (added/supplemented/deleted) by the Client.
 - Protection of works.
-
- The Sub-contractor is responsible for all work to the satisfaction of the Consultant in line with the approved shop drawings up to the approval of the RFIs.
 - Daily Recording and reporting the work progress to Contractor – Paperwork
 - Worker Iqama and insurance will be provided by Sub-Contractor.
 - All as per Project specifications and drawings, and Appendix B, C, D, E, F, H, I

SPML Scope: -

- Electricity/Power and water will be supplied by SPML.
- Block cutting Machine provide by SPML.
- Rebar, formwork and scaffolding materials as per the drawing shall be supplied by SPML.
- Block, Concrete and mortar materials as per the specification shall be supplied by SPML.
- All the accessories and other consumable materials shall be supplied by SPML.
- All the equipment's or machineries and crane for the shifting, lifting and mortar preparation shall be provided by SPML.
- Entry Gate passes, ID cards, office cabin, toilet and rest shelter for the workers at the site shall be provided by SPML.
- SPML will provide the site clean and ready for work.
- Shop drawings hard and soft copies shall be provided by SPML.
- Any materials/equipment's required for the correct operation and to fulfil the scope of works as per client requirement (either mentioned or not in the scope of works) shall be complied by SPML.

(C) Liquidated Damages for Delay:

As Detailed in Appendix C



THIRD SCHEDULE

- (A) **The Price: SAR 511,652.30 /- (SAR Five Hundred Eleven Thousand Six Hundred Fifty-Two & Thirty Halal Saudi Riyal Only)** is tentative value of the contract, excluding VAT which will be added at the prevailing rate. The contract value is inclusive of Transportation, Food and Accommodation for the Labour and Manpower supervision.
- (B) The Works will be on a Re-measured basis.

Subject to satisfactory performance and to the written approval of the Employer this Subcontract Agreement will be based on unit rates as shown in the Bills of Quantities in Appendix F or any other rates mutually agreed between the parties.

The Contract is subject to the below clauses.

- i. It is a condition precedent that no payments shall be made until the approved Insurance Documents and Performance Bonds are provided.
- ii. All rates and prices shall remain fixed, without escalation until the completion of the Project.
- iii. Amortization of Advance Payment on pro-rata basis from all Payment Certificates including Payment of Material Delivery.
- iv. All the payments are subject to **retention @ 10% for Masonry works.**

Retention Release:

- In accordance with the Main Contract.

The Penalty Clause applicable for delay shall be strictly in accordance with the Main Conditions of Contract, as attached in Appendix C - Delay Penalty.



In respect to Variations which are not subject to the subcontract rates any Sub Contractor's Overhead & Profit charge is limited to 10% of the substantiated costs.

Special Conditions.

(C) - Invoicing & Payment:

All Applications from, and payments to, Subcontractors will be reviewed and amended/approved by the Engineer/Contractor. Subcontractor's certificates will be issued 7 days from receiving the corresponding amounts certified on behalf of the Subcontractor in the Main Contractor's certificate and will become payable in accordance with clause 16 (3) and as stated in the First Schedule.

Within 7 (seven) days following the receipt of every payment from the Contractor, the Subcontractor must submit to the Contractor a notice (Payment Verification) of receipt in the format as included in Appendix J. Receipt of this notice by the Contractor being a condition precedent to the issue of subsequent payments.

The Subcontractor is to submit an Application for Payment (NOT a VAT Invoice) for works completed as defined in the First and Third Schedules for the month the works are executed.

Payment shall be released in 30 working days after submission of approved invoices along with other required documents.

The Subcontractor is to provide the following documents to accompany payments

- Prelims breakdown draft for review and finalization within 7 days of commencement,
- Items breakdown weightage percentages to be provided for agreement within 7 days of commencement
- Forecast of the Subcontractors anticipated cashflow for the project with 7 days of commencement

Additionally, The Subcontractor shall ensure the following documents are part of all payment applications;

The Sub-Contractor shall submit a Statement to the Contract after the end of each month, in a form approved by the Contractor, showing in detail the amounts to which the Sub-contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with sub-clause 32 (Progress Reports).

The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Sub-Contract Price is payable, in the sequence listed:

- i. the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g)



below);

- ii. any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Third Schedule to the total of the above amounts, until the amount so retained by the Contractor Employer reaches the limit of Retention Money (if any) stated in the third schedule
- iii. any amounts to be added and deducted for the advance payment and repayments.
- iv. any amounts to be added and deducted for Plant and Materials
- v. any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 11; and
- vi. the deduction of amounts certified in all previous Payment Certificates.
- vii. Evidence of all Insurances, bonds & licenses,
- viii. Approved Work inspection reports (WIR),
- ix. Marked-up drawings (clearly demarcating the executed works being claimed under the respective payment application/s) and photographs as / where necessary,
- x. Approved Material inspection reports (MIR), Delivery order notes (DO), Material invoices and photographs of stocked material.

(D) Period for Completion:

- (i) As per Appendix - H.

(E) Disputes (Clause 20)

Arbitral Institution, Place of Arbitration and Law, if Different from Clause 20
All arbitration proceedings shall be conducted in Riyadh – Kingdom of Saudi Arabia under the law of Kingdom of Saudi Arabia in accordance with Saudi Center for Commercial Arbitration Rules (“Rules of Arbitration”) The arbitration shall be conducted in English language.

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Contractor's Facilities

PART 1 – Common Facilities (Clause 4. (2))

(A) Contractor's equipment

Refer to Appendix - B

Terms & Conditions

Refer to Appendix - B

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FOURTH SCHEDULE

Contractor's Facilities

PART II – Exclusive Facilities (Clause 4. (3))

(A) Contractor's Equipment

Refer to Appendix - B

Terms & Conditions

Refer to Appendix - B

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INSURANCES

Part 1 Sub-Contractor's Insurances: Sub-Contractor's Insurances to be submitted based on Contractors policy of insurance, Subcontractor to provide evidence of; -

Workmen's Compensation Insurance (for Subcontractor Workmen)

Motor Vehicle Insurance (for Subcontractor Motor Vehicle)

Plant & Equipment (for Subcontractor Plant & Equipment)

Professional Indemnity Insurance for the Works designed by the Subcontractor.

Part 2 Contractor's Policies of Insurance:

Workmen's Compensation Insurance (for Contractor Workmen)

Motor Vehicle Insurance (for Contractor Motor Vehicle)

Plant & Equipment (for Contractor Plant & Equipment)

Professional Indemnity Insurance for the Contractor's design other than Subcontractor's design

Contractor's All Risks

Third Party Liability

Part 3 Insurances taken out by the Employer:

Muhsen Rafa Al-Shamri
For Contracting Est.
C.R. 1010213670 - C.C. No. 161407
Riyadh

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



مؤسسة محسن رافع الشمري
للمقاولات
س.ت : ١٠١٠٢١٣٦٧٠ - عضوية رقم : ١٦١٤٠٧
الرياض

Muhsen Rafa Al-Shamri
For Contracting Est.
C.R. 1010213670 - C.C. No. 161407
Riyadh

بسم الله الرحمن الرحيم



مؤسسة محسن رافع الشمري
للمقاولات
س.ت : ١٠١٠٢١٣٦٧٠ - عضوية رقم : ١٦١٤٠٧
الرياض

SUB-CONTRACTORS BONDS & PERFORMANCE SECURITIES: (NOT REQUIRED)

- 1) 10 % Performance Bond via Bank Guarantee valid up to completion of defects liability period, extendable and unconditional from a KSA Bank in the requisite format.
- 2) 5 % Advance Payment Guarantee / Bond **(Not Required)**
- 3) Parent Company Guarantee / Bond **(Not required)**
- 4) Third Party Collateral Warranty **(Not required)**
- 5) Subcontractor Collateral Warranty **(Not required)**

Subcontractors Collateral Warranty: (Not required)

The Subcontractor may be required to enter in to and provide all and any Collateral Warranties as required and as directed by the Employer, in the exact format as shown in Appendix J. The completed (signed/stamped authenticated by Chamber of Commerce) Warranties shall be provided within 10 (Ten) days of being requested, this being a condition precedent to payment of any interim application (or any other due payment) that become due following such direction.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed the day and year first above written.

SIGNED on behalf of the above named
Contractor by

Signature

Name: MADA AL-MABANEI COMPANY

In the Capacity of;

Vice President / Country Head

SIGNED on behalf of the above named.
Sub-Contractor by

Signature

Name



In the Capacity of

Witness

LIST OF APPENDICES

- | | | |
|---------------------|---|--|
| Appendix 'A' | - | Specific terms and conditions- N/A |
| Appendix 'B' | - | Responsibility Matrix |
| Appendix 'C' | - | Liquidated Damages for Delay of Project. |
| Appendix 'D' | - | List of Drawings
(Available at site) |
| Appendix 'E' | - | List of Specifications
(Available at site) |
| Appendix 'F' | - | Bills of Quantities |
| Appendix 'G' | - | Safety Rules and Regulations |
| Appendix 'H' | - | Critical Milestone Dates
(Available at site) |
| Appendix 'I' | - | Main Conditions of Contract
(Available at site, if required) |



Appendix 'J'

- **Form of Novation Agreement**
Form of Collateral Warranty
Requirements for Interim Payment Applications
Payment Verification Notice

APPENDIX - A

SPECIFIC TERMS AND CONDITIONS

Not Applicable

Appendix B

Responsibility Matrix

APPENDIX - C

Liquidated Damages for Delay of Project

Muhsen Rafa Al-Shamri

For Contracting Est.

C.R. 1010213670 - C.C. No. 161407

Riyadh

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



مؤسسة مجسن رافع الشمري

للمقاولات

س.ت : ١٠١٠٢١٣٦٧٠ - عضوية رقم : ١٦١٤٠٧

الرياض

Amount of Penalty: SAR 0.3% of the Subcontract Price (as the Third Schedule) per Calendar Day The above penalty shall be applicable if the Sub-contractor is solely responsible for the delay. Otherwise, if the Subcontractor fails to complete his Subcontract Works or parts thereof including commissioning within the time prescribed in the subcontract then the penalty shall be levied on pro-rata basis.

Limit of Penalty: 10% of the Subcontract sum.

Appendix – D

List of Drawings

Drawings: Tender Addendum (Structural) dated 19-05-2021; Reference No. RUH-EX10-06-LDC-SEV-ST-DED-00000 Rev.01

[Total No. of pages – 187] **(Available at site)**

Appendix – E

List of Specifications

Specifications: 100% Detailed Design Structural Specifications dated 19-05-2021; Reference No. RUH-EX10-04-LDC-SEV-ST-SPE-00001 Rev.01

(Available at site)

Appendix – F

Bill of Quantities



Appendix - G

Safety Rules & Regulations

Main contractor's HSE plan is available at site and will be back-to-back applicable to Subcontractors.

Appendix H

Critical Milestone Dates

(Available at site with Planning Dept.)

Appendix I

Main Conditions of Contract

(Available at site)

Appendix - J

a) Form of Novation Agreement, (will be issued if required)



- b) Form of Collateral Warranty, (Not Required)**
- c) Payment Verification Notice, (will be issued when required)**
- d) Advance Payment Guarantee / Bond (Not required)**
- e) Performance Guarantee / Bond (Not Required)**
- f) Subcontractor Collateral Warranty (Not Required)**
- g) Parent Company Guarantee (Not Required)**
- h) Third Party Collateral Warranty (Not Required)**