



قطر تستحق الأفضل  
Qatar Deserves The Best

# هيئة الأشغال العامة PUBLIC WORKS AUTHORITY

[Insert Affairs Office]

[Insert Department]

## اتفاقية الخدمات الاستشارية PROFESSIONAL SERVICES AGREEMENT FOR

[اضف اسم المشروع Insert Project Title]

PROJECT ID: [اضف رقم تعريف المشروع Insert Project ID]

CONTRACT NUMBER: \_\_\_\_\_ رقم العقد:

Authority  
Public Works Authority  
PO Box 22188  
Doha  
State of Qatar  
January 2013

الهيئة  
هيئة الأشغال العامة  
ص ب 22188  
الدوحة  
دولة قطر

Consultant  
[Insert Consultant's name]  
[Insert Consultant's address]

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Contract Number:	رقم العقد
Project ID / Code:	رقم المشروع / الرمز
Budget Code / Reference:	رقم الموازنة / المرجع

## مذكرة الاتفاقية MEMORANDUM OF AGREEMENT

<b>This Agreement made the :</b>  ..... day of .....14 AH ..... day of .....20 AD	<b>أبرمت هذه الاتفاقية :</b>  يوم ..... من ..... 14 هـ يوم ..... من ..... 20 م
<b>BETWEEN:</b>  1. Ashghal (Public Works Authority) a representative body of the Government of the State of Qatar whose registered office is Al-Faisal Tower 1, West Bay, Doha. P.O. Box 22188. State of Qatar (hereafter referred to as the "Authority"); and  2. [Insert Consultant's name]. a professional consultancy practice whose registered office is [Insert Consultant's address], (hereafter referred to as the "Consultant").	<b>بين :</b>  1. أشغال ( هيئة الأشغال العامة ) هيئة ممثلة لحكومة دولة قطر ومقرها الرسمي : برج الفيصل مبنى 1 ، الخليج الغربي الدوحة – قطر ، ص.ب : 22188 الدوحة – قطر. ( ويشار إليها فيما بعد " بالهيئة" ) و  2. والسادة / ( لإضافة اسم الاستشاري ) ، مكتب استشاري مهني ومقره : ( لإضافة عنوان الاستشاري ) ، ( ويشار إليه فيما بعد بالاستشاري ) .
<b>RECITAL</b>  Whereas the Authority wishes to engage the Consultant to provide professional services in connection with:-	<b>الحيثية:</b>  حيث أن الهيئة ترغب في التعاقد مع الاستشاري لتقديم خدمات استشارية تتعلق بـ :  [Insert Project ID and Title]
and the Consultant has agreed to such engagement upon and subject to the terms and conditions of the Agreement.	ووافق الاستشاري على هذا التعاقد طبقاً لشروط وأحكام الاتفاقية.

<b>ARTICLES</b> <b>ARTICLE 1 - DEFINITIONS</b> Defined terms referred to in this Agreement have the meanings assigned to them in the General Conditions of Engagement and the Conditions of Particular Applications thereto.	<b>المواد:</b> <b>مادة (1) – التعاريف :</b> ستحمل المصطلحات المعرفة المشار إليها في هذه الاتفاقية نفس المعاني المخصصة لها في الشروط العامة للتعاقد وشروط التطبيقات الخاصة.
<b>ARTICLE 2 - THE AGREEMENT</b> The following documents, listed in order of precedence, shall constitute the Agreement between the Authority and the Consultant and each shall be read and construed as an integral part of the Agreement:  A. Memorandum of Agreement; B. Particular Conditions; C. General Conditions of Engagement; D. Appendix I to the General Conditions of Engagement; E. Schedule A: Project Brief; F. Schedule B: Payment Schedules; G. Schedule C: Resource Schedules; H. Schedule D: Conflict of Interest Statement; I. Schedule E: Representatives of the Parties for the purposes of Amicable Settlement; J. Schedule F: Insurances; and K. Schedule G: Other Documents.	<b>مادة (2) – الاتفاقية :</b> ستشكل الوثائق التالية، والمدرجة بالترتيب حسب الأولوية، الاتفاق بين الهيئة والاستشاري والتي تشكل كل منها جزء لا يتجزأ من هذه الاتفاقية.  (أ.) مذكرة الاتفاقية . (ب.) الشروط الخاصة. (ج.) الشروط العامة للتعاقد (د.) الملحق رقم (1) للشروط العامة للتعاقد. (هـ.) الجدول (أ) – موجز المشروع. (و.) الجدول (ب) – جداول الدفع . (ز.) الجدول (ج) – جداول الموارد. (ح.) الجدول (د) – إقرار عدم تضارب المصالح. (ط.) الجدول ( هـ) – ممثلو الأطراف بغرض التسوية الودية. (ي.) التأمين. و (ك.) الجدول (و) – وثائق أخرى
<b>ARTICLE 3 - CONSULTANT'S OBLIGATIONS</b> Upon, and subject to, the terms of the Agreement, the Consultant shall, for the consideration mentioned in Article 4 undertake, perform, complete the Services and undertake all other obligations and risks to be performed and undertaken by the Consultant as set out in the Agreement.	<b>مادة (3) – التزامات الاستشاري:</b> طبقاً لمفردات الاتفاقية، سيقوم الاستشاري في مقابل التعويض المالي المنصوص عليه بالمادة (4) بالالتزام وأداء وإكمال الخدمات كما سيلتزم بجميع الواجبات والمخاطر والتي يتعين عليه القيام بها وتحملها على النحو المبين في هذه الاتفاقية.

## ARTICLE 4 - AGREEMENT PRICE

- (a) The Authority hereby agrees to pay to the Consultant the Agreement Price in consideration of the performance by the Consultant of its obligations under the Agreement. The Agreement Price covers all the Consultant's obligations under the Agreement and all things necessary for the proper execution and completion of the Services. The Agreement Price shall be Qatari Riyals [Insert amount in words] (QAR Insert amount in figures) only, as set out below:

Agreement Price (QAR)	
Provisional and Prime Cost Sums (QAR)	
Total (QAR)	

A breakdown of the Agreement Price is set out in Schedule B.

- (b) The Agreement Price shall be a firm lump sum not subject to any alteration except in the event of a Change or as otherwise expressly provided in or referred to in the Agreement. The Authority shall have no liability for increases in the Consultant's costs of performing the Agreement of any nature whatsoever caused by currency fluctuations, changes in taxation, inflation or otherwise, except as otherwise provided for or referred to in the Agreement.

- (c) The Consultant shall be deemed to have examined all Agreement documents and satisfied himself as to correctness and sufficiency of the Agreement Price

**IN WITNESS WHEREOF** the Parties have executed this Memorandum of Agreement on the date written above.

مادة (4) - سعر الاتفاقية :

(أ) توافق الهيئة بموجب هذه الاتفاقية على أن تدفع للاستشاري مبلغ الاتفاقية نظير أداء الاستشاري لالتزاماته المحددة بموجب الاتفاقية، ويشمل مبلغ الاتفاقية كافة التزامات الاستشاري المنصوص عليها في هذه الاتفاقية وكافة الأشياء الضرورية لحسن التنفيذ وإنجاز الخدمات، ويبلغ سعر الاتفاقية بالريال القطري مبلغ **إضافة القيمة بالأرقام** رق **إضافة القيمة بالأحرف** ريال قطري فقط (لا غير) كما هو موضح أسفله:

سعر الاتفاقية (ريال قطري)	
مبالغ احتياطية والتكلفة الأولية (ريال قطري)	
الإجمالي (ريال قطري)	

مرفق بالجدول ب بيان بمفردات مبلغ الاتفاقية.

(ب) سيكون مبلغ الاتفاقية مبلغ مقطوع وثابت لا يخضع لأي تعديل إلا في حالة حدوث "تغيير" أو وجد نص صريح بالعقد يخالف ذلك، ولن يكون هناك أي التزام من الهيئة بأي زيادة من أي نوع ومهما كانت تنشئ لتكاليف الاستشاري الخاصة بتنفيذ الاتفاقية سواء بسبب تقلب أسعار العملات أو لتعديلات بالضرائب أو للتضخم أو خلافه عدا ما نص عليه أو أشير إليه خلافاً لذلك في هذه الاتفاقية.

(ج) سيتم إعتبار الاستشاري أنه قد تفحص جميع مستندات العقد وتحري صحة وكفاية سعر العقد.

وإشهاداً بما تقدم قام الطرفان بتحرير مذكرة الاتفاقية في التاريخ الوارد ذكره أعلاه.

**SIGNED for and on behalf of the PUBLIC WORKS AUTHORITY**

**President of Public Works Authority**

**SIGNED for and on behalf of the Consultant**

**[Insert Consultant's name]**

## Title

**WITNESS for and on behalf of the PUBLIC WORKS AUTHORITY**

**Director of [*Insert Affairs*]**

**Manager of Financial and Administrative  
Affairs Department**

# APPENDIX I TO THE MEMORANDUM OF AGREEMENT

## AGREEMENT PARTICULARS

# **APPENDIX I TO THE MEMORANDUM OF AGREEMENT**

## **AGREEMENT PARTICULARS**



## AGREEMENT PARTICULARS

Correspondence & Notices: 2.8

**For the Authority:**

Ashghal  
Al-Faisal Tower 1  
West Bay  
Doha  
P.O. Box 22188  
State of Qatar  
Tel: +974 44 95 [TBA]  
Fax: +974 44 95 [TBA]  
Email: [TBA]@ashghal.gov.qa

**For the Attention of [Insert Engineer's Name]**

**For the Consultant:**

<Insert Consultant's Name>  
<Address line1>  
<Address line2>  
<Address line3>  
Doha  
P.O. Box <Insert Consultant's PO Box>  
State of Qatar  
Tel: <Insert Consultant's telephone number>  
Fax: <Insert Consultant's fax number>  
Email: <Insert Consultant's email address>

**For the Attention of <\_\_\_\_\_>**

Base Date 1.1.12 [Date of letter of Invitation To Tender or publication]

Commencement Date (CD) 1.1.17 \_\_\_\_\_

Profit 1.1.59 \_\_\_\_\_ %

Time for Completion 1.1.73

Key Dates

- Key Stage # [insert milestone number and name]
- Key Stage # [insert milestone number and name]
- ...

Key Dates

CD + # Days

CD + # Days

anticipated completion date \_\_\_\_\_

**STATE OF QATAR     Appendix I to the Memorandum of Agreement**  
**ASHGHAL**

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Amount of Performance Guarantee To be 10% of the Agreement Price at execution of the Memorandum of Agreement     3.2.1     QAR [*amount in figures*] (*amount in words*) Qatari Riyals)

Amount of Professional Indemnity Insurance     Schedule F para 2.1.1.3  
QAR [*amount in figures*] (*amount in words*) Qatari Riyals)  
for any one incident, number of incidents unlimited  
  
QAR [*amount in figures*] (*amount in words*) Qatari Riyals)  
total aggregate limit for any one insured period

Professional Indemnity Insurance Extended Reporting Period     Schedule F para 2.1.2  
[*Insert set duration in words and (figures)*] Days

Payment Schedule     15.2     Refer to Schedule B: Payment Schedules

Penalties for Delays to Performance     18.4.2     Refer to Table 1 over-page

Penalties for Delays to Mobilisation of Key Personnel     18.4.3     Refer to Table 2 over-page

Penalties for Health and Safety Infringement     18.4.4     Refer to Table 3 over-page

Cumulative liability     18.6.2     [*Insert set percentage*] of the Total Price stated in the Memorandum of Agreement.

Amount of Termination Payment     19.5.1     QAR[*amount in figures*] (*amount in words*) Qatari Riyals)

Key Performance Indicator     Schedule B: 7.2     [*Insert KPI percentage*]



دولة قطر

STATE OF QATAR

اتفاقية الخدمات الاستشارية

الشروط الخاصة

PROFESSIONAL SERVICES AGREEMENT  
PARTICULAR CONDITIONS

[*Insert Project Title*]

PROJECT ID: [*Insert Project ID Number*]

---

Particular Conditions to the General Conditions of Engagement

*Insert Addenda Amendments, as issued under Tender Circulars*



دولة قطر  
STATE OF QATAR

اتفاقية الخدمات الاستشارية  
الشروط العامة للتعاقد  
١٤٣١ هـ

PROFESSIONAL SERVICES AGREEMENT  
GENERAL CONDITIONS OF ENGAGEMENT  
2010 EDITION

[*Insert Project Title*]

PROJECT ID: [*Insert Project ID.*]

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INTRODUCTION

The purpose of the Professional Services Agreement General Conditions of Engagement – 2010 Edition is to provide a common set of terms and conditions for the administration of professional consultancy services in the State of Qatar.

The Professional Services Agreement General Conditions of Engagement – 2010 Edition Rev A has been designed to:

- Employ terms of phraseology and mechanics of the FIDIC suites so as to provide familiarity in its application to the wider construction community in the State of Qatar;
- Follow the 20 clause make up particular to the FIDIC 99 Suite which will be consistent throughout the new issue Public Works Authority contracts.

The Professional Services Agreement General Conditions of Engagement – 2010 Edition has been prepared by the Public Works Authority Contracts Department and is recommended for general use in the procurement of professional consultancy services associated with major construction related activities where tenders are invited on both domestic and international basis.

The Professional Services Agreement General Conditions of Engagement – 2010 Edition must be read in conjunction with the Particular Conditions which together comprise the terms and conditions governing the rights and obligations under contract.

The Particular Conditions are project specific and will be exclusively drafted for each individual contract.

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**PROFESSIONAL SERVICES AGREEMENT**  
**GENERAL CONDITIONS OF ENGAGEMENT**  
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**1 GENERAL PROVISIONS**

**1.1 Definitions**

In this Agreement the following words and expressions shall have the meanings stated.

- 1.1.1 **"Acceleration Award"** means a confirmation issued by the Engineer pursuant to Sub-clause 8.4 [*Acceleration*] for the implementation of a supplemental, but integral, agreement to the Agreement the price of which shall be added to the Agreement Price.
- 1.1.2 **"Addendum"** means the document under which a Change, instructed by the Engineer pursuant to Sub-clause 16.2 [*Changes*], is formally recorded.
- 1.1.3 **"Additional Services"** means any services carried out under the Agreement pursuant to a Change instructed pursuant to Sub-clause 16.2 [*Changes*].
- 1.1.4 **"Agreement"** means the contract entered into between the Authority and the Consultant comprising the documents listed in Sub-clause 2.1.1 of the General Conditions of Engagement, which together means the **"Agreement"** as executed by the Parties.
- 1.1.5 **"Agreement Documents"** means the documents listed in Sub-clause 2.1.1 of the General Conditions of Engagement and which together form the **"Agreement"**. The term **"Agreement Document"** means any one of the Agreement Documents.
- 1.1.6 **"Agreement Period"** means, subject to the provision of Sub-clause 2.4 [*Survival of Rights*], the period from the Commencement Date until the Completion Date.
- 1.1.7 **"Agreement Price"** means the amount detailed in Schedule B [*Payment Schedules*] for the performance of the Services, subject to such adjustments as may be made pursuant to the Conditions of Engagement, excluding any and all allowances for Provisional Sums and Prime Cost Sums.
- 1.1.8 **"Applicable Codes and Standards"** means those codes, regulations, technical specifications and standards as referenced in Schedule A [*Project Brief*] as are applicable to the Services at the Base Date.
- 1.1.9 **"Appendix I to the Memorandum of Agreement"** means the document so titled forming part of the Agreement Documents.
- 1.1.10 **"Association Agreement"** means the statutory documents that bring about the existence of the Consultant (as a commercially registered association of more than one party).
- 1.1.11 **"Authority"** means the Public Works Authority (Ashghal) of the State of Qatar whose Representative is the President or authorised delegate.
- 1.1.12 **"Base Date"** means the date identified as the Base Date in Appendix I to the Memorandum of Agreement.
- 1.1.13 **"Baseline Programme"** means the detailed programme and explanatory narrative submitted by the Contractor to the Engineer, for the carrying out and completion of the Works in accordance with the requirements of the Contract.
- 1.1.14 **"Change(s)"** means any change or amendment without limitation to any document constituting the Agreement or to the Services, which is instructed by the Engineer pursuant to Sub-clause 16.2 [*Changes*].
- 1.1.15 **"Clause"** means any clause of the Conditions of Engagement and the term **"Clauses"** shall be construed accordingly. **"Sub-clause"** means any sub-clause of the Conditions of Engagement and the term **"Sub-clauses"** shall be construed accordingly.
- 1.1.16 **"Collateral Warranty"** means the collateral warranty to be provided to the Authority by the Consultant pursuant to Sub-clause 3.4 [*Collateral Warranties*] in the specimen form provided in Schedule G [*Other Documents*].

- 1.1.17 “**Commencement Date**” means the date identified as the Commencement Date in Appendix I to the Memorandum of Agreement.
- 1.1.18 “**Completion Certificate**” means the certificate issued in accordance with Sub-clause 14.1 [*Completion of the Services*].
- 1.1.19 “**Completion Date**” means the date stated in the Completion Certificate issued in accordance with Sub-clause 14.1 [*Completion of the Services*].
- 1.1.20 “**Conditions of Engagement**” means these General Conditions of Engagement as amended or supplemented by the Particular Conditions that together form part of the Agreement Documents.
- 1.1.21 “**Consultant**” means the party or parties identified as the Consultant in the Memorandum of Agreement acting jointly and severally when the context requires together with their permitted Representatives, successors or assigns, as the case may be.
- 1.1.22 “**Consultant’s Representative**” means that person appointed from time to time by the Consultant pursuant to Sub-clause 10.1 [*Consultant’s Representative*], to represent and bind the Consultant on all matters subject to and in accordance with the Agreement.
- 1.1.23 “**Cost**” means expenditure reasonably and properly incurred by the Consultant in relation to the performance of its obligations under the Contract, including relevant overhead charges but excluding any allowances or contingencies for the Consultant’s profit (or loss of profit) or the assumption of any risk.
- 1.1.24 “**Days**” means calendar days including weekends and public holidays.
- 1.1.25 “**Deliverables**” means all documents, samples, calculations, software, animations, renderings, mock-ups, models and the like without limitation, whether in hard copy or electronic form, prepared by or on behalf of the Consultant, to be provided by the Consultant in accordance with the Agreement Documents for the performance and completion of the Services.
- 1.1.26 “**Department of General Financial Affairs of the Ministry of Economy and Finance**” means that so titled department within the Government, or its successors.
- 1.1.27 “**Determination**” means the written decision of the Engineer, pursuant to Sub-clause 20.1 [*Dispute*], on a matter of Dispute arising under the Agreement.
- 1.1.28 “**Dispute**” means a formal disagreement between the Parties arising under the Agreement as formalised and brought into existence by the issuance of a Notice of Dissatisfaction.
- 1.1.29 “**Engineer**” means the person appointed from time to time in accordance with Sub-clause 5.2 [*The Engineer*] to represent the Authority on all matters subject to and in accordance with the Conditions of Engagement.
- 1.1.30 “**Evaluation**” means the Engineer’s written evaluation pursuant to Sub-clause 5.5 [*Engineer’s Evaluation*].
- 1.1.31 “**Expert**” means that person appointed and named as such in the Agreement pursuant to Sub-clause 20.3 [*Expert’s Decision*].
- 1.1.32 “**Facilities, Information and Services**” means those facilities, information and services supplied to the Consultant by the Authority pursuant to Sub-clause 5.1 [*Facilities, Information and Services*].
- 1.1.33 “**Final Account**” means the statement delivered by the Consultant to the Engineer in accordance with Sub-clause 15.5 [*Application for Final Payment*] representing the amount calculated as the due consideration for full and final settlement in relation to the discharge of all of the Consultant’s obligations under the Agreement, less adjustments for any amounts otherwise due to the Authority.

- 1.1.34 “**Force Majeure**” means an exceptional event or circumstance as described in Sub-clause 16.4 [*Force Majeure*] as constituting Force Majeure.
- 1.1.35 “**General Conditions of Engagement**” means this document so titled forming part of the Agreement Documents.
- 1.1.36 “**Good Design, Engineering and Construction Practices**” means the most up to date international consultancy practices, methods, standards and acts in respect to the management, planning, programming, design, supervision, construction, commissioning, testing, operating, maintenance and remedying of defects of works with characteristics comparable to those of the Project, including the location and the performance of the Services:
- A. in a sound and workmanlike manner, with skill, care and diligence and applying accepted engineering, construction and management practices, codes and procedures;
  - B. with due expedition and without delay;
  - C. using appropriate internationally accepted standards for materials and workmanship applicable to works having characteristics comparable to those of the Project; and
  - D. employing mitigation measures to maintain the Baseline Programme obligations as a matter of course.
- 1.1.37 “**Government**”, means the government of the State of Qatar as represented by ministries, departments, agencies and the like.
- 1.1.38 “**Impact Assessment**” means the document submitted by the Consultant to the Engineer satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*] providing a fully detailed review, assessment, justification, and where applicable substantiation of the time and / or cost impact arising out of an event.
- 1.1.39 “**Insurer**” or “**Insurers**” shall mean an insurer or insurers registered and regulated in the State of Qatar.
- 1.1.40 “**Insured Party**” shall mean, in respect of the insurance to be obtained by a Party: the Authority and its agents, and the Consultant and its sub-consultants of any tier and the term “**Insured Parties**” shall be construed accordingly.
- 1.1.41 “**Insuring Party**” shall mean, for each type of insurance, the Party responsible for effecting and maintaining the relevant insurance specified in this Clause 4 [*Insurances*] and in Schedule F [*Insurances*].
- 1.1.42 “**Intellectual Property Rights**” means any and all rights and interests in registered or unregistered trademarks, service-marks, patents, registered designs, utility marks, applications for any of the foregoing, copyrights, unregistered designs, inventions, confidential information, know-how or other intellectual property (whether in written form, or generated by or maintained on a computer or similar system or otherwise) subsisting in or relating to documents and the like prepared at any time relating to the Services or subsisting in or relating to the Services themselves.
- 1.1.43 “**Key Date**” means the date stated in Appendix I to the Memorandum to the Agreement as may be extended from time to time in accordance with the Conditions of Engagement, by which performance of a Key Stage shall be attained.
- 1.1.44 “**Key Performance Indicators**” means those performance indicators of the Consultant’s performance as identified in Schedule B [*Payment Schedules*].
- 1.1.45 “**Key Personnel**” means those of the Consultant’s personnel identified as Key Personnel in Schedule C [*Resource Schedules*].

- 1.1.46 “**Key Stage(s)**” means any of the stages of the Services specifically defined as a Key Stages in Schedule A [*Project Brief*].
- 1.1.47 “**Law(s)**” means all national or public legislation, decrees, ordinances, rules and regulations, relevant to the Services and / or the Project as issued and in force within the State of Qatar.
- 1.1.48 “**Master Programme**” means the high level programme, associated narrative and resourcing schedules contained in Schedule C [*Resource Schedules*] representing the activity time plan and necessary resources for the performance and completion of the Services as at the date the Agreement is executed by the Parties.
- 1.1.49 “**Memorandum of Agreement**” means the document so titled forming part of the Agreement Documents.
- 1.1.50 “**Notary Public**” means a public official who is legally empowered to carry out the attesting of signatures and certification of a document’s validity. If the said document is authenticated / attested outside the State of Qatar it shall also be authenticated / attested by the Qatari Embassy in the country where such document was notarised.
- 1.1.51 “**Notice of Dissatisfaction**” means the written notice issued by a Party to the other Party which brings about the existence of a Dispute arising under the Agreement and which shall be resolved pursuant to Clause 20 [*Settlement of Disputes*].
- 1.1.52 “**Parent Company Guarantee**” means the guarantee to be provided to the Authority by the Consultant(s) pursuant to Sub-clause 3.3 [*Parent Company Guarantee*] in the specimen form provided in Schedule G [*Other Documents*].
- 1.1.53 “**Particular Conditions**” means the document so titled forming part of the Agreement Documents.
- 1.1.54 “**Party**” means the Authority or the Consultant as the context requires, and the term “**Parties**” shall mean together the Authority and the Consultant.
- 1.1.55 “**Penalty**” means those fixed punitive amounts identified in Appendix I to the Memorandum of Agreement to be paid by the Consultant to the Authority in the event of a default of the specified duties in the Agreement.
- 1.1.56 “**Performance Guarantee**” means the performance guarantee to be provided to the Authority by the Consultant pursuant to Sub-clause 3.2 [*Performance Guarantee*] in the specimen form provided in Schedule G [*Other Documents*].
- 1.1.57 “**President**” means the president of the Authority so formally titled.
- 1.1.58 “**Prime Cost Sum**” means a sum (if any) specified in Schedule B [*Payment Schedules*] as a Prime Cost Sum, for the performance of any part of the Services or for the supply of materials or services pursuant to Sub-clause 16.2.4 [*Provisional Sums and Prime Cost Sums*].
- 1.1.59 “**Profit**” means the percentage allowance of the Agreement Price for profit as identified in Appendix I to the Memorandum of Agreement.
- 1.1.60 “**Project**” means the project described in Schedule A [*Project Brief*].
- 1.1.61 “**Project Brief**” means the project brief as identified and referred to in Schedule A [*Project Brief*], as may be amended from time to time in accordance with the Conditions of Engagement.
- 1.1.62 “**Project Data**” means all data relating to the Project as identified as Project Data in Schedule A [*Project Brief*] but excluding Warranted Project Data.
- 1.1.63 “**Provisional Sum**” means a sum (if any) which is specified in the Schedule B [*Payment Schedules*] as a Provisional Sum, for the performance of any part of the Services pursuant to Sub-clause 16.2.4 [*Provisional Sums and Prime Cost Sums*].



- 1.1.64 “**Public Official**” means that party as defined in Sub-clause 1.4.2.
- 1.1.65 “**Qatar Chamber of Commerce and Industry**” means that governmental entity so titled, or its successors.
- 1.1.66 “**Qatar International Centre for Conciliation and Arbitration**” means that entity so titled and established by the Qatar Chamber of Commerce and Industry, or its successor.
- 1.1.67 “**Representative(s)**” means that person retaining the lawfully granted power of attorney sufficient to bind that Party represented.
- 1.1.68 “**Risk Register**” means a register of the risks which are listed in Schedule C [*Resource Schedules*] and the other risks which the Consultant has identified. This register shall include a description of the risks and the Engineer’s decision as to the actions which are to be taken, and by whom, to eliminate or reduce such risks.
- 1.1.69 “**Schedule**” means the documents so pre-fixed attached to the General Conditions of Engagement as identified in Sub-clause 2.1 [*Agreement Documents*] and forming part of the Agreement Documents.
- 1.1.70 “**Services**” means the services that shall be provided by the Consultant as identified and described in Schedule A [*Project Brief*], as may be amended from time to time in accordance with the Conditions of Engagement.
- 1.1.71 “**Services Price**” means the agreed amount stated in the Memorandum of Agreement for the performance of the Services in accordance with the terms of the Agreement, subject to such adjustments as may be made pursuant to the Conditions of Engagement, excluding any and all allowances for provisional and prime cost sums.
- 1.1.72 “**Third Party, Third Parties**” means, without limitation:
- A. any consultants, other than the Engineer, engaged by the Authority on the Project or for the purposes of the Authority’s activities, other than the Consultant;
  - B. contractors engaged by the Authority for the purposes of the Authority’s activities; and
  - C. any interfacing contractor, consultant or stakeholder (including utility companies, Government departments, ministries, agencies and the like) with whom the Consultant has an obligation under the Agreement or a duty at Law to co-ordinate its activities with.
- 1.1.73 “**Time for Completion**” means the Time for Completion of the Services, or a Key Stage, as the case may be, under Sub-clause 12.2 [*Time for Completion*], as stated in Appendix I to the Memorandum of Agreement, as may be extended from time to time in accordance with the Conditions of Engagement.
- 1.1.74 “**Warranted Project Data**” means the data relating to the Project as identified as Warranted Project Data in Schedule A [*Project Brief*].
- 1.1.75 “**Wilful Misconduct**” means an act that is taken consciously and with the intent (based on the individual’s awareness and knowledge of existing circumstances and conditions) to cause personal injury or damage to property.
- 1.1.76 “**Works**” means all works, whether of a permanent or temporary nature (including the materials, plant, and equipment) necessary for the achievement of the Project.
- 1.2 Interpretation
- 1.2.1 The section headings, marginal words and other headings in the Agreement shall not be taken into consideration in the interpretation of the Conditions of Engagement.
- 1.2.2 Except where the context shows otherwise, words in the singular shall also mean in the plural and vice-versa and words in one gender shall also mean all genders.

- 1.2.3 Clauses including the word “**agree**” or “**agreed**” shall require the agreement to be recorded in writing, and signed by the Engineer and the Consultant’s Representatives.
- 1.2.4 Reference to “**including**” and “**include(s)**” shall not be construed restrictively but shall mean “**including but not limited to**” and “**include(s) but not be limited to**” respectively.
- 1.2.5 All references to “**instruction**” by the Engineer means and requires such instruction to be issued pursuant to Sub-clause 5.3 [*Instructions*].
- 1.2.6 “**written**” or “**in writing**” means, type-written, printed or electronically made and resulting in a permanent record including: without limitation communications via e-mail and facsimile transmission and shall constitute written communications for the purposes of the Agreement.
- 1.2.7 All references to “**agent**” means any party with a contractual relationship with a Party carrying out activities or obligations on behalf of that Parties.
- 1.2.8 All references to “**risk**” shall not be construed restrictively but shall include all risks whether time, cost, quality, contractual or legal obligations, political or otherwise.
- 1.2.9 Any reference to “**sub-consultant**” means any sub-consultant or supplier of any tier.
- 1.2.10 Any reference to “**termination of the Consultant’s engagement under the Agreement**” shall not be construed as termination of the Agreement itself, which in all cases will subsist.
- 1.3 Joint and Several Liability
- 1.3.1 If the Consultant constitutes a joint venture, consortium or other grouping of two or more entities:
- A. these entities shall be deemed to be jointly and severally liable to the Authority for the performance of the Consultant’s obligations under the Agreement; and
- B. these entities shall notify the Authority of their leader who shall have authority to bind the Consultant and each of these entities.
- 1.3.2 The Consultant shall not alter its composition or legal status without the prior written authorisation of the Authority.
- 1.4 Corruption and Fraud
- 1.4.1 Each Party hereby represents, warrants and covenants to the other Party that they will neither receive nor offer, pay or promise to pay either directly or indirectly, bribes, gifts, commissions, considerations, inducements or rewards to a Public Official (as defined in Sub-clause 1.4.2) in connection with any business opportunities which may be in connection with the Agreement. Furthermore, in the event that a Party receives a request from any Public Official requesting payments, bribes, gifts, commissions, considerations, inducements or rewards that Party shall not entertain such request and without delay disclose such to the other Party immediately in writing with full particulars.
- 1.4.2 A Public Official is any official or employee of any agency of the Authority or a Government owned or controlled enterprise or ministry.
- 1.4.3 Failure to comply with the requirements of Sub-clause 1.4.1 by the Consultant shall entitle the Authority, pursuant to Sub-clause 19.3 [*Termination*], to terminate the Consultant’s engagement under the Agreement with immediate effect and without compensation in any form whatsoever.
- 1.5 Independent Consultant
- 1.5.1 The Consultant shall be an independent consultant performing the Agreement. The Agreement does not create any, partnership, joint venture or other joint relationship between the Authority on the one hand and the Consultant on the other hand.

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## 2 THE AGREEMENT

### 2.1 Agreement Documents

2.1.1 The following documents constitute the Agreement and shall be taken as mutually explanatory of one another. For the purposes of interpretation if there is a conflict, ambiguity or discrepancy between these documents, the order of precedence shall be as follows:

- A. Memorandum of Agreement;
- B. Particular Conditions;
- C. General Conditions of Engagement;
- D. Appendix I to the Memorandum of Agreement;
- E. Schedule A: Project Brief;
- F. Schedule B: Payment Schedules;
- G. Schedule C: Resource Schedules;
- H. Schedule D: Conflict of Interest Statement;
- I. Schedule E: Representatives of the Parties for the Purposes of Amicable Settlement;
- J. Schedule F: Insurances; and
- K. Schedule G: Other Documents.

2.1.2 If there exists any conflict, ambiguity or discrepancy within the Agreement Documents which cannot be resolved by applying Sub-clause 2.1.1 the Party discovering such inconsistency shall notify the other Party upon discovery. The Engineer shall, in accordance with Sub-clause 5.3 [*Instructions*] issue an instruction or amendment resolving such conflict, ambiguity or discrepancy and the Consultant shall give effect to such instruction immediately at no cost to the Authority.

2.1.3 The Agreement is to be executed in triplicate by the Representatives of the Parties and marked, 'Original', 'Duplicate-1' and 'Duplicate-2', of which the document marked 'Original' shall prevail: each page of the Agreement Documents shall be initialled and stamped by the duly authorised representatives of the Parties.

Following execution of the Agreement by the Parties the Authority shall retain the documents marked 'Original' and 'Duplicate-1' and shall issue the document marked 'Duplicate-2' to the Consultant.

2.1.4 The Agreement shall come into effect on the date the Agreement is executed by the Parties. Notwithstanding such the Authority shall not be obliged to make any payments to the Consultant under the Agreement unless and until the Consultant has delivered the following to the Authority:

- A. the Consultant's power of attorney, duly notarised by a Notary Public, empowering the signatory to the Agreement and such other documents executed pursuant to Clause 3 [*Consultant's Guarantees*] to execute and legally bind the Consultant;
- B. where the Consultant is an association, the duly executed, and non-objected by the Engineer or Authority, copy of the Association Agreement;
- C. the Performance Guarantee, in accordance with Sub-clause 3.2 [*Performance Guarantee*];
- D. the Parent Company Guarantee(s), if applicable, in accordance with Sub-clause 3.3 [*Parent Company Guarantee*]; and



- E. evidence that the insurances described in Clause 4 [*Insurances*] as being provided by the Consultant shall come into full force and effect from the Commencement Date;
- F. the Engineer's prior non-objection of the following Consultant's Documents:
  - (i) preliminary 'Quality Management System' pursuant to Sub-clause 6.6.2;
  - (ii) preliminary 'Health, Safety and Security Management System' pursuant to Sub-clause 6.7.2;
  - (iii) preliminary 'Environmental Management System' pursuant to Sub-clause 6.8.2;
  - (iv) preliminary 'Reporting System' pursuant to Sub-clause 6.9.3;
  - (v) Baseline Programme and associated narrative pursuant to Sub-clause 8.2.1.
- 2.2 Entire Agreement
- 2.2.1 The Agreement constitutes the entire agreement between the Parties in relation to all matters contained herein, including all understandings, rights, responsibilities, and obligations and supersedes all prior arrangements, representations, communications, negotiations, agreements and contracts (whether written or oral) made between or entered into by the Parties with respect thereto prior to the date of the Agreement.
- 2.3 Severability
- 2.3.1 If any provision of the Agreement is held to be illegal, void or unenforceable in whole or in part and deemed expunged from the Agreement, this shall not affect the validity, legality or enforceability of any other provisions of the Agreement.
- 2.3.2 Notwithstanding Sub-clause 2.3.1, in the event that any provision or part of the Agreement is held by any judicial or other competent authority to be illegal, void, or unenforceable, the Engineer shall issue an instruction pursuant to Sub-clause 5.3 [*Instructions*].
- 2.4 Survival of Rights
- 2.4.1 The severable provisions of the Agreement which are by their nature intended to survive the termination, cancellation, completion, or expiration of the Consultant's engagement or the Agreement itself shall continue as valid and enforceable obligations of the Parties, notwithstanding any such termination, cancellation, completion, or expiration.
- 2.5 Amendment
- 2.5.1 Without prejudice to the provisions of Clause 16 [*Changes*] hereinafter, no modification, amendment, addendum or change to the Agreement shall be effective or binding, unless: made in writing; dated; expressly references the Agreement and is signed by the Representatives of the Parties.
- 2.6 Waiver
- 2.6.1 Non waiver

Subject to the provisions of Sub-clause 2.6.2 [*Written Form*], no relaxation, forbearance or delay by either Party in enforcing the Conditions of Engagement will prejudice, affect or restrict the rights, responsibilities, and obligations of that Party nor shall any waiver by either Party of any such rights, responsibilities, and obligations or, of any breach of the Agreement be deemed to be a waiver of any other right or of any later or continuing breach of the Agreement.
- 2.6.2 Written Form

Any waiver of a Party's rights, responsibilities, obligations, powers, or remedies under the Agreement must be in writing, dated and signed by the Representative of the Party granting such waiver, and must specify the right and the extent to which obligation is being waived.

**2.7 Non-Objection**

No non-objection, approval, opinion, decision, review, rejection, certificate, consent, notice, request, direction, admission, approach, confirmation, comment, sanction, acknowledgement, acceptance, advice or similar form of communication made or given by or on behalf of the Authority, the Engineer, or any representative with delegated authority from the Engineer or any omission or failure to perform any of the foregoing shall in any way relieve the Consultant from its risks, obligations, duties, responsibilities or liabilities arising out of, under or in connection with the Agreement or Law, nor shall such risks, obligations, duties, responsibilities or liabilities be restricted in anyway, nor prejudice any of the Authority's rights and remedies arising out of, under or in connection with the Agreement.

**2.8 Communications**

2.8.1 Wherever the Agreement provides for the giving or issuing of non-objections, certificates, consents, notices, requests or any other communications under or in connection with the Agreement and the transfer of information of any kind whatsoever, these communications shall be:

- A. in Arabic or English as the circumstances require; and
- B. in writing (against written confirmation of receipt); and
- C. except where expressly stated otherwise, delivered, sent, or transmitted to the address for the recipients stated in Appendix I to the Memorandum of Agreement, or other such addresses as notified during the currency of the Agreement.

2.8.2 All communications required in writing shall be delivered or transmitted by hand, registered courier, or by electronic transmission to the addresses stated in Appendix I to the Memorandum of Agreement, or other such addresses as notified during the currency of the Agreement.

2.8.3 All communications required in writing and delivered by electronic transmission shall be confirmed by being delivered in hard copy to the addresses stated in Appendix I to the Memorandum of Agreement, or other such addresses as notified during the currency of the Agreement.

2.8.4 All such communications shall be deemed effective on the Day received.

2.8.5 Notwithstanding the provisions of Sub-clause 2.8.2 notices concerning penalties and default (Clause 18 [*Default, Penalties and Limit of Liability*]), suspension (Sub-clause 19.1 [*Suspension*]), termination (Sub-clause 19.3 [*Termination*]) and Disputes (Clause 20 [*Settlement of Disputes*]) shall be delivered by hand or registered courier to the addresses stated in Appendix I to the Memorandum of Agreement, or other such addresses as notified during the currency of the Agreement, with a copy by electronic transmission, and shall be communicated separately from other communications. Such notices shall be deemed effective upon the date of receipt of the hard copy. Only the received hard copy shall constitute the formal notice.

2.8.6 Either Party may change its postal, facsimile or e-mail address or addressee for the purpose of this Sub-clause 2.8 [*Communications*] by giving ten (10) Days' notice to the other Party in writing.

**2.9 Governing Law and Language**

2.9.1 The Agreement shall be governed by, interpreted, and construed in accordance with the Laws.

**2.9.2 Language**

2.9.2.1 Where any part of an Agreement Document is drafted in both the Arabic and English languages, if there is any conflict or inconsistency between the Arabic and English language drafts, the Arabic language draft shall prevail and take precedence.

2.9.2.2 The primary language of the Project shall be English. All Project documents and communications issued between the Parties shall be in English. Unless expressly notified in advance by the Authority, all Project meetings shall be conducted in English, and minutes of meetings shall be issued in English.

**2.10 Confidentiality**

2.10.1 The Agreement and all matters and details arising out of, under or in connection with the Agreement shall be regarded as strictly private and confidential. Subject to Clause 13 [*Intellectual Property Rights*], and except as may be required by Law or by legal proceedings; government agency; an insurer under a policy of insurance issued pursuant to the Agreement; or other consultants engaged by the Consultant for purposes in connection with the Agreement (for which the Consultant shall notify the Engineer of such disclosure):

- A. no information contained within, arising from, or relating to, the Agreement shall be disclosed to any other parties; and
- B. no publication or transmission of any articles, photographs, illustrations or any other information related to the Works or the Project shall be disseminated in any manner whatsoever,

without the prior written authorisation of the Authority.

2.10.2 The Consultant warrants that:

- A. its agents and relevant employees are fully aware of, and shall comply with, the provisions of this Sub-clause 2.10 [*Confidentiality*]; and
- B. all sub-consultant agreements and associated tendering documents contain, or shall contain, no less onerous confidentiality obligations to those contained within this Sub-clause 2.10 [*Confidentiality*];

and it shall enforce such arrangements

2.10.3 The provisions of this Sub-clause 2.10 [*Confidentiality*] shall survive any expiry or termination of the Agreement or termination of the Consultant's engagement under the Agreement for a period of fifteen (15) years from the date of the Completion Certificate.

**3 CONSULTANT'S GUARANTEES**

**3.1 Guarantees**

3.1.1 The guarantee provided pursuant to Sub-clause 3.2 [*Performance Guarantee*] shall be issued in the specimen form provided in Schedule G [*Other Documents*].

The parent company guarantee provided pursuant to Sub-clause 3.3 [*Parent Company Guarantee*] and the collateral warranties, and extensions thereof, provided pursuant to Sub-clauses 3.4 [*Collateral Warranties*] and 3.5 [*Extended Warranties*] shall be issued on the respective parent company and sub-consultant letterheads in the specimen forms provided in Schedule G [*Other Documents*].

3.1.2 The guarantees and warranties provided pursuant to this Clause 3 [*Consultant's Guarantees*] shall be, without exception, autonomous and independent in their administration and function from the Agreement.

**3.2 Performance Guarantee**

3.2.1 Pursuant to Sub-clause 2.1.4, as a precondition to the Authority's obligation to make payment to the Consultant under the Agreement the Consultant shall provide at its own expense an irrevocable and unconditional on demand Performance Guarantee from a bank registered and operating in the State of Qatar who shall be jointly and severally bound with the Consultant to ten per cent (10%) of the Agreement Price unless expressly stated otherwise in the Agreement Documents, guaranteeing the due execution and completion of the Services under the Performance Guarantee.

3.2.2 The Consultant shall ensure that such Performance Guarantee remains in full force and effect until ninety (90) Days after the issue of the Completion Certificate whereupon the Performance Guarantee shall be returned to the Consultant.

**3.3 Parent Company Guarantee**

3.3.1 In the event that the Consultant is a branch, subsidiary or otherwise of another legal entity (parent company) then pursuant to Sub-clause 2.1.4 prior to, and as a precondition of, the Agreement becoming effective, the Consultant shall provide to the Authority at its own expense the duly executed Parent Company Guarantee by the ultimate parent company.

3.3.2 Where the Consultant comprises a joint venture or other form of association, then each member of the said joint venture or other form of association shall provide a Parent Company Guarantee.

3.3.3 The Parent Company Guarantee shall remain valid until ninety (90) Days after the Completion Date whereupon the guarantee shall be returned to the parent company.

3.3.4 The Parent Company Guarantee shall be provided by the Consultant in addition to, and not in lieu of, the Performance Guarantee.

**3.4 Collateral Warranties**

3.4.1.1 As a precondition of the Engineer's non-objection, or any deemed non-objection, for the sub-contracting of any element of the Services or part thereof the Consultant and sub-consultant shall enter into a Collateral Warranty in favour of the Authority and the Consultant shall deliver such Collateral Warranty to the Engineer.

3.4.1.2 It shall be a condition precedent to the making of any payment by or on behalf of the Authority that the Consultant has delivered such Collateral Warranty to the Engineer. Until the said delivery has occurred, no interim payment shall be treated as due and / or the Services shall not be treated or deemed as achieved, so as to entitle the Consultant to payment in respect thereof.

**3.5 Extended Warranties**

3.5.1.1 To the extent that the Consultant has received the benefit of any warranties from any sub-consultant, which extends beyond the Completion Date, the Consultant shall at no cost to the Authority, to the extent that the Consultant is legally able to do so, assign the benefit of all such warranties to the Authority.

**4 INSURANCES**

The required insurance policies are described in Schedule F [*Insurances*].

**4.1 General Requirements for Insurances**

4.1.1 Wherever the Consultant is the Insuring Party, each insurance shall be effected and maintained with Insurers and in terms consistent with the Agreement.

- 4.1.2 Evidence that insurance policies have been effected and are in full force and effect shall be by means of certified copies of relevant insurance cover notes, certificates of insurance, or insurance policies non-objected by the Authority or Engineer and shall be accompanied by evidence that premiums, as due, have been paid in full, together with any schedule of future premium instalment payment dates.
- 4.1.3 If the Consultant fails to effect and maintain any of the insurances it is required to effect and maintain under the Agreement, or fails to provide satisfactory evidence in accordance with this Sub-clause 4.1 [*General Requirements for Insurances*], the Authority may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due and subject to Sub-clause 16.6 [*Authority's Claims*] recover such amounts from the Consultant.
- 4.1.4 Subject to Sub-clause 4.5 [*Rights and Obligations of the Insured Parties*] and Sub-clause 4.6 [*Liability and Limits of Coverage*], proceeds received by the Authority from the Insurers shall be used for the rectification of the loss or damage to the Services and, to the extent rectification work has been performed by the Consultant to such Services, proceeds received by the Authority from the Insurers shall be payable to the Consultant.
- 4.1.5 The Consultant shall ensure that each insurance policy effected and maintained pursuant to Schedule F [*Insurances*] by the Consultant shall also contain the following endorsements to the policy:
- A. the Consultant and the Insurer shall advise the Authority of any proposed change, reduction or cancellation, or notice of change, reduction, cancellation, termination, or expiry of any insurance policy at least thirty (30) Days before such change, reduction, cancellation termination or expiry is to take effect; and
  - B. a waiver of subrogation clause against the Insured Parties.
- 4.1.6 The insurance policies identified in Schedule F [*Insurances*] are the minimum required by the Authority, and the Consultant may, at its own cost, add such other insurances that it may deem prudent.
- 4.1.7 All insurances shall remain in full force and effect until the issue of the Completion Certificate, except where expressly stated otherwise in Schedule F [*Insurances*].
- 4.2 Insurance Obligations Particular to the Authority
- 4.2.1 The Parties to the Agreement acknowledge that:
- A. the Authority shall effect and maintain the insurance policies described in Part A of Schedule F [*Insurances*] as its responsibility, for the periods stated in Part A of Schedule F [*Insurances*];
  - B. the Authority shall ensure that in each of the insurance policies described in Part A of Schedule F [*Insurances*] the Consultant and its sub-consultants of any tier are each an Insured Party;
  - C. the Authority shall solely bear responsibility for the payment of all premiums for all insurances to be effected and maintained in accordance with Part A of Schedule F [*Insurances*];
  - D. the Authority shall ensure that where expressly required all insurance policies effected by the Authority pursuant to Part A of Schedule F [*Insurances*] shall be written as stand-alone and non-contributory policies, to the extent of the application of such policies, and not in excess of any other insurance policies as may be provided by the Consultant and / or its agents of any tier.



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- 4.3 Insurance Obligations Particular to the Consultant
- 4.3.1 The Consultant shall comply with and shall require that each of its agents of any tier complies with all terms and conditions of the insurance policies described in Schedule F [*Insurances*].
- 4.3.2 The Consultant shall effect and maintain the insurance policies described in Part B of Schedule F [*Insurances*] as its obligation, for the periods stated in Part B of Schedule F [*Insurances*] in terms and conditions with insurers which shall be subject to non-objection by the Engineer.
- 4.3.3 The Consultant shall ensure that each of the insurance policies described in Part B of Schedule F [*Insurances*], state the amount of the Insurer's liability thereunder and that such insurance policies cannot be cancelled, changed or not renewed until at least thirty (30) Days after written notice of such cancellation, change or non-renewal has been received by the Authority and the Engineer.
- 4.3.4 The Consultant shall bear sole responsibility for the payment (of all premiums) for all insurances to be effected and maintained in accordance with Part B of Schedule F [*Insurances*].
- 4.3.5 In respect of the policies referred to in Schedule F [*Insurances*], Part A (1.2) (*Authority's Co-Insured Insurance Policies*), the Consultant shall ensure that full disclosure is made to the Insurers in respect of any material risk relating to the Services, including, without limitation, any information reasonably requested by the Insurers, any information required to be submitted to the Insurers, any information necessary to ensure the validity of any claim under the policies and details of any significant problems encountered in relation to the Services. The Consultant shall put in place appropriate internal reporting procedures to ensure that full disclosure as described above is made by the Consultant. Such disclosure shall be made solely and exclusively via the Authority, or otherwise only with the Authority's prior express authorisation.
- 4.3.6 The Consultant shall promptly provide to the Authority a copy of all correspondence between the Consultant and the Insurers.
- 4.3.7 In the event that the Consultant constitutes a joint venture, consortium or other grouping of two or more parties all insurances effected by the Consultant pursuant to Part B of Schedule F [*Insurances*] may be in the form of a joint venture or consortium policy or separate policies by each of the Consultant members.
- 4.4 Authority's Co-Insured Insurance Policies
- 4.4.1 Following inspection of the co-insured insurance policies effected by the Authority pursuant to Part A (1.2) (*Authority's Co-Insured Insurance Policies*) of Schedule F [*Insurances*], the Consultant shall be deemed to have satisfied itself with regard to the extent of the cover provided under the co-insured insurance policies effected by the Authority. The Consultant shall be deemed to have read and understood all the terms of the co-insured insurance policies provided to the Consultant by the Authority.
- 4.4.2 The Consultant shall comply and procure that all of its sub-consultants and agents comply with and meet all requirements of the Insurers in connection with the settlement of any claims under any co-insured insurance policies effected by the Authority pursuant to Part A (1.2) (*Authority's Co-Insured Insurance Policies*) of Schedule F [*Insurances*] as if such insurances had been arranged by the Consultant directly, and shall not at any time do or omit to do anything whereby any such insurances would be rendered void or suspended, impaired or defeated in whole or in part and shall indemnify the Authority should such insurances be rendered void, suspended, impaired or defeated as a result thereof. The Consultant shall with all due diligence observe, fulfil and procure that all of its sub-consultants and agents observe and fulfil the applicable terms, provisions and conditions contained in the said insurance policies.

- 4.4.3 The Consultant shall keep the Authority advised of any claim made by the Consultant under the insurance policies effected by the Authority pursuant to Part A of Schedule F [*Insurances*] or of any incidents applicable to the insurance policy, its coverage or any claim thereunder, regardless of size and shall advise the Authority of the progress and outcome of such claims and incidents. The Consultant shall render all assistance and cooperation to the Authority and / or the Engineer as may be required to facilitate any insurance claim made by or against the Authority under these insurance policies.
- 4.4.4 All of the Consultant's costs and incidental expenses incurred in relation to the preparation of claims under the co-insured insurance policies effected by the Authority pursuant to Part A of Schedule F [*Insurances*] shall be borne by the Consultant.
- 4.4.5 The Consultant shall be responsible for cooperation with the Insurers and their appointed agents and shall provide adequate notices and details to facilitate the maintenance and compliance with the terms of the relevant policy and its effect. The cost of any necessary surveys and such similar reviews of a risk nature or whatsoever undertaken by the Insurers' agents shall be borne by the Authority.
- 4.5 Rights and Obligations of the Insured Parties
- 4.5.1 The Consultant shall comply with the terms and conditions stipulated in the respective insurance policies.
- 4.5.2 If an insurance policy is required to indemnify more than one Insured Party, the indemnity shall apply to each Insured Party as though a separate policy had been issued for each of them.
- 4.5.3 The Authority or the Consultant (as the case may be) shall act under each respective insurance policy on behalf of the respective Insured Parties. For the avoidance of doubt, the Authority shall be under no obligation and shall incur no liability for the Authority's failure to act under each policy on behalf of any of the Insured Parties.
- 4.5.4 With respect to the insurance policies described in Part A of Schedule F [*Insurances*] the Consultant shall not be entitled to receive payments directly from the Insurer.
- 4.5.5 With respect to the insurance policies described in Part A of Schedule F [*Insurances*] the Consultant shall at all times act to preserve the position of the Authority and the Insurers' position as if the Consultant was uninsured.
- 4.6 Liability and Limits of Coverage
- 4.6.1 Nothing in this Clause 4 [*Insurances*] limits the obligations, liabilities or responsibilities of the Consultant or the Authority, under the Agreement or otherwise. Subject to the provisions of Sub-clause 18.6 [*Limits of Liability*], any amounts not insured or not recovered from the Insurers shall be borne by the Consultant. If the Consultant fails to effect and keep in force an insurance which it is required to effect and maintain under the Agreement any monies which should have been recoverable under this insurance shall be paid by the Consultant.
- 4.6.2 The Authority shall not be liable for any loss or costs that fall within the deductibles or are not covered by the insurance policies other than as expressly stated in the Agreement. The Consultant further releases, assigns and waives any and all rights of recovery against the Engineer, the Authority, insurers and underwriters, and against other consultants and sub-consultants which the Consultant may otherwise have in relation to deductible amounts or inadequacy of limits of insurance provided under this Agreement.
- 4.6.3 Payments by one Party to the other Party shall be subject to Sub-clause 16.3 [*Consultant's Claims*] or Sub-clause 16.6 [*Authority's Claims*], as applicable.

- 4.7 Cancellation of the Consultant's Insurance Policies
- 4.7.1 Notwithstanding that the Consultant may have effected the insurances policies described in Part B of Schedule F [*Insurances*], the Authority may, pursuant to Sub-clause 16.2.1 [*Instructed Change*], notify the Consultant that the Authority shall effect the insurance policies which the Consultant may otherwise have been responsible for effecting pursuant to Sub-clause 4.3 [*Insurance Obligations Particular to the Consultant*]. If the Authority gives such notice to the Consultant, the Consultant shall promptly from the date of such notice cancel its insurances policies as stated in the Authority's notice.
- 4.7.2 Where an item of cost is identified in Schedule B [*Payment Schedules*] for the Consultant to effect and maintain the insurance policies described in Part B of Schedule F [*Insurances*] the Authority shall remain responsible to pay the Consultant for such item of cost but such cost shall be apportioned on a pro-rata basis up until the date the insurance policies described in Part B of Schedule F [*Insurances*] have been cancelled, or should have been cancelled had the Consultant complied with this Sub-clause 4.7. Any item of cost identified in Schedule B [*Payment Schedules*] for the Consultant to effect and maintain the insurance policies described in Part B of Schedule F [*Insurances*] relating to such insurance policies which have been cancelled by the Consultant or should have been cancelled by the Consultant had the Consultant complied with this Sub-clause 4.7 shall be deducted from the Agreement Price. The Authority shall deliver to the Consultant a copy of the broker's certificate as evidence that such insurance policy has been effected by the Authority.

## 5 AUTHORITY'S OBLIGATIONS

### 5.1 Facilities, Information and Services

- 5.1.1 Where expressly provided in Schedule A [*Project Brief*], the Authority shall supply to the Consultant without charge, for the purpose of the Services, the following Facilities, Information and Services:

- A. available relevant information;
- B. equipment and facilities; and
- C. provision of services from Third Parties,

in the manner, if any, stated in Schedule A [*Project Brief*] and by the later of the date, where identified, for the supply of such Facilities, Information and Services in the:

- (i) Schedule A [*Project Brief*]; and
- (ii) Master Programme and / or the Baseline Programme.

- 5.1.2 If the Consultant suffers delay and / or incurs additional Cost as a result of a failure by the Authority to supply such Facilities, Information and Services as required by Sub-clause 5.1.1 the Consultant shall be entitled, subject to Sub-clause 16.3 [*Consultant's Claims*], to:

- A. an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and / or
- B. payment of any such additional Cost plus Profit, which shall be added to the Agreement Price.

If the Authority's failure to supply such Facilities, Information and Services as required by Sub-clause 5.1.1 is caused by any breach, error or delay by the Consultant, including an error or delay in the submission of any of the Deliverables as required by the Agreement, the Consultant shall not be entitled to such extension to the Time for Completion or recover such additional Cost plus Profit.



- 5.2 The Engineer
- 5.2.1 The Authority shall appoint the Engineer within seven (7) Days after the Commencement Date and thereafter shall notify the Consultant of any change to the name and correspondence details of the Engineer.
- Prior to the appointment of the Engineer the Authority shall carry out the Engineer's duties.
- 5.2.2 The Engineer shall carry out the duties assigned to it, and shall have the authority to act on behalf of the Authority for all the purposes of the Agreement, to issue instructions and to give and receive all notices except for the following which shall be given by the Authority:
- A. issuing waivers pursuant to Sub-clause 2.6 [*Waiver*];
  - B. terminating the Agreement or the Consultant's engagement under the Agreement pursuant to Sub-clause 19.3 [*Termination*]; and
  - C. relieving the Consultant of any duties or obligations under the Agreement.
- 5.2.3 In the event that the Authority intends to replace the Engineer it shall give the Consultant not less than fourteen (14) Days' notice of the replacement Engineer's appointment and delegated authorities.
- 5.2.4 Except for notices issued in relation to Sub-clause 19.3 [*Termination*] and Clause 20 [*Settlement of Disputes*], all notices, instructions, information and other communications given or received by the Engineer shall be deemed as given and received by the Authority.
- 5.2.5 The Engineer may from time to time delegate any authority vested in it to representative(s), and may also revoke such delegation. Any delegation or revocation shall not take effect until the Consultant has received notice of such delegation or revocation naming the person and specifying the authority being delegated or revoked.
- 5.2.6 Any action, act, omission or exercise by a representative, in accordance with the notified delegation, and within the limitations of the Agreement, shall be deemed an action, act or exercise by the Engineer.
- 5.3 Instructions
- 5.3.1 Subject to Sub-clause 5.2.2, the Engineer may give the Consultant instructions in respect of the Consultant's obligations under the Agreement and the Consultant shall give immediate effect to such instructions.
- 5.3.2 Should the Consultant consider that the Engineer's instruction constitutes a Change the Consultant shall submit to the Engineer:
- A. a notice requesting the issuance of an Addendum; and
  - B. an Impact Assessment satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*],
- within fourteen (14) Days of receipt of the Engineer's instruction.
- 5.3.3 In the event of the Consultant failing to comply with the requirements of Sub-clause 5.3.2 the Consultant shall not be entitled to any adjustment to the Agreement Price or to any extension to the Time for Completion and the Authority shall be discharged from all liability in connection with the said instruction and the Consultant shall continue to give effect to such instruction.

- 5.3.4 Subject to Sub-clause 5.4.2, in the event the Engineer rejects the Consultant's request for an Addendum in respect to an instruction issued pursuant to Sub-clause 5.3 [*Instructions*] the Consultant shall be entitled to issue a Notice of Dissatisfaction and refer such Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*] for a decision on whether such instruction constitutes a Change and if the instruction is a Change whether the Consultant shall be entitled to:
- A. an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and / or
  - B. payment of any such additional Cost plus Profit, which shall be added to the Agreement Price.
- 5.3.5 Notwithstanding such notice the Consultant shall continue to give effect to the Engineer's instruction issued pursuant to Sub-clause 5.3 [*Instructions*].
- 5.3.6 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after receipt of the Engineer's decision issued pursuant to Sub-clause 5.4 [*Engineer's Decision*] failing which it shall be deemed that no Dispute exists and no additional liability shall attach to the Engineer or Authority.
- 5.4 Engineer's Decision
- 5.4.1 Except where submitted pursuant to Clause 7 [*Deliverables*], the Engineer issue its decision on any matter formally submitted by the Consultant for the Engineer's instruction, non-objection or otherwise, within twenty one (21) Days, or any other period mutually agreed between the Parties, of receipt of such formal submission.
- 5.4.2 If the Engineer fails to deliver notice of such decision to the Consultant within the twenty one (21) Day review period, or any other period mutually agreed between the Parties, the Consultant may:
- A. in the event of a submission seeking the Engineer's non-objection, deem the Engineer's non-objection to have been given;
  - B. in the event of a submission seeking the Engineer's instruction on any matter impacting the progress of the Services, subject to Sub-clause 16.3 [*Consultant Claims*] be entitled to:
    - (i) an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and / or
    - (ii) payment of any such additional Cost plus Profit, which shall be added to the Agreement Price.
- 5.4.3 Should the Consultant be dissatisfied with the Engineer's decision the Consultant shall be entitled to issue a Notice of Dissatisfaction and refer the Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*]. Notwithstanding such notice the Consultant shall continue to give effect to the Engineer's decision.
- 5.4.4 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after receipt of the Engineer's decision failing which it shall be deemed that no Dispute exists and no additional liability shall attach to the Engineer or Authority.

5.5 Engineer's Evaluation

- 5.5.1 Wherever the Conditions of Engagement provide that the Engineer shall issue an Evaluation the Engineer shall review the Consultant's Impact Assessment and issue an Evaluation. The Evaluation shall be a determination of contractual entitlement taking due regard of all the relevant circumstances at the time of the occurrence of the event subject to the Evaluation as supported by contemporaneous evidence provided by the Consultant. The Evaluation shall include, subject to the Conditions of Engagement, the adjustment (if any) to the Time for Completion, and / or the additional Cost (if any) to which the Consultant has demonstrated entitlement under the Agreement.

**6 CONSULTANT'S OBLIGATIONS**

6.1 Consultant's General Obligations

- 6.1.1 The Consultant shall be deemed to have thoroughly considered all factors affecting the performance of its obligations and the performance and completion of the Services under the Agreement and shall perform and complete the Services identified and described in the Agreement. The Consultant shall perform all tasks that are necessary to complete the Services in accordance with Good Design, Engineering and Construction Practices, and shall exercise all skill, care and diligence in the performance and completion of the Services under the Agreement.
- 6.1.2 The Consultant shall advise the Engineer regarding Good Design, Engineering and Construction Practices used elsewhere on similar projects to the Services and shall give the Engineer the benefit of its experiences elsewhere and thereafter throughout the currency of the Agreement.
- 6.1.3 Copies of all correspondence relating to the Services between the Consultant and any Third Parties shall be delivered without delay to the Engineer.
- 6.1.4 If, in the performance of the Services, the Consultant is required to make recommendations or decisions resulting from any assessment of matters between the Authority or the Engineer and a Third Party, then the Consultant shall make such recommendations or decisions with reasons in accordance with the requirements of Sub-clause 6.1.2.
- 6.1.5 Where the Services include the exercise of powers or performance of duties authorised or required by the terms of a contract between the Authority and any Third Party, the Consultant shall:
- A. act in accordance with the contract provided that the details of such powers and duties in the Third Party contract are known to the Consultant and agreed in writing between the Parties where they are not described in Schedule A [*Project Brief*];
  - B. if authorised pursuant to the Agreement, to certify, determine or exercise discretion, do so fairly between the Authority and the Third Party as an independent professional exercising its judgement with Good Engineering Design, Engineering and Construction Practice; and
  - C. if so authorised, pursuant to the Agreement, vary the obligations of any Third Party, subject to obtaining the Engineer's prior non-objection to any change, modification or variation which can have an effect on costs and / or quality and / or time (except in an emergency when the Consultant shall inform the Engineer as soon as practicable).
- In the event of any conflict or inconsistency between the terms of a contract between the Authority and any Third Party and the terms of the Agreement, the terms of the Agreement shall prevail.

- 6.2 Local Office
- 6.2.1 At all times for the currency of the Agreement the Consultant shall maintain a fully operational office in Qatar manned by suitably qualified and authorised personnel.
- 6.3 Consultant's Facilities
- 6.3.1 Except where expressly stated otherwise within the Agreement, the Consultant shall at its own risk provide all the facilities needed to perform and complete the Services in accordance with the Agreement, including accommodation, transport and all other resources and shall make its own arrangements for visas, exit permits, residence and work permits and the like.
- 6.3.2 Except where expressly identified otherwise in Schedule C [*Resource Schedules*], if the Consultant intends to perform any of the Services outside the State of Qatar, then the Consultant shall obtain the Engineer's prior non-objection.
- 6.4 Authority Provided Facilities, Information, and Services
- 6.4.1 Any and all Facilities, Information, and Services provided by the Authority to the Consultant for its use in or under the Agreement pursuant to Sub-clause 5.1 [*Facilities, Information and Services*] shall remain the property of the Authority unless expressly stated otherwise within the Agreement. Upon the earlier of:
- A. the issue of the Completion Certificate; or
  - B. termination of the Agreement or the Consultant's engagement under the Agreement,
- the Consultant shall deliver to the Engineer an inventory identifying what has been provided by the Authority and the Facilities, Information and Services that have not been consumed in the performance of the Services and shall return such to the Authority in accordance with the Engineer's Instructions at no cost to the Authority.
- 6.4.2 Unless otherwise instructed by the Engineer the Consultant shall insure on terms non-objected by the Engineer the Facilities, Information and Services provided by the Authority to the Consultant pursuant to Sub-clause 5.1 [*Facilities, Information and Services*] against:
- A. loss or damage; and
  - B. liabilities arising out of the use of such property, except where the Authority has expressly provided an indemnity for such use under the Agreement.
- 6.5 Permits, Approvals, Licenses
- 6.5.1 Except where expressly stated otherwise in the Agreement, the Consultant shall at its own risk obtain and maintain, and shall ensure where relevant that its sub-consultants obtain and maintain, all permits, approvals, licenses, passes, and other documents (including import and export permits and licences) in order for it to perform its obligations under the Agreement, Applicable Codes and Standards and the Law.
- 6.6 Quality Management
- 6.6.1 The Consultant shall from the commencement of the Services instigate a 'Quality Management System' that will demonstrate overall compliance with the requirements of the Agreement.
- 6.6.2 Unless expressly stated otherwise in Schedule A [*Project Brief*] the Consultant shall prepare and submit for the Engineer's non-objection:
- A. within twenty eight (28) Days of the Commencement Date a preliminary 'Quality Management System'; and
  - B. within fifty six (56) Days of the Commencement Date a final 'Quality Management System',

that shall complement and be compliant with the quality management and assurance requirements of Schedule A [*Project Brief*].

Unless expressly stated otherwise in Schedule A [*Project Brief*] the final 'Quality Management System' shall be implemented and applied in full within ninety (90) Days from the Commencement Date.

6.6.3 The Engineer may review any aspect of the 'Quality Management System' and if it is considered that the 'Quality Management System' does not adequately demonstrate the level of the Consultant's compliance with the requirements of the Agreement, the Engineer may instruct the Consultant to make corrections accordingly.

6.6.4 The 'Quality Management System' shall include a Risk Register together with a 'Risk Management, Control and Mitigation' process for the Project which highlights any and all risks the Consultant anticipates may arise over the currency of the Agreement.

6.6.5 Details of all procedures and compliance documents shall be submitted to the Engineer for information before each Project deliverable stage is commenced.

6.6.6 Compliance with the 'Quality Management System' shall not relieve the Consultant of any of its duties, obligations, risks, liabilities or responsibilities under the Agreement.

6.7 Health, Safety and Security Management

6.7.1 The Consultant shall from the commencement of the Services instigate a 'Health, Safety and Security Management System' that will demonstrate overall compliance with the requirements of the Agreement.

6.7.2 Unless expressly stated otherwise in Schedule A [*Project Brief*] the Consultant shall prepare and submit for the Engineer's non-objection:

A. within twenty eight (28) Days of the Commencement Date a preliminary 'Health, Safety and Security Management System'; and

B. within fifty six (56) Days of the Commencement Date a final 'Health, Safety and Security Management System',

that shall complement and be compliant with the health, safety and security management and assurance requirements of Schedule A [*Project Brief*].

6.7.3 Unless expressly stated otherwise in Schedule A [*Project Brief*] the final 'Health, Safety and Security Management System' shall be implemented and applied in full within ninety (90) Days from the Commencement Date.

6.7.4 The Engineer may review any aspect of the 'Health, Safety and Security Management System' and if it is considered that the 'Health, Safety and Security Management System' does not adequately demonstrate the level of the Consultant's compliance with the requirements of the Agreement, the Engineer may instruct the Consultant to make corrections accordingly.

6.7.5 In the event of the Consultant failing to comply with its health, safety and security management obligations as described in the Schedule A [*Project Brief*] and / or the non-objected 'Health, Safety and Security Management System', a date may be fixed by the Engineer on or by which such compliance shall be achieved and the Engineer shall be entitled to levy the 'Health, Safety and Security Management Penalties' pursuant to Sub-clause 18.4.4 [*Penalties for Health and Safety Infringement*]. If the Consultant fails to achieve compliance by this modified date the Engineer shall be entitled to carry out by itself, or by others, at the Consultant's risk and subject to Sub-clause 16.6 [*Authority's Claims*], any and all remedial tasks necessary to achieve such compliance.

6.7.6 Compliance with the health, safety and security management system shall not relieve the Consultant of any of its duties, obligations, risks, liabilities or responsibilities under the Agreement or Law.



**6.8 Environmental Management**

6.8.1 The Consultant shall from the commencement of the Services instigate an 'Environmental Management System' that will demonstrate overall compliance with the requirements of the Agreement in relation to environmental.

6.8.2 Unless expressly stated otherwise in Schedule A [*Project Brief*] the Consultant shall prepare and submit for the Engineer's non-objection:

A. within twenty eight (28) Days of the Commencement Date a preliminary 'Environmental Management System'; and

B. within fifty six (56) Days of the Commencement Date a final 'Environmental Management System',

that shall complement and be compliant with the environmental management and assurance requirements of Schedule A [*Project Brief*].

6.8.3 Unless expressly stated otherwise in Schedule A [*Project Brief*] the final 'Environmental Management System' shall be implemented and applied in full within ninety (90) Days from the Commencement Date.

6.8.4 The Engineer may review any aspect of the 'Environmental Management System' and if it is considered that the 'Environmental Management System' does not adequately demonstrate the level of the Consultant's compliance with the requirements of the Agreement, the Engineer may instruct the Consultant to make corrections accordingly.

6.8.5 In the event of the Consultant failing to comply with its environmental management obligations as described in the Schedule A [*Project Brief*] and / or the non-objected 'Environmental Management System', a date may be fixed by the Engineer on or by which such compliance shall be achieved. If the Consultant fails to achieve compliance by this modified date the Engineer shall be entitled to carry out by itself, or by others, at the Consultant's cost and subject to Sub-clause 16.6 [*Authority's Claims*], any and all remedial tasks necessary to achieve such compliance, in the event of such action by the Engineer the Consultant shall retain no responsibility for such activities.

6.8.6 Compliance with the environmental management system shall not relieve the Consultant of any of its duties, obligations, risks, liabilities or responsibilities under the Agreement.

**6.9 Records and Progress Reporting**

6.9.1 The Consultant shall prepare and maintain contemporaneous records in respect of the Services in accordance with the requirements of Schedule A [*Project Brief*].

6.9.2 The Consultant shall from the commencement of the Services instigate a 'Monitoring and Reporting System' that will demonstrate overall compliance with the requirements of the Agreement.

6.9.3 Unless expressly stated otherwise in Schedule A [*Project Brief*] the Consultant shall prepare and submit for the Engineer's non-objection:

A. within twenty eight (28) Days of the Commencement Date a preliminary 'Monitoring and Reporting System'; and

B. within fifty six (56) Days of the Commencement Date a final 'Monitoring and Reporting System',

that shall complement and be compliant with the monitoring and reporting requirements of Schedule A [*Project Brief*].

6.9.4 Unless expressly stated otherwise in Schedule A [*Project Brief*] the final 'Monitoring and Reporting System' shall be implemented and applied in full within ninety (90) Days from the Commencement Date.

- 6.9.5 The Consultant shall prepare and submit progress reports in a format compliant with the requirements of Schedule A [*Project Brief*] and continue to submit progress reports until the Services have been completed.

## 7 DELIVERABLES

### 7.1 Scope

- 7.1.1 The Consultant shall be responsible for the preparation of all Deliverables and associated documentation, samples, computer programmes, animations, renderings, mock-ups and the like without limitation, required to complete the Services and shall obtain the Engineer's non-objection of the same, and where relevant, approvals from Government departments and ministries. All costs thereof are deemed included in the Agreement Price unless expressly stated otherwise in the Agreement.

- 7.1.2 The Deliverables shall include any and all services and activities which are necessary to satisfy the requirements of the Agreement.

### 7.2 Consultant's Undertaking and Warranties

- 7.2.1 The Consultant undertakes and warrants that the performance and completion of the Services shall be in accordance with:

- A. the Agreement Documents;
- B. Good Design, Engineering and Construction Practices; and
- C. other undertakings as specified in the Agreement.

### 7.3 Changes to the Applicable Codes and Standards and Laws

- 7.3.1 In the event of amendments or changes to:

- A. the Applicable Codes and Standards; and / or
- B. relevant Laws,

occurring after the Base Date, which the Consultant considers to constitute a Change under the Agreement the Consultant shall:

- (i) give notice, with an Impact Assessment satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*], of such amendments or changes to the Applicable Codes and Standards, and relevant Laws as soon as is practicable; and
- (ii) request the Engineer's instruction pursuant to Sub-clause 5.3 [*Instructions*].

- 7.3.2 Within twenty eight (28) Days of receipt of the Consultant's notice issued pursuant to Sub-clause 7.3.1 the Engineer shall carry out an Evaluation of the Consultant's Impact Assessment and instruct the Consultant to:

- A. for the purposes of the Agreement disregard such amendments and changes to the Applicable Codes and Standards and / or relevant Laws and continue the Services as if the amendments or changes have not occurred; or
- B. implement such amendments and changes to the Applicable Codes and Standards and / or relevant Laws at the Consultant's own expense; or
- C. implement such amendments and changes to the Applicable Codes and Standards and / or relevant Laws and proceed in accordance with Sub-clause 16.2 [*Changes*].

- 7.3.3 In the event of the Engineer failing to give an instruction requested pursuant to Sub-clause 7.3.2, the Consultant shall not be obliged to apply such amendments and changes to the Applicable Codes and Standards, and / or relevant Laws.

- 7.3.4 Should the Consultant be dissatisfied with the Engineer's decision, or failure to issue a decision as the case may be, the Consultant shall be entitled to issue a Notice of Dissatisfaction and refer the Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*]. Notwithstanding such notice the Consultant shall continue to give effect to the Engineer's decision.
- 7.3.5 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after receipt of the Engineer's decision, or the due date for issuing a decision as the case may be, failing which it shall be deemed that no Dispute exists and no additional liability shall attach to the Engineer or Authority.
- 7.4 Government Compliance
- 7.4.1 Subject to Sub-clause 6.5 [*Permits, Approvals and Licenses*] and the requirements set out in Schedule A [*Project Brief*], the requirements of all relevant Government departments and ministries and utility companies shall be incorporated into the Services and all necessary consents and approvals and the like shall be obtained by the Consultant from the concerned Government departments and ministries and utility companies.
- 7.4.2 The Consultant shall not be liable to the Authority by reason of any failure on the Consultant's part to obtain the necessary consents and approvals from a relevant Government department and / or ministry and / or utility company where such consent or approval is withheld for reasons outside the Consultant's control provided the requirements in Sub-clause 12.4 [*Delays Caused by Third Parties*] are satisfied and the Consultant has complied with Sub-clause 8.3 [*Rate of Progress*].
- 7.4.3 Notwithstanding Sub-clause 7.4.2, the Consultant shall mitigate the duration and severity of any delay.
- 7.5 Deliverables
- 7.5.1 The Consultant shall prepare the Deliverables and any other documents necessary to perform and complete the Services in a safe and efficient manner in accordance with the requirements of the Agreement.
- 7.5.2 Where required by the Agreement the Consultant shall obtain in accordance with Sub-clause 7.6 [*Review of the Deliverables*] the Engineer's non-objection of the Deliverables.
- 7.5.3 The requirements of any part of Schedule A [*Project Brief*] shall not be changed unless the Engineer instructs an Addendum in accordance with Sub-clause 16.2 [*Changes*].
- 7.5.4 Any such instruction by the Engineer to vary the requirements of Schedule A [*Project Brief*] or any review by the Engineer of the Deliverables shall not relieve the Consultant from any obligation, responsibility, risk or liability under the Agreement or prejudice any of the Authority's rights and remedies arising out of, under or in connection with the Agreement.
- 7.6 Review of the Deliverables
- 7.6.1 The Deliverables shall be submitted to the Engineer for information or non-objection as set out in Schedule A [*Project Brief*].
- 7.6.2 No review, under this Sub-clause 7.6 [*Review of the Deliverables*] or otherwise, or lack of review, nor any comments, objection or non-objection shall relieve the Consultant from any obligation, responsibility, risk or liability under the Agreement or be deemed to waive or limit the Engineer's or Authority's rights or remedies under the Agreement or Laws and the Consultant shall remain responsible for all risks accrued or likely to be accrued in obtaining the Engineer's non-objection, where required, for any submission.



**7.6.3 Review for Non-objection**

- 7.6.3.1 Where the Agreement requires that the Deliverables shall be submitted to the Engineer for non-objection then such Deliverables shall be submitted in accordance with the times stipulated in the Agreement together with a notice as described in Sub-clause 7.6.3.2. In the event that no times for submission are stipulated in the Agreement the Deliverables shall be submitted in accordance with the dates in the Baseline Programme for the Engineer to review and comment and for the Consultant to have the ability to review and respond to the Engineer's comments without giving rise to any delay to the Time for Completion.
- 7.6.3.2 The notice shall state that the Deliverable is submitted for review and considered ready for use. The notice shall also state that the Deliverable complies with the requirements of Schedule A [*Project Brief*] and is otherwise in accordance with the Agreement, or the extent to which it does not comply with the requirements of Schedule A [*Project Brief*]. Where the Consultant proposes to change any Deliverable previously submitted, the notice shall also set out the nature of the change and the Consultant's reasons for such change.
- 7.6.3.3 Unless the Agreement expressly provides otherwise, each review period shall not exceed twenty eight (28) Days, calculated from the date on which the Engineer receives the relevant Deliverable attached to the referenced notice referred to in Sub-clause 7.6.3.2.
- 7.6.3.4 The Engineer shall, within the review period, give notice to the Consultant that the Deliverable is non-objectioned or to the extent such Deliverable is rejected giving reasons why the Engineer is of the opinion that such Deliverable fails to comply with the Agreement. If the Deliverable fails to comply with the Agreement the Consultant shall rectify and resubmit within fourteen (14) Days of receipt by the Consultant of the Engineer's notice such Deliverable for the Engineer's further review in accordance with this Sub-clause 7.6 [*Review of the Deliverables*] and this procedure shall be repeated as is necessary unless and until the Deliverables are non-objectioned by the Engineer. The reviews shall be solely at the Consultant's risk and the Consultant shall not be entitled to any additional payment, or any adjustment to the Agreement Price or an extension to the Time for Completion, as the case may be, however the Consultant, subject to Sub-clause 16.6 [*Authority's Claims*] will be responsible for any additional cost incurred by the Authority.
- 7.6.3.5 If the Engineer fails, within the review period, to give notice of its review decision to the Consultant within the specified period or any other period mutually agreed between the Parties, the Engineer's non-objection to the Consultant's submission shall be deemed as issued.
- 7.6.4 Review for Information**
- 7.6.4.1 Where the Agreement requires that the Deliverables shall be submitted to the Engineer for information then such Deliverables shall be submitted in accordance with the times stipulated in the Agreement together with a notice as described in Sub-clause 7.6.4.2.
- 7.6.4.2 The notice shall state that the Deliverable is submitted for information and is considered ready for use. If no times are stipulated in the Agreement the relevant document shall be provided sufficiently far in advance of being used for the procurement or construction to allow the Engineer to review without giving rise to any delay to the Time for Completion.
- 7.6.4.3 The Engineer may have comments on the Deliverable submitted for information. The Consultant may, at its sole discretion, take into account these comments and resubmit the Deliverable to reflect the Engineer's comments.

7.6.5 Defects

7.6.5.1 Other than in respect of inaccurate information for which the Authority is responsible pursuant to Sub-clause 17.2 [*Indemnity in respect of Project Data*] and notwithstanding any previous non-objection given by the Engineer, if material errors, omissions, ambiguities, inconsistencies or other defects are discovered in any Deliverable, the Deliverables and the Services shall be corrected in accordance with the Engineer's instructions and the Consultant shall have no entitlement to:

- A. an extension to the Time for Completion or otherwise; or
- B. any additional payment.

7.6.5.2 In the event that the Consultant is of the opinion that the Authority is responsible for the material error, omission, ambiguity, inconsistency or other defect, in the Deliverable or considers the Engineer's Instruction to constitute Additional Services the Consultant shall, subject to Sub-clause 16.3 [*Consultant's Claims*], be entitled to raise a claim for:

- A. an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and / or
- B. payment of any such additional Cost plus Profit, which shall be added to the Agreement Price.

7.6.5.3 In the event the Consultant fails to correct such material error, omission, ambiguity, inconsistency or other defect, as instructed pursuant to Sub-clause 7.6.5.1, the Engineer shall be entitled to:

- A. call upon any guarantee(s) provided pursuant to Clause 3 [*Consultant's Guarantees*]; and
- B. employ another consultant to correct the same and perform such work at the Consultant's risk,

and the Consultant shall remain liable to the Authority for any subsequent costs that may be incurred.

7.6.6 Further Modification

In the event the Consultant wishes to modify any previous non-objectioned Deliverable, the Consultant shall immediately give notice of such modification to the Engineer and re-submit such Deliverable incorporating the modification for the Engineer's further non-objection in accordance with this Sub-clause 7.6 [*Review of the Deliverables*].

7.7 Care and Supply of the Deliverables

7.7.1 Each of the Deliverables shall be in the custody and care of the Consultant, unless and until they are submitted to the Engineer or the Authority.

7.7.2 Unless otherwise provided or referred to in the Agreement, the Consultant shall at its own cost be responsible for supplying the Engineer with the number of copies of each of the Deliverables stated to be supplied under the Agreement.

7.7.3 The Consultant shall keep at its local office a copy of the:

- A. executed Agreement;
- B. 'Quality Plan and Procedures' prepared in accordance with Sub-clause 6.6 [*Quality Management*];
- C. 'Health, Safety and Security Plan and Procedures' prepared in accordance with Sub-clause 6.7 [*Health, Safety and Security Management*];

- D. 'Environmental Plan and Procedures' prepared in accordance with Sub-clause 6.8 [*Environmental Management*];
  - E. other relevant documents including those submitted to the Engineer and those non-objected by the Engineer;
  - F. all notices and communications in respect of Changes; and
  - G. all other communications or notices given under the Agreement.
- 7.8 Maintenance of Records, Inspection and Audit
- 7.8.1 The Consultant shall maintain, and shall ensure that its sub-consultants maintain, a complete and accurate set of records and Deliverables pertaining to all activities relating to the Services and all communications and transactions entered into by the Consultant for the purposes of the Agreement. The Consultant and its sub-consultants shall retain all such records for a period of no less than fifteen (15) years following the:
- A. issue of the Completion Certificate; and
  - B. termination of the Agreement or the Consultant's engagement under the Agreement, as the case maybe.
- 7.8.2 Without prejudice to any other provision in this Agreement, the Authority has the right to access and audit any and all such records, communications and transactions at any time during the performance of the Agreement and during the fifteen (15) year period following:
- A. issue of the Completion Certificate; and
  - B. termination of the Agreement or the Consultant's engagement under the Agreement, as the case maybe.
- 7.8.3 The Consultant shall allow for the Authority's authorised representatives during business hours, upon three (3) Days' notice, to inspect or audit any aspect of the Consultant's performance of the Services, including, but not limited to, inspection of the Consultant's records, communications and transactions of any description.
- 7.8.4 The Consultant shall co-operate in relation to any inspection or audit by:
- A. granting the Authority's representatives access to any premises or systems used in the Consultant's performance of the Agreement;
  - B. ensuring that appropriate security systems are in place to prevent unauthorised access to, or alteration of data during the audit; and
  - C. making any information relating to the performance of the Agreement available for inspection and immediately providing copies of such information if and when requested.

## **8 PROGRAMME**

### **8.1 Programme Time**

- 8.1.1 In the programming of the execution and completion of the Services the Consultant recognises the primacy to the Authority of maintaining the Baseline Programme in accordance with the Agreement.

### **8.2 Master Programme and Baseline Programme**

- 8.2.1 The Master Programme is provided in Schedule C [*Resource Schedules*]. Within twenty eight (28) Days, or any other period as mutually agreed between the Parties, of the Commencement Date the Consultant shall submit for the Engineer's non-objection the Baseline Programme and associated narrative.

The Consultant shall submit an activity programme and narrative for the purpose of reporting progress, derived from the Baseline Programme and thereafter each time there is a progress deviation of  $\pm 5\%$  from the last activity programme.

Unless expressly stated otherwise in the Agreement, each programme shall include inter-alia:

- A. the order in which the Consultant intends to carry out the Services, including:
    - (i) the anticipated timing of each major activity and any change in the original sequencing;
    - (ii) the dates when the Consultant will require the Authority to supply to the Consultant the Facilities, Information and Services pursuant to Sub-clause 5.1 [*Facilities, Information and Services*] if later than the dates in Schedule A [*Project Brief*];
    - (iii) the Time for Completion;
    - (iv) each Key Date;
    - (v) any other information which Schedule A [*Project Brief*] requires the Consultant to show in each programme,
  - B. the dates when the Consultant anticipates submitting the Deliverables for review by the Engineer and the periods for reviews under Sub-clause 7.6 [*Review of the Deliverables*];
  - C. details of interfacing contracts and projects;
  - D. identification of the critical path and associated activities;
  - E. a revised programme narrative to that provided in Schedule C [*Resource Schedules*] which shall include:
    - (i) resource allocation statement for the Services and each Key Stage; and
    - (ii) if the Time for Completion has been extended, a statement of the extended Time for Completion; and
  - F. a revised resource allocation schedule to that provided in Schedule C [*Resource Schedules*].
- 8.2.2 The Engineer and other Authority consultants and contractors involved or interfacing with the Project shall be entitled to rely upon the Baseline Programme when planning their activities and the Engineer shall take appropriate account of the same in determining claims in accordance with Sub-clause 16.6 [*Authority's Claims*].
- 8.2.3 The activity programme and narrative is intended for use as a management and reporting tool and shall be revised so that it depicts a realistic projection for the future progress of the Services. Nothing stated in the activity programme and narrative and subsequent amendments shall relieve the Consultant of any of its duties or obligations under the Agreement or extend or revise the Time for Completion.
- 8.3 Rate of Progress
- 8.3.1 The Consultant shall continuously monitor the progress of all activities specified in the Baseline Programme and shall report such, in the activity programme, in the monthly progress report the Consultant is obliged to submit in accordance with Schedule A [*Project Brief*].
- 8.3.2 If the progress of any activity is, or will be, delayed relative to the prevailing revision of the Baseline Programme other than by reason of a cause detailed in Sub-clause 12.3 [*Delays to Completion*], the Engineer may give notice of such and instruct the Consultant to submit under Sub-clause 8.2 [*Master Programme and Baseline Programme*]:

- A. a recovery programme; and
- B. a statement for corrective action to remedy the delay and complete within the Time for Completion for any affected Services or Key Date, as the case may be.

Unless the Engineer instructs otherwise the Consultant shall adopt the proposed measures to remedy the delay at the sole risk of the Consultant. If such measures cause the Authority to incur additional costs the Consultant shall, subject to Sub-clause 16.6 [*Authority's Claims*], be responsible for the additional costs incurred by the Authority.

#### 8.4 Acceleration

- 8.4.1 In any circumstances where the Consultant considers that it is entitled to an extension to the Time for Completion, as provided by Sub-clause 12.3 [*Delays to Completion*] the Consultant shall, at the time of submission of the Impact Assessment setting out the Consultant's claim for an extension to the Time for Completion as required by the Conditions of Engagement, submit a written proposal to the Engineer regarding the feasibility of acceleration of the Services stating:

- A. the additional Cost setting out the basis and how the amount of Cost has been calculated plus the Profit which shall be added to the Agreement Price; and
- B. the proposals for the terms of payment; and
- C. the alterations to the Baseline Programme showing the Time for Completion; and
- D. the revised programme narrative to that provided in Schedule C [*Resource Schedules*] which shall include a description of the proposed methods which the Consultant intends to adopt and a proposed resource allocation schedule to that provided in Schedule C [*Resource Schedules*].

in the event that the Engineer issues to the Consultant an Acceleration Award pursuant to this Sub-clause 8.4 [*Acceleration*] in lieu of an extension to the Time for Completion.

- 8.4.2 Within fourteen (14) Days of receipt of the Consultant's proposal the Engineer shall:

- A. inform the Consultant that the Engineer does not wish to proceed with the Consultant's proposal for acceleration; or
- B. accept the Consultant's proposal and issue an Acceleration Award to proceed on the basis of the Consultant's proposal; or
- C. request clarifications or modifications to the Consultant's proposal and following receipt of such revised proposal from the Consultant proceed in accordance with Sub-clause 8.4.2 A or Sub-clause 8.4.2 B above.

- 8.4.3 In the event of the Engineer issuing an Acceleration Award the Engineer shall confirm, in accordance with the Consultant's proposal:

- A. the amount of the Acceleration Award, which shall be added to the Agreement Price and associated payment milestones; and
- B. the details of the acceleration and the revised sequencing, if any; and
- C. the revised Time for Completion.



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**9 PERFORMANCE OF THE SERVICES**

**9.1 Consultant's Performance**

9.1.1 The Consultant warrants that, prior to the Base Date, it has scrutinised and shall continue to scrutinise Schedule A [*Project Brief*] and all other Agreement Documents and all of the necessary aspects and conditions relating to the Agreement Documents and has satisfied itself and shall be responsible for the performance and completion of the Services in accordance with the Agreement Documents.

9.1.2 The Consultant shall provide the Services and Deliverables required by the Agreement, including all personnel, consumables and other things and services, whether of a temporary or permanent nature, required in and for the performance, and completion of the Services.

9.1.3 The Services shall include any and all activities which are necessary to satisfy the requirements of the Agreement.

**9.2 Co-ordination with Third Parties**

9.2.1 The Consultant shall be responsible for co-ordinating all matters associated with, and including, the provision of the Services with any:

A. interfacing contracts and projects; and

B. Third Parties.

The Consultant shall make arrangements directly with such other interfacing contracts or projects and Third Parties carrying out such work as appropriate and report such activities to the Engineer in accordance with the reporting requirements arising under Sub-clause 6.9 [*Records and Progress Reporting*] or as otherwise instructed.

9.2.2 The Consultant shall use its best endeavours, as assisted by the Authority pursuant to Sub-clause 17.5 [*Authority's Assistance*] and the Engineer, to resolve actual or potential difficulties associated with any interfacing contracts or projects and / or Third Parties and mitigate the effects of the same.

**10 CONSULTANT'S PERSONNEL**

**10.1 Consultant's Representative**

10.1.1 Prior to the Commencement Date the Consultant shall submit for the Engineer's non-objection the name and correspondence details of the Consultant's Representative and shall not, without the prior non-objection of the Engineer, revoke the appointment or appoint a replacement.

10.1.2 The Consultant's Representative shall have all authority vested in it as necessary to act on behalf of the Consultant for all the purposes of the Agreement, to receive and implement all instructions, to give and receive all notices, other correspondence and the like, and shall be authorised to make decisions and accept commitments on behalf of the Consultant.

10.1.3 The Consultant's Representative may from time to time, by notice to the Engineer, delegate any authority vested in it to deputy representative(s), and may also revoke such delegation. Any delegation or revocation shall not take effect without the Engineer's prior non-objection of such notice naming the person and specifying the authority being delegated or revoked.

10.1.4 Any action, act or exercise by a deputy representative, in accordance with delegation, shall be deemed to have been an action, act or exercise by the Consultant's Representative.

- 10.1.5 Any and all communication, in any form whatsoever, to the Consultant's Representative, or authorised deputies, shall be deemed to have been issued to the Consultant.
- 10.2 Consultant's Personnel
- 10.2.1 Except where expressly stated otherwise in this Agreement the Authority shall not be liable in any way to the Consultant's personnel.
- 10.2.2 The Consultant shall not recruit, or attempt to recruit, staff and labour from amongst the Authority's or Engineer's personnel.
- 10.2.3 The Consultant, its personnel and agents shall familiarise themselves, and at all times behave properly in accordance, with the norms of Qatari culture and social behaviour.
- 10.2.4 The Consultant shall provide the Key Personnel and sub-consultants identified in Schedule C [*Resource Schedules*], who shall be deemed to be non-objected by the Engineer, and such other Key Personnel and sub-consultants as may be non-objected by the Engineer from time to time to perform the Services who shall be suitably qualified and experienced for their assigned duties.
- 10.2.5 Where Additional Services are to be performed by personnel and sub-consultants other than those already assigned to the Project the Engineer's prior non-objection shall be obtained.
- 10.2.6 The Consultant shall not, without the Engineer's prior non-objection, remove or re-assign Key Personnel and sub-consultants from the Project.
- 10.2.7 In the event that any of the Consultant's or its agent's personnel are deemed by the Engineer to be:
- A. acting in a manner inconsistent with the requirements of Sub-clause 10.2.3; or
  - B. persistent in any conduct which is prejudicial to the quality, health and safety, security or the protection of the environment requirements in Schedule A [*Project Brief*]; or
  - C. carrying out duties incompetently or which would otherwise likely to cause the Consultant to be in breach of the Agreement; or
  - D. failing to conform with any provisions of the Agreement or the Law; or
  - E. guilty of serious misconduct and / or acting in a fraudulent or corrupt manner,
- the Engineer shall be entitled to instruct the Consultant to remove such personnel from the Project, setting forth the reasons for removal of such personnel. The Consultant shall upon receipt of the Engineer's written request remove such personnel:
- (i) within forty two (42) Days, where removal is instructed pursuant this Sub-clause 10.2.7 A to D; or
  - (ii) immediately, where removal is instructed pursuant to Sub-clause 10.2.7. E,
- and within forty two (42) Days from receipt of the instruction to remove such personnel provide a suitable replacement with equivalent qualifications and competence non-objected by the Engineer.
- The time and cost implications of the removal and replacement shall be borne entirely by the Consultant and the Authority shall have no liability whatsoever to the Consultant.
- In the event that the Consultant fails to provide a replacement within the specified time, the Engineer shall have the right to make such replacement or take any necessary action at the expense of the Consultant until such time as the Engineer has non-objected such replacement.



- 10.2.8 The Consultant shall comply with all relevant Law in respect of labour and the engagement of the Consultant's personnel, including the laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.
- 10.2.9 The Consultant shall procure that the Consultant's personnel obey the Law, including those in respect of health and safety at work.
- 10.2.10 Whilst engaged in the State of Qatar the Consultant's personnel shall be entitled to weekly rest days and public holidays as recognised by the State of Qatar and shall be entitled to annual leave and sick leave in accordance with the Law.
- 10.3 Qatari Personnel
- 10.3.1 The Consultant shall make efforts to employ, in its Qatar offices, Qatari nationals in professional positions as far as practicable.
- 10.3.2 In addition to the provisions of Sub-clause 10.3.1, the Consultant shall afford training to nominated Authority personnel if so requested by the Authority and agreed costs will be reimbursed by the Authority to the Consultant for the provision of this training as an Addendum pursuant to Sub-clause 16.2 [*Changes*].
- 10.4 Assignment, Sub-consultants and Suppliers
- 10.4.1 With the exception of the sub-consultants identified in Schedule C [*Resource Schedules: Part 6: Sub-consultants*], which are deemed non-objected by the Engineer, the Consultant shall not:
- A. enter into any form of association, assign or transfer any of its rights or obligations under the Agreement; or otherwise;
  - B. directly or indirectly sub-contract any element of the Services;
  - C. permit any sub-consultant to sub-contract any element of the Services, without the Engineer's prior non-objection of the proposed assignee or sub-consultant.
- 10.4.2 Unless otherwise non-objected by the Engineer sub-contracting and sub-sub-contracting of any part of the Services shall only be permitted to a second tier sub-consultant or supplier.
- 10.4.3 For the purposes of this Sub-clause 10.4 [*Assignment, Sub-consultants and Suppliers*] individual experts recruited for the Agreement are not regarded as sub-consultants.
- 10.4.4 In respect of sub-consultants or suppliers subject to the Engineer's non-objection the Consultant shall give the Engineer not less than forty-five (45) days' notice of their intended appointment, with detailed particulars which shall include relevant experience and, in the case of:
- A. sub-consultants, the intended commencement of the sub-consultant's services;
  - B. suppliers, the intended delivery date of the materials.
- 10.4.5 Notwithstanding Sub-clause 10.4.1 the Consultant shall not sub-contract in excess of forty per cent (40%) of the Services Price at execution without the express approval of the Engineer.
- 10.4.6 In the event of the Engineer's non-objection, or any deemed non-objection, of the sub-contracting of any element of the Services or engagement of suppliers, such non-objection shall not relieve the Consultant from any liability or obligation for the completion of the Services in accordance with the Agreement and the Consultant shall be responsible for the acts, defaults or omissions of any sub-consultant, their personnel and agents as if they were the acts, defaults or omissions of the Consultant.

- 10.4.7 It is a precondition of the Engineer's non-objection, or any deemed non-objection, that the sub-consultant shall provide the warranty in favour of the Authority pursuant to Sub-clause 3.4 [*Collateral Warranties*].
- 10.4.8 The non-objection of any sub-consultant shall not create any contractual relationship between the Authority and the sub-consultant other than as specified in the collateral warranty pursuant to Sub-clause 3.4 [*Collateral Warranties*].
- 10.4.9 The Consultant shall not terminate any sub-consultant in relation to the Services without the Engineer's prior non-objection.

## **11 WORKMANSHIP**

### **11.1 Manner of Execution**

- 11.1.1 The Consultant shall itself or through its sub-consultants, perform and complete all elements of the Services:
- A. in a manner that complies with and satisfies the requirements of the Agreement;
  - B. in accordance with the relevant Laws and Applicable Codes and Standards;
  - C. in a proper, workmanlike and professional manner and in accordance with Good Design, Engineering and Construction Practices;
  - D. in compliance with the provisions of Sub-clause 11.3 [*Qatari Preference Requirement*]; and
  - E. in a manner that mitigates or avoids escalation of cost.

### **11.2 Samples, Mock-Ups and Animations**

- 11.2.1 The Consultant shall, at its own cost, submit any and all samples, mock-ups, animations and the like to the Engineer, for review in accordance with the procedures for Deliverables described in Sub-clause 7.5 [*Deliverables*] and as specified in Schedule A [*Project Brief*]. Each sample, mock-up animation and the like shall be identified as to origin and intended use in the Services.

### **11.3 Qatari Preference Requirements**

- 11.3.1 In accordance with the relevant Laws the Consultant shall make provision for such local materials and services in the Deliverables, providing always that such comply with the Applicable Codes and Standards.

### **11.4 Personal Favour**

- 11.4.1 The Consultant shall not show any favour to any company in connection with the Services or the Project or take personal advantage of any opportunity during the currency of the Services or the Agreement. Should such favour occur then the Authority shall be deemed to have suffered loss as a consequence and the Engineer may take action pursuant to Sub-clause 18.2 [*Default Events*] without prejudice to any other rights or remedies available to the Authority under the Agreement or at Law.
- 11.4.2 The Consultant shall not show favour to or specify any firm, company, or proprietary product in any Deliverable with the exception of the following:
- A. where proprietary components or services are produced or supplied by a limited number of suppliers, the Consultant shall submit names of at least three (3) suppliers, for the Engineer's non-objection; and

- B. where proprietary components or services are produced or supplied by one specific supplier, then the Engineer's non-objection for the specification or use of such components or services shall be obtained. However, such non-objection shall only be given in exceptional circumstances when it can be demonstrated by the Consultant that no alternative components or services are available, or that positive economic advantage can be achieved by utilising such components.
- 11.4.3 Should the Consultant fail to comply with the requirements of Sub-clause 11.4.2 then the Authority shall be deemed to have suffered loss as a consequence and the Engineer may take action pursuant to Sub-clause 18.2 [*Default Events*] without prejudice to any other rights or remedies available under the Agreement or Law.
- 11.5 Government Approvals
- 11.5.1 Subject to Sub-clause 17.5 [*Authority's Assistance*] and the provisions of Schedule A [*Project Brief*], the requirements of all relevant Government departments and ministries shall be incorporated into the Services and all necessary approvals shall be obtained by the Consultant from the concerned Government departments and ministries.

## **12 COMMENCEMENT AND COMPLETION**

- 12.1 Effective Date and Commencement
- 12.1.1 The Agreement shall come into full force and effect in accordance with the provisions of Sub-clause 2.1.4.
- 12.1.2 Notwithstanding the provisions of Sub-clause 2.1.4 the Commencement Date of Services under the Agreement shall be that date notified in the notice to proceed issued by the Authority and transcribed into Appendix I of the Memorandum of Agreement.
- 12.1.3 Subject to the Consultant complying with Sub-clause 2.1.4 F, the Consultant shall commence the performance of the Services from the Commencement Date however nothing shall prevent the Consultant from commencing activities related to the Services at its own risk prior to the Commencement Date.
- 12.2 Time for Completion
- 12.2.1 The Consultant shall perform and complete the whole of the Services and each Key Stage (if applicable), within the Time for Completion including, as the case may be:
- A. completion of all Key Stages and interfaces as described in Schedule A [*Project Brief*]; and
  - B. completing the supply of all of the Deliverables specified as being required for the Services or Key Stage, as the case may be.
- 12.2.2 The Consultant shall perform and complete each Key Stage by its associated Key Date including, as the case may be, completion of associated Key Stage interfaces as described in Schedule A [*Project Brief*] by each Key Date.
- 12.3 Delays to Completion
- 12.3.1 The Consultant shall be entitled, subject to Sub-clause 16.3 [*Consultant's Claims*], to an extension to the Time for Completion if and to the extent that completion for the purposes of Sub-clause 14.1 [*Completion of the Services*] is or will be delayed by any of the following causes:
- A. a cause of delay giving an express entitlement to an extension to the Time for Completion in the Conditions of Engagement; or
  - B. any delay occasioned by a non-culpable suspension to which Sub-clause 19.2 [*Consequences of Suspension*] applies; or

- C. any breach of the Agreement, delay, impediment or prevention caused by or attributable to the Authority, Engineer or other consultants or contractors engaged by the Authority interfacing with the Services.
- 12.3.2 The Consultant shall, in consultation with the Engineer, use all reasonable endeavours to mitigate the effects of delay.
- 12.3.3 Except in circumstances provided for in Sub-clauses 12.3.1 the Consultant shall not be entitled to any extension to the Time for Completion.
- 12.3.4 If the Consultant considers itself to be entitled to an extension to the Time for Completion, the Consultant shall give notice to the Engineer in accordance with Sub-clause 16.3 [*Consultant's Claims*]. When determining each extension to the Time for Completion under Sub-clause 16.3 [*Consultant's Claims*], the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension to the Time for Completion.
- 12.3.5 In addition to any other provisions of this Agreement, the Engineer may at any time, prospectively or retrospectively, in its sole discretion and without any obligation to do so, by notice to the Consultant extend the Time for Completion by reason of any breach of the Agreement, delay, impediment or prevention caused by, or attributable to, the Authority, Engineer or other consultants or contractors engaged by the Authority interfacing with the Services.
- 12.4 Delays Caused by Third Parties
- 12.4.1 If all of the following conditions are satisfied:
- A. the Consultant has diligently followed the procedures laid down by the relevant Third Party; and
  - B. the relevant Third Party delays or disrupts the Consultant's work;
  - C. in the event the delay or disruption arises from or in connection with delay to Third Party approvals, consents and the like the Consultant identified such approval or consent in the latest activity programme and has notified the Engineer of such potential for delay or disruption to the Services in the updated Risk Register issued with the periodical report submitted in accordance with Sub-clause 6.9 [*Records and Progress Reporting*]; and
  - D. the Consultant has used all reasonable endeavours in consultation with the Engineer to mitigate the effects of such delay or disruption,
- then this delay or disruption will be considered as a cause of delay under Sub-clause 12.3.1 A.

### **13 INTELLECTUAL PROPERTY RIGHTS**

#### **13.1 Intellectual Property Rights**

- 13.1.1 All Intellectual Property Rights in the Deliverables prepared by (or on behalf of) the Consultant shall vest in, and be assigned to, the Authority in perpetuity at no cost to the Authority upon submission of such Deliverables to the Engineer or the Authority, as the case may be.

The Authority shall have the sole right to make use of such Deliverables in any way the Authority deems fit including making and using modifications (including translations into other languages) and to combine and incorporate the Deliverables or such material from the Deliverables with any other material. The Consultant shall have no right to submit any claim whatsoever or howsoever arising for such use except where expressly stated otherwise in the Agreement.

13.1.2 The vesting of Intellectual Property Rights referred to in Sub-clause 13.1.1 shall not apply to the Consultant's or others' Intellectual Property Rights employed for performance and completion of the Services, or subsisting in the Deliverables, but shall apply to any Intellectual Property Rights first conceived by the Consultant solely at the request of the Authority to be furnished as a Deliverable in performance of the Services.

The Authority shall protect the confidentiality of such unvested Intellectual Property Rights, and in relation to in Sub-clause 13.1.3 the Authority shall, in respect to the confidentiality of such Intellectual Property Rights, ensure that others to whom the Authority grants a sub-license, transfer, novation or assignment shall comply like obligations to those provided in Sub-clause 2.10 [*Confidentiality*].

13.1.3 In circumstances where Intellectual Property Rights cannot be vested in the Authority, the Consultant grants to the Authority a perpetual, non-terminable, non-exclusive, royalty-free license to copy, use and communicate, without restriction, including making and using modifications (including translations into other languages) and to combine and incorporate the Deliverables or such material from the Deliverables with any other material in each case for any purpose. The license granted pursuant to this Sub-clause 13.1.3 shall include the right to grant sub-licenses, transfer, novate to or assign for the foregoing purposes on like terms to any person without further limitation and at no cost to the Authority or any such person. This license shall:

- A. entitle any person in possession of the relevant part of the Project, in the exercise of their rights in respect of which the Project forms part to copy, use and communicate the Deliverables including making and using modifications of them for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works; and
- B. in the case of Deliverables which are in the form of computer programmes and other software, permit their use on any number and specification of computers on the Project and other places as envisaged by the Agreement.

## 13.2 Authority Documents

13.2.1 As between the Parties, the Authority shall retain the Intellectual Property Rights in the documents contained within Schedule A [*Project Brief*] and the other documents made by (or on behalf of) the Authority pursuant to Sub-clause 5.1 [*Facilities, Information and Services*] or otherwise.

13.2.2 The Consultant may, at its cost, copy, use and obtain communication of Authority copyrighted documents solely for the purposes of the Agreement. Such copyrighted documents shall not, without the Authority's express authorisation, be copied, used or communicated to a third party by the Consultant, except as necessary for the purposes of the Agreement, in which event the Consultant shall ensure that such third party shall be bound by the same or no less onerous confidentiality and other obligations as the Consultant is obligated under the Agreement.

## 13.3 Project Publications

13.3.1 The Consultant shall obtain the Authority's prior written authorisation before publishing or transmitting any articles, photographs, illustrations or any other information related to the Project.

13.3.2 Subject to the provisions of Clause 13 [*Intellectual Property Rights*] the Consultant shall not have the benefit, directly or indirectly, of any royalty, gratuity, or commission in respect of any patented or protected material or process used on or for the purpose of the Agreement.



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**14 COMPLETION CERTIFICATE**

**14.1 Completion of the Services**

- 14.1.1 The Consultant's obligations under the Agreement shall not be considered as completed unless and until the Completion Certificate has been issued to the Consultant in accordance with this Sub-clause 14.1 [*Completion of the Services*] stating the date on which the Consultant completed its obligations under the Agreement.
- 14.1.2 Not earlier than twenty one (21) days before the date on which the Consultant will, in its opinion, have completed its obligations under the Agreement the Consultant shall issue to the Engineer an application for the release of the Completion Certificate.
- 14.1.3 Subject to Sub-clause 14.1.2 the Engineer shall issue the Completion Certificate within forty two (42) Days after the issue of the Engineer's non-objection, or confirmation of receipt in the case submission for review, of the last of the Deliverables to be submitted in accordance with Clause 7 [*Deliverables*].
- 14.1.4 The Completion Certificate shall be conclusive evidence that all necessary effect has been given to those provisions of the Agreement which require an adjustment to the Agreement Price or any extension of the Time for Completion the payment by the Authority to the Consultant of any additional Cost plus, where applicable, any Profit in accordance with the Conditions of Engagement. The aforesaid conclusive effect shall not apply to any matter which is subject to a Notice of Dissatisfaction and which has been referred for resolution pursuant to Clause 20 [*Settlement of Disputes*].

**15 PAYMENT**

**15.1 Payment Amount**

- 15.1.1 The Engineer shall certify, and the Authority shall authorise, the amounts detailed in Schedule B [*Payment Schedules*], and such other amounts as determined in accordance with these Conditions of Engagement, which shall be payable at such times and in the manner described in Schedule B [*Payment Schedules*].
- 15.1.2 The Agreement Price shall only be adjusted in accordance with or as provided under the Conditions of Engagement.

**15.2 Payment**

- 15.2.1 The Consultant shall be paid in accordance with the procedure as follows:

- A. the Consultant shall make an application for payment with full supporting particulars in accordance with the payment schedule in Schedule B [*Payment Schedules*];
- B. for each application, the Engineer shall certify such undisputed amounts in accordance with Sub-clause 15.1.1 and the Authority shall authorise such amounts certified by the Engineer for payment within twenty eight (28) Days of receipt of such application; and
- C. within forty five (45) Days of receipt of the Authority's authorisation of the amounts certified by the Engineer for payment the Department of General Financial Affairs of the Ministry of Economy and Finance shall release the due payment.

- 15.2.2 The currency of payment is Qatari Riyals.

- 15.2.3 Payment of the authorised amount shall be made into the bank account, nominated by the Consultant, in the State of Qatar.

- 15.2.4 The receipt of a payment in to the nominated bank account shall constitute the complete discharge of the Authority's obligations with regards to such payment.

- 15.2.5 In the event of delay to the period for release of due payment as described in Sub-clause 15.2.1, the Consultant shall:
- A. issue notice to the Engineer, copied to the Authority, that payment is delayed, stating the due date;
  - B. subject to Sub-clause 15.2.5 A, be entitled to receive an allowance for the cost of financing on such delayed payment from the date of notice calculated daily on the unpaid amount during the period of delay in accordance with Sub-clause 15.2.6.
- 15.2.6 The Consultant's allowance for the cost of financing shall be calculated at the annual rate of two (2) percentage points above the Qatar Central Bank Per Annum Minimum Lending Rate calculated on a daily pro-rata basis from the date the payment was due.
- Subject to Sub-clause 15.2.5 A the Consultant shall be entitled to such allowance for the cost of financing without formal notice, and without prejudice to any other rights or remedies under the Agreement or at Law.
- 15.3 Interference by the Engineer or Authority
- 15.3.1 In the event of the Engineer or Authority interfering with and / or obstructing the certification and authorisation of a payment application the Consultant shall be entitled, without prejudice to any other rights or remedies, to issue a Notice of Dissatisfaction and refer the Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*].
- 15.3.2 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after the occurrence of either event referred to in this Sub-clause 15.3 [*Interference by the Engineer or Authority*] failing which it shall be deemed that no Dispute exists and that the Authority has acted in full accordance with the Agreement and Law.
- 15.3.3 No such Notice of Dissatisfaction shall in any way vitiate or invalidate the Agreement, nor shall it be grounds for the Consultant to terminate its engagement for the whole or part of the Services.
- 15.4 Taxes, Penalties and Fines
- 15.4.1 All payments shall be subject to the Laws and applicable regulations of the Tax Department of the Ministry of Economy and Finance.
- 15.4.2 The Consultant shall be solely liable for the payment of all taxes, levies, fees, stamps, duties and the like, levied by whatsoever authorities in relation to the performance of the Services, all of which are deemed included in the Agreement Price.
- 15.4.3 The Consultant shall likewise bear and discharge at its own expense and under its own liability any fines and penalties pertaining to any of the above.
- 15.4.4 The Consultant shall indemnify and hold harmless the Authority against any and all claims and liabilities in respect of such fines and penalties.
- 15.4.5 Where applicable the Authority shall withhold the final payment pending demonstration of compliance with the applicable regulations of the Tax Department of the Ministry of Economy and Finance.
- 15.5 Application for Final Payment
- 15.5.1 Within thirty five (35) Days of submitting its application for release of the Completion Certificate in accordance with Sub-clause 14.1 [*Completion of the Services*] the Consultant shall submit to the Engineer a draft Final Account with full supporting particulars including supporting documents showing, in detail in the format instructed by the Engineer:
- A. the value of all services performed and completed in accordance with the Agreement; and



- B. any further amounts which the Consultant considers to be due to it under the Agreement.
- 15.5.2 Within twenty eight (28) Days from receipt of the draft Final Account the Engineer shall issue its Evaluation of the Agreement Final Account to the Consultant and the Parties shall proceed in accordance with Sub-clause 15.2 [*Payment*] for the payment of any outstanding amounts.
- 15.5.3 In the event that the Consultant does not accept the Evaluation of the Agreement Final Account the Consultant shall be entitled to issue a Notice of Dissatisfaction and submit the Dispute on the disputed portion of the Final Account amount to amicable settlement pursuant to Sub-clause 20.2 [*Amicable Settlement*]. Thereafter the Consultant shall submit to the Engineer, or its successor, the Final Account upon resolution of the Dispute.
- 15.5.4 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after receipt, or the due date for receipt, of the Final Account Evaluation, pursuant to Sub-clause 15.5.2, failing which it shall be deemed that no Dispute exists and the Engineer's Evaluation of the Final Account is accepted by the Consultant.
- 15.5.5 In the event of the Consultant failing to submit a draft Final Account in accordance with Sub-clause 15.5.1 the Engineer shall issue to the Consultant:
- A. a notice to correct pursuant to Sub-clause 18.1 [*Notice to Correct*]; and
  - B. within twenty eight (28) Days of the due date of the draft Final Account issue to the Consultant the Engineer's Evaluation of the Final Account amount.
  - C. the Engineer shall then proceed in accordance with Sub-clause 15.2 [*Payment*] for the payment of any outstanding amounts. Any amounts due to the Consultant shall be held in an escrow account on behalf of the Consultant and shall revert to the Authority upon failure of the Consultant to collect within three hundred and sixty five (365) Days of the issue of the Completion Certificate in accordance with Clause 14.1 [*Completion of the Services*].
- 15.6 Discharge
- 15.6.1 Upon acceptance of the Final Account Evaluation, issued in accordance with Sub-clause 15.5 [*Application for Final Payment*], the Consultant shall submit with its application for release of the final outstanding amount a written discharge which confirms that the Agreement Final Account amount represents full and final settlement of all amounts due to the Consultant under or in connection with the Agreement. This discharge shall state that it becomes effective on the date when the Consultant has received:
- A. with the exception of extended warranties issued pursuant to Sub-clause 3.5 [*Extended Warranties*], the return of all guarantees issued in accordance with Clause 3 [*Consultant's Guarantees*]; and
  - B. the outstanding balance of the Final Account total.
- Issue of the written discharge shall be a condition precedent to the certification and authorisation of the outstanding balance of the Final Account total payment application.
- 15.6.2 With respect to any lien or claim outstanding at the Completion Date or termination of the Agreement or Consultant's engagement under the Agreement, the Consultant shall promptly pay or allow to the Authority all costs incurred or likely to be incurred by the Authority in extinguishing such liens or claims, including any costs of filing and legal fees.
- 15.7 Cessation of Authority's Liability
- 15.7.1 With the exception of the provisions under Sub-clause 17.4 [*Authority's Indemnity*] the Authority shall not be liable to the Consultant for any payment under or in connection with the Agreement or performance of the Services, except to the extent that the Consultant shall have included an amount expressly for it in the Final Account.

- 15.7.2 This Sub-clause 15.7 [*Cessation of Authority's Liability*] shall not limit either Party's liability under their respective indemnification obligations.
- 15.7.3 The Agreement shall be deemed discharged upon release of all outstanding guarantees in accordance with Sub-clause 15.6 [*Discharge*] and payment of the balance of the Final Account amount.

## **16 CHANGES**

### **16.1 General**

- 16.1.1 The Engineer may at any time prior to the issue of the Completion Certificate issue a formal instruction as a Change.
- 16.1.2 Unless expressly stated otherwise in the Agreement all provisions of the Agreement shall apply to Addendum issued pursuant to this Clause 16 [*Changes*].
- 16.1.3 The change by the Consultant of:
- A. the Services in order to ensure compliance with the Agreement; or
  - B. the Deliverables in order to ensure compliance with the Agreement; or
  - C. the conditions and programme of activities to mitigate potential Consultant default,
- shall not constitute Changes and shall be executed at the Consultant's own risk.
- 16.1.4 The modification of any Deliverables as a consequence of events pursuant to Sub-clause 16.1.3 does not constitute Changes and shall be performed at the Consultant's own risk.
- 16.1.5 The Authority may at any time undertake supplementary, additional or otherwise services on its own account and at its own risk. Such supplementary, additional or otherwise services, for the purposes of the Agreement, shall not constitute a Change.
- 16.1.6 If the Engineer issues an Addendum to omit part of the Services included in the Agreement, the Authority shall be entitled to instruct other consultants or persons to carry out such omitted services. In which event the Authority shall have no liability to the Consultant for loss of profit, loss of opportunity or any other liability in law for any losses whatsoever from such change to omit services.

### **16.2 Changes**

#### **16.2.1 Instructed Change**

- 16.2.1.1 The Engineer may, pursuant to this Sub-clause 16.2.1 [*Instructed Change*], initiate a Change by issuing an Addendum to the Consultant to which the Consultant shall give immediate effect to the Addendum.
- 16.2.1.2 Within fourteen (14) Days, or any other period mutually agreed between the Parties, of receipt of the instruction the Consultant shall issue an Impact Assessment satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*] to the Engineer detailing any impact on time, cost and / or quality arising out of the issue of the Addendum.
- 16.2.1.3 The Engineer shall within fourteen (14) Days of receipt of the Impact Assessment, or within fourteen (14) Days from when the Impact Assessment was due, issue its Evaluation.
- 16.2.1.4 In the event that the Engineer fails to issue its Evaluation within fourteen (14) Days of receipt of the Impact Assessment the Consultant shall nevertheless continue to give immediate effect to the Addendum and be entitled to issue a Notice of Dissatisfaction and refer the assessment of the impact on time, cost and / or quality arising out of the issue of the Addendum as a Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*].

16.2.1.5 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after the due date for receipt of the Engineer's Evaluation issued pursuant to Sub-clause 16.2.1.3 failing which it shall be deemed that no Dispute exists and no additional liability shall attach to the Engineer or Authority and the Consultant shall nevertheless continue to give immediate effect to the Addendum.

16.2.1.6 The Consultant shall not be entitled to an extension to the Time for Completion or make a claim for additional payment or an adjustment to the Agreement Price arising out of the Addendum other than under this Sub-clause 16.2 [Changes].

16.2.1.7 The Evaluation shall be treated as final and conclusive and shall not be opened up, reviewed or revised, whether by expert determination, arbitration, court proceedings or otherwise unless within twenty eight (28) Days of receipt of the Evaluation the Consultant has issued a Notice of Dissatisfaction and referred the Dispute for resolution pursuant to Clause 20 [Settlement of Disputes] for the purposes of assessing the impact on time, cost and / or quality arising out of the issue of the Addendum.

#### 16.2.2 Request for Proposal

16.2.2.1 The Engineer may, pursuant to this Sub-clause 16.2.2 [Request for Proposal], instruct the Consultant to provide an Impact Assessment satisfying the requirements under Sub-clause 16.5 [Impact Assessment] in relation to a Change proposal; and the Consultant shall submit such Impact Assessment within twenty one (21) Days, or any other period mutually agreed between the Parties, of receipt of such instruction or any other period mutually agreed between the Parties.

16.2.2.2 Within fourteen (14) Days of receipt of the Consultant's Impact Assessment for the Change proposal or within fourteen (14) Days from when the Impact Assessment was due, the Engineer shall respond with an Evaluation and an Addendum, comments or cancellation and the Consultant shall proceed in accordance with such response as the case may be.

16.2.3 Any Change instruction shall be confirmed in writing by the Engineer in the form of an Addendum.

#### 16.2.4 Provisional Sums and Prime Cost Sums

16.2.4.1 Each Provisional Sum and Prime Cost Sum shall only be used, in whole or in part, in accordance with the Engineer's instructions, and the Agreement Price shall be adjusted accordingly. The total sum paid to the Consultant shall include only such amounts, for the services or supplies to which the Provisional Sum or Prime Cost Sum relates, as instructed by the Engineer. For each Provisional Sum and Prime Cost Sum, the Engineer may instruct:

A. services to be performed by the Consultant;

B. services or supplies to be purchased by the Consultant, and for which there shall be included in the Agreement Price:

(i) the invoiced (prime) cost of the instructed services or supplies; plus

(ii) the Consultant's 'administration and profit allowance'<sup>1</sup> applicable to that Prime Cost Sum.

The Consultant is deemed to have made provision in the Baseline Programme for the execution of all Provisional Sums and Prime Cost Sums identified in Schedule B [Payment Schedules] and consequently the instruction of works under Provisional Sums and Prime Cost Sums shall not give rise to an entitlement for an extension to the Time for Completion.

<sup>1</sup> Refer to Schedule B [Payment Schedules]

16.2.4.2 The Consultant shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation of such Costs on an open-book basis.

16.2.4.3 Any and all Provisional Sums and Prime Cost Sums not instructed by the Engineer shall not form part of the Final Account calculation of the Agreement Price.

**16.3 Consultant Claims**

16.3.1 The Consultant shall notify the Authority within twenty eight (28) Days from first becoming aware, or should have become aware had the Consultant been exercising Good Design, Engineering and Construction Practices, of an event which may result in a potential Consultant's claim. Such notice shall describe both the event and the relevant Clause or Sub-clause giving rise to any entitlement under the Agreement. Any such notice issued pursuant to this Sub-clause 16.3 [*Consultant's Claims*] shall be communicated separately from other communications issued by the Consultant under the Agreement.

16.3.2 Within twenty eight (28) Days of the issue of the notification pursuant to Sub-clause 16.3.1, or any other period mutually agreed between the Parties, the Consultant shall quantify and submit the claim entitlement fully describing the event with the Impact Assessment (together the claim 'particulars') satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*].

16.3.3 Within twenty eight (28) Days following receipt of the claim particulars pursuant to Sub-clause 16.3.2 or any other period mutually agreed between the Parties, the Engineer shall provide its Evaluation of the claim together with the reasoning for its decision, and if applicable calculations.

16.3.4 Any Evaluation pursuant to Sub-clause 16.3.3 shall be treated as final and conclusive and shall not be opened up, reviewed or revised, whether by expert determination, arbitration, court proceedings or otherwise unless within twenty eight (28) Days of receipt of the Evaluation the Consultant has issued a Notice of Dissatisfaction pursuant to Sub-clause 16.3.8 satisfying the requirements of Sub-clause 16.3.9.

16.3.5 Notwithstanding the above, the Engineer may also request further particulars, in which case the time for Evaluation shall be a further twenty one (21) Days, or any other period mutually agreed between the Parties, from the date of receipt of such further requested particulars.

Any such request for further particulars must be provided by the Consultant within twenty one (21) Days of the date of receipt of the request for further particulars by the Consultant or within such any other period mutually agreed between the Parties.

16.3.6 If the event giving rise to the claim has a continuing effect the Consultant shall:

- A. state such in the notice issued pursuant to Sub-clause 16.3.1 and the entitlement pursuant to Sub-clause 16.3.2; and
- B. confirm that the Impact Assessment submitted pursuant to Sub-clause 16.3.2 shall be deemed as interim; and
- C. submit monthly updates of the Impact Assessment detailing the accumulated impact; and
- D. within fourteen (14) Days of the end of the continuing effect submit the final Impact Assessment.

16.3.7 In the event the Consultant fails to:

- A. give notice of a claim within the twenty eight (28) Day notice period pursuant to Sub-clause 16.3.1; and / or

- B. submit the particulars of the claim within the twenty eight (28) Day entitlement submission period, or any other period mutually agreed between the Parties, from the date of the notice pursuant to Sub-clause 16.3.2; and / or
- C. submit further particulars within the twenty one (21) Day further particulars period, or any other period mutually agreed between the Parties, from the date of request receipt pursuant to Sub-clause 16.3.5,

the Consultant shall not be entitled to any adjustment of the Agreement Price or an extension to the Time for Completion and the Authority shall be discharged from all liability in connection with the claim.

- 16.3.8 In the event the Engineer fails to provide a response to the Consultant's submission pursuant to Sub-clause 16.3.2 within the twenty eight (28) Day, or in the case of review of further particulars within the twenty (21) Day, response periods pursuant to Sub-clause 16.3.3 the Consultant shall be entitled to issue a Notice of Dissatisfaction and refer the Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*].

Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after the occurrence of the event referred to in this Sub-clause 16.3.8 failing which it shall be deemed that no Dispute exists, the Time for Completion shall not be extended, the Consultant shall not be entitled to any adjustment of the Agreement Price and the Engineer and Authority shall be discharged from all liability in connection with the claim.

- 16.3.9 Notwithstanding Sub-clauses 16.3.1, 16.3.2 and 16.3.3 herein, the Consultant shall employ its best endeavours to avoid or mitigate any delays and / or any additional costs that may arise as a result of such event.
- 16.3.10 Notwithstanding Sub-clauses 16.3.1, 16.3.2 and 16.3.3 herein, any and all claims, without exception, submitted to and / or received by the Authority or the Engineer after the issue of the Completion Certificate shall not constitute validly submitted claims nor shall the Authority retain any liability with regards to such claims.

#### 16.4 Force Majeure

- 16.4.1 Force Majeure means an exceptional event or circumstance which prevents a Party performing its obligations under the Agreement:

- A. which is beyond the control of the affected Party;
- B. which the affected Party, despite all efforts could not have provided against before entering into the Agreement; and
- C. which could not have been prevented, overcome or remedied in whole or in part by the exercise by the affected Party of reasonable skill, care and diligence to a standard as would be exercised by a party in the same position as the Party affected but excluding such event that could be prevented but for either Party's breach of its obligations under the Agreement.

- 16.4.2 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below which must satisfy all of the conditions set out in Sub-clause 16.4.1 A to C:

- A. war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- B. rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war;
- C. riot, commotion, disorder, strike or lockout by persons other than the Consultant's personnel and its agents;
- D. munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Consultant's use of such munitions, explosives, radiation or radio-activity;



E. natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

16.4.3 Notice of Force Majeure

16.4.3.1 If a Party is or will be prevented from performing any of its obligations under the Agreement by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within seven (7) Days of the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

In the event of delay to the issue of the notice of the Force Majeure event the period of relief for failure to perform afforded to the affected Party shall commence no more than seven (7) Days before the notice of the Force Majeure event.

16.4.3.2 The affected Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

16.4.3.3 The affected Party shall provide the other Party with periodical reports, at the direction of the Engineer, of the status of the Force Majeure and the affected Party's efforts to mitigate the impact thereof.

16.4.3.4 The affected Party shall, within three (3) Days of it becoming aware or should have become aware, give written notice to the other Party of the:

- A. cessation of the Force Majeure event;
- B. cessation of the effects thereof on the performance of the affected Party;
- C. the resumption of the affected Party's performance.

16.4.3.5 Notwithstanding any other provision of the Agreement, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Agreement.

16.4.4 Duty to Minimise Delay

16.4.4.1 Each Party shall at all times use all reasonable endeavours to minimise any disruption or delay in the performance of its obligations under the Agreement as a result of Force Majeure and to resume full performance as soon as practicable.

16.4.5 Consequences of Force Majeure

16.4.5.1 If the Consultant is prevented from performing any of its obligations under the Agreement by Force Majeure, of which notice has been given under Sub-clause 16.4.3 [*Notice of Force Majeure*], the Consultant shall be entitled to an extension to the Time for Completion, if completion of a Key Stage or the Services, as the case maybe, is or will be delayed.

16.4.6 Optional Termination, Payment and Release

16.4.6.1 If the performance of a substantial proportion of the Services in progress is prevented for a continuous period of eighty four (84) Days by reason of Force Majeure of which notice has been given under Sub-clause 16.4.3 [*Notice of Force Majeure*], or for multiple periods which total more than one hundred and forty (140) Days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Agreement. In this event, the termination shall take effect seven (7) Days after the notice is given and the Consultant shall promptly commence demobilisation.

16.4.6.2 Termination of the Agreement due to Force Majeure does not constitute default by the Consultant.

16.4.6.3 Upon such termination, the Authority shall be liable only to pay to the Consultant:

- A. the amounts payable for any services carried out up to the point of termination in accordance with the Agreement; and



B. the Cost of demobilisation,

as submitted with substantiation to, and certified by, the Engineer and no further payments or compensation shall be due.

#### 16.5 Impact Assessment

16.5.1 Where the Conditions of Engagement requires the Consultant to provide an Impact Assessment the Consultant shall issue, within the prescribed time period stated in the Conditions of Engagement, for the Engineer's Evaluation a written substantiated fully particularised evaluation of the related event describing the:

- event giving rise to the entitlement together with identification of the relevant sub-clause;
- effect on Cost, and where applicable, the Profit on such additional Cost;
- adjustment to the Agreement Price payment milestones in Schedule B [*Payment Schedules*];
- effect on the Time for Completion;
- effect on the latest Baseline Programme; and
- effect on the resource allocation schedule.

Any and all costs incurred by the Consultant in the preparation of Impact Assessments are deemed to be included within the amounts payable to the Consultant under the Agreement.

16.5.2 Within the prescribed time period from receipt of the Consultant's Impact Assessment the Engineer shall respond with an Evaluation, comments or cancellation as the case may be.

16.5.3 In the event that the Consultant disagrees with the Evaluation the Consultant shall nevertheless give immediate effect and be entitled to issue a Notice of Dissatisfaction and refer the Dispute for resolution pursuant to Clause 20 [*Settlement of Disputes*].

Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after the receipt of the Engineer's Evaluation pursuant to Sub-clause 16.5.2 failing which it shall be deemed that no Dispute exists and the Engineer and Authority shall be discharged from all liability in connection with any disputed element of the Impact Assessment.

#### 16.6 Authority's Claims

16.6.1 If the Engineer considers the Authority to be entitled to any payment under the Conditions of Engagement the Engineer shall give notice to the Consultant, describing the event giving rise to the claim, the Clauses or Sub-clauses pursuant to which the claim is made under the Agreement and the Evaluation as an Impact Assessment satisfying the requirements under Sub-clause 16.5 [*Impact Assessment*].

16.6.2 The notice shall be given as soon as practicable after the Engineer became aware of the event giving rise to the claim. However, failure to give notice shall not be a bar to the Authority's right under this Sub-clause 16.6 [*Authority's Claims*] and shall not prejudice the Authority's right to subsequently give such notice to the Consultant in which event the provisions of this Sub-clause 16.6 [*Authority's Claims*] shall apply provided that all such Authority's Claims shall be notified before the issue of the Final Account, with the exception of Authority's Claims in relation to events insured in accordance with the obligations within Schedule F [*Insurance*] in which case all such Authority's Claims shall be notified before the expiry of the appropriate insurance obligations and their associated Extended Reporting Periods.

- 16.6.3 The Consultant shall be entitled to comment on the Authority's Evaluation within fourteen (14) Days of receipt of such Evaluation.
- 16.6.4 In the event the Consultant issues comments on the Engineer's Evaluation the Engineer shall, within fourteen (14) Days of receipt of the Consultant's comments, issue a further Evaluation taking cognizance or otherwise of the Consultant's comments.
- 16.6.5 In the event the Consultant fails to issue any comments within the fourteen (14) Day period it shall be deemed that the Consultant accepts in full the details of the Engineer's Evaluation and the Consultant shall not be entitled to raise the matter as a Dispute or otherwise challenge the Engineer's Evaluation.
- 16.6.6 In the event the Consultant disagrees with the Engineer's Evaluation the Consultant shall be entitled to issue a Notice of Dissatisfaction and refer the assessment as a Dispute for settlement pursuant to Clause 20 [*Settlement of Disputes*].
- 16.6.7 Such Notice of Dissatisfaction shall be submitted not later than twenty eight (28) Days after the receipt, or due date for receipt, of the Evaluation failing which it shall be deemed that the Engineer's most recent Evaluation has been accepted in full and is binding upon the Consultant who shall have no further right to challenge the Authority's Claim.
- 16.6.8 The Engineer may set off or deduct the amount which the Authority is entitled to be paid by the Consultant pursuant to Sub-clause 16.6 [*Authority's Claims*] from any monies due, or to become due, to the Consultant under any other contract entered into between the Authority and the Consultant. The Authority shall be entitled to set-off or deduct from any amounts or monies due to the Consultant under the Agreement any amounts that are due to the Authority from the Consultant under any other contract entered into between the Authority and the Consultant.

## **17 RISK AND RESPONSIBILITY**

### **17.1 Warranted Project Data**

- 17.1.1 The Authority confirms that it has made available to the Consultant for its information prior to the Commencement Date Warranted Project Data, the details of which are set out in Schedule A [*Project Brief*].
- 17.1.2 The Authority shall notify the Consultant of any further data of similar nature to the Warranted Project Data which comes into the Authority's possession after the Commencement Date and shall, at the Consultant's request, make available one (1) copy of such data to the Consultant.
- 17.1.3 The Consultant shall review such Warranted Project Data for completeness, errors and inconsistencies but shall not be required to verify the accuracy of such Warranted Project Data for which the Authority shall retain responsibility.
- 17.1.4 If the Consultant suffers delay and / or incurs additional Cost as a result of inaccuracies in the Warranted Project Data the Consultant shall be entitled, subject to Sub-clause 16.3 [*Consultant's Claims*], to:
- A. an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and / or
  - B. payment of any such additional Cost, which shall be added to the Agreement Price.

### **17.2 Indemnity in Respect of Project Data**

- 17.2.1 Except for such Warranted Project Data referred to Sub-clause 17.1 [*Warranted Project Data*]:

- A. the Authority accepts no responsibility for, and makes no representation or gives any warranty, either express or implied, with respect to, the adequacy, accuracy, completeness or sufficiency of the Project Data, nor for any defects, errors, discrepancies, inaccuracies nor inconsistencies in the Project Data and the Consultant shall use the Project Data at its own risk; and
  - B. the Consultant shall indemnify and hold harmless the Authority against and from all claims by any of the sub-consultants or any other third party to which the Project Data is disclosed and all damages, losses and expenses (including legal fees and expenses) arising in respect of the use of Project Data, except to the extent any such damage, loss or expense arises as a result of gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Authority, its personnel or agents.
- 17.2.2 The Consultant shall be responsible for:
- A. verifying all Project Data other than Warranted Project Data, the accuracy of which the Authority warrants pursuant to Sub-clause 17.1.3; and
  - B. interpreting all Project Data.
- 17.3 Authority's Risks
- 17.3.1 If and to the extent that any of the risks listed in Sub-clause 17.3.2 below results in loss or damage to the Services or any of the Deliverables, the Consultant shall rectify such loss or damage to the extent instructed by the Engineer and, subject to Sub-clause 16.3 [*Consultant's Claims*], shall be entitled to:
- A. an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion; and
  - B. payment of any such additional Cost, which shall be added to the Agreement Price.
- 17.3.2 The Authority shall retain responsibility for the following risks:
- A. rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the State of Qatar;
  - B. riot, commotion or disorder within the State of Qatar by persons other than the Consultant's personnel or agents;
  - C. Third Parties services provided by the Authority pursuant to Sub-clause 5.1 [*Facilities, Information and Services*];
  - D. Warranted Project Data.
- 17.4 Authority's Indemnity
- 17.4.1 In so far as the Law permits and subject to the provisions of Sub-clause 18.6.1 [*Consequential Loss*], the Authority shall indemnify and hold harmless the Consultant against and from all liabilities, claims, damages, losses, fines, costs (including legal costs) and expenses which arise out of or in relation to:
- A. any Deliverables prepared by the Consultant as part of the Services being used by the Authority for a purpose other than that indicated by, or reasonably to be inferred from, the Agreement; and / or
  - B. any changes, alterations or modifications to any of Deliverables except for those changes, alterations or modifications which have been formally transmitted to the Consultant and have not subsequently been the subject of a Notice of Dissatisfaction issued by the Consultant; and / or

- C. the Consultant's use in the Deliverables of any registered intellectual property belonging to others where such intellectual property is expressly specified for incorporation into the Services in Schedule A [*Project Brief*]; and / or
  - D. bodily injury, sickness, disease or death of any person whatsoever attributable to gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Authority, its personnel or agents; and / or
  - E. compliance with an Engineer's instruction pursuant to Sub-clause 7.3.2 A.
- 17.4.2 The indemnity pursuant to Sub-clause 7.4.1 does not apply to claims arising:
- A. from negligence, deliberate default, omission, fraud, fraudulent misrepresentation or Wilful Misconduct by the Consultant, the Consultant's personnel or agents; or
  - B. otherwise than in connection with the performance or non-performance of the Authority's obligations under the Agreement.
- 17.5 Authority's Assistance
- 17.5.1 The Authority shall assist the Consultant and the Consultant's agents of any tier in its co-ordination with Third Parties including the application and obtaining of all necessary Government, licenses, passes, permits, approvals and other documents required for the performance of the Services but the Consultant shall not rely on such assistance.
- The Consultant acknowledges and accepts that the Authority gives no guarantees nor makes any representations nor gives any warranties, either express or implied, that such assistance shall neither cause nor prevent any delay or disruption to the Time for Completion. If the Consultant requires such assistance from the Authority pursuant to this Sub-clause 17.5 [*Authority's Assistance*] the Consultant shall give notice to the Engineer in a timely manner having regard to the Baseline Programme to enable the Authority to give such assistance to the Consultant.
- 17.5.2 Any obligation imposed on the Authority or the Engineer pursuant to the Agreement to assist the Consultant shall not:
- A. be deemed an automatic right under the Agreement or Law;
  - B. be construed as any obligation on the Authority or the Engineer to incur costs in providing such assistance;
  - C. relieve the Consultant of any responsibilities or obligations to execute and complete the Services in accordance with the Master Programme and Baseline Programme.
- 17.6 Consultant's Indemnity
- 17.6.1 Subject to the provisions of Sub-clause 18.6 [*Limits of Liability*], the Consultant shall indemnify and hold harmless the Authority, its personnel and agents, against and from all liabilities, claims, damages, losses, fines, costs (including legal costs) and expenses which arise out of or in relation to:
- A. the Consultant's use in its specified methods, procedures or materials of any registered intellectual property, patents and the like belonging to others, with the sole exception of where the Agreement expressly requires the Consultant to use in its specified methods, procedures or materials specific intellectual property, patents and the like belonging to others; and / or
  - B. bodily injury, sickness, disease or death of any person whatsoever arising out of or in the course of or by reason of the Consultant's performance of the Services to the extent that such bodily injury, sickness, disease or death is not attributable to gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Authority, its personnel or agents; and / or

- C. subject to Sub-clause 17.4.1 C, damage to or loss of any third party property to the extent that such damage or loss:
  - (i) arises in the course of, or by reason of, the performance of the Services or out of the Consultant's breach of the Agreement; and
  - (ii) is not attributable to gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Authority, its personnel and agents; and / or
- D. damage to, or loss of, any property belonging to the Authority to the extent that such damage or loss is attributable to negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Consultant, its personnel and agents; and / or
- E. any breach by the Consultant of Clause 13 [*Intellectual Property Rights*], Sub-clauses 4.4 [*Authority's Co-Insured Insurance Policies*], 9.2 [*Co-ordination with Third Parties*] and 17.2 [*Indemnity in Respect of Project Data*], to the extent such liabilities, claims, damages, losses, fines, costs (including legal costs) are brought or incurred by third parties; and / or
- F. subject to Sub-clause 17.4.1 E any breach by the Consultant of Sub-clause 11.1.1.

## 18 DEFAULT, PENALTIES AND LIMIT OF LIABILITY

### 18.1 Notice to Correct

- 18.1.1 Except in the event of termination arising under the instances of Sub-clause 18.2.2, if the Consultant fails to carry out or complete any obligation or commits any default under the terms of this Agreement whatsoever then the Engineer shall first issue a 'notice to correct' which shall instruct the Consultant to make good the default and remedy it within a specified period or demonstrate to the Engineer's satisfaction that the Consultant is remedying the default and that such default will not recur.

### 18.2 Default Events

- 18.2.1 For the purposes of the Agreement a default event shall comprise any material breach by the Consultant of its obligations under the Agreement including, without limitation:
  - A. failing to comply with the requirements of Sub-clause 1.4 [*Corruption and Fraud*]; or
  - B. failing to comply with Sub-clause 2.1.4; or
  - C. allowing any guarantees provided pursuant to Clause 3 [*Consultant's Guarantees*] to cease to remain in full force and effect or become unenforceable; or
  - D. failing to provide guarantees pursuant to:
    - (i) Sub-clause 3.2 [*Performance Guarantee*]; or
    - (ii) Sub-clause 3.3 [*Parent Company Guarantee*] if applicable; or
  - E. failing to maintain an office pursuant to Sub-clause 6.2 [*Local Office*]; or
  - F. failing to remedy any defect pursuant to Sub-clause 7.6.5 [*Defects*]; or
  - G. failing to remove personnel pursuant to Sub-clause 10.2.7; or
  - H. sub-contracting in excess of forty per cent (40%) of the Services or assigning the Agreement without the express approval of the Engineer or otherwise failing to comply with Sub-clause 10.4 [*Assignment, Sub-consultants and Suppliers*]; or
  - I. failure to comply with the requirements of Sub-clause 11.4 [*Personal Favour*]; or



- J. failing to comply with a notice under Sub-clause 18.1 [*Notice to Correct*] and such failure continues for a period of twenty eight (28) days after receipt of such notice; or
  - K. substantially failing to perform any of its obligations under the Agreement (not otherwise referred to in Sub-clause 18.2 [*Default Events*]) and such failure continues for twenty eight (28) days after receipt of a Sub-clause 18.1 [*Notice to Correct*]; or
  - L. failing to provide the signed Conflict of Interest statement pursuant to Sub-clause 18.3 [*Conflict of Interest*]; or
  - M. incurring an amount payable to the Authority equal to or exceeding the Penalties liability cap under Sub-clause 18.4.1 [*Limit of Penalties*]; or
  - N. incurring an amount payable to the Authority equal to or exceeding seventy five per cent (75%) of the cumulative liability amount under Sub-clause 18.6.2 [*Cumulative Liability*].
  - O. the Consultant or its parent company guarantor, or its other member where the Consultant is a member of an association, becoming bankrupt or insolvent, going into liquidation, entering into administration, compounding with its creditors or carrying on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under Law) has a similar effect to any of these acts or events in any country; or
  - P. abandoning the Services or otherwise demonstrating the intention not to continue performance of its obligations under the Agreement in accordance with the Baseline Programme; or
  - Q. altering its composition or legal status without the written authorisation of the Authority; or
  - R. the removal or re-assignment of Key Personnel or sub-consultants from the Project without the Engineer's prior non-objection;
  - S. failing to comply with quality, health and safety or environmental obligations under the Agreement.
- 18.2.2 Notwithstanding the provisions of Sub-clause 18.1.1 the Authority shall be entitled to terminate the Consultant's engagement under the Agreement pursuant to Sub-clause 19.3 [*Termination*] immediately in the event of default pursuant to Sub-clauses 18.2.1 A, G, H, J, L, M, N, O or S.
- 18.2.3 In the event the Consultant fails to make good and remedy the default within the Sub-clause 18.1.1 specified periods, the Engineer, where applicable, or the Authority may take action which may include, but may not be limited to the following:
- A. subject to Sub-clause 16.6 [*Authority's Claims*] deduction of any resulting loss and / or expense from any payments due;
  - B. termination of the Consultant's engagement pursuant to Sub-clause 19.3 [*Termination*];
  - C. banning of the Consultant and / or its personnel from any present or future Authority projects; and
  - D. calling upon any guarantee(s) provided pursuant to Clause 3 [*Consultant's Guarantees*].
- 18.2.4 The imposition of any remedy pursuant to Sub-clause 18.2 [*Default Events*] shall not:
- A. relieve the Consultant of any liabilities or obligations; or
  - B. prejudice the Authority's rights and remedies, arising under the Agreement or Law.



- 18.2.5 In the event the Consultant is required to carry out services or to repeat services as a result of any error, omission, delay, or misjudgement or any other relevant action / inaction by the Consultant, then the Consultant shall carry out such services or repeated services promptly and shall not be entitled to any additional sums or an extension to the Time for Completion.
- 18.2.6 At any time, any non-objection of the Services will not relieve the Consultant of the responsibility for subsequent correction of any errors and from the clarification of any ambiguity therein.
- 18.3 Conflict of Interest
- As a condition precedent to payment for the Services the Consultant shall sign, and deliver a Conflict of Interest Statement in the specimen form provided in Schedule D [*Conflict of Interest Statement*].
- 18.4 Penalties
- 18.4.1 Limit of penalties
- 18.4.1.1 The Consultant's aggregate liability to the Authority for Penalties under the Agreement shall not exceed ten per cent (10%) of the Agreement Price. The Consultant's liability to the Authority for penalties shall be payable without the need for recourse to court or arbitration proceedings and without the need for the Authority to prove the existence of any damage or losses arising which will be considered as existing in all cases, provided always that the Consultant shall not be liable where the cause (giving rise to such penalties) occurs through no fault or breach by the Consultant, its personnel or agents, under the Agreement which in any event will not infer liability upon the Authority.
- 18.4.1.2 Subject to Sub-clause 16.6 [*Authority's Claims*] the Authority shall have the right, without prejudice to any other remedy, to set-off the amount of penalties from any monies due or which may become due to the Consultant.
- 18.4.1.3 The payment or deduction of such penalties shall not relieve the Consultant from any obligations to perform and complete the Services under the Agreement or from any of its other obligations or liabilities under the Agreement or Law.
- 18.4.2 Penalties for Delay to Performance
- 18.4.2.1 In the event that the Consultant fails to complete the Services, or a Key Stage, as the case maybe, by the Time for Completion the Consultant shall pay to the Authority such penalties as stated in Appendix I to the Memorandum of Agreement as penalties for delay for each day or part day which shall elapse between the Time for Completion and the Completion Date for the Services, or completion date of Key Stages as the case may be.
- 18.4.3 Penalty for Delay to Mobilisation of Key Personnel
- 18.4.3.1 In the event that the Consultant fail to:
- A. mobilise the Key Personnel in accordance with the programmed dates identified in Schedule C [*Resource Schedules*]; and / or
  - B. replace the personnel in accordance with the timeframes identified within Sub-clause 10.2.7,
- then the Consultant shall pay to the Authority such penalties as stated in Appendix I to the Memorandum of Agreement as penalties for the delay to the mobilisation of the personnel in question for every Day or part Day elapsed between the end of the periods referred in Sub-clauses 18.4.3.1 A and 18.4.3.1 B and the date upon which the personnel in question are mobilised.

18.4.3.2 In the event Consultant fails to provide or replace personnel pursuant to Sub-clause 10.2.7 within twenty eight (28) Days from the date the Authority is entitled to impose the penalties pursuant to Sub-clause 18.4.3.1, then, subject to Sub-clause 16.6 [*Authority's Claims*] the Authority shall be entitled to employ personnel to perform the functions of the absent Consultant's personnel and set off or deduct the cost of employing such personnel from any monies due, or to become due, to the Consultant.

**18.4.4 Penalty for Health and Safety Infringement**

18.4.4.1 The Consultant shall procure and ensure that its personnel and agents maintain full compliance with the Consultant's health, safety and security management system as non-objected by the Engineer pursuant to Sub-clause 6.7 [*Health, Safety and Security Management*] for the currency of the Agreement.

18.4.4.2 In addition to the general remedies available to the Engineer pursuant to Sub-clause 6.7 [*Health, Safety and Security Management*], in the event of specific health and safety infringements, the Consultant shall pay to the Authority such penalties as identified in Appendix I to the Memorandum of Agreement.

**18.5 Key Performance Indicators**

18.5.1 For the currency of the Agreement the performance of the Consultant shall be monitored by the Engineer against the Key Performance Indicators as identified in Schedule B [*Payment Schedules*].

18.5.2 Subject to the Consultant's performance as monitored against the Key Performance Indicators set out in Schedule B [*Payment Schedules*] adjustment to the Agreement Price shall be in accordance with the procedure set out in Schedule B [*Payment Schedules*] and shall be implemented without the need for any notification or warning or recourse to legal or arbitral proceedings.

18.5.3 The adjustment to the Agreement Price for the Consultant's performance, as measured by the Schedule B [*Payment Schedules*] Key Performance Indicators, shall not relieve the Consultant from any obligations or liabilities arising under the Agreement nor prejudice any rights or remedies available to the Authority.

18.5.4 In the event that the Consultant's performance fails to achieve the key performance targets identified in the Agreement the Consultant shall submit proposals for remedying and improving its performance to achieve at a minimum and exceed such key performance targets.

**18.6 Limits of Liability**

**18.6.1 Consequential Loss**

With the exception of loss of use of the Works neither Party shall be liable to the other for any loss of profit, loss of business, loss of production, loss of contracts or for any indirect or other consequential loss or damage whatsoever that may be suffered by the other Party, except to the extent that such consequential loss or damage is attributable to gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the defaulting party, its personnel or agents .

This exclusion is without prejudice to the Consultant's obligation to make good or remedy the Services.

**18.6.2 Cumulative Liability**

The Consultant's cumulative liabilities to the Authority shall not exceed the amount identified in Appendix I to the Memorandum of Agreement provided that this cap on liability shall not apply in respect of any claims arising out of:

A. death, personal injury or damage to third party property; or

- B. gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Consultant, its personnel or agents.

## 19 SUSPENSION AND TERMINATION

### 19.1 Suspension

- 19.1.1 Pursuant to Sub-clause 5.3 [*Instructions*] the Engineer may at any time instruct the Consultant to suspend part or all of the Services, citing the reason of the suspension, and the Consultant shall immediately comply with such instruction.
- 19.1.2 Except in the circumstance of Force Majeure pursuant to Sub-clause 16.4 [*Force Majeure*], if the Engineer suspends the whole or part of the Services for more than sixty three (63) Days then the Consultant may request the Authority to issue an instruction either to resume or to terminate the whole or part of the Services and the Authority shall issue its instruction within twenty one (21) Days of receipt of the Consultant's request.
- 19.1.3 In the event of the Authority failing to issue an instruction pursuant to Sub-clause 19.1.2 the Consultant may:
- A. within seven (7) Days of the due date of the Authority's instruction give a warning notice to the Authority of deemed termination; and
  - B. by a further notice to the Authority, issued seven (7) Days after the date of the warning notice, give further notice that after fourteen (14) Days the whole or part of the Services, subject to the Engineer's suspension notice, shall be deemed to be terminated by the Authority.
- 19.1.4 In no event shall the Consultant be entitled to consider the whole or part of the Services, subject to the Engineer's suspension notice, as deemed terminated without first giving the due notices and serving the due seven (7) plus fourteen (14) Day notice periods pursuant to Sub-clause 19.1.3.
- 19.1.5 In the event of deemed termination a termination payment pursuant to Sub-clause 19.5 [*Termination Payment*] shall be payable to the Consultant if the suspension related to the whole of the Services.
- 19.1.6 In the event that the Authority elects to continue the Engineer's suspension of the whole or part of the Services the Authority shall instruct the Engineer to issue an instruction pursuant to Sub-clause 16.2.2 [*Request for Proposal*] to extend the suspension period beyond sixty three (63) Days.
- 19.1.7 In the event that the suspension exceeds a combined period of three hundred and sixty four (364) Days the Consultant may, by giving notice in the same format as Sub-clause 19.1.3 to the Authority, treat:
- A. in the event of part of the Services suspended, the suspended part of the Services as omitted and require an instruction pursuant to Sub-clause 16.2.1 [*Instructed Change*] to be issued by the Engineer; or
  - B. in the event of the whole of the Services suspended, the Services as terminated by the Authority and the termination payment pursuant to Sub-clause 19.5 [*Termination Payment*] shall be payable to the Consultant.
- 19.2 Consequences of Suspension
- 19.2.1 In the event that the Consultant considers that it has been delayed or has incurred additional Cost in:
- A. complying with the Engineer's instruction to suspend under Sub-clause 19.1 [*Suspension*]; and / or

- B. resuming the Services,  
for a reason other than as a result of any breach, default or other fault on the part of the Consultant under the Agreement or for any of the reasons set out in Sub-clause 19.2.2 then the Consultant shall, subject to Sub-clause 16.3 [*Consultant Claims*], be entitled to:
- (i) an extension to the Time for Completion, if completion of the Services or any Key Stage, as the case may be, is or will be delayed beyond the then Time for Completion under Sub-clause 12.3 [*Delays to Completion*]; and / or
  - (ii) payment of any such additional Cost, which shall be added to the Agreement Price; and
  - (iii) the payment of Profit on the additional Cost where the suspension is for the convenience of the Authority.
- 19.2.2 The Consultant shall not be entitled to an extension to the Time for Completion or to payment of any additional Cost or the payment of Profit on the additional Cost incurred in, making good the consequences of the Consultant's faulty design, workmanship or materials or of the Consultant's failure to otherwise comply with its obligations under the Agreement.
- 19.2.3 If and to the extent that the cause of suspension notified is either the responsibility of the Consultant or arises from a breach by the Consultant under the Agreement, the Consultant shall not be entitled to the relief pursuant to this Sub-clause 19.2 [*Consequences of Suspension*].
- 19.3 Termination
- 19.3.1 The Authority shall be entitled to terminate:
- A. the Consultant's engagement under the Agreement pursuant to Sub-clause 18.2 [*Default Events*]; or
  - B. the Agreement at any time for reason of the Authority's convenience, by giving notice of such termination to the Consultant.
- 19.3.2 Except in the event of default pursuant to Sub-clause 18.2 [*Default Events*], should the Authority terminate the Agreement such termination shall be deemed 'termination at the Authority's convenience' and the termination payment pursuant to Sub-clause 19.5 [*Termination Payment*] shall be payable to the Consultant.
- 19.3.3 Neither the Engineer's instruction to suspend, nor the Authority's decision to terminate, the Agreement or the Consultant's engagement under the Agreement shall prejudice any other rights of the Authority, under the Agreement or at Law.
- 19.4 Action Upon Termination
- 19.4.1 Upon receipt of the Authority's termination notice pursuant to Sub-clause 19.3.1 A or 19.3.1 B, or upon deemed termination, the Consultant shall proceed as follows:
- A. immediately cease all activities;
  - B. within seven (7) Days of the instruction vacate any office that has been made available to the Consultant and shall return to the Authority all Facilities, Information and Services that have been made available to the Consultant;
  - C. within twenty one (21) Days of the instruction assign to the Authority, to the extent instructed by the Engineer all rights and benefits under any sub-contract and all sub-consultants' guarantees and warranties;
  - D. within twenty eight (28) Days of the instruction submit to the Engineer either the original or a reproducible copy of every Deliverable associated with the Services; and

- E. within thirty five (35) Days of the instruction submit for the Engineer's review the draft Final Account pursuant to Sub-clause 15.5 [*Application for Final Payment*] which shall consider:
- a. any entitlement to termination payment pursuant to Sub-clause 19.5 [*Termination Payment*], if terminated in the event of 'termination at the Authority's convenience';
  - b. the value of all work completed in accordance with the Agreement at the date of the termination notice for which a price is stated in the Agreement;
  - c. any other Cost or liability which in the circumstances was reasonably incurred by the Consultant in the expectation of completing the Services;
  - d. if applicable, deductions for any Advance Payment outstanding amounts; and
  - e. deductions for any and all amounts which may be due to the Authority in connection with Authority's Claims.
- 19.4.2 Upon receipt of the Authority's notice to terminate the Agreement or the Consultant's engagement under the Agreement the Engineer shall proceed in accordance with Sub-Clause 16.6 [*Authority's Claims*].
- 19.4.3 Termination Evaluation
- 19.4.3.1 Upon the Authority issuing a notice of termination pursuant to Sub-clause 19.3.1 the Engineer shall:
- A. In the event of Termination of the Agreement:
    - (i) within twenty eight (28) Days of receipt of the Consultant's statement of the draft Final Account issue the Evaluation of the Final Account; and
    - (ii) except in the event of the Final Account Evaluation being a negative amount, return the Performance Guarantee and where applicable, the Parent Company Guarantee to the Consultant; and
    - (iii) if any sub-consultants are also terminated, subject to the requirements of Sub-clause 3.5 [*Extended Warranties*] return the Collateral Warranties; and
    - (iv) upon agreement of the Final Account and payment of all outstanding sums return all remaining guarantees.
  - B. In the event of Termination of the Consultant's engagement under the Agreement:
    - (i) within twenty eight (28) Days of receipt of the Consultant's statement of the draft Final Account issue the Evaluation of the value of services performed, and any other amounts in relation thereto, in accordance with the Agreement; and
    - (ii) withhold payments to the Consultant until the costs of the completion of the Services, penalties for delay to performance and all other costs incurred by the Authority, have been established; and
    - (iii) identify any direct losses incurred by the Authority and any extra cost of completing the Services; and
    - (iv) within sixty three (63) Days of the completion of 19.4.3.1 B (iii), and after allowing the sums due Evaluated pursuant to 19.4.3.1 B (i), (ii) and (iii), issue the Evaluation of the Final Account; and
    - (v) if any sub-consultant's scope is also terminated, subject to the requirements of Sub-clause 3.5 [*Extended Warranties*] return the Collateral Warranties; and
    - (vi) upon agreement of the Final Account and payment of all outstanding sums return all remaining guarantees.



- 19.4.3.2 Upon receipt of the Engineer's Evaluation of the Final Account the Consultant shall apply for payment in accordance with Clause 15 [Payment].
- 19.4.4 Should the Evaluation of the Final Account be a negative amount the Consultant shall be entitled to give notice of its intent to, and provide, payment of any outstanding sums due in lieu of the Authority calling upon the guarantees provided pursuant to Clause 3 [Consultant's Guarantees].
- 19.4.5 In the event that the called guarantee amount is insufficient for recovery of sums due in the Final Account, calling the guarantee shall not relieve the Consultant of any obligation to pay the Authority any outstanding amount or the rights of the Authority under the Agreement.
- 19.4.6 Upon termination of the Consultant's engagement, the Authority may complete the Services and / or arrange for any other entities to do so at the Consultant's expense. The Authority and these entities may then use any Deliverables and other design documents made by or on behalf of the Consultant.
- 19.5 Termination Payment
- 19.5.1 Unless expressly provided otherwise in the Agreement, in the event of 'termination at the Authority's convenience' for the whole of the Services then the Consultant shall be entitled to the termination payment identified in Appendix I to the Memorandum of Agreement.
- 19.5.2 In the event the Authority terminates a part or Section of the Services then the right of the Consultant to receive a termination payment shall not apply and no reimbursement in any form or manner whatsoever shall be payable.
- 19.5.3 In the event that the Authority terminates the Consultant's engagement due to default of the Consultant, as provided elsewhere in the Agreement, the right to a termination payment shall not apply and the Consultant shall waive any and all rights under Law or the Agreement to compensation in any form or manner whatsoever.
- 19.5.4 The Parties acknowledge the difficulty in determining the exact extent of any loss and expense that may be incurred as a result of termination by the Authority, but agree that the termination payment shall be deemed to cover all losses and expenses incurred or which may be incurred by the Consultant as a result of the termination and the Consultant shall have no further right for payments of any kind whatsoever except as expressly provided in the Agreement.

## **20 SETTLEMENT OF DISPUTES**

### **20.1 Dispute**

- 20.1.1 In the event of a Notice of Dissatisfaction being raised under the Agreement such notice shall bring into existence a 'Dispute' which shall initially be referred to and settled by the Engineer who shall, within a period of thirty five (35) Days of receipt of the Notice of Dissatisfaction, give notice of its Determination with supporting particulars to the Parties. Such Determination shall forthwith be given effect to by the Parties who shall proceed with their respective obligations under the Agreement with all due diligence irrespective as to whether or not any Party elects to refer the Dispute to amicable settlement, Expert's decision or the courts or arbitration as hereafter provided in this Clause 20 [Settlement of Disputes].

#### **20.1.2 In the event that:**

- A. the Engineer fails to give notice of its Determination in accordance with Sub-clause 20.1.1 within thirty five (35) Days of receipt of the Notice of Dissatisfaction; or
- B. the Engineer fails to provide supporting particulars to justify and substantiate its Determination; or



- C. the Engineer's Determination is rejected by either Party,  
then either Party may, on or before the fourteenth (14<sup>th</sup>) Day after receipt, or the due date of receipt, of the Engineer's Determination, give notice to the other party of its rejection of the Determination. Such notice of rejection shall state that it is given under this Sub-clause 20.1.2 and set out the details of the Dispute and the reason(s) for rejection and no amicable settlement, expert's decision, litigation or arbitration in respect of such Dispute may be commenced unless such notice is given.
- 20.1.3 In the event that neither Party refers the Engineer's Determination to amicable settlement pursuant to Sub-clause 20.2 [*Amicable Settlement*] within the fourteen (14) Day period referred in Sub-clause 20.1.2 then:
- A. the Dispute shall be deemed irrevocably abandoned and closed, in the case of the Engineer's failure to issue a Determination; or
- B. the Engineer's Determination shall be considered as accepted, final and binding, in the case of the issue of the Engineer's Determination or failure to provide supporting particulars with the Determination.
- 20.2 Amicable Settlement
- 20.2.1 Within twenty one (21) Days, or some other period mutually agreed between the Parties, from the date of referral of the Dispute to amicable settlement, pursuant to Sub-clause 20.1 [*Dispute*] or 15.5 [*Application for Final Payment*], the Representatives of the Parties for Amicable Settlement, as identified in Schedule E [*Representatives of the Parties for the Purposes of Amicable Settlement*] shall convene and endeavour to settle the Dispute amicably and in good faith, however should:
- A. the Dispute not be resolved within twenty one (21) Days of convening for the purposes of amicable settlement; or
- B. one of the Parties refuses or fails to attend the amicable settlement meeting within twenty one (21) Days receipt of the written request of the other Party to convene,  
either Party may then give notice and refer the Dispute for the Expert's decision pursuant to Sub-clause 20.3 [*Expert's Decision*] within seven (7) Days of the:
- C. failure to reach amicable settlement as described in Sub-clause 20.2.1 A above; or
- D. refusal to convene as described in Sub-clause 20.2.1 B above.
- 20.2.2 In the event that neither Party refers the Dispute for the Expert's decision within the seven (7) Day period referred in Sub-clause 20.2.1 the amicable settlement shall be deemed as abandoned and the Dispute irrevocably closed and:
- A. abandoned in the case of referral to amicable settlement due to the Engineer's failure to issue a Determination; or
- B. the Engineer's Determination accepted, final and binding, in the case of the issue of the Engineer's Determination or failure to provide supporting particulars with the Determination.
- 20.3 Expert's Decision
- 20.3.1 Subject to the provisions of Sub-clause 20.2 [*Amicable Settlement*], either Party may decide to refer the Dispute to an Expert for its decision, by written notice to the other Party.

- 20.3.2 The Parties shall, within twenty-eight (28) Days of the date of such written notice, jointly agree upon and appoint a suitably qualified person as Expert who shall be (and the terms of its appointment shall so provide) independent of the Parties and shall act impartially in accordance with the terms and conditions of its appointment. The terms and conditions of the remuneration of the Expert, including the remuneration of any specialist from whom the Expert may require to seek advice, shall be mutually agreed upon by the Parties, and the Expert.
- 20.3.3 The Parties shall each pay one-half of the remuneration of the Expert in accordance with such terms and conditions.
- 20.3.4 In the event of the Parties failing to agree on the appointment of the Expert within the twenty eight (28) Day period described in Sub-clause 20.3.2, either Party shall be entitled to request the Qatar Chamber of Commerce and Industry to appoint the Expert, after due consultation with the Parties and such appointment shall be final and conclusive.
- 20.3.5 After the appointment of the Expert, either Party may refer the Dispute in writing to the Expert. Such reference shall state that it is made under this Sub-clause 20.3 [*Expert's Decision*]. The Parties shall promptly make available to the Expert all such information, access, and appropriate facilities as the Expert may require for the purposes of reaching a decision. Within twenty eight (28) Days of receipt of the referral, or such other period mutually agreed between the Parties, the Expert (acting as an Expert and not as an arbitrator) shall give notice of its decision to the Parties. Such notice shall include the Expert's reasons for its decision.
- 20.3.6 Such decision shall forthwith be given effect to by the Parties, who shall proceed with their respective obligations under the Agreement with all due diligence irrespective as to whether or not any Party elects to refer the Dispute to courts or arbitration as hereinafter provided.
- 20.3.7 Unless the Agreement, or the Consultant's engagement under the Agreement, has already been terminated, the Consultant shall, in every case, continue to perform its obligations under the Agreement with all due diligence.
- 20.3.8 If either Party rejects the Expert's decision, then such Party may, within fourteen (14) Days of receipt of the Expert's decision, give notice to the other Party of its rejection of the decision. Such notice of rejection shall state that it is given under this Sub-clause 20.3.8 and set out the details of the Dispute and the reason(s) for rejection, and subject to Sub-clause 20.4 [*Reference to Courts*], no litigation or arbitration in respect of such Dispute may be commenced unless such notice is given.
- 20.3.9 In the event that neither Party issues a notice of rejection within fourteen (14) Days of receipt of the Expert's decision, then the Expert's decision shall become final and binding upon the Parties.
- 20.4 Reference to Courts
- 20.4.1 In the event of:
- A. the Expert failing to give notice of its decision within the period referred to in Sub-clause 20.3.5; or
  - B. the rejection of the Expert's decision in accordance with Sub-clause 20.3.8; or
  - C. failure of either Party to comply with the final and binding decision of the Expert,
- then the Dispute may be referred, by either Party, to the Qatari court of competent jurisdiction.
- 20.4.2 Without prejudice to Sub-clause 20.4.1, nothing in the Agreement shall prevent the parties from referring the Dispute to arbitration by subsequent mutual written agreement.

20.4.3 Reference of Disputes to courts or arbitration shall not in any way vitiate or invalidate the Agreement neither shall it be grounds for the Consultant to cease performance of any of its obligations under the Agreement nor for the Authority to terminate the engagement of the Consultant under the Agreement and the Consultant shall continue to perform its obligations under the Agreement with all due diligence.

20.4.4 All such reference as aforesaid shall be governed by the Laws and all judicial proceedings shall take place in the State of Qatar.

20.5 Arbitration

20.5.1 Arbitration, if agreed pursuant to the provisions of Sub-clause 20.4.2, shall be carried out in accordance with the provisions of this Sub-clause 20.5 [Arbitration].

20.5.2 The fact of the Dispute and its reference to arbitration under this Sub-clause 20.5 [Arbitration] and the place and time of that arbitration shall be subject to the confidentiality restrictions appearing in Sub-clause 2.10 [Confidentiality].

20.5.3 Rules and Management of the Arbitration

The rules and management of the arbitration shall be as follows:

- A. arbitration shall be carried out under the procedures, rules and regulations of the Qatar International Centre for Conciliation and Arbitration, Qatar Chamber of Commerce and Industry (QICCA), and its successors, and such procedures, rules and regulations shall be deemed to be incorporated into this Sub-clause 20.5 [Arbitration] by reference;
- B. the seat of the arbitration shall be Doha;
- C. arbitration shall be subject to the Laws;
- D. unless otherwise required by the Authority the arbitration shall be conducted in the English language and the award of any arbitrator or arbitral panel, together with the reasons for the determination, shall be in writing in both Arabic and English languages;
- E. unless otherwise required by the Authority all evidence, submissions or documents presented at the arbitration in a language other than in the English language shall be accompanied by an immediate English language translation thereof, if oral, or if written, a certified English language translation;
- F. the arbitrator or arbitral panel shall have full power to open up, review and revise any decision or findings of the Expert;
- G. arbitration may be commenced prior to or after completion of the Services. The obligations of the Parties and the Expert shall not be altered by reason of the arbitration being conducted during the progress of the Services;
- H. any monetary award in any arbitration shall be denominated and payable in Qatari Riyals; and
- I. Arabic translation services both oral and written must be available throughout the course of the Arbitration.

20.5.4 Determinations of the Arbitrator

The Parties agree that all determinations of the arbitrator or arbitral panel shall:

- A. be final and binding on the Parties and will be given effect and implemented forthwith by them;
- B. not be subject to judicial appeal or review (all rights to which the parties hereby waive to the extent permitted under Law); and

- 
- C. be subject to the confidentiality restrictions in Sub-clause 2.10 [*Confidentiality*] and except as provided in that clause or by agreement between the parties, may not be publicised or otherwise disclosed.

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**SCHEDULES TO THE AGREEMENT**

Appendix I to the Memorandum of Agreement

Schedule A: Project Brief

Schedule B: Payment Schedules

Schedule C: Resource Schedules

Schedule D: Conflict of Interest Statement

Schedule E: Representatives of the Parties for the Purpose of Amicable Settlement

Schedule F: Insurances

Schedule G: Other Documents

# SCHEDULE A

## PROJECT BRIEF



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**CONTENTS**

- Part 1: Scope of Services**
- Part 2: Authority's Requirements**
- Part 3: Services Implementation**
- Part 4: Project Data**
- Part 5: Authority's Policies and Procedures**

**Part 1: Scope of Services**

**Left Blank - To be compiled at Tender Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Tender Stage

**Part 2: Authority's Requirements**

**Left Blank - To be compiled at Tender Stage**

This shall be an Authority standard (common for all PSA contracts) document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Tender Stage

**Part 3: Services Implementation**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extracts from the Tenderer's Technical Submission

Chapter 1: Objectives

Chapter 2: Strategy

Chapter 3: Methodology

Chapter 4: Applicable Standards

**Part 4: Project Data**

**Left Blank - To be compiled at Tender Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Tender Stage

**Part 5: Authority's Policies and Procedures**

**Left Blank - To be compiled at Tender Stage**

This shall be an Authority standard (common for all PSA contracts) document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Tender Stage

*It is anticipated that this would be a live document continually:*

- A. expanding as PWA Policies, Plans and Procedures are developed;*
- B. updated as existing Policies, Plans and Procedures are updated as part of QA/QC audit process*



# **SCHEDULE B**

## **PAYMENT SCHEDULES**

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## 1 GENERAL PROVISIONS

### 1.1 Definitions

In this Schedule B: Payment Schedules, all expressions shall have the meaning given to them in the Conditions of Engagement, unless otherwise stated in this Schedule B: Payment Schedules.

- 1.1.1 **"Cost Centre"** means a pre-determined component of the Agreement Price which represents a particular element of the Services.
- 1.1.2 **"Guaranteed Maximum Price" or "GMP"** means that price, or price derivation as detailed in Sub-item 3.4 [*Guaranteed Maximum Price*], for an element or part of the Services which shall not be exceeded except where expressly provided within this Schedule B: Payment Schedules.
- 1.1.3 **"Interim Payment Application Date"** means the due date by which the interim payment applications are to be submitted to the Engineer by the Consultant.
- 1.1.4 **"Interim Payment Schedule"** means the schedule detailing:
- A. events (Payment Milestones) against which payment applications are to be submitted; and
  - B. the periods programmed for achievement of the events.
- 1.1.5 **"Key Performance Indicators" or "KPIs"** means the mechanism against which the Authority measures the Consultant's performance of the Services as described in Item 7 [*Key Performance Indicators*] of this Schedule B: Payment Schedules.
- 1.1.6 **"KPI Amount"** means that sum administered by the Engineer under the Agreement as an incentive for performance by the Consultant.
- 1.1.7 **"Lump Sum Price"** means that price for an element or part of the Services which is fixed and not subject to adjustment except where expressly provided within this Schedule B: Payment Schedules.
- 1.1.8 **"Payment Milestones"** means an Agreement defined event against which payment shall be released, as detailed in Item 8 [*Price and Payment Schedules*].
- 1.1.9 **"Payment Schedules" or "Schedule B: Payment Schedules"** means all of the documents and annexes that together form this Schedule B: Payment Schedules.
- 1.1.10 **"Performance Based Milestone"** means a Payment Milestone which is conditional upon the Consultant attaining the specified performance criteria associated with that Payment Milestone.
- 1.1.11 **"Provisional Sum Order / Prime Cost Sum Order"** means the formal instruction, from the Engineer, pursuant to Sub-clause 16.2.4 [*Provisional Sums and Prime Cost Sums*] of the General Conditions of Engagement, to the Consultant to implement expenditure under a Provisional Sum or Prime Cost Sum respectively.
- 1.1.12 **"Recorded Sum Price"** means that price for an element or part of the Services which is not fixed but determined by the actual recorded attendance as priced against Recorded Rates. An element of the Agreement Price reimbursed as a Recorded Sum Price shall not have a maximum price ceiling but may have a price floor.
- 1.1.13 **"Recorded Rates"** means those rates and prices illustrated in Sub-item 8.3 [*Tables of Recorded Rates*] of this Schedule B: Payment Schedules as applied for the evaluation of reimbursement entitlement in accordance with the provisions of of this Schedule B: Payment Schedules.

- 1.1.14 **"Target Price Sum"** means that price for an element or part of the Services which is not fixed but determined by the Consultant's performance in meeting an Agreement specified 'target price' for the Services. The Final Account being adjusted to accommodate the degree of success in meeting that 'Target Price'.
- 1.1.15 **"Third Party Contracts"** means those contracts procured under the Project for consultants and contractors engaged by the Authority to facilitate the design and construction processes of the Project.
- 1.1.16 **"Time Based Milestone"** means a Payment Milestone against which pre-defined amounts shall be released upon the Agreement duration reaching specified dates in the Baseline Programme, no supporting data is required.
- 1.1.17 **"Total Price"** means the Agreement Price inclusive of Provisional Sums and Prime Cost Sums.

## 1.2 Interpretation

- 1.2.1 This Schedule B: Payment Schedules shall be interpreted in accordance with the provisions set out on Sub-clause 1.2 [*Interpretation*] of the General Conditions of Engagement.
- 1.2.2 Any reference in this document in relation to price **"at contract execution"**, **"executed ... price"** and the like refers to the initial price of the referred contract(s) as set out in its (their) associated memorandum.

## 2 PREAMBLE

### 2.1 General

- 2.1.1 Any reference to Items or Sub-items in the Payment Schedules shall mean the respective Items or Sub-items of these Payment Schedules.
- 2.1.2 All rates, amounts and sums in the Payment Schedules shall be in Qatari Riyals (QAR).
- 2.1.3 All rates, amounts and sums in the Payment Schedules shall be expressed to two decimal places unless expressly identified otherwise.

## 3 AGREEMENT PRICE

### 3.1 General

- 3.1.1 The Agreement Price is summarised in Sub-item 8.1 [*Agreement Price Summary*] which provides a breakdown of the Agreement Price in to applicable Cost Centres.  
The Cost Centres forming the Agreement Price represent various elements of the Services and are detailed in Sub-item 8.2 [*Agreement Price Cost Centre Breakdown*].
- 3.1.2 Subject to Sub-clause 7.3 [*Changes to the Applicable Codes and Standards and Laws*] of the General Conditions of Engagement, the Agreement Price shall be inclusive of all costs and expenses necessary for the completion of the Services including all taxes and duties arising whatsoever.
- 3.1.3 The item rates, amounts and sums in the Payment Schedules are all-in-rates, amounts and sums, and are deemed inclusive of all costs necessary, without restriction, to perform the Services except for where expressly provided otherwise in the Agreement Documents.
- 3.1.4 Any Deliverable which is expressly required in the Agreement Documents but not separately identified in Item 8 [*Price and Payment Schedules*] is deemed to be included in the rates, amounts and sums of other items in the Payment Schedules.

- 3.1.5 Where no rate, amount or sum has been provided against an elemental line item the cost of that line item is deemed to be included within the rates, amounts and sums inserted against other line items in that Cost Centre.
- 3.1.6 The Agreement Price can only be adjusted in accordance with the express provisions of the Agreement Documents.
- 3.1.7 The interim payment application in relation to the Cost Centre for completion shall be a minimum of five per cent (5%) of the Agreement Price.
- 3.1.8 The Agreement Price shall comprise either one or a combination of the pricing methodologies described in Sub-items 3.2 Lump Sum Prices, 3.3 Recorded Sum Prices, 3.4 Guaranteed Maximum Prices, 3.5 Target Prices, and 3.6 Provisional Sums and Prime Cost Sums.

### 3.2 Lump Sum Prices

- 3.2.1 The Lump Sum Prices inserted against items within a Cost Centre represent the comprehensive, fully inclusive costs of that Cost Centre in every respect necessary, including all implied items and aspects of that Cost Centre.
- 3.2.2 Any Consultant's Documents which are required to be submitted by the Consultant in accordance with the Agreement but not separately identified in the Lump Sum Prices are deemed to be included in the Lump Sum Prices.
- 3.2.3 Lump Sum Prices are to be paid in full upon the successful completion of each associated Cost Centre, or where applicable Cost Centre line item.

In the event that the Consultant fails to carry out and / or complete any element of the Services, either forming a Cost Centre or an element within a Cost Centre the Authority shall be entitled to:

- A. refuse payment for such Lump Sum Price element; and
- B. deduct, pursuant to Sub-clause 16.2 [*Changes*] of the General Conditions of Engagement, such Lump Sum Price from the Agreement Price.

- 3.2.4 Lump Sum Prices shall be subjected to adjustment in accordance with the provisions of Item 6 [*Fluctuations*].

### 3.3 Recorded Sum Prices

- 3.3.1 Recorded Sum Prices are the summation of activities which are to be priced against Recorded Rates. Recorded Sum Price amounts illustrated in Sub-item 8.1 [*Agreement Price Summary*] are subject to re-evaluation against associated Recorded Rates for Final Account calculation; the Final Account amount being the actual total of the Recorded Rates recorded against that Recorded Sum Price item.
- 3.3.2 Reimbursement against Recorded Rate items shall be solely for those actual periods / activities recorded and verified by supporting documentation.
- 3.3.3 Personnel engagement in the delivery of the Services subject to Recorded Rate confirmation shall, subject to Sub-clause 10.2.4 of the General Conditions of Engagement, be non-objected by the Engineer by the issue of a non-objected Authorisation To Mobilise Form for the subject personnel (refer to Annex 1 of this document) as a pre-condition to initiation of any associated Recorded Rate charge.
- 3.3.4 Payment Applications for Recorded Rate items for:

- A. Personnel

Shall be supported by attendance records (refer to Annex 3) for Consultant's personnel engaged in the delivery of the required Services signed by the Engineer or the Engineer's Representative.

B. Activities

Shall be supported by such documentation specified as necessary to confirm the completion of such activities.

**3.4 Guaranteed Maximum Prices**

3.4.1 Guaranteed Maximum Prices define the maximum payment or ceiling against which no further charges may be invoiced once the guaranteed maximum price has been attained.

3.4.2 Guaranteed Maximum Price items shall be paid against the associated Recorded Rates up to the Cost Centre specified maximum price.

3.4.3 The Final Account value of a Guaranteed Maximum Price item shall be the lesser of:

A. the total sum of the Recorded Rates recorded against that item; or

B. the Guaranteed Maximum Price specified in the Agreement Price for that item.

The Consultant is obligated to continue with the provision of the Services in relation to a Guaranteed Maximum Price item without further remuneration should the Guaranteed Maximum Price be attained prior to completion.

The Consultant is only entitled to the lesser amount reimbursable against supporting documentation in the event the Services are completed prior to the full Guaranteed Maximum Price being attained.

3.4.4 Guaranteed Maximum Prices shall not be subjected to adjustment by fluctuations, however the Recorded Rates against which activities completed under the GMP are valued shall be subject to the provisions of Item 6 [*Fluctuations*].

3.4.5 Guaranteed Maximum Prices may be represented by two forms of price guarantee:

A. Absolute GMP

An absolute GMP amount represents a price ceiling for an item which shall not be exceeded except in the event of Change, refer to Sub-item 5.4 [*Change Management*].

B. Provisional GMP

A provisional GMP amount represents a provisional price which is derived from the agreed percentage fee of a measureable element of the Project, the final quantum of which was undefined at time of tender.

**3.5 Target Prices**

3.5.1 Target Prices identify an amount (target price) against which the Consultant's reimbursement shall be adjusted according to the degree of variability the outturn price is from the target price.

The Services are valued as the proceed using Recorded Rates.

3.5.2 The Target Price (and associated build-up) shall be fixed by the Engineer prior to commencement of the associated Services, usually before execution of the Agreement Documents.

3.5.3 The Final Account value of a Target Cost item shall be the target price adjusted as follows:

A. In the event that the target price is met, plus or minus five per cent (5%), the final account value shall be:

- the target price as adjusted by the actual attendance priced at completion.

B. In the event that the target price is exceeded by a value greater than five per cent (5%) the final account value shall be:

- the target price; plus



- the total of applicable recorded rates, as adjusted downwards by the pre-set 'target price adjustment' percentage.
- C. In the event of completion before the target price (in excess of minus five per cent {5%}) is attained the final account value shall be:
  - the actual price at completion; plus
  - the balance of the sum of the difference between the actual price and target price as adjusted down by the pre-set 'target price adjustment' percentage.

### 3.6 Provisional Sums and Prime Cost Sums

- 3.6.1 Provisional Sums and Prime Cost Sums are provided by the Authority into the Agreement Price build-up and shall not be subjected to adjustment by the Consultant except by instruction from the Engineer.

The Consultant shall be entitled to the administration and profit allowance identified in Sub-item 8.2 [*Agreement Price Cost Centre Breakdown*] against amounts expended against the Prime Cost Sum to cover Profit and all associated Cost, in administering the Services instructed under the Prime Cost Sum.

- 3.6.2 Provisional Sums and Prime Cost Sums shall only be expended upon the issuance of a Provisional Sum Order or Prime Cost Sum Order respectively by the Engineer for the procurement of specific activities related to that Provisional Sum or Prime Cost Sum.

- 3.6.3 In determining the Final Account:

- A. each Provisional Sum shall be replaced by the valuation of the Services instructed against Provisional Sum Orders under that Provisional Sum pursuant to Sub-clause 16.2.4 [*Provisional and Prime Cost Sums*] of the General Conditions of Engagement;
- B. each Prime Cost Sum shall be replaced by the valuation of the Services instructed against Prime Cost Sum Orders under that Prime Cost Sum pursuant to Sub-clause 16.2.4 [*Provisional and Prime Cost Sums*] of the General Conditions of Engagement.

- 3.6.4 Reimbursement of Prime Cost Sums shall be:

- A. invoiced (prime) cost of the instructed Services; plus
- B. the Consultant's administration and profit allowance applicable to that Prime Cost Sum.

- 3.6.5 In the event that Provisional Sums or Prime Cost Sums are not expended, in part or full, during the currency of the Agreement the Consultant is not entitled to:

- A. any uninstructed Provisional Sum or Prime Cost Sum amounts; nor
- B. any claim for 'loss of profit' and the like.

- 3.6.6 The Provisional Sum and Prime Cost Sum amounts (including associated allowances) inserted in the Agreement Price shall not be subjected to adjustment by fluctuations.

- 3.6.7 Notwithstanding Sub-item 3.6.6, the Recorded Rates against which activities completed under Provisional Sums and Prime Cost Sums are valued shall be subject to the provisions of Item 6 [*Fluctuations*].

## 4 PAYMENTS

### 4.1 General

- 4.1.1 The Agreement Price shall be paid in instalments against the Cost Centre Payment Milestones in accordance with the Conditions of Engagement and this Schedule B: Payment Schedules.

- 4.1.2 Sub-item 8.4 [*Interim Payment Schedules*] specifies the instalments in which the Agreement Price shall be paid. The schedules identify the Payment Milestones and their associated programmed completion dates.
- 4.1.3 All Payment Milestones shall be linked to the Baseline Programme and illustrated in the Agreement interim payment applications cash curve contained within Sub-item 8.6 [*Agreement Payment Application Curve*].
- 4.1.4 The Consultant shall accompany each interim payment application with a forecast for the subsequent interim payment application and an update of the Agreement interim payment applications cash curve.
- 4.1.5 Payment Milestones are either:
- A. Performance Related; or
  - B. Time Related.
- 4.1.6 Performance Based Payment Milestones
- 4.1.6.1 Performance Based Milestones are those Payment Milestones which, as a pre-condition for payment, require payment applications to be accompanied by supporting documentation.
- 4.1.6.2 Authorisation of a Performance Based Milestone shall only be made upon written certification by the Engineer:
- A. of the successful completion of the Payment Milestone; and
  - B. that the supporting information, demonstrating that the performance of that Payment Milestone has been achieved in accordance with the Agreement requirements, has been provided and reconciled.
- 4.1.6.3 In the event that a Performance Based Milestone has not been achieved the Consultant shall not be entitled to apply for that Payment Milestone and reimbursement shall be deferred, at the cost of the Consultant, until achievement is realised.
- 4.1.7 Time Based Milestones
- 4.1.7.1 Time Based Milestones do not require supporting documentation demonstrating that the performance has been discharged as a pre-condition for reimbursement. The achievement of the associated date in the Baseline Programme is sufficient demonstration to permit authorisation of the payment application.
- 4.1.7.2 Time Based Milestones are those Payment Milestones where reimbursement shall be released in accordance with associated payment dates in the Baseline Programme Interim Payment Schedule.
- 4.1.7.3 Authorisation of a Payment Milestone shall only be made upon written certification by the Engineer confirming that the Payment Milestone is programmed for that month of application.
- Supporting documentation required for each Payment Milestone is detailed in Sub-item 8.5 [*Interim Payment Supporting Deliverables*].
- 4.1.8 Recorded Rates
- 4.1.8.1 Authorisation of Recorded Rate Payment Milestones shall only be made upon written certification by the Engineer that the supporting information has been provided and reconciled.
- 4.1.8.2 The Consultant shall not claim for periods of personnel absence, with the exception of safety based evacuation where such was not due to error, act or omission from the Consultant.

- 4.1.8.3 Reimbursement will only be made for authorised personnel employed for execution of the Services and for whom, except for where deemed non-objected pursuant to Sub-clause 10.2.4 of the General Conditions of Engagement, the Engineer's prior non-objection, submitted on an Authorisation To Mobilise Form (refer to Annex 1), to engage has been sought and granted in writing.
- 4.1.9 Applications for payment of Payment Milestones which are completed ahead of schedule shall be certified by the Engineer and authorised by the Authority unless the Agreement expressly provides otherwise.
- 4.1.10 Partial reimbursement of a Payment Milestone may be recommended by the Engineer before completion, based on Engineer's assessment of the actual progress and at his sole discretion.
- 4.1.11 The Engineer and Authority shall have the right to make any adjustments to the Interim Payment Schedule in accordance with any adjustments to Agreement Price and / or the Time for Completion made pursuant to the Conditions of Engagement.

#### 4.2 Interim Payment Applications

- 4.2.1 The Consultant shall submit to the Engineer each draft interim payment application within seven (7) Days before the scheduled month end date showing in detail the amounts to which the Consultant considers himself to be entitled together, where applicable, with full supporting documents.

The Consultant shall submit to the Engineer each formal interim payment application within seven (7) Days after the month end date.

- 4.2.2 Each interim payment application shall include the following, as applicable, in the sequence listed:
- A. the estimated cumulative value of the Agreement activities completed to the relevant Interim Payment Application Date, including all applicable supporting data;
  - B. the estimated cumulative value of the Change Addenda activities completed to the relevant Interim Payment Application Date, including all applicable supporting data;
  - C. where applicable, adjustment to Sub-items 4.2.2 A to B for fluctuations in accordance with Item 6 [*Fluctuations*];
  - D. payments on account of such items in the Payment Schedules not included in Sub-items 4.2.2 A to C;
  - E. any amounts to be added and deducted for the advance payment and repayments, if applicable;
  - F. claims notified pursuant to Sub-clause 16.3 [*Consultant's Claims*] of the General Conditions of Engagement;
  - G. any other amounts to which the Consultant may consider himself entitled under the Agreement;
  - H. any amounts due pursuant to Sub-clause 15.2.5 B of the General Conditions of Engagement; and
  - I. the deduction of amounts previously certified by the Engineer and Authorised by the Authority.

**NB:** *Adjustments for Key Performance Indicators shall be applied annually in accordance with the provisions of Item 7 [Key Performance Indicators].*

- 4.2.3 The Consultant is not obliged to submit an interim payment application at the end of a payment period where no payment entitlement is due.

- 4.2.4 No retention shall be deducted from the interim payments, notwithstanding such the Cost Centre for completion shall be withheld until satisfaction of the requirements of Sub-clause 15.4 [*Taxes, Penalties and Fines*] of the General Conditions of Engagement.

#### **4.3 Certification Procedure**

- 4.3.1 Certification shall be in accordance with the provisions of Sub-clause 15.2 [*Payment*] of the General Conditions of Engagement.
- 4.3.2 The Engineer and / or Authority may in any subsequent interim payment certificate make any correction or modification that should properly be made to any previous interim payment certificate

#### **4.4 Final Account**

- 4.4.1 The Consultant shall submit the draft Final Account in accordance Sub-clause 15.5 [*Application for Final Payment*] of the General Conditions of Engagement to the Engineer.
- 4.4.2 The Engineer shall, within twenty eight (28) Days after receiving the Consultant's draft Final Account issue the Evaluation of the draft Final Account to the Consultant.
- 4.4.3 Payment of the Final Account outstanding amount will be made upon submission to the Engineer of the Consultant's written discharge in accordance with Sub-clause 15.6 [*Discharge*] of the General Conditions of Engagement.

### **5 CHANGES**

#### **5.1 General**

- 5.1.1 Changes shall be instructed and evaluated by the Engineer pursuant to Sub-clause 16.2 [*Changes*] of the General Conditions of Engagement and formalised and communicated via Change Addenda.

#### **5.2 Additional Services**

- 5.2.1 Additional Services constitute such Services which are additional to those Services comprising the Project Brief.
- 5.2.2 Additional Services constitute Change and shall be formalised in the Agreement by the issue of Change Addenda.
- 5.2.3 Additional Services shall be instructed and evaluated by the Engineer pursuant to Sub-clause 16.2 [*Changes*] of the General Conditions of Engagement and formalised and communicated via Form of Addendum in Schedule G: Other Documents.
- 5.2.4 Additional Services shall be evaluated using Recorded Rates.

#### **5.3 Travel Costs**

- 5.3.1 In the event that the Engineer non-objects travel for Additional Services, and the travel is not due to corrective work on behalf of the Consultant, reimbursement shall be in accordance with Sub-item 5.3.2 below.

Any travel expense incurred without the prior written non-objection of the Engineer shall be entirely at the Consultant's own risk and cost.

- 5.3.2 The Authority shall reimburse the actual costs of non-objected travel (against copies of original receipts) where such travel has been non-objected by the Engineer, by completion of Travel Approval Request Form (Annex 2).

All reimbursement shall be in accordance with the below parameters:

##### **A. Reimbursable Travel**

Reimbursable Travel is subject to the issue of the Engineer's non-objection (non-

objected Travel Approval Request Form) and shall comprise: actual ticket costs, including all taxes and charges.

The following classes of travel shall apply:

- Company Director: Grade P1 Business Class;
- Company Senior Manager: Grade P1 Business Class;
- All other staff: All other Grades Economy Class.

In the event that the Consultant chooses to travel in a higher class of travel than applicable then such additional expense shall be at the Consultant's own cost.

#### B. Reimbursable Costs

Subject to receipt of the Engineer's non-objection:

- Hotel board and lodging costs (including breakfast and evening meal – meal disbursement limit to be agreed in advance with the Engineer);
- Daily disbursement charges in accordance with Sub-item 8.3.2 [*Travel Disbursement*].

#### C. Reimbursement

- All reimbursement shall be claimed after the travel event;
- Reimbursement shall be claimed under the instructed Change Addendum related to the travel event;
- The non-objected Travel Approval Request Form shall be appended to the Change Addendum;

Allowable receipts shall be identified and attached to the non-objected Travel Approval Request Form and Change Addendum.

### 5.4 Change Management

#### 5.4.1 In the event of Changes Cost Centre prices shall be adjusted in the following manner:

##### A. Change Addendum for Additional Services / Change in scope:

- a) In the event of an increase in the scope of Services such Change shall be administered under a new Cost Centre titled 'Changes';
- b) In the event of a decrease in the scope of Services the affected Cost Centre shall be adjusted, in time and cost, in accordance with the Change provisions of the General Conditions of Engagement.

##### B. Change Addendum for change to Time for Completion (no change in scope):

In the event that the Consultant is awarded an extension to the Time for Completion pursuant to Sub-clause 12.3.1 of the General Conditions of Engagement which gives rise to:

- a) an increase in the duration of a Cost Centre, that Cost Centre shall be adjusted by increasing the Cost Centre price by the total value of the Cost Centre resources deployed during the period of delay;
- b) no change to the duration of the Cost Centre, the Cost Centre price shall not be adjusted.

##### C. Change Addendum for change in activity duration (no amendment to the Time for Completion)

In the event that a Change Addendum instructs an increase or decrease in the Cost Centre duration the affected Cost Centre shall be adjusted, in time and cost, in accordance with the Change provisions of the General Conditions of Engagement.

- 5.4.2 Where a Cost Centre is priced as a Recorded Sum the associated delivery team, against which Recorded Rates are invoiced, shall only be adjusted by a Change Addendum.

## 5.5 Adjustment of the Agreement Price

- 5.5.1 This Sub-item 5.5 [*Adjustment of the Agreement Price*] shall only apply to adjustments to the Agreement Price arising out of the instruction of Change Addenda and / or changes to Recorded Sun Prices.

- 5.5.2 The Consultant confirms that it has resourced and scheduled the Agreement in anticipation of the issue of Change Addenda culminating in an increase or decrease of the executed Agreement Price by an aggregate value of twenty per cent (20%).

In the event of the aggregate adjustment being in excess of twenty per cent (20%) of the Total Price the Preliminaries Cost Centre shall be adjusted in accordance with the provisions of Sub-item 5.5.3 [*Adjustment of Preliminaries Cost Centre*].

### 5.5.3 Adjustment of Preliminaries Cost Centre

For the purposes of this Sub-item 5.5.3 [*Adjustment of Preliminaries Cost Centre*] the following terms shall apply:

- 'Final Agreement Price' or 'FAP' refers to the Agreement Price at the date the Engineer issues his Evaluation of the Agreement Final Account in accordance with Sub-clause 15.5.2 of the General Conditions of Engagement or as determined pursuant to Sub-clause 15.5.3 of the General Conditions of Engagement, as the case may be.

For the purposes of determining the Final Agreement Price for the identification of adjustments under this sub-item 5.5 [*Adjustment of the Agreement Price*] the following shall be considered as:

- included in the calculation of the Final Agreement Price:
  - Change Addenda;
  - Provisional Sum and Prime Cost Sum Orders;
  - non-objected claims;
  - Acceleration Awards; and
  - other such non-objected amendments;
- excluded from the calculation of the Final Agreement Price:
  - payments for fluctuations;
  - payments pursuant to Sub-clause 15.2.5 B of the General Conditions of Engagement;
  - Authority's claims; and
  - Adjustments in relation to KPI assessments.
- 'Original Agreement Price' or 'OAP' refers to the 'Agreement Price as at the date of Agreement execution;
- 'OPC' refers to the Original Preliminaries Costs being the value of Preliminaries Cost Centre at Agreement execution;
- 'Total Preliminaries Costs' refers to the Preliminaries Cost Centre as adjusted in accordance with this Sub-item 5.5.3 [*Adjustment of Preliminaries Cost Centre*].



- A. Value of Final Agreement Price is less than eighty per cent (80%) of the Original Agreement Price:

If the value of the FAP is less than eighty per cent (80%) but greater than seventy five per cent (75%) of the OAP, the Total Preliminaries Costs payable to the Consultant shall be ninety per cent (90%) of the Original Preliminaries Costs.

Total Preliminaries Costs =  $(OPC \times 0.900)$

For each further five per cent (5%) incremental reduction in FAP from the eighty per cent (80%) of the OAP, the Total Preliminaries Costs payable to the Consultant shall be reduced by a further two and half per cent (2.5%).

eg where FAP is 75% of OAP

Total Preliminaries Costs =  $(OPC \times 0.875)$

The adjustment shall continue until the FAP is equal to fifty per cent (50%) of the OAP at which point no further adjustment to the Original Preliminaries Costs shall be made.

Maximum reduction = where FAP is 50% of OAP

Total Preliminaries Costs =  $(OPC \times 0.750)$

- B. Value of Final Agreement Price is greater than one hundred and twenty per cent (120%) of the Original Agreement Price:

If the value of the FAP is greater than one hundred and twenty per cent (120%) but less than one hundred and twenty five per cent (125%) of the OAP, the Total Preliminaries Costs payable to the Consultant shall be one hundred and ten per cent (110%) of the Original Preliminaries Costs.

Total Preliminaries Costs =  $(OPC \times 1.100)$

For each further five per cent (5%) incremental increase in FAP from the one hundred and twenty per cent (120%) of the OAP the Total Preliminaries Costs payable to the Consultant shall be increased by a further two and half per cent (2.5%).

eg where FAP is 125% of OAP

Total Preliminaries Costs =  $(OPC \times 1.125)$

The incremental increase shall not be subject to a cap

<b>Column A</b>	<b>Column B</b>
<b>Total Price vs final Agreement Price</b>	<b>General Items Adjustment Factor</b>
> 150 % **	1.250
145 % to 150 %	1.225
140 % to 145 %	1.200
135 % to 140 %	1.175
130 % to 135 %	1.150
125 % to 130 %	1.125
120 % to 125 %	1.100
80 % to 120 %	1.000
75 % to 80 %	0.900
70 % to 75 %	0.875
65 % to 70 %	0.850

<b>Column A</b>	<b>Column B</b>
<b>Total Price vs final Agreement Price</b>	<b>General Items Adjustment Factor</b>
60 % to 65 %	0.825
55 % to 60 %	0.800
50 % to 55 %	0.775
50 % and less than	0.750

Figure 5.2 Adjustment for Preliminaries

\*\* The incremental increase shall not be subject to a cap.

## 6 FLUCTUATIONS

- 6.1.1 The Agreement Price shall be based upon those rates, amounts and sums contained within Item 6 [*Fluctuations*] of these this Schedule B: Payment Schedules as applicable at the Base Date.
- 6.1.2 In the event that the Baseline Programme duration of the Agreement is less than thirty six (36) months the rates, amounts and sums contained within this Schedule B: Payment Schedules are fixed and firm until completion of the Services
- 6.1.3 In the event that the Baseline Programme duration of the Agreement exceeds thirty six (36) months the rates, amounts and sums contained within these Payment Schedules are fixed and firm until Commencement Date plus thirty six (CD + 36) months, thereafter payments for Services are subject to fluctuation as follows:

$$P = P_0 \times (0.2 + (0.80 \times QCPI / QCP_0))$$

Where: P = Payment due

P<sub>0</sub> = Value of Payment Milestone

QCPI= Qatar Consumer Price Index (Monthly average) at 2 months preceding the month of payment application

QCP<sub>0</sub> = Qatar Consumer Price Index (Monthly average) at the Base Date plus thirty four (34) months.

The Qatar Consumer Price Index (CPI) is published by the Qatar Statistics Authority. The Qatar Statistics Authority's homepage is: <http://www.qsa.gov.qa/eng/index.htm>

The CPI to be applied is the average of the nine (9) indices, these being:

- 1 Household consumption
- 11 Food, beverages and tobacco
- 12 Garments and footwear
- 13 Rent, fuel and energy
- 14 Furniture, textiles and home appliances
- 15 Medical care and medical services
- 16 Transport and communications
- 17 Entertainment, recreation and culture
- 18 Miscellaneous goods and services

The QCPI {Qatar Consumer Price Index (Monthly average)} and QCP0 applied for the calculation of fluctuations is the average of these indices. The indices are published as Monthly, Quarterly and Yearly indices, the indices to be applied for the calculation of fluctuations are the Monthly indices.

6.1.4 Qatarisation and Internal Promotions

6.1.4.1 The Consultant shall submit to the Authority on an annual basis an updated schedule representing named personnel and their respective grades in Cost Centres subject to evaluation as a Recorded Sum Price. The updated schedules shall identify those personnel who qualify for re-grading in the event of one or more of the following circumstances;

- internal promotion (in relation to the Agreement);
- attainment of further qualification;
- attainment of additional years of experience.

The update shall also include a forecast of anticipated qualifying promotions for the following twelve (12) months.

6.1.4.2 Any change in a personnel's grade shall be agreed between the Parties and confirmed by the Engineer in writing.

## 7 KEY PERFORMANCE INDICATORS

### 7.1 General

7.1.1 In accordance with the requirements of Schedule A, the targets and weightings for the KPIs are to be developed and agreed between Parties and shall not be applied during the first six (6) months of the Agreement generally as outlined within this Item 7 [*Key Performance Indicators*] of Schedule B.

7.1.2 The primary objectives of the incentivisation mechanism are to:

- A. incentivise the Consultant to implement a culture of safety, quality and delivery to time and budget / cost throughout the Project;
- B. provide measures of overall Project performance; and
- C. drive the behaviour of continuous improvement by being able to measure performance.

### 7.2 KPI Amount

7.2.1 The Key Performance Indicator (KPI), if applicable, shall be that percentage as stated in Appendix I to the Memorandum of Agreement.

7.2.2 For the currency of the Agreement the performance of the Consultant shall be monitored by the Engineer against the Key Performance Indicators.

7.2.3 Subject to the Consultant's performance, as monitored against the Key Performance Indicators, the Agreement Price shall be adjusted at the end of each year of the Agreement, or as otherwise agreed by the Consultant and the Engineer, and such KPI adjustment shall be implemented without the need for any notification or warning or recourse to legal or arbitral proceedings.

In the event that the KPI Amount results in a deduction, then the difference will be deducted from the Consultant's account.

This reconciliation will be completed within twenty eight (28) Days of the Agreement year end or as otherwise agreed by the Consultant and the Engineer

7.2.4 The adjustment to the Agreement Price for the Consultant's performance, as measured by the Key Performance Indicators shall not relieve the Consultant from any obligations or liabilities arising under the Agreement nor prejudice any rights or remedies available to the Authority.

7.2.5 In the event that the Consultant's performance fails to achieve the KPI targets the Consultant shall submit proposals for remedying and improving its performance to achieve and exceed such key performance targets.

### **7.3 Responsibility & Administration**

7.3.1 The responsibility for the overall management of this procedure rests with the Authority.

7.3.2 The administration of the procedure shall be in accordance with the KPI protocol. It is a requirement that a "KPI Controller" will be appointed by the Consultant to effect day-to-day management of the KPI Amount.

7.3.3 Based on the supply and monitoring of real time data, both parties shall identify management actions required to mitigate further/similar risk event, trends and the like.

### **7.4 Change Control**

7.4.1 If a variance occurs and is as a result of a Change then Change Control (protocol) shall operate detailing the Change.

7.4.2 If the variance is as a result of something other than a Change then by definition it is a KPI event and shall be recorded as such.

**8 PRICE AND PAYMENT SCHEDULES****8.1 Agreement Price Summary**

Agreement Price Summary			
Description	Reference	Unit	Total (QAR)
Preliminaries	Cost Centre 0		
.....	Cost Centre 1		
.....	Cost Centre ...		
.....	Cost Centre ...		
.....	Cost Centre ....		
Completion	Cost Centre	Lump Sum (5% of Agreement Price)	
<b>Agreement Price</b>			$\Sigma 0 : \dots$
<i>Insert Provisional Sums, if any</i>	Cost Centre ....	Provisional Sum	
<i>Insert Prime Cost Sums, if any</i>	Cost Centre ....	Prime Cost Sum	
<b>Total Price</b>			$\Sigma$ Agreement Price + PS and PCS

**Notes**

*Provisional and Prime Cost Sums are to be supplied by the Authority and shall not be adjusted by the Consultant*

## 8.2 Agreement Price Cost Centre Breakdown

**Cost Centre 0: Preliminaries****Lump Sum Price**

No.	Description	Unit	Quantity	Rate (QAR)	Total (QAR)
0-1	.....				
0-2	.....				
0-3	.....				
Sub-total carried forward to Agreement Price Summary					

PROJECT SPECIFIC

**Cost Centre .: .....****Recorded Sum Price**

	Description	Pos. Code	Personnel Grade (min)	Rate (QAR)
x-1	.....			
x-2	.....			
x-3	.....			
Sub-total carried forward to Agreement Price Summary				

**Cost Centre .: .....****Absolute Guaranteed Maximum Price**

No.	Description	Absolute GMP	Total (QAR)
x-1	.....		
Sub-total carried forward to Agreement Price Summary			



Cost Centre .: .....

**Provisional Guaranteed Maximum Price**

No.	Description	Provisional Quantity	GMP Rate as Percentage of Quantity	Provisional GMP Amount (QAR)
x-1	.....			
Sub-total carried forward to Agreement Price Summary				

Notes:

- 1 Quantity is provisional and may change over the currency of the Agreement
- 2 GMP Rate is fixed and represents the Guaranteed Maximum Price element
- 3 GMP Amount is subject to change over the currency of the Agreement and the Final Account value shall be the final quantity multiplied by the GMP rate

Cost Centre .: .....

**Provisional Sum**

No.	Description	Unit	Quantity	Rate (QAR)	Total (QAR)
Sub-total carried forward to Agreement Price Summary					

Cost Centre .: .....

**Prime Cost Sum**

No.	Description	Unit	Quantity (QAR)	Percentage Fee (%)	Total (QAR)
Sub-total carried forward to Agreement Price Summary					

8.3 Tables of Recorded Rates

8.3.1 Personnel

Reimbursable Rates to be applied to Cost Centres: 7 and 8 activities										
No.	Title	Grade	Qatar Based Personnel (QAR/Man-Days)					Personnel Based Outside Qatar (QAR/Man-Days)		
			> 12 months	6 : 12 months	1 : 6 months	< 1 month	Day charge	Full Time	> 1 week	Day Charge
Professional (P) Grade Personnel										
Technical (T) Grade Personnel										
Administration (P) Grade Personnel										

8.3.2 Travel Disbursement

Travel rates to be applied to Cost Centre 1 and Change Cost Centres				
Expense Type	Daily Rate			
	GCC	Europe	USA	Other
Hotel	Actual			
Travel tickets	Actual			
Meals & Incidentals	.....QAR	.....QAR	.....QAR	.....QAR

8.3.3 Activities

PROJECT SPECIFIC

Activities			
Reimbursable Rate to be applied for Additional Services			
Sr. #	Activity	Unit	Rate (QAR)

**8.4 Interim Payment Schedules**

Notes:

CD+ = Commencement Date + (*applicable month*)

Reimbursement for Deliverables shall be on the following basis:

- 25% of Milestone value upon submission;
- 75% of Milestone value upon non-objection

**8.4.1 Cost Centre 0: Preliminaries**

Milestone #	Description	Payment Month (CD+)	Milestone Type	Price
....	....	....	....	....
....	....	....	....	....

**PROJECT SPECIFIC****8.4.2 Cost Centre 1: .....**

Milestone #	Description	Payment Month (CD+)	Milestone Type	Price
....	....	....	....	....
....	....	....	....	....

**8.4.3 Cost Centre 2: .....**

Milestone #	Description	Payment Month (CD+)	Milestone Type	Price
....	....	....	....	....
....	....	....	....	....

**8.5 Interim Payment Supporting Deliverables**

**8.5.1 Cost Centre 0: Preliminaries**

- Engineer's non-objection of required insurances
- ...

**8.5.2 Cost Centre 1: .....**

- Engineer's certification of performance
- ...

**8.5.3 Cost Centre 2: .....**

- Engineer's certification of performance
- ...

PROJECT SPECIFIC

---


8.6 Agreement Payment Application Curve

*This shall be payment application (cashflow) curves*

PROJECT SPECIFIC



## ANNEX 1: AUTHORISATION TO MOBILISE FORM

	<b>STATE OF QATAR PUBLIC WORKS AUTHORITY</b>			
	Department: _____			
	Project ID: _____			
	Project Title: _____			
Consultant: _____				

**AUTHORISATION TO MOBILISE****PERSONNEL DETAILS**

NAME				
POSITION / TITLE				
SCHEDULE C CODE		GRADE		
ORGANISATION CHART REFERENCE No				
REQUESTED BY:	NAME	SIGNATURE	POSITION	DATE
	CV ATTACHED	YES / NO	JOB DESCRIPTION ATTACHED	YES / NO


**ASSIGNMENT DETAILS**

LOCATION			
DURATION			
MOBILISATION DATE	PLANNED	ACTUAL	
DEMOBILISATION DATE	PLANNED	ACTUAL	


**AUTHORISATION DETAILS**

NON-OBJECTED / REJECTED				
	NAME	SIGNATURE	POSITION	DATE
BASIS FOR REJECTION				

## ANNEX 2: TRAVEL APPROVAL REQUEST FORM

	<b>STATE OF QATAR PUBLIC WORKS AUTHORITY</b>			
	Department:			
	Project ID:			
	Project Title:			
	Consultant:			
<b>TRAVEL APPROVAL REQUEST</b>				
<b>PERSONNEL DETAILS</b>				
NAME				
POSITION / TITLE				
ORGANOGRAM REFERENCE No.		GRADE		
<b>TRAVEL DETAILS</b>				
PURPOSE FOR TRAVEL				
ONE WAY	DEPARTURE POINT AND DATE	ARRIVAL POINT AND DATE		
RETURN	DEPARTURE POINT AND DATE	ARRIVAL POINT AND DATE		
TYPE OF TRAVEL				
ROUTE				
CLASS OF TRAVEL				
TYPE OF TRAVEL				
HOTEL				
NOTES				
<b>APPROVAL DETAILS</b>				
REQUESTED BY:	NAME	SIGNATURE	POSITION	DATE
CONSULTANT APPROVAL	NAME	SIGNATURE	POSITION	DATE
ENGINEER NON- OBJECTION	NAME	SIGNATURE	POSITION	DATE
BASIS FOR REJECTION				
<b>NOTE:</b> All travel and associated costs will only be reimbursed against receipts in accordance with the Agreement supported by an Engineer non-objected Travel Request				

## ANNEX 3: MONTHLY ATTENDANCE RECORDS

<div></div>		STATE OF QATAR PUBLIC WORKS AUTHORITY																																							
		Department: Project ID: Project Title: Consultant:																													Legend		W	Worked Days							
																																	PH	Public Holiday							
																																	WE	Weekend							
																																	A	Absent							
Personnel Monthly Attendance Sheet															From								To								Summary (Days)										
No.	Code	POSITION	NAME	Day* Initial Start Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	W	PH	WE	A	Claimed Days	
1																																									
2																																									
3																																									
4																																									
5																																									
6																																									
7																																									
8																																									
9																																									
10																																									
11																																									
12																																									
*Day - identify day above date ie S = Sunday, M=Monday, T=Tuesday, W=Wednesday, Th=Thursday, F=Friday, St=Saturday																																									
Notes and Remarks    initial start date for all personnel must be stated in the initial and all subsequent timesheets. All days worked, including weekend ands public holidays are to be recorded. The original completed time sheet shall be submitted, backed up by the Daily Attendance Sheet for each payment applica																																									
Consultant's Representative		Name										Signature										Position										Date									
Engineer's Representative		Name										Signature										Position										Date									

# SCHEDULE C

## RESOURCE SCHEDULES

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**CONTENTS**

**Part 1.1 Master Programme**

**Part 1.2 Master Programme Narrative**

**Part 2 Resource Allocation Schedule**

**Part 3 Mobilisation Plan**

**Part 4 Project Organisation**

**Part 5 Key Personnel**

**Part 6 Sub-consultants**

**Part 7 Risk Register**

**Part 1.1:    Master Programme**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Master Programme

**Part 1.2     Master Programme Narrative**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Master Programme Narrative



**Part 2     Resource Allocation Schedule**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Resource Allocation Schedule(s)

**Part 3      Mobilisation Plan**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Mobilisation Plan

**Part 4     Project Organisation**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Project Organisation Chart and associated narrative

**Part 5     Key Personnel**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Key Personnel

**Part 6       Sub-consultants**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Sub-consultants

**Part 7     Risk Register**

**Left Blank - To be compiled at Due Diligence Stage**

This shall be a Project specific document incorporated into the Agreement contract (Volume 2 of Tender Documents) at Due Diligence Stage and shall comprise the following extract from the Tenderer's Technical Submission

Risk Register

# SCHEDULE D

## CONFLICT OF INTEREST STATEMENT



**STATE OF QATAR SCHEDULE D: CONFLICT OF INTEREST STATEMENT  
ASHGHAL**

---

**TO BE PRINTED ON CONSULTANT'S LETTERHEADED PAPER**

All capitalised terms used herein shall have the same meanings given to them in the Agreement

With reference, and further, to:

Project ID: \_\_\_\_\_

Project Title: \_\_\_\_\_

As tendered on this day of \_\_\_\_\_ *<insert date of invitation to tender>* \_\_\_\_\_

Between

- the Authority and
- the Consultant \_\_\_\_\_ *<insert name of consultant>* \_\_\_\_\_  
of \_\_\_\_\_ *<insert address of consultant>* \_\_\_\_\_

By the signing of this Conflict of Interest Statement we, the Consultant, hereby declare that:

**Conflict of Interest**

We (the Consultant) do not have any actual or possible conflict of interest ("**Conflict**") with any aspect of the Services / Project to which the Agreement relates; either individually or in conjunction with any third party, and hereby confirm that we will not knowingly take any steps which lead to a possible Conflict arising during the currency of the Agreement.

No member of the Consultant's organisation has: any beneficial interest in any third party, as of the date of award of this Agreement; knowingly engaged, or will be engaged, in the provision of services or goods or any other organisation that is engaged in doing business with or serving the Authority.

All and any such Conflict that exists, as of the date of this Agreement, have been declared in a signed addendum to this document which has been fully disclosed to the Authority prior to the execution of the Agreement.

We warrant that should, in the general course of business, a possible Conflict arise we shall notify the Authority to confirm the Authority's objection or non-objection, as the case may be, prior to accepting any such conflicting interest. In the event of the Authority's objection the Authority shall state such reasons for objection and we (the Consultant) warrant that the business option shall not be taken up until after the expiry of the Agreement.

It is acknowledged and accepted that in the event of a Conflict subsequently arising or being disclosed, and we fail to resolve such Conflict to the Authority's satisfaction within fourteen (14) calendar days from the date of our notice in writing to the Authority (defining the nature of the alleged Conflict), then the Authority is fully and unconditionally entitled at its own discretion to terminate the Agreement forthwith, in accordance with the terms and conditions of such, and may avail itself of any rights or remedies it may be entitled to under the Agreement or at Law.

**STATE OF QATAR SCHEDULE D: CONFLICT OF INTEREST STATEMENT**  
**ASHGHAL**

---

**Market Abuse**

In the event that during the currency of the Agreement information is disclosed that is precise, non-public and likely to have a significant effect on the price of a financial instrument we (the Consultant) acknowledge that we have certain obligations, under Law and under the Agreement, in relation to the confidential nature of such information and will maintain a list of all people who have access to the information which is to be disclosed to the Authority upon first request.

**Signed**

by *<Name>*: \_\_\_\_\_

Signature: \_\_\_\_\_

for and on behalf of the said Consultant *<Name of Consultant>*

\_\_\_\_\_

in the presence of *<Name of Witness>* as witness

Signature of witness: \_\_\_\_\_

Name and position of witness: \_\_\_\_\_

Dated this \_\_\_\_\_ day \_\_\_\_\_ of 20\_\_\_\_\_

Stamp of said Consultant: \_\_\_\_\_

**ADDENDUM TO THE CONFLICT OF INTEREST STATEMENT**

Declared Conflicts of Interest:

*<Insert list of declared possible conflicts of Interest>*

# SCHEDULE E

## REPRESENTATIVES OF THE PARTIES FOR THE PURPOSE OF AMICABLE SETTLEMENT

STATE OF QATAR SCHEDULE E: AMICABLE SETTLEMENT REPRESENTATIVES  
ASHGHAL

---

REPRESENTATIVES OF THE PARTIES FOR THE PURPOSE OF AMICABLE  
SETTLEMENT

**For the Authority:**

Mr. \_\_\_\_\_

[Title] \_\_\_\_\_

[Department] \_\_\_\_\_

Public Works Authority - Ashghal  
Al Faisal Tower 1  
West Bay  
P.O. Box 22188  
Doha  
QATAR

**For the Consultant**

Mr. \_\_\_\_\_

<Title> \_\_\_\_\_

<Department > \_\_\_\_\_

<Line 1 Address>

<Line 2 Address>

<Line 3 Address>

<Line 4 Address>

<Line 5 Address>

# SCHEDULE F

## INSURANCES

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---

**PART A      AUTHORITY'S INSURANCES AND RESPONSIBILITIES**

---

**1      Authority's Insurances to be Effective at Commencement Date**

**1.1      General**

1.1.1 The following Authority's insurance policies shall come into full force and effect prior to the Commencement Date of the Agreement:

- *The Authority has not provided any insurances for the purposes of the Agreement*

**1.2      Authority's Co-insured Insurance Policies**

1.2.1 For the purpose of this Agreement, the Authority shall effect and maintain, or cause to be effected and maintained, the following insurances in the co-insured names of the Authority, the Engineer, the Engineer's Representative, the Consultant and the sub-consultants of any tier.

- *The Authority has not provided any insurances for the purposes of the Agreement*

---

**PART B      CONSULTANT'S INSURANCES AND RESPONSIBILITIES**

---

**1      Consultant's General Obligations**

**1.1      General**

- 1.1.1 Without limitation to the Consultant's liabilities and obligations under this Agreement, the Consultant shall at all times during the periods nominated in this Part B of Schedule F, effect and maintain and evidence to the Engineer and shall require the sub-consultants to effect and maintain and evidence to the Engineer, the types and amounts of insurance as set forth in this Part B of this Schedule F.
- 1.1.2 The description of the insurance policies in this Schedule F is not intended to be complete, nor to alter or amend any provision of the actual insurance policies and in matters, if any, in which the said description may be conflicting with such instruments, the provisions of the policies of insurance shall govern; provided, however, that neither the content of any insurance policy or certificate nor the Authority's or Engineer's non-objection thereof shall relieve the Consultant of any of its obligations under the Agreement.
- 1.1.3 Notwithstanding anything set forth herein, non-objection by the Authority or the Engineer of any insurer or terms of insurance proposed by the Consultant shall not relieve nor limit the Consultant of any obligation or liability under or arising from this Agreement or generally at Law.
- 1.1.4 With the exception of any advance payment, if applicable, the following Consultant's Insurances shall come into full force and effect prior to and as a condition precedent to the Authority being obliged to make any payments to the Consultant under the Agreement:
- Professional Indemnity Insurance;
  - Third Party Liability Insurance;
  - Workmen's Compensation Insurance;
  - Employer's Liability Insurance; and
  - other insurances required by the Laws.
- 1.1.5 The proof of payment for all premiums shall be submitted by the Consultant to the Authority in advance of the premium payment deadline.
- 1.1.6 Payment of any and all deductibles applicable to insurances provided by the Consultant in or under the Agreement is deemed included in the Agreement Price and shall remain the sole responsibility of the Consultant.
- 1.1.7 The Authority and its agents shall not be an Insured Party on the insurances set forth in Part B of Schedule F.

**2 Consultant's Insurance Policies**

**2.1 Professional Indemnity Insurance**

**2.1.1 Professional Indemnity Insurance Policy**

2.1.1.1 The Consultant shall provide and maintain a Project specific Professional Indemnity Insurance policy written as stand-alone and non-contributory Project specific primary policy, not contributing with, and not in excess of any other insurance policies, indemnifying the Consultant in relation to all claims, liabilities, loss or damage however arising under or out of the Services, except those solely attributable directly to the Authority or the Authority's personnel or agents. The said Professional Indemnity Insurance policy shall be provided from the Commencement Date and shall be maintained for the currency of the Agreement, which shall include any delay or Change thereto.

2.1.1.2 The Professional Indemnity Insurance policy shall be provided through insurer(s) registered and operating in the State of Qatar. All costs and expenses incurred, and which may be incurred, in providing such insurances shall be deemed to be included in the Agreement Price.

2.1.1.3 Within thirty (30) Days after the commencement of the Services the Consultant shall submit written evidence that the Professional Indemnity Insurance policy covers the following:

- A. the Services for the Project being carried out by the Consultant under the Agreement;
- B. for all incidents occurring within the currency of the Agreement:
  - a) the minimum professional indemnity insurance amount for any one incident, number of incidents unlimited; and
  - b) the aggregate amount for any one insured period, as stated in Appendix I to the Memorandum of Agreement;
- C. the benefits of the professional indemnity insurance policy are available to any party to whom an insurable interest in the Project has been assigned;
- D. confirmation that the Insurer(s) waives any and all right(s) of subrogation against the Authority.

2.1.1.4 It shall be the obligation of the Consultant to notify the Insurer of any delay or Change to the nature or extent of the Project and to ensure that the coverage and adequacy of the Professional Indemnity Insurance is maintained.

2.1.1.5 The Consultant has an express obligation to fully pursue all claims in relation to professional indemnity with the Insurer(s) forthwith and under no circumstances whatsoever shall the Consultant delay advancement of any such claim.

**2.1.2 Extended Reporting Period**

2.1.2.1 The Project specific Professional Indemnity Insurance shall be provided with an Extended Reporting Period for the duration stated in Appendix I to the Memorandum of Agreement commencing from the Completion Date, or date of termination of the Agreement as the case may be, the cost of which shall be deemed included in the Agreement Price.

2.1.2.2 Extended Reporting Period shall mean the designated time period after the Professional Indemnity Insurance policy has expired during which a claim may be made against the Professional Indemnity Insurance policy and coverage triggered as if the claim had been made during the Professional Indemnity Insurance policy period.

## 2.2 Other Insurances

### 2.2.1 Third Party Liability Insurance

2.2.1.1 Third Party Liability Insurance shall be effective for the Consultant and the sub-consultants from the Commencement Date and shall remain effective for the duration of the Agreement.

2.2.1.2 Third Party Liability Insurance shall be provided to cover all legal liability for injury, illness or death to persons or for loss of or damage to property including all costs resulting from or incurred in connection with the carrying out of the Services under the Agreement. Such coverage shall have a limit of liability of not less than **insert minimum cover amount in words (QAR insert minimum cover amount in figures)** for any one occurrence or series of occurrences arising out of one event.

### 2.2.2 Workmen's Compensation Insurance

2.2.2.1 Workmen's Compensation (including Occupational Diseases, death and claimant's and defence costs) Insurance shall be effective for the Consultant and the sub-consultants from the Commencement Date and shall remain effective for the duration of the Agreement.

2.2.2.2 Worker's Compensation (including Occupational Diseases, death and claimant's and defence costs) Insurance in respect of personal injuries to personnel of the Consultant resulting from or in connection with the performance of the Services shall be provided for all employees employed by the Consultant and the sub-consultants. Cover shall be in a form as prescribed by the Law, with limits in accordance with the provisions and requirements of the applicable Law.

### 2.2.3 Employer's Liability Insurance

2.2.3.1 Employer's Liability Insurance shall be effective for the Consultant and the sub-consultants from the Commencement Date and shall remain effective for the duration of the Agreement.

2.2.3.2 Employer's Liability Insurance shall be provided for all employees employed by the Consultant and the sub-consultants. Cover shall be in a form as prescribed by the Law, with limits in accordance with the provisions and requirements of the applicable Law.

### 2.2.4 Other Insurances

2.2.4.1 The Consultant shall advise the Engineer, and provide details for, any additional insurances as may be required by the Laws or the Consultant considers necessary for undertaking the Services under the Agreement. Such advice and details of the proposed insurances shall be provided to the Engineer prior to the Commencement Date of the Agreement.

# SCHEDULE G

## OTHER DOCUMENTS

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**COLLATERAL WARRANTY**

**[*Insert name of sub-consultant*]**

**AS THE SUB-CONSULTANT**

**AND**

**[*Insert name of consultant*]**

**AS THE CONSULTANT**

**IN FAVOUR OF**

**THE PUBLIC WORKS AUTHORITY (ASHGHAL)**

**AS THE AUTHORITY**

---

**COLLATERAL WARRANTY**

---

Collateral Warranty (Consultant) Rev B  
March 2013



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**COLLATERAL WARRANTY**

**THIS WARRANTY** is made this            day of            20\_\_

**BY:**

That Party whose name and address is set out in Item 2 of the Schedule to this Warranty (the **"Sub-Consultant"** which expression shall include its successors and assigns);

**AND:**

That Party whose name and address is set out in Item 3 of the Schedule to this Warranty (the **"Consultant"**) which expression shall include its successors and assigns);

**IN FAVOUR OF:**

That entity whose name and address is set out in Item 1 of the Schedule to this Warranty (the **"Authority"** which expression shall include its successors and assigns) (the Sub-Consultant, the Consultant and the Authority being collectively referred to as the **"Parties"**).

**WHEREAS:**

- A. The Authority and the Consultant have entered into an agreement described in Item 4 of the Schedule to this Warranty (the **"Head Consultancy Agreement"**) pursuant to which the Consultant has agreed to perform the "Services" as that term is defined in the Head Consultancy Agreement (the **"Services"**).
- B. In accordance with the terms and conditions of the Head Consultancy Agreement, the Consultant has entered into an agreement with the Sub-Consultant (the **"Sub-Agreement"**) described in Item 5 of the Schedule to this Warranty pursuant to which the Sub-Consultant has agreed to carry out and complete the services described in Item 6 of the Schedule to this Warranty which form part of the Services (the **"Sub-Agreement Services"**).
- C. The Sub-Consultant has agreed to give the warranties contained in this Warranty to the Authority in consideration of the Consultant agreeing to engage the Sub-Consultant and the Authority agreeing to accept the Sub-Consultant to perform the Sub-Agreement Services.
- D. The Sub-Consultant confirms that the Sub-Agreement Price includes the sum of one hundred Qatari Riyals (QAR 100.00) as consideration for this Warranty.

**NOW THIS WARRANTY PROVIDES:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

For the purposes of this Warranty the capitalised terms shall have the same meaning as given to them in the Head Consultancy Agreement and Sub-Agreement.

In the event of any conflict or inconsistency between the Head Consultancy Agreement, the Sub-Agreement and this Warranty the order of priority shall be as follows:

- this Warranty;
- the Head Consultancy Agreement;
- the Sub-Agreement.

Any and all notices required shall be in full accordance with the requirements of the Head Consultancy Agreement.

**1.2 Interpretation**

This Warranty shall be interpreted in the same manner and context as the interpretation of the Head Consultancy Agreement.

Nothing contained in this Collateral Warranty will have the effect of altering any of the Sub-Consultant's obligations pursuant to the Sub-Agreement.

**2. WARRANTIES / UNDERTAKINGS**

**2.1** The Sub-Consultant hereby warrants and undertakes to the Authority that it shall carry out and complete the Sub-Agreement Services with Good Design, Engineering, and Construction Practices and in compliance with the terms of the Sub-Agreement and without prejudice to the generality of the foregoing, the Sub-Consultant further warrants and undertakes to the Authority as follows:

- A. that it has the right, power and authority and has taken all action necessary to execute and deliver, and to exercise its rights and perform its obligations under the Sub-Agreement and each document to be executed in connection therewith and that the Sub-Agreement and each such document shall constitute valid, legal and binding obligations on it in accordance with their respective terms;
- B. that it has undertaken and will continue to undertake the completion of the Sub-Agreement Services insofar as the Sub-Agreement Services have been or will be completed by the Sub-Consultant, its servants, agents, sub-consultants or suppliers in accordance with Good Design, Engineering and Construction Practices and comply with the Applicable Codes and Standards;
- C. that it has performed and shall continue diligently to perform all of its obligations under the Sub-Agreement and will owe the same contractual duties without limitation to the Authority as those owed by the Sub-Consultant to the Consultant under the Sub-Agreement; and
- D. that where the Sub-Consultant has carried out any services on behalf of the Authority prior to its engagement by the Consultant (including, without limitation, the preparation of documents and drawings for inclusion in the Head Consultancy Agreement) the warranties and undertakings of the Sub-Consultant under this Article 2 shall apply in respect of such services.

**3. LIABILITY OF THE SUB-CONSULTANT**

- 3.1 The obligations of the Sub-Consultant under or pursuant to Article 2 shall be in addition to and without prejudice to any other present or future liability of the Sub-Consultant to the Authority.
- 3.2 Subject to the limits of liability set out in the Sub-Agreement, the Sub-Consultant shall indemnify and hold harmless the Authority, its personnel and agents, against and from all liabilities, claims, damages, losses, fines, costs (including legal costs) and expenses arising out of any breach of this Warranty by the Sub-Consultant howsoever arising, as the Sub-consultant assumes towards the Consultant under the terms of the Sub-Agreement, unless to the extent attributable to gross negligence, deliberate default, fraud, fraudulent misrepresentation or Wilful Misconduct by the Authority, its personnel or agents.
- Nothing contained in this Warranty shall entitle the Authority to recover the same damages, losses, fines, costs (including legal costs) and expenses from both Consultant and Sub-Consultant.
- 3.3 The Sub-Consultant warrants that he has and shall maintain professional indemnity insurance in and on the terms and for the period referred to in the Sub-Agreement. As and when he is requested to do so by the Authority the Sub-Consultant shall produce for inspection documentary evidence that his professional indemnity insurance is being maintained.
- 3.4 The Sub-Consultant shall be entitled in any action or proceedings brought by the Authority under this Warranty to rely on any limitation in the Sub-Agreement and to raise equivalent rights in defence of liability as it would have against the Authority if, in lieu of this Warranty, the Authority had been a party to the Sub-Agreement as joint employer.

**4. LIABILITY OF THE AUTHORITY**

- 4.1 Nothing contained in this Warranty is intended to, nor shall, render the Authority in any way liable to the Sub-Consultant in relation to any matters arising out of the Head Consultancy Agreement, the Sub-Agreement or otherwise.
- 4.2 The Consultant and the Sub-Consultant acknowledge that nothing in this Warranty nor any nomination of the Sub-Consultant by any agent (if any) of the Authority shall create any contractual relationship between the parties to this Warranty and the Authority in respect of the Sub-Agreement Services except to the extent provided for in this Warranty.

**5. TERMINATION**

- 5.1 The Sub-Consultant covenants and agrees with the Authority that it will not exercise or seek to exercise any right which it may now or at any time hereafter have under the Sub-Agreement or otherwise to terminate the Sub-Agreement or discontinue the performance of any of its obligations thereunder without first giving to the Authority not less than twenty one (21) Days prior written notice of the Sub-Consultant's intention specifying the grounds for the proposed termination and notwithstanding any provision of the Sub-Agreement (unless terminated by Consultant) the Sub-Agreement shall not otherwise terminate within such twenty one (21) Day period. Within the said twenty one (21) Day period, the Authority shall have the right, but not any obligation, to remedy the relevant default of the Consultant giving rise to such grounds for the proposed termination and if the Authority shall have so remedied such default, the Sub-Agreement shall not be terminated.
- 5.2 With the exception of the circumstance of no default termination of the Consultant by the Authority, the Sub-Consultant agrees that in the event of termination of the Head Consultancy Agreement the Sub-Consultant shall, at the written request of the Authority, continue to perform its obligations under the Sub-Agreement as if such obligations were

owed to the Authority, provided that the Authority has agreed in writing to be responsible for the obligations of the Consultant under the Sub-Agreement to the extent that the same shall have been expressly disclosed by the Sub-Consultant to the Authority at the time of such written request by the Authority. Nothing herein shall oblige the Authority to request the Sub-Consultant to so continue to perform its obligations under the Sub-Agreement and the Authority shall not in any way be responsible for the obligations of the Consultant (whether pursuant to the Sub-Agreement or otherwise) unless specifically agreed to in writing by the Authority.

**6. INTELLECTUAL PROPERTY**

- 6.1 The Head Consultancy Agreement ownership and intellectual property rights clause, Clause 13 [*Intellectual Property Rights*], shall be incorporated into this Warranty in its entirety by this reference, and the terms and conditions thereof shall be applicable with respect to this Warranty as though fully set forth herein.
- 6.2 For the purposes of Sub-article 6.1 and the interpretation of the Agreement clauses incorporated by reference therein 'Consultant' shall be read as 'Sub-Consultant'.

**7. ASSIGNMENT**

- 7.1 Subject to the Authority providing the Sub-Consultant twenty one (21) Days advance notice, the Authority may (without the consent of the Sub-Consultant) assign and / or charge the benefit of this Warranty and / or any of the present or future rights, interests and benefits of the Authority hereunder to any third party.

**8. THE SUB-AGREEMENT**

- 8.1 The Sub-Consultant and the Consultant undertake to the Authority not to materially vary or depart from the terms and conditions of the Sub-Agreement without the prior written consent of the Authority and agree that any Change or departure made without such consent shall not be binding on the Authority or affect or prejudice the Authority's rights hereunder or otherwise in any way.

**9. OPERATION OF THIS WARRANTY**

- 9.1 This Warranty shall come into effect in favour of the Authority as soon as it has been executed by the Sub-Consultant and the Consultant, notwithstanding that the Authority may not have signed this Warranty and in such case this Warranty shall take effect as a unilateral declaration.
- 9.2 Notwithstanding the completion of the Consultant's Services (as defined in the Head Consultancy Agreement) or the Sub-Agreement Services or any part thereof, this Warranty shall continue to have effect for a period of fifteen (15) years after discharge.

**10. ARTICLE AND SCHEDULE**

- 10.1 A reference to an Article or Schedule is a reference to an Article or Schedule to this Warranty.

**11. CONSULTANT'S CONSENT**

- 11.1 The Consultant by its execution hereof consents to the terms and conditions of this Warranty.

**12. PARTIAL INVALIDITY**

- 12.1 If, at any time, any term or condition hereof is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining terms and conditions hereof shall not in any way be affected or impaired thereby.

**13. GOVERNING LAW**

- 13.1 This Warranty shall be governed by, and construed in accordance with the Laws of the State of Qatar.

**14. DISPUTE RESOLUTION**

- 14.1 The Head Consultancy Agreement dispute resolution Sub-clauses 20.2 [Amicable Settlement], 20.3 [Expert's Decision] and 20.5 [Arbitration] and any associated Particular Conditions, shall be incorporated into this Warranty in their entirety by this reference, and the terms and conditions thereof shall be applicable with respect to this Warranty as if fully set forth herein.
- 14.2 For the purposes of Sub-article 14.1 and the interpretation of the Agreement clauses incorporated by reference therein 'Consultant' shall be read as 'Sub-Consultant'.
- 14.3 Reference of Disputes to arbitration shall not in any way vitiate nor invalidate this Warranty neither shall it be grounds for the Sub-Consultant to cease its obligations and the Sub-Consultant shall proceed with the Services with all due diligence.
- 14.4 All such reference as aforesaid shall be governed by the Laws of the State of Qatar and all arbitration shall take place in the State of Qatar except where stated otherwise in the Agreement in which event the Agreement stated Laws and location shall prevail.

**15. NOTICE**

- 15.1 Any notice hereunder shall be:
- A. in writing;
  - B. in Arabic or English; and
  - C. deemed to be duly given when delivered by hand (against receipt), sent by recorded mail or courier. For the avoidance of doubt, transmission of notice using any other system, including electronic transmission, shall not constitute delivery of notice.

**16. THIRD PARTY RIGHTS**

- 16.1 Only those Parties expressly identified in the Schedule to the Warranty, their successors and assignees, shall have the right to enforce the warranties and indemnities of this Warranty. No third party may be able, or have the right to enforce any term or condition of this Warranty and no term or condition shall confer a benefit on any third party.

SCHEDULE TO THE WARRANTY

**Item 1 :** The Public Works Authority (Ashghal)  
Al-Faisal Tower 1,  
West Bay.  
P.O. Box 22188  
Doha – State of Qatar

**Attention:** \_\_\_\_\_

**Item 2 :** <Details of Sub-Consultant>  
<Details of Sub-Consultant>  
<Details of Sub-Consultant>  
P.O. Box \_\_\_\_\_  
Doha – State of Qatar

**Attention:** \_\_\_\_\_

**Item 3 :** <Details of Consultant>  
<Details of Consultant>  
<Details of Consultant>  
P.O. Box \_\_\_\_\_  
Doha – State of Qatar

**Attention:** \_\_\_\_\_

**Item 4 :** Head Consultancy Agreement executed by the Authority and the Consultant for the carrying out of the Services dated < > Agreement Number < >

**Item 5 :** Sub-Agreement executed by the Consultant and the Sub-Consultant for the carrying out of the Sub-Agreement Services dated < >  
Sub-Agreement Number < >

**Item 6 :** <Insert brief description of the Sub-Agreement Services>



**IN WITNESS** whereof this Warranty has been executed by the Sub-Consultant, the Consultant and the Authority and is intended to be and is hereby delivered on the day and year first above written.

**THE COMMON SEAL**

For and on behalf of )  
<the Sub-Consultant> )

Signature: .....

Name: .....

Title: .....

in the presence of: .....

Witness

.....

Witness

**THE COMMON SEAL**

For and on behalf of )  
<the Consultant> )

Signature: .....

Name: .....

Title: .....

in the presence of: .....

Witness

.....

Witness

**THE COMMON SEAL**

For and on behalf of )  
Public Works Authority (Ashghal) )

Signature: .....

Name: .....

Title: .....

in the presence of: .....

Witness

.....

Witness

## PARENT COMPANY GUARANTEE

**TO BE EXECUTED ON LETTERHEAD OF PARENT COMPANY**

Capitalised terms used herein shall have the meanings given to them in the Agreement.

**THIS GUARANTEE** is made as a Guarantee this ..... day of ..... 20....

### BETWEEN

- (1) <Insert name of Parent Company of Consultant> whose registered office is situated at <Insert address of Parent Company of Consultant> (hereinafter called the "**Guarantor**"); and
- (2) the Public Works Authority of the State of Qatar [Al-Faisal Tower 1, West Bay, P.O. Box 22188, Doha, State of Qatar], (hereinafter called the "**Authority**").

### WHEREAS

- (A) <Insert name of Consultant> (hereinafter called the "**Consultant**") has entered into an agreement for <Insert Project Title and ID> (hereinafter called the "**Agreement**") with the Authority to provide Services.
- (B) The Consultant is a subsidiary or branch of the Guarantor.
- (C) The Agreement is entered into by the Authority in reliance upon the undertakings of the Guarantor to the Authority to guarantee the due performance by the Consultant of its obligations under the Agreement.

### NOW IT IS HEREBY AGREED as follows:

1. The Guarantor unconditionally and irrevocably guarantees to the Authority as a primary obligation, not as a surety, that in the event of the Consultant's failing in any respect to perform any or all of its duties and obligations or discharge any or all of its liabilities under or pursuant to the Agreement, the Guarantor shall, upon demand in writing by the Authority, perform or take such steps as are necessary to achieve performance of such obligations and discharge of such liabilities and shall indemnify and keep indemnified the Authority against any and all losses, damages, claims, costs, charges and expenses howsoever arising from the said failure to the extent to which the Consultant is liable under the terms of the Agreement.
2. The liability of the Guarantor hereunder shall not be reduced or discharged:
  - (i) by any alteration in the relationship between the Guarantor and the Consultant;
  - (ii) by any arrangement between the Consultant and the Authority;
  - (iii) by any Change in or amendment to the Agreement;
  - (iv) by any alteration in the obligations of the Consultant which has been consented to by the Authority in writing (with or without the knowledge or consent of the Guarantor) under the Agreement;
  - (v) by any alteration in the extent or nature of the services to be performed under the Agreement;
  - (vi) by any forbearance or indulgence by the Authority toward the Consultant or the Guarantor whether as to payment, time, performance or otherwise;
  - (vii) by any other act or omission which but for this provision might exonerate or discharge the Guarantor; or
  - (viii) by any invalidity or unenforceability of the Agreement or insolvency, bankruptcy, winding up or reorganisation of the Consultant or any party.

3. The Guarantor agrees to make any payment due hereunder upon first written demand without set-off, deduction or counterclaim and without any legal formality such as protest or notice being necessary and waives all privileges or rights which it may have as a guarantor, including any right to require the Authority to claim payment or to exhaust remedies against the Consultant or any other person.

Notwithstanding anything else to the contrary, the Authority may only make such a demand on the Guarantor if the Authority has issued written notice to the Consultant to comply with its obligations under the Agreement and the Consultant has failed to comply with such obligations.

4. The obligations of the Guarantor hereunder shall continue in full force and effect after expiry or termination of the Agreement until all duties, obligations and liabilities of the Consultant in connection with the Agreement have been fully discharged and the Guarantee has been returned to the Guarantor.
5. The Guarantee and the undertakings herein contained shall be binding upon the successors and assignees of the Guarantor and shall extend to and enure for the benefit of the successors or assignees of the Authority. The Authority may assign, charge or transfer all or any of its right, title and interest in this Guarantee. The Guarantor may not, without the prior written consent of the Authority, assign or otherwise transfer any of its rights or obligations hereunder.
6. Notwithstanding anything to the contrary above, in the event of any claim under this Guarantee, the Guarantor shall be entitled to assert any defence, set-off or counterclaim that the Consultant could assert had such claim been made directly against the Consultant under the Agreement
7. The Authority hereby agrees that the total responsibilities and liabilities which the Guarantor shall assume to the Authority under this Guarantee shall in no event be beyond those for which the Consultant shall assume to the Authority under the Agreement.
8. In the event that there is any dispute under the Agreement that relates to a sum or right being claimed under this Guarantee, which dispute is submitted to dispute resolution under the terms of the Agreement, both Parties agree that any award or decision resulting from such dispute resolution shall be conclusive and binding upon them, provided that any dispute arising under this Guarantee shall be considered in the course of enforcing the aforesaid award or decision.
9. This Guarantee is delivered on the date written at the beginning of the Guarantee.

Any payment made hereunder shall be made free and clear of, and without deduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

Any notice hereunder shall be deemed to be duly given when delivered by hand (against receipt), sent by mail or courier. For the avoidance of doubt, transmission of notice using any other system, including electronic transmission, shall not constitute delivery of notice.

This Guarantee shall be governed by and construed in accordance with the Laws of the State of Qatar.

**DISPUTE RESOLUTION**

1. The Agreement dispute resolution Sub-clauses 20.2 [*Amicable Settlement*], 20.3 [*Expert's Decision*] and 20.5 [*Arbitration*] and any associated Particular Conditions, shall be incorporated into this Guarantee in their entirety by this reference, and the terms and conditions thereof shall be applicable with respect to this Guarantee as if fully set forth herein.
2. For the purposes of Dispute Resolution Article 1 and the interpretation of the Agreement Sub-clauses incorporated by reference therein 'Consultant' shall be read as 'Guarantor'.
3. Reference of Disputes to arbitration shall not in any way vitiate nor invalidate this Guarantee neither shall it be grounds for the Guarantor to cease its obligations and the Guarantor shall proceed with the Services with all due diligence.
4. All such reference as aforesaid shall be governed by the Laws of the State of Qatar and all arbitration shall take place in the State of Qatar except where stated otherwise in the Agreement in which event the Agreement stated Laws and location shall prevail.

Signed, Sealed and Delivered

by <Insert Name> .....

Signature .....

for and on behalf of the said Guarantor <Insert name of Parent Company of Consultant>

in the presence of <insert name of witness> as witness

Signature of witness.....

Name and address of witness:

Dated this ..... day ..... of 20.....

Stamp of said Guarantor .....

## PERFORMANCE GUARANTEE

**TO BE EXECUTED ON LETTERHEAD OF APPROVED BANK**

**Agreement:** <Insert Project Title and Project ID here> (hereinafter called the "Agreement ")

**Agreement Price:**

**Beneficiary** Public Works Authority [Al-Faisal Tower 1, West Bay, P.O. Box 22188, Doha, State of Qatar], (hereinafter called the "Authority").

**LETTER OF GUARANTEE #**

**FOR QAR**

We ..... of .....  
(hereinafter called the "Guarantor") have been informed that  
.....  
of .....

(hereinafter called the "Consultant") has been awarded the Agreement for the provision of professional services (hereinafter called the "Services"), and the terms and conditions of the Agreement requires the Consultant to obtain a performance guarantee in favour of the Authority.

**NOW THE CONDITION** of this Guarantee is such that we, the Guarantor, hereby irrevocably and unconditionally agree to pay to the Authority, as notified in writing to the Guarantor, without regard to any objection(s) from the Consultant or any other party, any sum or sums not exceeding in total the amount of <Insert the guaranteed amount words> (<Insert the guaranteed amount numbers>) immediately upon receipt of the first demand.

Any payment demand under this Guarantee must be accompanied by a copy of this Guarantee and amendments, if any. The demand must be in writing and signed by the Authority, or its duly authorised representative, and must be delivered to the Guarantor on or before 12:00 midnight on the last day of the validity of the Guarantee.

Any payment made hereunder shall be made free and clear of, and without deduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

Subject to the case of delay(s) to completion of the Services or the award of extension(s) of Time to Completion of the Services this Guarantee shall remain valid until <Insert Guarantee expiry date>, such date being ninety (90) Days after the anticipated completion date of the Services, upon which this Guarantee shall expire and be returned to the Guarantor.

In the case of delay(s) to completion of the Services or the award of extension(s) to the Time for Completion of the Services, as notified in writing by the Authority, or its duly authorised representative, and confirmed by the Consultant to the Guarantor prior to the expiry date herein, the Guarantor agrees that this Guarantee shall be extended as directed by such written notice. The Guarantor agrees that it shall provide to the Authority, or its duly authorised representative, confirmation or rejection of such notice for extension of this Guarantee within five business days of receipt of such written notice to extend this Guarantee from the Authority or its duly authorised representative.

Any notice hereunder shall be deemed to be duly given when delivered to the Guarantor (against receipt in the case of personal delivery) or when confirmation of its transmission has been recorded by the Authority's facsimile machine (if sent by facsimile), on or before 12:00 midnight on the last day of the validity of the Guarantee.

Any notice relating to this Guarantee must be in the language of the Guarantee.

This guarantee shall be governed by, and construed in accordance with, the Laws of the State of Qatar. Each Party consents to the jurisdiction of the courts established by Law Number 10 / 2003 on the promulgation of Law for the Judiciary or any court replacing the said established courts by law.

Signed, for and on behalf of the Guarantor,

by <Insert Name> .....

Signature .....

## FORM OF ADDENDUM



## FORM OF ADDENDUM

Project Reference:

Change Number:

Rev.

No. of Pages

## Description of Change

1)

2)

3)

4)

## Instruction / Change Correspondence

## Programme Impact – Resources Adjustment

## Programme Impact – Impact on Programme Activities and Time for Completion

## Price Impact:

Personnel Fees

Overheads

Disbursements

TOTAL QAR

Payment Schedule

## Notes:

Agreed  
By:

Authority

By:

Title:

Signed:

Date:

Consultant

By:

Title:

Signed:

Date:



Change Number:

Project Reference:

A. OBJECTIVE

*[Insert details and cross references here]*

B. SCOPE

*[Insert details and cross references here]*

C. PROGRAMME

*[Insert details and cross references here]*

Change Number:

Project Reference:

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**D. COSTS**

**D.1 Personnel**

*[Insert details and cross references here]*

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**D.2 Overheads**

*[Insert details and cross references here]*

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**D.3 Disbursements**

*[Insert details and cross references here]*

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**E. EXCLUSIONS AND PRE-REQUISITE CONDITIONS**

*[Insert details and cross references here]*

**ADMINISTRATION DOCUMENTS**

1. Letter of Award
2. Notice to Commence
3. Commercial Registration
4. Executed Performance Guarantee
5. Power of Attorney (where Agreement signatory is not named in Commercial Registration)
6. (other documents)