

PART II – CONDITIONS OF PARTICULAR APPLICATION

1.1 Definitions

- (a) (i) The Employer is **Project Coordinator, Cadet College Khairpur, Bungalow No. 5, Azam Colony, near Mehran University, SZAB Campus, Khairpur Mir's. Phone: 0243-9280373.**
- (a) (iv) The Engineer is IDG (Pvt.) Limited, IDG House C-13, KDA Scheme No. 1, main Habib Rehmatullah Road, opp. PNS Karsaz, Karachi, Tel: 021-34311711-12, Fax: 021-34311713 or any other competent person appointed by the Employer, and notified to the Contractor to act in replacement of the Engineer. Provided always that except in cases of professional misconduct, the outgoing Engineers is to be formulate his certifications / recommendations in relation to all outstanding matters, disputes and claims relating to the execution of the Works during his tenure.

Add the following paragraphs:

- (a) (vi) "Bidder or Tenderer" means any person or persons, company, corporation, firm or joint venture submitting a Bid or Tender.
- (b) (v) ***Add the following at the end of the paragraph:***

The word "Tender" is synonymous with "Bid" and the words "Tender Documents" with "Bidding Documents"

Add the following paragraph:

- (b) (ix) "Programme" means the programme to be submitted by the Contractor in accordance with Sub-Clause 14.1, and any approved revisions thereto.
- (e) (i) ***Delete the text and substitute:***
- "Contract Price" means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the Works subject to such additions thereto or deductions therefrom as may be made and remedying of any defects therein In accordance with the provisions of the Contract.

2.1 Engineer's Duties and Authority

With reference to Sub-Clause 2.1(b) the following provision shall also apply;

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

- (i) Approving sub contracting of any part of the works under Clause-4.1
- (ii) Certifying additional cost under Clause 12.
- (iii) Determining an extension of time under Clause 44.
- (iv) Issuing variation orders under Clause 51.
- (v) Fixing rates or prices under Clause 52.
- (vi) Examining and certifying contractor's bills for interim / final payment under Clause 60.
- (vii) Approving samples of materials under Clause 36.
- (viii) Approving concrete design mix under Clause 36.
- (ix) Any action under Clause 10 "Performance Security" and Clauses 21, 23, 24 & 25 "Insurance" of sorts.
- (x) Any action under Clause 40 "Suspension".
- (xi) Any action under Clause 47 "Liquidated Damages for Delay" or Payment of Bonus for Early Completion of Works (PCC Sub-Clause 47.3).
- (xii) Issuance of "Taking Over Certificate" under Clause 48.
- (xiii) Extra payment as a result of Contractor's claim under Clause 53.
- (xiv) Issuance of "Defect Liability Certificate" under Sub-Clause 62.1.
- (xv) Any change in the ratios of Contract currency proportions and payments thereof under Clause 72 "Currency and Rate of Exchange".

If in the opinion of the Engineer an emergency occurs affecting the safety of life or of the Works or of adjoining property, the Engineer may, without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.

2.2 Engineer's Representative

Add the following paragraph:

The Employer shall ensure that the Engineer's Representative is a professional engineer as defined in the Pakistan Engineering Council Act 1975 (V of 1976).

Add the following Sub-Clauses:

2.7 Engineer not Liable

Approval, reviews and inspection by the Engineer of any part of the Works does not relieve the Contractor from his sole responsibility and liability for the supply of materials, plant and equipment for construction of the Works and their parts in accordance with the Contract and neither the Engineer's authority to act nor any decision made by him in good faith as provided for under the Contract whether to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any of their representatives or employees or any other person performing any portion of the works.

2.8 Replacement of Engineer

“If the Employer intends to replace the Engineer, the Employer shall, not less than 14 days before the intended date of replacement, give notice to the Contractor, of the name, address and relevant experience of the intended replacement Engineer. The Employer shall not replace the Engineer with a person against whom the Contractor raises reasonable objection by notice to the Employer, with supporting particulars”.

Add the following Sub-Clause:

4.1 Sub-Contracting:

Add “/sublet” after ‘sub-contract’ in the first and second line of Sub-Clause 4.1 of General Conditions of Contract Part-1.

Add “/sub-letting” after word ‘sub-contracting’ occurring in first line of para (c), Sub-Clause 4.1 of General Conditions of Contract Part-1.

5.1 Languages and Law

- (a) The Contract Documents shall be drawn up in the English language.
- (b) The Contract shall be subject to the Laws of Islamic Republic of Pakistan.

5.2 **Priority of Contract Documents**

Delete the documents listed at (1) to (6) of the Sub-Clause and substitute:

- (1) The Contract Agreement (if completed);
- (2) The Letter of Acceptance;
- (3) The complete Form of Bid;
- (4) Special Stipulations (Appendix-A to Bid);
- (5) The Particular Conditions of Contract – Part II
- (6) The General Conditions of Contract – Part I
- (7) The priced Bill of Quantities;
- (8) The complete Appendices / Schedules to bid;
- (9) The Drawings;
- (10) The specifications; and

In case of discrepancies between drawings, those of larger scale shall govern unless they are superseded by a drawing of later date regardless of scale. All Drawings and Specifications shall be interpreted in conformity with the Contract and these Conditions. Addendum, if any, shall be deemed to have been incorporated at the appropriate places in the documents forming the Contract.

Add the following Sub-Clauses:

6.6 **Shop Drawings**

The Contractor shall submit to the Engineer for review 3 copies of all shop and erection drawings applicable to this Contract as per provision of relevant Sub-Clause of the Contract.

Review and approval by the Engineer shall not be construed as a complete check but will indicate only that the general method of construction and detailing is satisfactory and that the Engineer's review or approval shall not relieve the Contractor of any of his responsibilities under the Contract.

6.7 **As Built Drawings**

At the completion of the Works under the Contract, the Contractor shall furnish to the Engineer 6 copies and one reproducible of all drawings amended to conform with the Works as built. The price of such Drawings shall be deemed to be included in the Contract Price.

9.1 **Contract Agreement**

Read “Contractor” in place of ‘Employer’, occurring in 2nd line of Sub-Clause 9.1 of General Conditions of Contract Part-1.

10.1 Performance Security

Delete the text and substitute:

The Contractor shall provide Performance Security to the Employer in the prescribed form. The said Security shall be furnished or caused to be furnished by the Contractor within 28 days after the receipt of Letter of Acceptance. The Performance Security shall be of an amount equal to 10% of the Contract Price state in the Letter of Acceptance. Such Security shall be in the form of either (a) Bank Guarantee from any scheduled Bank of Pakistan or (b) Insurance Guarantee from Insurance Company having atleast AA rating from PACRA / JCR.

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

Add the following Sub-clauses:

10.4 Performance Security Binding on Variations and Changes

The Performance Security shall be binding Irrespective of changes in the quantities or variations in the Works or extensions in Time for Completion of the Works which are granted or agreed upon under the provisions of the Contract.

Add the following Paragraph:

14.1 Programme to be submitted

The programme shall be submitted within 15 days from the date of receipt of Letter of Acceptance, which shall be in the form of:

- i) A Bar Chart identifying the critical activities.

Add the following Paragraph:

14.3 Cash Flow Estimate to be submitted

The detailed Cash Flow Estimate shall be submitted within 14 days from the date of receipt of Letter of Acceptance.

Add the following Sub-Clause**14.5 Detailed Programme and Monthly Progress Report**

- (a) For purpose of Sub-Clause 14.1, the Contractor shall submit to the Engineer detailed programme for the following:
 - (1) Execution of Works;
 - (2) Labour Employment;
 - (3) Local Material Procurement;
 - (4) Material Imports, if any; and
 - (5) Other details as required by the Engineer.
- (b) During the period of the Contract, the Contractor shall submit to the Engineer not later than the 8th day of the following month, 10 copies each of Monthly Progress Reports covering.
 - (1) A Construction Schedule indicating the monthly progress in percentage;
 - (2) Description of all work carried out since the last report;
 - (3) Description of the work planned for the next 56 days sufficiently detailed to enable the Engineer to determine his programme of inspection and testing;
 - (4) Monthly summary of daily job record;
 - (5) Photographs to illustrate progress; and
 - (6) Information about problems and difficulties encountered, if any, and proposals to overcome the same.
- (c) During the period of the Contract, the Contractor shall keep a daily record of the work progress, which shall be made available to the Engineer as and when requested. The daily record shall include particulars of weather conditions, number of men working, deliveries of materials, quantity, location and assignment of Contractor's equipment.

Add the following Sub-Clauses:**15.2 Language Ability of Contractor's Representative**

The Contractor's authorized representative shall be fluent in the English language. Alternately an interpreter with ability of English language shall be provided by the Contractor on full time basis.

15.3 Contractor's Representative

The Contractor's authorized representative and his other professional engineers working at Site shall register themselves with the Pakistan Engineering Council.

The Contractor's authorized representative at Site shall be authorized to exercise adequate administrative and financial powers on behalf of the Contractor so as to achieve completion of the Works as per the Contract.

Add the following Sub-Clauses:**16.3 Language Ability of Superintending Staff of Contractor**

A reasonable proportion of the Contractor's superintending staff shall have a working knowledge of the English language. If the Contractor's superintending staff are not fluent in English language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

16.4 Employment of local Personnel

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour from sources within Pakistan.

Add the following Sub-Clauses:**19.3 Safety Precautions**

In order to provide for the safety, health and welfare of persons, and for prevention of damage of any kind, all operations for the purposes of or in connection with the Contract shall be carried out in compliance with the Safety Requirements of the Government of Pakistan with such modifications thereto as the Engineer may authorize or direct and the Contractor shall take or cause to be taken such further measures and comply with such further requirements as the Engineer may determine to be reasonably necessary for such purpose.

The Contractor shall make, maintain and submit reports to the Engineer concerning safety, health and welfare of persons and damage to property, as the Engineer may from time to time prescribe.

19.4 Lighting Works at Night

In the event of work being carried out at night, the contractor shall at his own cost, provide and maintain such good and sufficient light as will enable the work to proceed satisfactorily and without danger. The approaches to the Site and the Works where the night-work is being carried out shall be sufficiently lighted. All arrangements adopted for such lighting shall be to the satisfaction of the Engineer's Representative.

20.4 Employer's Risks

Delete the text and substitute:

The Employer's Risks are:

- (a) Insofar as they directly affect the execution of the Works in Pakistan.
 - (i) War and hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (ii) Rebellion, revolution, insurrection, or military or usurped power, or civil war,
 - (iii) Ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
 - (iv) Pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
 - (v) Riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors and arising from the conduct of the Works;
- (b) Loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract;
- (c) Loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible; and
- (d) Any operation of the forces of nature (insofar as it occurs on the Site) which an experienced contractor:
 - (i) Could not have responsibly foreseen, or
 - (ii) Could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures;
 - (A) Prevent loss or damage to physical property from occurring by taking appropriate measures, or
 - (B) Insure against.

Add the following paragraph:

21.1 Insurance of Works and Contractor's Equipment

(d) General Requirements

The Contractor shall insure with any one of the insurance companies approved for this purpose by the Employer. The insurance policies shall be in the joint names of the Employer, and the Contractor against all loss or damages as stated in the General Conditions of Contract Part-I and as stated herein. Notwithstanding the responsibilities of the Contractor for indemnities and insurances as described in Sub-Clauses 21 to 24 of General Conditions of Contract Part-I, the Contractor before commencing work on Site, must discuss fully with the Engineer and the Employer the insurance coverage provided under any general policies which are to be applied to this Contract to ensure that there are no contingencies left uncovered and to reduce, as far as practicable, duplication of coverage. Should any areas of omission be discovered that are not covered by definition of responsibilities set out in these conditions, the addition or reduction in premiums required to give such insurance coverage will be paid by the Contractor. Such policies shall be obtained by the Contractor with consent of the Employer.

The Contractor shall be responsible for deductibles and losses / damages not covered by insurances other than the excepted risks.

The insurance losses shall not affect the Employer's or the Contractor's rights and obligations under the contract.

The Contractor shall be responsible for compliance by his sub-contractors of insurances specified in these Sub-Clauses. Before each sub-contractor start work, the Contractor shall provide the Employer proof that the sub-contractor(s) are covered by insurances specified herein for the Contractor.

All policies shall state that:

- i) The Employer shall receive at least 30 days written notice of intended Cancellation or change affecting coverage.
- ii) The Contractor is fully protected so as to provide full indemnity to Employer in respect of liability against losses or damages assumed by the Contractor under the Contract.
- iii) The inclusion of more than one insured shall not affect the rights of any other insured.

- iv) If a loss occurs the Contractor and the Employer shall be paid in relation of their share of the loss.
- v) The Insurer has no subrogation rights against any person, corporation, or organization including directors, officers, employees, servants agents thereof which:
 - Is an insured under the policy or
 - Is controlled by, Owned by, or associated with an insured, or
 - Is a sub-contractor on the works, or has, before or a loss occurs, been released from liability by an insured.

Hold harmless provisions: The Employer, the Engineer and the Contractor shall be indemnified against all losses.

Employer use or occupancy: If the Employer uses or occupies all or part of the Works during the life of the insurance policy, the Contractor shall ensure that the policy continues in full force and the Employer shall pay any resulting extra cost of insurance.

Loss Procedure: If a loss occurs the Contractor shall, on behalf of the Employer and himself negotiate the value of the loss with the insurer. Unless directed otherwise by the Engineer, when agreement is reached the Contractor shall repair all damages and the Employer shall pay him in accordance with the Engineer's Certificate for that part of the repairs which is the Employer's responsibility.

If directed by the Engineer, instead of carrying out repairs, the Contractor shall pay to the party suffering the loss that part of the agreed value of the loss which is the Contractor's responsibility.

The provisions of this Sub-Clause 21.1(d) shall be applicable to their insurance covered by Sub-Clause 22, 23 and 24 of General Conditions of Contract Part-I.

(e) **Automobile Liability Insurance:**

The Contractor shall also provide automobile liability insurance of all licensed vehicles owned, hired and operated by the Contractor and the risk insured shall be bodily injury, death or person and property damage or loss.

Minimum Limit: As indicated in Appendix 'A' to the Form of The Tender inclusive each occurrence or Rs. 0.50 million.

21.4 Exclusions

Delete the text and substitute:

There shall be no obligation for the insurances in Sub-Clause 21.1 to include loss or damage caused by the risks listed under Sub-Clause 20-4 of (a) (i) to (iv).

Add the following Sub-clause:

25.5 Insurance Company

The contractor shall be obliged to place all insurance relating to the Contract (including, but not limited to, the insurances referred to in Clause 21, 23 and 24) with either the following National Insurance Company of Pakistan or any other insurance company operating in Pakistan and acceptable to the Employer.

Costs of such insurances shall be borne by the Contractor.

Add the following Sub-Clause:

31.3 Cooperation with other Contractors

During the execution of the Works, the Contractor shall cooperate fully with other contractors working for the Employer at and in the vicinity of the Site and also shall provide adequate precautionary facilities not to make himself a nuisance to local residents and other Contractors.

Add the following Sub-Clauses:

34.2 Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages and observe conditions of labour not less favourable than those established for the trade or industry where the work is carried out. In the absence of any rates of wages or conditions of labour so established, the Contractor shall pay rates of wages and observe conditions of labour which are not less favourable than the general level of wages and conditions observed by other employers whose general circumstances in the trade or industry in which the Contractor is engaged are similar.

34.3 Employment of Persons in the Service of Others

The Contractor shall not recruit his staff and labour from amongst the persons in the service of the Employer or the Engineer; except with the prior written consent of the Employer or the Engineer, as the case may be.

34.4 Housing for Labour

Save insofar as the Contract otherwise provides, the Contractor shall provide and maintain such housing accommodation and amenities as he may consider necessary for all his supervisory staff and labour, employed for the purposes of or in connection with the Contract including all fencing, electricity supply, sanitation, cookhouses, fire prevention, water supply and other requirements in connection with such housing accommodation or amenities. On completion of the Contract, these facilities shall be handed over to the Employer or if the Employer so desires, the temporary camps or housing if any provided by the Contractor shall be removed and the Site reinstated to its original condition, all to the approval of the Engineer.

34.5 Health and Safety

Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour at all times throughout the period of the Contract. The Contractor shall further ensure that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements.

34.6 Epidemics

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities, for purpose of dealing with and overcoming the same.

34.7 Supply of Water

The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site, to the satisfaction of the Engineer or his representative, adequate supply of drinking and other water for the use of his staff and labour.

34.8 Arms and Ammunition

The Contractor shall not give, or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

34.9 Festivals and Religious Customs

The Contractor shall in all dealings with his staff and labour have due regard to all recognized festival, days of rest and religious and other customs.

34.10 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful riotous or disorderly conduct by or amongst his staff and labor and for the preservation of peace and protection of persons and property in the neighborhood of the Works against the same.

34.11 Compliance by Subcontractors

The Contractor shall be responsible for compliance by his Subcontractors of the provisions of this Clause.

Add the following Sub-Clauses:

35.2 Records of Safety and Health

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

35.3 Reporting of Accidents

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means.

Add the following Sub-Clause:

36.6 Use of Pakistani Materials and Services

The Contractor shall, so far as may be consistent with the Contract, make the maximum use of materials, supplies, plant and equipment indigenous to or produced or fabricated in Pakistan and services available in Pakistan provided such materials, supplies, plant, equipment and services shall be of required standard.

41.1 Commencement of Works

Delete the text and substitute:

The Contractor shall commence the Works on Site within the period named in Appendix "A" to Form of Bid from the date of receipt by him from the Engineer of a written Notice to Commence. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay.

Add the following sub-clause:

48.2 Taking Over of Sections or Parts

For the purposes of para (a) of this Sub-Clause, separate Time for Completion shall be provided in the Appendix-A to Bid "Special Stipulations".

Add the following sub-clause:

49.5 Extension of Defects Liability Period

The provisions of this Sub-Clause shall apply to all replacements or renewals of plant and equipment carried out by the Contractor to remedy defects and damage as if the replacement and renewals had been taken over on the date they were completed. The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works cannot be used by reason of a defect or damage. If only a part of the Works is affected the Defects Liability Period extend beyond two (02) years from the date of taking over.

51.2 Instructions for Variations

At the end of the first sentence, after the word "Engineer", add the words "in writing".

52.1 Valuation of Variations

In the eighth line, after the words "suitable rates or prices", add the following:

using a markup of 25% to cover Contractor's overheads and profit including all taxes.

In the tenth line, after the words "Engineer shall", add the following:

within a period not exceeding one-eighth of the completion time subject to a minimum of 56 days from the date of disagreement whichever is later,

Add the following paragraph

The approval / finalization of rates of all variations shall not relieve the Contractor of his obligations under the Contract. The Contractor shall neither stop the work nor slow down progress of the works in awaiting the approval of rates of all variations.

53.4 Failure to Comply

Delete this Sub-Clause in its entirety.

54.5 Conditions of Hire of Contractor's Equipment

Add the following paragraph:

The Contractor shall, upon request by the Engineer at any time in relation to any item of hired Contractor's Equipment, forthwith notify the Engineer in writing the name and address of the owner of the equipment and shall certify that the agreement for the hire thereof contains a provision in accordance with the requirements set forth above.

Add the following sub clause:

54.9 Vesting of Contractor's Plant, Equipment, Temporary Works and Materials**(a) Definitions**

For the purpose of Sub-Clause 54.

- i) The expression "Construction Plant" shall be deemed to exclude vehicles engaged in transporting any labour, equipment or materials to or from the Site.
- ii) The expression "Essential Hired Plant" shall mean all Constructional Plant, Equipment, Temporary Works and materials of Temporary Work the withdrawal of which in the event of termination under Sub-Clause 63 hereof might (having regard to the methods of construction employed prior to the termination) endanger the safety or stability of or result in serious disturbance to the execution of any part of the Works and which are held by the Contractor under any agreement for hire thereof.
- iii) The expression "Hired Plant" shall mean any Construction Plant, Equipment, temporary Works (other than essential hired plant) held by the Contractor under any agreement for hire thereof.

- iv) The expression “Agreement for Hire” shall be deemed not to include an agreement for hire purchase with an option to purchase or for conditional sale either of which is herein referred to as an “agreement for the purchase”.
- v) The expression “hire Purchase Plant” shall mean any Constructional plant, Equipment, temporary Works held by the Contractor under an agreement for hire purchase thereof.
- vi) The expression “Owner” mean the owner of the plant and equipment of any Hire Purchase Plant.

(b) Vesting of Certain Plant

All Constructional Plant, Equipment, temporary Works and materials owned by the Contractor or by any company in which the Contractor has a controlling interest shall when brought on to the Site (or in the case of hire purchase plant upon becoming the property of the Contractor) shall be and shall be deemed to become the property of the Employer.

(c) Conditions of Hire of Certain Plant

With a view to securing in the event of termination Sub-Clause 63 hereof the continued availability for the purpose of executing the Works of any essential hired plant and equipment the Contractor shall not bring on to the Site any essential hired plant unless the agreement for hired thereof contains a provision that the owner will on request in writing made by the Employer within 7 days after the date on which any such termination has become effective and on the Employer understanding to pay all hire charges in respect thereof on the same terms in all respects as the same was hired to the contractor save that the Employer shall be entitled to permit the use thereof by any other contractor employed by it for the purposes of completing the works under the terms of Sub-Clause 63 hereof.

(d) Costs for purpose of Sub-Clause 63

In the event of the Employer entering into any agreement for hire of essential hired plant pursuant to the provisions of Sub-Clause 54.8(c) all sums properly paid by the Employer under the provisions of any such agreement and all expenses incurred by it (including stamp duties) in entering into such agreement shall be deemed for the purpose of Sub-Clause 63 hereof to be part of the cost of completing the Works.

(e) Contractor's Certificate as to Hiring Provisions

The Contractor shall upon request made by the Engineer at any time in relation to any item of essential hired plant forthwith notify to the Engineer in writing the name and address of the owner and shall certify that the agreement for the hire thereof contains a provision in accordance with the requirements of Sub-Clause 54.8(c) hereof. The Contractor shall also upon request as aforesaid give a like notification (but without certificate) in regard to any hire purchase plant.

(f) Hire Purchase Payment by the Employer

The Employer shall in order to avoid seizure by the owner of any hire purchase plant be entitled to pay to such owner the amount of any overdue installment or other sum payable optionally or otherwise under any agreement of hire purchase and in the event of his doing so any amount so paid by him shall be debt due from the Contractor to the Employer and may be deducted by the Employer from any money due or that may become due to the Contractor under the Contract or may be recovered by the Employer from the Contractor at law.

(g) Irrevocability of Certain Plant etc.

No Constructional Plant, Equipment, Temporary Works or materials or any part thereof shall be removed from the site without the written consent of the Engineer which consent shall not be unreasonably withheld where the same is no longer immediately required for the purpose of completion of Works but the Employer will permit the Contractor the exclusive use of all such Constructional Plant, Equipment, Temporary Works and materials in and for the completion of the Works until the occurrence of any event which gives the Employer the right to expel the Contractor from the site and proceed with the completion of the Works.

(h) Re-vesting and Removal of Plant

Upon the removal with the consent of the Engineer of any such Constructional Plant, Equipment, Temporary Works or materials as have been deemed to have become the property of the Employer under Sub-Clause 54.8(b) the property therein shall be deemed to revert in the Contractor and, upon completion of the Works the property in the remainder of such Constructional Plant, Equipment, Temporary Works or materials as aforesaid shall subject to the provisions of Sub-Clause 63 be deemed to revert in the Contractor who shall remove the same together with any essential hire plant or hire purchase plant. If the Contractor shall fail to remove any Constructional Plant, Equipment, Temporary Works or materials as aforesaid or any essential hire plant or hire purchase plant within such reasonable time after completion of the Works as may be allowed by the Engineer then the Employer may.

- i) Sell any such Constructional Plant, Equipment, Temporary Works or materials as aforesaid, and
- ii) Return at the Contractor's expenses to the person firm or company from whom any Essential Hired Plant or any Hire Purchase Plant was held by the Contractor such essential hired plant or hire purchase plant, and after deducting from any proceeds of sale, the costs, charges and expenses of and in connection with such sale and return as aforesaid shall pay the balance (if any) to the Contractor but to the extent that the proceeds of any sale are insufficient to meet all such cost, charges and expenses the excess shall be a debt due from the Contractor to the Employer and shall be deductible or recoverable by the Employer accordingly as aforesaid.

- (i) Liability for loss or injury to plant

The Employer shall not at any time be liable for the loss of or injury to any of the Constructional Plant, Temporary Works or materials which have been deemed to become the property of the Employer under Sub-Clause 54.8(b) hereof save as mentioned in Sub-Clause 20 hereof.

- (j) Incorporation of Sub-Clause in Sub-Contracts

The Contractor shall when entering into any sub-contract for the execution of any part of the Works incorporate in such sub-contract (by reference or otherwise) the provision of this Sub-Clause in relation to Constructional Plant, Temporary Works or materials. Essential Hired Plant and Hire Purchase Plant to be brought on the Site by the sub-contractor.

- (k) Approval of Materials etc. not implied

The operation of sub Sub-Clause 54.8(b) hereof shall not be deemed to imply any approval by the Engineer of the materials or other matters referred to herein nor shall it prevent the rejection of any materials at any time by the Engineer.

Add the following sub-clauses:

59.4 Payments to Nominated Subcontractors

The Contractor shall pay to the nominated Subcontractor the amounts which the Engineer certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with Clause 58 [Provisional Sums], except as stated in Sub-Clause 59.5 [Certificate of Payments].

59.5 Certification of Payments & Nominated Subcontractor

Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Engineer may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

- a) Submit reasonable evidence to the Engineer, or
- b)
 - i) Satisfied the Engineer in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and
 - ii) Submits to the Engineer reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement.

then the Employer may (at his sole discretion) pay direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Employer, the amount which the nominated Subcontractor was directly paid by the Employer.

60.1 Monthly Statements

In the first line, after the words "shall", add the following:

“on the basis of the joint measurement of work done under Clause 56.1”

In Para (c) the words "the Appendix to Tender" are deleted and substituted with the following:

“Sub-Clause 60.11(a)(6) hereof”
(in case Clause 60.11 is applicable)

60.2 Monthly Payments

In the first line, "28" is substituted by "14".

Add the following paragraph:

- (c) Thirdly to the deduction of Advance Income Tax in accordance with Income Tax Ordinance 2000 or amendments enacted by the Government of Pakistan from time to time.

- (d) The Employer may suspend payment of the Interim Certificate in case it is directed by to do so, by Pakistan Custom, FIA and other competent government agencies till the matter is officially cleared by the Government.

60.8 Final Payment Certificate

Add the following paragraph:

- (c) Before release of the final payment by the Employer, the Contractor shall furnish a certificate issued by the Excise and Taxation Department to the effect that the professional Tax as required by the law has been paid by him to the Government.

60.10 Time for Payments

Delete the text and substitute:

The amount due to the Contractor under any Interim payment Certificate issued by the Engineer pursuant to this clause, or to any other terms of the Contract, shall, subject to Clause 47, be paid by the Employer to the Contractor within 28 days after such interim payment certificate has been jointly verified by Employer and Contractor, or, in the case of the Final Certificate referred to in Sub-Clause 60.8, within 60 days after such Final Payment Certificate has been jointly verified by Employer and Contractor.

Add the following sub-clause:

60.11 Secured Advance

- (a) The Contractor shall be entitled to receive from the Employer Secured Advance against an indemnity bond acceptable to the Employer of such sum as the Engineer may consider proper in respect of non-perishable materials brought at Site but not yet incorporated in the Permanent Works provided that:
 - (1) The materials are in accordance with the Specifications for the Permanent Works;
 - (2) Such materials have been delivered to the Site and are properly stored and protected against loss or damage or deterioration to the satisfaction of the Engineer but at the risk and cost of the Contractor;
 - (3) The Contractor's records of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records shall be available for inspection by the Engineer;

- (4) The Contractor shall submit with his monthly statement the estimated value of the materials on Site together with such documents as may be required by the Engineer for the purpose of valuation of materials and providing evidence of ownership and payment therefore.
 - (5) Ownership of such materials shall be deemed to vest in the Employer and these materials shall not be removed from the Site or otherwise disposed of without written permission of the Employer and
 - (6) The sum payable for such materials on Site shall not exceed 75% of the (i) landed cost of imported materials, or (ii) ex-factory / ex-warehouse price of locally manufactured or produced materials, or (iii) market price of other materials.
- (b) The recovery of Secured Advance paid to the Contractor under the above provisions shall be affected from the monthly payments on actual consumption basis.

Add the following Sub-Clauses:

60.12 Financial Assistance to Contractor

Financial assistance shall be made available to the Contractor by the Employer by adopting following method:

Mobilization Advance:

- (a) An interest-free Mobilization Advance upto 10% of the Contract Price stated in the Letter of Acceptance shall be paid by the Employer to the Contractor in two equal parts upon submission by the Contractor of a Mobilization Advance Guarantee / Bond for the full amount of the Advance in the specified form. Such Security shall be in the form of either (a) Bank Guarantee from any scheduled Bank of Pakistan or (b) Insurance Guarantee from Insurance Company having atleast AA rating from PACRA / JCR acceptable to the Employer:
 - (1) First part within 14 days after signing of the Agreement or date of receipt of Engineer's Notice to Commence, whichever is earlier: and
 - (2) Second part within 42 days from the date of payment of the first part, subject to the satisfaction of the Engineer as to the state of Mobilization of the Contractor.
- (b) This Advance shall be recovered in equal installments; first installment at the expiry of third month after the date of payment of first part of Advance and the last installment two months before the date of completion of the Works as per Clause 43 hereof.

60.12 Not Responsibility of the Engineer

Noting in the Contract shall place any responsibility on the Engineer for non-payments of any money due to the Contractor for which the Engineer has fulfilled his obligation under the Contract.

60.13 Withholding of Payment

- (a) The Employer may withhold the whole or part of any payment requested by the Contractor if it is necessary in the opinion of the Employer to protect himself against losses on account of the following reasons:
 - i) Defective work not rectified.
 - ii) Non-fulfillment of any due demand and guarantee.
 - iii) Claims of third parties raised against the Employer caused through the fault of the Contractor in connection with the Works.
 - iv) Damages caused by the Contractor or his personnel or any sub-contractor, to the Employer, or to a third party on the site.
 - v) Non-fulfillment of the Contract by the Contractor.
- (b) After the reasons for withholding of payments have been entitled, to the satisfaction of the Employer and the Engineer, payments to the Contractor will be undertaken by the Employer without delay.

63.1 Default of Contractor

Add the following paragraph:

Provided further part in addition to the action taken by the Employer against the Contractor under this Clause, the Employer may also refer the case of default of the Contractor to Pakistan Engineering Council for punitive action under the Construction and Operation of Engineering Works Bye-Laws 1987, as amended from time to time.

65.2 Special Risks

Delete the text and substitute:

The Special Risks are the risks defined under Sub-Clause 20.4 paras (a)(i) to (a)(v).

67.3 Arbitration

In the sixth to eighth lines, delete the words "shall be finally settled appointed under such Rules" and substitute the following:

shall be finally settled under the provisions of the Arbitration Act, 1940 as amended or any statutory modification or re-enactment thereof for the time being in force.

Also add the following paragraph:

The venue of Arbitration shall be Karachi, Pakistan

68.1 Notice to Contractor

Add the following paragraph:

For the purposes of this Sub-Clause, the Contractor shall, immediately after receipt of Letter of Acceptance, intimate in writing to the Employer and the Engineer by registered post, the address of his principal place of business or any change in such address during the period of the Contract.

68.2 Notice to Employer and Engineer

For the purposes of this Sub-Clause, the respective addresses are:

(a) The Employer

Project Director
Cadet College Khairpur
Bungalow No. 5, Azam Colony,
near Mehran University, SZAB Campus,
Khairpur Mir's.
Phone: 0243-9280373

(b) The Engineer:

M/s. IDG (Pvt.) Limited
IDG House C-13,
KDA Scheme No. 1,
Main Habib Rehmatullah Road,
Opp. PNS Karsaz,
Karachi, Pakistan.
Tel: 021-34311711-12, fax: 021-34311713

70.1 Increase or Decrease of Cost

Delete this Sub-Clause in its entirety, and substituted with the following:

The amount payable to the Contractor, pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, materials, and other inputs to the Works, by applying to such amount the formula prescribed in this Sub-Clause.

(a) **Other Changes in Cost**

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rate and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

(b) **Adjustment Formula**

The adjustment to the monthly statements in respect of changes in cost shall be determined from the following formula:-

$$P_n = A + \frac{b \underline{L_n}}{L_o} + \frac{c \underline{M_n}}{M_o} + \frac{d \underline{E_n}}{E_o} + \frac{e \underline{F_n}}{F_o} \dots\dots\dots$$

Where:

P_n is a price adjustment factor to be applied to the amount for the payment of the work carried out in the subject month, determined in accordance with Paragraph 60.1(a), and with Paragraphs 60.1(b) and 60.1(c), where any variations and day work are not otherwise subject to adjustment;

A is a constant, specified in Appendix-C to Bid, representing the nonadjustable portion in contractual payments;

$b, c, d,$ and e etc. are weightages or coefficients representing the estimated portion of each cost element (labour, cement, reinforcing steel and high speed diesel etc.) in the works or Sections thereof, net of Provisional Sums and Prime Cost; the sum of A, b, c, d and e , etc. shall be one;

L_n, M_n, E_n, F_n etc. are the current cost indices or reference prices of the cost elements for month “n”, determined pursuant to Sub-Clause 70.1(d), applicable to each cost element; and

L_o, M_o, E_o, F_o etc. are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 70.1(d).

Except labour and POL, if any other adjustable item(s) is not used in a particular billing period then the ratio of current date price and base date price for that particular adjustable item(s) shall be considered as one. Similarly, no escalation for reinforcement will be admissible, if the quantity used is less than 5 tonnes in particular billing month.

(c) **Sources of Indices and Weightages**

The sources of Indices shall be those listed in Appendix-C to bid, as approved by the Engineer. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightages and Source of Indices if different than those given in Appendix-C to bid, which shall be subject to approval by the Engineer.

(d) **Base, Current, and Provisional Indices**

The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular monthly statement is related. If, at any time, the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

(e) **Adjustment after Completion**

If the Contractor fails to complete the Works within the Time for Completion prescribed under Clause 43, adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Employer, provided that if an extension of time is granted pursuant to Clause 44, the above provision shall apply only to adjustments made after the expiry of such extension of time.

(f) **Weightages**

The weightages for each of the factors of cost given in Appendix-C to bid shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, or inapplicable as a result of varied or additional work executed or instructed under Clause 51. Such adjustment(s) shall have to be agreed in the variation order.

Add the following Sub-Clauses:

73.1 Payment of Income Tax etc.

The Contractor, Subcontractors and their employees shall be responsible for payment of all their income tax, super tax and other taxes on income arising out of the Contract and the rates and prices stated in the Contract shall be deemed to cover all such taxes.

73.2 Cost inclusive of duties and taxes

The rates and prices stated in the priced Bill of Quantities shall be deemed to include every element of duty or tax leviable on or in relation to the production, import, purchase, sale, delivery and transportation of materials and to the bringing thereof to the Site and no such duty or tax shall be separately reimbursable.

74.1 Integrity Pact

If the Contractor or any his Subcontractors, agents, servants is found to have violated or involved in violation of the Integrity Pact signed by the Contractor as Appendix-L to Bid, then the Employer shall be entitled to:

- (a) Recover from the Contractor an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by the Contractor or any of his Subcontractors, agents or servants;
- (b) Terminate the Contract; and
- (c) Recover from the Contractor any loss or damage to the Employer as a result of such termination or of any other corrupt business practice of the Contractor or any of his Subcontractors, agents or servants;

The termination under Sub-Para (b) of this Sub-Clause shall proceed in the manner prescribed under Sub-Clauses 63.1 to 63.4 and the payment under Sub-Clause 63.3 shall be made after having deducted the amounts due to the Employer under Sub-Para (a) and (c) of this Sub-Clause.

75.1 Termination of Contract for Employer's Convenience

The Employer shall be entitled to terminate the Contract at any time for the Employer's convenience after giving 56 days prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor:

- (a) shall proceed as provided in sub clause 65.7 hereof; and
- (b) shall be paid by the Employer as provided in sub clause 65.8 hereof.

76.1 Liability of Contractor

The Contractor or his Subcontractors or assigns shall follow strictly, all relevant labour laws including the Workmen's Compensation Act and the Employer shall be fully indemnified for all claims, damages etc. arising out of any dispute between the Contractor, his Subcontractors or assigns and the labour employed by them.

77.1 Joint and Several Liability

If the Contractor is a joint venture of two or more persons, all such persons shall be jointly and severally bound to the Employer for the fulfillment of the terms of the Contract and shall designate one of such persons to act as leader with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.

78.1 Details to be Confidential

The Contractor shall treat the details of the Contract as private and confidential, save in so far as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the prior consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract, the same shall be referred to the decision of the Employer whose award shall be final.

79.1 Precaution for Pollution

Precautionary measures and facilities shall be provide by the Contractor at his own cost in carrying out the Works including dumping and disposal of spoils in sea, river and other areas, in the manner approved by the Engineer to prevent environmental pollution.

80.1 Coordination of Work at Site

The Contractor shall take cognizance that during the execution of the project. Other Contractor will be working concurrently on this site.

All works of his responsibility shall be coordinated by the Contractor so as to give the necessary facilities to other Contractors or their workmen or any other employees, who execute or supervise any work on the Site.

The Contractor shall ensure that the necessary safety precautions will be observed and interferences shall be avoided especially for the works executed side-by-side by different Contractors.

Due consideration must be given to permit access to sections of the work as required by other Contractors for the execution of their works. With a view to coordinate the works, the Employer's Representative may from time to time direct the order of the work to be carried out.

Allowances for coordination of work at site shall be made in his prices & programming.

81.1 Temporary Works and Facilities

81.1.1 Temporary Works

The Contractor shall submit drawings and full particulars of all temporary works to the Consultant before commencing the same. The Consultant may require modifications to be made if he considers them to be insufficient and the Contractor shall give effect such modifications but shall not be relieved of his responsibility for the sufficiency thereof.

The Contractor shall provide and maintain all temporary roads, tracks, hardstandings, ramps, stagings and the like on the Site which may be necessary for the proper execution of the Works, clear away on completion and make good all works distributed to the satisfaction of the Consultant.

The Contractor shall provide temporary fencing, hoardings, fans, guard rails and the like as may be necessary, alter and adapt as necessary, clear away when no longer required and make good all work distributed to the satisfaction of the Consultant.

81.1.2 Site Sign Board

The Contractor shall provide two site sign boards to the satisfaction and approval of the Consultant. The sign boards shall display the name and title of the project and the names of the Consultant, and to be maintained in clean and tidy state for the duration of the project.

81.1.3 Site Office

The Contractor shall at his own cost provide and locate at a place designated by the Consultant a weatherproof, watertight site office for his own use, and it shall include a separate space for the use of site representative and his staff, with suitable furniture and facilities for filing, drawings, specifications, correspondence etc., and other appurtenances necessary for the proper operation of the office and the same shall be removed after completion of the works / completion of maintenance period or as and when directed by the consultant. The site office shall also have toilet facilities, meeting room, sampling room with the approval of the site representative. The contractor shall provide at his own cost the following office accommodation constructed to adequate standards, and complete with air-conditioning and other services including Electricity, Water and drainage:

- a) Independent office for Client and Consultant (Staff Room, Meeting Room, Tea Room, & Toilets etc.) (Temporary roofing with false ceiling) as per design by the Consultant.

- b) The minimum furniture & office equipment for the Client and Consultant office, shall consist of the following:
- i) Office table of four feet length. 2 Nos.
(01 for Client & 01 for Consultant)
 - ii) Two office chair and eight visitor's chairs.
 - iii) Steel Filling Cabinet. 2 Nos.
 - iv) Tables & Chairs for staff & Visitor's For Three Persons
 - v) Conference Table with Chairs For Eight Persons
 - vi) Fax machine 1 No.
 - vii) Computer (Core i3 4th generation) with Internet facility, etc.
(01 for Client & 01 for Consultant) 2 Nos.
 - viii) Printer HP Laser Jet A3 size 1 No.
 - ix) Multimedia Projector (Sony / BenQ) Min. 2000 Lumens – latest Model 1 No.
 - x) Necessary Stationary for Site Office
 - xi) New Toyota Corolla GLI Car or approved equivalent (for Client).
Full Insurance is Mandatory 1 No.
 - xii) New Motor Bike (Honda CG 125) or approved equivalent
(for Consultant site Staff) 2 Nos.

POL shall be supplied by the Contractor to the limit of 100 liters petrol, 200 kg CNG per month for each Car and 20 liters petrol per month for each Motor Bike.

Contractor shall also be responsible for making adequate arrangements of maintenance of above mentioned equipment and vehicles etc.

The watch & ward, maintenance and keeping the Site Office clean shall be the responsibility of the Contractor.

- c) Contractor shall at his own cost provide and maintain Furnished Residential Rooms with attached Baths and kitchen each for the Client and Consultant.

81.1.4 Other Facilities

The Contractor shall provide and maintain adequate first aid facilities on the site to the approval of the Consultant including paying all costs in connection throughout the period of the Contract.

The Contractor shall provide temporary latrines for the use of all workmen employed on the site in a position to be approved by the Consultant and maintained in a thoroughly clean and sanitary condition throughout the period of the Contract.

The Contractor shall provide all necessary temporary scaffolding for the proper execution of the Works.

The Contractor shall move, alter and adapt all temporary roads, hoardings, buildings, latrines and scaffolding as may be necessary during the execution of the Works.

82.1 Site Laboratory Tests and Samples

82.1.1 Site Laboratory

The Contractor shall provide and maintain at his own cost field control Laboratory at Site of Works with the following sets of equipment and trained personnel to carry out day to day tests, at his own cost.

- a) Equipment necessary for testing of concrete cubes for compressive strength.
- b) Equipment necessary for testing samples of soil / earth for its classification / proctor test / compaction tests, etc.
- c) Six numbers approved cube molds in steel construction, with all accessories.
- d) Complete set of sieves for fine and coarse aggregates.
- e) Four slump cones of standard design with all accessories.
- f) Weighing scale with weights.
- g) Glass cylinders.
- f) Concrete testing Hammer for nondestructive testing of concrete.

The Laboratory and all equipment herein shall always be kept by the Contractor in perfect working condition and nothing shall be removed from there during the progress of the works without the written consent of the Consultant. However, Laboratory equipment shall remain the property of the Contractor and shall be removed from the site when permitted in writing by the Consultant.

82.1.2 Tests

Contractor shall always submit to the site representative of his schedule on prescribed format for pouring any concrete specially the structural concrete, and get the approval of site representative prior to placing of concrete; otherwise Consultant / site representative will not be responsible for such works & will not verify Contractor's bill.

All concrete works must be mechanically mixed in concrete mixer of approved type. All concrete works, except lean concrete, must be mechanically vibrated. Stand by concrete mixer and vibrators shall always be available at site during all concrete works. For each major pour, concrete cubes shall be made. All new deliveries of sand and aggregate shall be tested to ensure it meets the standards established in the Specifications.

For field tests other than those which can be carried out by the equipment listed above, the Contractor must make provisions to have the tests carried out, as ordered by the Consultant or the site representative, at laboratories approved by the Consultant, the costs of which shall be borne by the Contractor.

Besides tests and investigations mentioned elsewhere, and in the Specifications, these shall include, but not necessarily be limited to the following:

- a) Cube strength at 7 and 28 days.
- b) Bricks / CC Block strength and analysis of its material, random testing.
- c) Physical and chemical testing of coarse and fine aggregate and earth brought for filling, random testing.
- d) Physical and chemical testing of ground water and water used for construction, random testing.
- e) Compaction tests and analysis of filled material.

82.1.3 Samples

The Contractor shall provide at his own cost, samples of all materials and finishes for the works. These shall include but not necessarily be limited to samples of fair faced finish concrete, plaster, terrazzo, and panels, and all other items and materials specified, and as per the Specifications.