

[Green Form] (TJ Law)

Particular Conditions

A References are made to Clauses in the General Conditions, which are modified as follows:

- Clause 2.2 **Permits and licenses** - Replace all current text with the following text:
“The Contractor, if requested by the Employer, shall endeavor reasonably to assist the Employer in the Employer’s application for permits, licenses or approvals which are required for the Works. Notwithstanding the foregoing, the Contractor confirms and warrants that it has all licenses, permits and approvals necessary to be eligible to perform the Works under this Contract.”
- Clause 7.1. **Execution of the works** Add the following additional provision:
“Upon completion of the Works to the satisfaction of the Employer, the Parties will sign a certificate in respect thereof and only at such time will the Works be deemed accepted”.
- Clause 11.2 **Monthly payments** Item (b) to be replaced with the following text: “value of Materials and Plant incorporated in the Works during such interval,”

Insert the following text in the last sentence after the word “a statement”: “(including all necessary supporting documents)”.
- Clause 11.3 **Interim payments** Replace the words “delivery of each statement” with the following: “Employer’s approval of each statement”;

Replace the words “less retention at the rate stated in the Appendix” with the words “less such amount multiplied by the rate stated in the Appendix (collectively, for all statements, the “Retention”)”.
- Clause 11.4 **Payment of first half of retention** Replace the word “retention” with reference to the defined term “Retention”

Clause 11.5 Payment of second half of retention

Replace the word “retention” with reference to the defined term “Retention”

Article 15 Resolution of disputes

Article 15 to be deleted in its entirety and replaced with the following:

“15.1. Arbitration:

Arbitration:

Unless settled amicably by negotiations within thirty (30) working days from the date of sending the notice of a dispute by one Party to the other, any dispute or controversy arising between the Employer and the Contractor in connection with, or arising out of, this Contract shall be resolved by ad hoc arbitration.

15.2. Rules:

Any arbitration pursuant to clause 15.1. shall be conducted in accordance with the rules set out in the Appendix, subject to the following:

- a) the dispute shall be reviewed by three arbitrators;
- b) all three arbitrators shall have respective legal qualification to review the dispute and two of the arbitrators shall be non-Tajik citizens;
- c) the language of the proceedings will be Russian;
- d) place of the proceedings is as provided in the Appendix;
- e) any decision of the arbitrators in accordance herewith (an “Arbitral Award”), in each case, shall be final and binding on the Parties; and
- f) the Parties hereby agree that the entire cost of the proceedings will be divided equally between them unless otherwise determined by Arbitral Award.”

Rules for adjudication

To be deleted as no longer relevant to this Contract.

Adjudicator’s agreement

To be deleted as no longer relevant to this Contract.

B1 Additional Clauses

Rules observation

“The Contractor shall cause each of its employees, contractors, and agents that are at any time are on any of Employer’s premises to follow all site rules and procedures (including in respect of safety) established by the Employer and all applicable laws (including, for certainty, any local regulations and relevant permits, licenses, orders, etc.). The Contractor shall be liable for any violation by such persons of such rules or laws and shall indemnify the Employer for any claims or damages resulting therefrom.”

Intellectual property rights

“For all design (and related materials) prepared by the Contractor pursuant hereto, the Employer shall retain all intellectual property rights in respect thereof, unless otherwise specifically agreed in writing. For all design (and related materials) prepared by the Employer or a third party and provided by the Employer to the Contractor, the Contractor expressly acknowledges that it will not have any rights in respect thereof other than to use such materials for the specific purpose of completing the Works as instructed by the Employer.”

Advance Payment

“If stated in the Appendix, the Employer shall deliver to the Contractor an advance payment for the purpose of mobilization and purchase of required materials prior to execution of the Works (the “Advance Payment”).

If stated in the Appendix, the Contractor shall deliver to the Employer concurrent with the Advance Payment, a guarantee or other security in respect of the Advance Payment in a form and from a third party approved by the Employer.

The Advance Payment shall be repaid from the amount in each approved monthly statement through deductions therefrom at the percentage provided in the Appendix until the Advance Payment is repaid full.”

B2 Confidentiality

For the purposes of this Clause, the term “Confidential Information” means the Contract and all information, materials, designs, drawings, models, documents and data of any kind which the Contractor receives, either directly or indirectly, from the Employer or from any other Project participant or on account of any previous involvement in the Project for the Employer except for:

information which at the time of disclosure is already known to the Contractor; or

information which at the time of disclosure is or thereafter becomes a part of the public domain through no act or failure to act on the part of the Contractor.

The Contractor shall not divulge any Confidential Information communicated to or acquired or created by it in the course of carrying out the Works, the Project or this Agreement whether in relation to the Project, the Employer, the Aga Khan Development Network, or any of its agencies. No such information shall be used by the Contractor on any other project without the prior written approval of the Employer.

The Contractor may disclose the Confidential Information to those of its employees, agents and Sub-contractors and representatives to whom disclosure is required for the Contractor’s performance of the Works but only after each such employee, agent, Sub-contractor and representative has properly assumed confidentiality obligations identical in principle with those herein.

The parties hereto mutually agree that the confidentiality covenant contained herein shall survive the termination or discharge of this Agreement and extend for six years following the date of such termination or discharge.

The Contractor further agrees that it will not, directly or indirectly, for any reason whatsoever, use the name of the Employer (or persons or organizations related to or associated with the Employer including the Aga Khan Development Network, or any of its agencies) and the Project or such information or documents for public relations, media or sales purposes or any other purpose not directly related to the performance of the Works without the prior written consent of the Employer in each case obtained.

B3 Tax

If a payment due from the Contractor under this Agreement is subject to any tax, levy, royalty, rate, duty, fee or other charge (“Tax”), whether by way of direct assessment or withholding at its source, the Contractor will be entitled to receive from the Employer such amounts as will ensure that the net receipt, after Tax, to the Contractor in respect of the payment is the same as it would have been were the payment not subject to Tax except that, for the avoidance of doubt, this clause shall not apply in respect of any income tax or social dues payable by the Contractor to their staff or locally based sub-contractors.

B4 Compliance with Tajik Law

Notwithstanding the law of England and Wales will be applied to contractual matters, the Contractor shall ensure the Works will be, and will be conducted, in accordance with all applicable local regulations and laws, and meet or exceed all applicable local standards.

B5 Compliance with Additional Employer Requirements

The Contractor shall ensure compliance with additional Employer's requirements, procedures, policies, and all other applicable laws including, but not limited to, local laws, laws of foreign states, and international law norms, other regulations, orders, decrees, or directives having the force of law, as well as those of the Employer as shown in the following documents appended hereto:

International Finance Corporation 2007 Environmental, Health and Safety General Guidelines

International Finance Corporation 2012 Performance Standards 1-8

Representation on compliance with Anti-corruption Laws

The University of Central Asia's Employee Grievances Handbook – sections as applicable to Contractors

B6 Staff and Labour

Engagement of Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.

Persons in the Service of Employer

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.

Labour Laws

The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

Working hours

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

- (a) otherwise stated in the Contract,
- (b) the Engineer gives consent, or
- (c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer.

Facilities for Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Engineer may reasonably require.

Contractors Superintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary super-intendence to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

Contractor's Personnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor

has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.