

Workshop on Standard Contract Agreement & Condition of Contract Building and Engineering Work / Engineering Consultancy Services 2009

21 August 2024

Speaker From: Cost Engineering Directorate

Targeted Audience: Contractor's and Consultants



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Topic: Contractual Problems and Solutions

Aims of the Workshop ?

Aim of the Workshop

The workshop was arranged and conducted by the Ministry of Works Management through the training section, with the intention of addressing common contractual problems faced by the Ministry, contractors, and Consultants through constructive dialogue and providing effective solutions tailored to Ministry of Works contract conditions.

This initiative is crucial in enhancing our collaborative efforts and ensuring that all parties involved have a clear understanding of their roles, responsibilities, and the expectations set forth in our contracts.

The Importance of the Workshop



Importance of the Workshop

S/NO	Descriptions
1	To Clarify of Roles and Responsibilities of parties
2	Standardization of Practices (Uniformity)
3	To Enhance Compliance Risk Management
4	To Identify some Contractual Issues
5	To Enhance Effective Procedures

Importance of the Workshop continue

S/N0	Descriptions
6	To Strengthen Trust
7	Enhancing Communication

The Objective of the Workshop

Objective of the Workshop

S/NO	Descriptions
1	Understand Area of Claim
2	Awareness on How to Create Effect Contract Management to Minimize Dispute and Management of Claim Effectively.
3	To gain insight of basic negotiation skills
4	To explore Dispute Resolution Under the Ministry of Works Contract Condition

Main issues to be Aware in International Contract

Main issues to be Aware in International Contract



S/N0	Descriptions
1	Civil Law
2	Common Law
3	Sharia Law
4	Combination of Various Legal System

GCC Commercial Arbitration (GCCCA)

UNCITRAL



The Kingdom of Bahrain

Was the first within the Gulf Region to accede to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1988 (UNCITRAL).

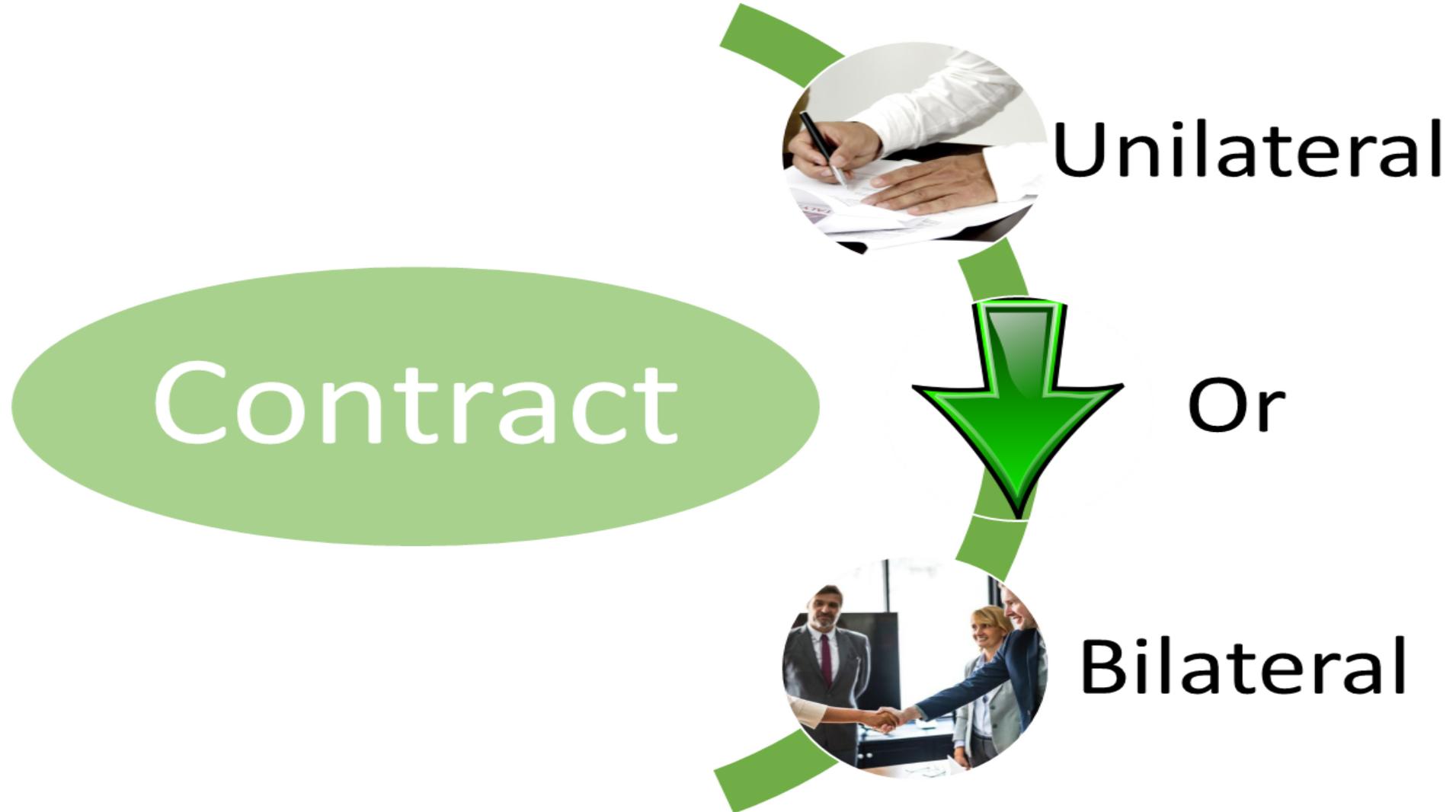
Bahrain is a home for GCC Commercial Arbitration, which is long-established in the region.

What is a Contract

What is a Contract

S/NO	Definition
	Contract is defined as a legally binding agreement one or more parties

Type of Contract



Ingredient of Ministry of Works Contract



Ingredient of Ministry of Works Contract

S/NO	Descriptions
1	Contract Agreement and Appendix to Tender
2	Condition of Contract and Conditions of Particular Applications (Building Engineering Works 2009)
3	The Specification
4	The Drawings
5	The Tender

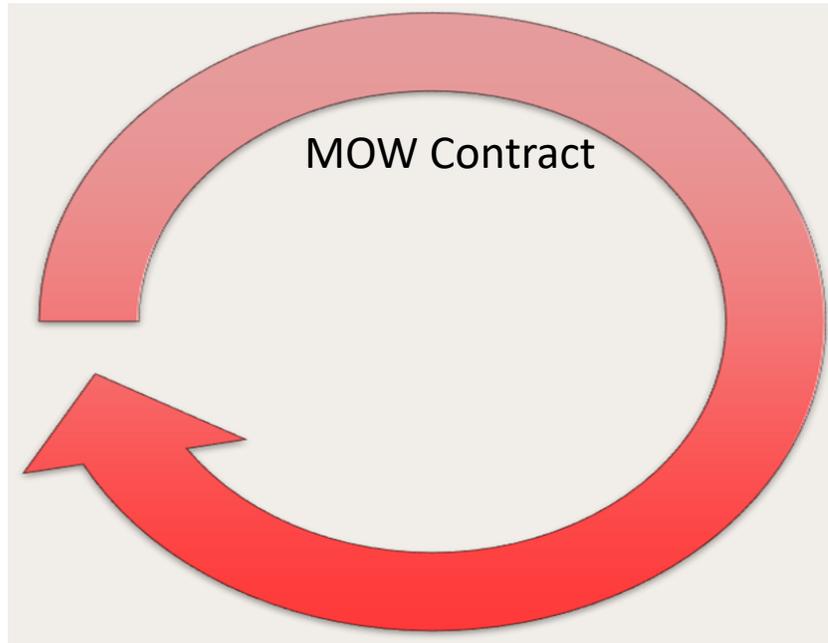
Ingredient of Ministry of Works Contract Continue

S/NO	Descriptions
6	Schedule of Rates and Prices
7	Letter of Award/Letter of Intent

Ministry of Works Condition of Contract

S C A & C of C Building & Engineering Works Consultancy Engineering Services

Green Book	Orange Book	Brown Book	Blue Book
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- The SCA & C of C 2009 recommended by the Legislation & Legal Opinion Commission (LLOC) to be used in all Governmental Jobs in Bahrain.
- This Replaced JCT 1963 Revised 1977.
- This Conditions where Childbirth from FIDIC as a Bespoke Contract.



وزارة الأشغال
Ministry of Works

Contractual Problems and Solutions Ministry of Works Contract Conditions 2009

S C A & C of C Building & Engineering Works



Main issues to be Aware in International Contract

	S/N0	The Green Book: This book is used for providing the following Services with option's that includes the followings:
	1	The Contractor Design Obligation
	2	Lumpsum / Re-measurable Works
	3	Dredging, Reclamation and Marine Works
	4	Electromechanical Works

Definitions

Definitions

Title	Descriptions
Employer	Defined as the Government of the Kingdom of Bahrain, represented by the MOW for Outsider is party named in Contract who Employ the Service of the Contractor and others.
Engineer	Engineer is Defined as the Director of concern Directorate & This can be amended to suite the requirement of Any Organization /Needs.
Note:	The CoC has given absolute power to the Engineer, and the Engineer is the supreme under the contract. Care has to be taken; otherwise, he can expose the organization into serious financial liabilities.

Engineers Authority

Clause	Engineer's Authority
2.1	Contractor shall take Instruction only from the Engineer or on the Delegation of Clause 2.2
	Engineer's Representative
2.2	<p>The Engineer's Authority may be Delegate from time to time to the ER, who shall notify the employer and the contractor. Any communication by ER, under his delegation, shall be binding.</p> <ul style="list-style-type: none">Failure of Engineer to disapprove any work, materials, etc. shall not prevent the Engineer from pulling down, removal or rejecting of those items.

Communication in Writing

Clause	Communication in Writing
2.3	All communications between the parties shall be in writing; if the correct form of communication is not used, then the communication is not valid.
	Engineer to Act Impartially
2.5	The Principle of natural Justice must be followed in any decision, opinion, consent, expression of satisfaction or otherwise.

Instruction and Communication

Clause	Quantity Surveyor
2.6	The Quantity Surveyor is the custodian of cost information and shall give the engineer advice on contractual matter related to the contract
	Engineer's Representative
2.7	Discussed earlier
	Failure to Comply with Engineer's Instruction
2.8	The Contractor owes the Engineer the Obligation to comply with his Instructions. In case the Contractor fails carry out the Instruction within 7 days and repeated instruction, the Engineer may employ another party to carryout the Works.

Instruction and Communication

Clause	Objection to Engineer's Instruction's
2.9	The Contractor could object the Instruction of the Engineer if he considered the work should considered under Clause 51 & 52 and notified the Engineer within 3 days of the Instructions. The Engineer, with consultation of QS and the Employer, confirm, amends', or withdrawal such Instruction in accordance with Clause 51.1 and, within 3 days, shall implements them in accordance with Clause 51 and 52 or Clause 67.
	Confidentiality
2.10	The Contractor shall treat the document with confidentiality and not to disclose any information or use, share any of the document other than the purpose of the contract.

Assignment and Subcontracting or Subletting

Clause	Assignment
3.1	<p>The Contractor is not allowed to contract, assign, the fully or partially part work, without the prior written consent of the Government (Employer).</p> <p><u>However, in case of Bank assert interest to the main contractor due to short term or long-time finance to overcome payment delay for the work executed by the Contractor such assignment is allowed without consent of the Employer.</u></p>
	Subcontracting
3.2	<p>The Contractor is not allowed to sublet the whole work. Unless specified under the Contract. Also, contractor can sublet part of the work with the writing consent of the Engineer and Engineer shall not withhold such consent. Labour only on piecemeal basis are not considered as subletting</p>

Contract Document

Clause	Document and Discrepancies
5.1	The Contract document are complimentary to each other and Mutually self explanatory.
	Order Priority of Document
5.2	<p>In the event of discrepancy cannot be resolve under Clause 5.1. the priority of document shall follow in descending order.</p> <ul style="list-style-type: none">▪ The Contract Agreement;▪ The Condition of Contract;▪ The Specifications;▪ The Drawings;▪ Any modification to tender Article 2f of the Contract Agreement;

Contract Document/Supply & Custody of Drawings and Documents

Clause	Order Priority of Document
5.2	<ul style="list-style-type: none">▪ The letter of Award (if Applicable).▪ The tender▪ Key date schedule if applicable▪ The Schedule of Rate and Price BOQ
	Copies of Drawings and Specifications provided by Engineer
6.1	<ul style="list-style-type: none">▪ The Engineer's shall provide two copies of Drawing and Specification.▪ A copy to be kept by the Contractor.▪ One copy to be kept at site for inspection and use by the Engineer.▪ The Contractor shall return drawings , Specification and other document upon the issuance of Defect Liability Certificate.

Supply and Custody of Drawing and Documents

Clause	Copies of Drawings and Specifications provided by Contractor
6.2	<ul style="list-style-type: none">▪ The Contractor shall provide <u>Four</u> copies of Drawing and Specification, and Document to the Engineer to be approved by the Engineer. In accordance with Clause 7.▪ If the Engineer requests for further drawings for the Employers use. A reasonable cost of production will be given to the Contractor.
	Contractor's Notice of Required Drawings & Specification
6.3	The contractor shall issue a notice in case of any anticipated delay, whether on planning or program of works may be delay or disrupted in case of issuance of the above drawings, not less than 7 days, with detail list of document required and the type of delay likely to encountered and other document in accordance with clause 7.1.

Supplementary Drawings and Contractors Drawings

Clause	Drawings and Specifications issued by Engineer
7.1	<ul style="list-style-type: none"><li data-bbox="443 445 2354 616">▪ The Engineer Shall provide further drawings during the progress of work in accordance with the key date schedule or other date for the proper execution of work.<li data-bbox="443 634 2354 748">▪ The Contractor shall comply with all the document requirements and shall become part of the Contract.
	Drawing and Specification submitted by the Contractor
7.2	In event the Contract provides that any permanent works shall designed by the Contractor, the drawings shall be submitted to Engineer for approval.

Supplementary Drawings and Contractors Drawings

Clause	Drawing and Specification submitted by the Contractor continue
7.2	<p>The Contractor should submit within a reasonable time or on the key date schedule, if applicable, within a reasonable time for the Engineer's approval without delay delaying the progress. Upon the engineer's approval, the drawings specifications, and other documents shall form part of the contract document.</p> <p>As a condition precedence to Clause 48 Taken Over Certificate, Operation & Maintenance Manual together with as-built drawings in detail to enable the Employer to operate. The work shall not be considered as completed without issuance of Operation & Maintenance Manual. The half retention shall not be release until the O&MM /As-built are released.</p>

Supplementary Drawings and Contractors Drawings

Clause	Contractor's Designer's
7.3	All designs carried out by the Contractor or by others on behalf of the Contractor shall be prepared by a qualified personal shall be approved by the <i>Council for Regulating the Practice of the Professionals (CREPP)</i> . The Subcontractor who is not approved in Bahrain; they have to provide a professional indemnity insurance pursuant of Clause 23.3. This shall not be a ground to create any legal relationship between the subcontractor and the employer.
	Detail of Contractor Drawings and Specification
7.4	Where the Contractor undertaken the design or by his subcontractor, the Contractor shall provide sufficient details to certify all regulatory approvals and instruction to subcontractor's employee, etc. The engineer has the right to review and inspect the drawings and other documents.

Supplementary Drawings and Contractors Drawings

Clause	Review and Approval of Contractor's Drawing and Specification
7.5	Neither the review or approvals of Engineer under Clause 7 or drawing carried out on contractor behalf shall relieve the Contractor from his responsibilities, obligation or liabilities under the Contractor.

Contractors Responsibilities

Clause	Contractor General Responsibilities
8.1	The Contractor's owed a responsibility to provide all the necessary material, labor, equipment's, Workmanship all other things both permanent and temporary specified under the Contract, and shall be responsible for the adequacy, stability, safety of the working environment, including all the security requirements.
	Limited Contractor's Design (If Applicable)
8.3	If clause 8.3 is to be applicable in the Appendix to the Tender, the contractor shall be responsible for the permanent works carried out by the contractor.

Contractors Responsibilities

Clause	Statutory Liabilities
8.4	The contractor's design responsibilities under the Contract shall not exempt him from his statutory obligations, including other duties and liabilities under the Law.
	Checking of Site Investigation
8.5	The Contractor shall check all the Site prepared or provided by the employer and shall be responsible for such site investigation as if he were the one that prepared them, and the employer shall not be responsible for any information under the Site investigation report.

Contractors Responsibilities

Clause	Satisfaction of Engineer
8.6	This Clause requires the contractor to complete and maintain the work to the satisfaction of the Engineer as supreme. The Contractor shall comply with such Instructions and/ or the Engineer Representative within the contest of his delegation.
	Sufficiency of Tender
8.7	<p>The Contractor shall deem to have satisfied himself with amount quoted under the tender; this includes his Price, price for Subcontractor, risk, Overhead and Profit, management all the necessary hook-ups under the Contract. The Law is not after adequacy of consideration but its sufficiency.</p> <p>Kindy note that, this does not mean adequacy of document provided by the Employer, but sufficiency of the tender submitted by the Contractor.</p>

Security

Clause	Performance Bond
9.1	<p>Contractor shall obtain Performance Bond and provide to the employer a copy to the engineer.</p> <ul style="list-style-type: none">▪ Prior to date of the agreement, if the provisional letter of intent is Issued, within 10days the contractor should submit a Performance Bond.▪ More so, extra grace of another 10day with reminder. If the contractor failed, then the contractor would forfeit his Initial Bond. <p>Types of Bond.</p> <ul style="list-style-type: none">▪ Demand (Banks or Insurance companies)▪ Undemand (Banks) <p>Caution:</p> <ul style="list-style-type: none">▪ Is recommended to accept a guarantee from insurance company, because bond from Insurance companies are irrevocable without proof of default, while bond issued by the Bank can be cash without need of such proof.

Security

Clause	Adjustment of Performance Bond
9.2	<p>If mentioned in the appendix to tender, at the expiry of the defect liability period, a new performance bond shall be provided to replace the original PB with a new PB in the proportion to the uncompleted works. This shall be provided.</p> <p>More so, if the Contract price increase by more than 20%, the Contractor within 14days, shall obtain and provide a copy to the Employer and a copy to the Engineer, as in the proportion mentioned in the appendix.</p>
	Advance Payment Guarantee
9.3	<p>If the Appendix to Tender provides Payment of Advance Payment, then the Contractor shall obtain and provide same to the Employer and a copy to the Engineer as set out under ANNEX 1 Prior the Engineer issuing the Advance Payment.</p>

Security

Clause	Parent Company Guarantee
9.4	If the appendix to tender provide for the Contractor for a Parent Guarantee shall provide same within 14 days from the Contract Agreement in the Form set out under Annex 3
	Failure to provide Security
9.5	Failure by the Contractor to meet the provision under Clause 9.1, 9.2 and 94. Note: Employer deserved the right to considered the Contract as repudiated and to recover all loss expenses, loss and expenditure incurred as the result of the repudiation
	Duration and Cost of Security
9.6	All cost for the maintenance under Clause 9.1, 92 and 3 as referred to Annex 1,2 &3 shall be born by the Contractor.

Security

Clause	Approved Banks or Insurance Companies
9.7	The Institution for the performance bond and or Advance Payment Guarantee shall be banks or Insurance companies approved by the employer

Site

Clause	Site Inspection
10.1	<p>The Clause requires the Contractor to have inspected and examined the Site and its surrounding prior to the submission of his tender.</p> <ul style="list-style-type: none">▪ The Form and Nature of Site▪ The Nature of the Ground and its Subsoil.▪ The Hydrological and Climatic Condition▪ The means of access to site and accommodations.▪ The Quantities and Nature of work and Materials, Risk, Engineering, Management and all the necessary Hook-ups for the completion of works

Site

Clause	Adverse Site Condition (if applicable)
10.2	<p>If the Contractor encounter such adverse site condition that he could not foreseen at the time of the tender..</p> <p>If the Contractor should encounter such condition, he should he should inform the engineer or ER in writing, and the Contractor should not disturb such conditions or observations until receiving further directives from the Engineer.</p> <p>If Engineer is confirmed reasonable, he will ascertain reasonable amount / or extension of time, if any.</p> <p>Note: This does not include weather conditions or those resulting from weather condition.</p>

Setting Out

Clause	Setting out
11.1	<p>The Contractor shall be responsible for trues and proper setting out of works, transferring from original points and levels of references to benchmark given by the Engineer.</p> <p>The cost associated with errors in setting out shall be borne by the Contractor.</p> <p>If errors were caused by the wrong data given by the Engineer, the ER will certify the costs associated with the data given, and the Employer will pay such cost.</p>

Excavated Materials

Clause	Excavated Material and Finds
12.1	All excavated material from the site is the property of the employer and he will prescribe the method of disposals or if to be utilized on site.

Antiquities

Clause	Antiquities
13.1	<p>This treasures from the ancient times before the middle age. All Antiques found there shall belong to the employer, which happened to be the government of the Kingdom of Bahrain represented by Ministry of Works.</p> <p>Other employers outside the government can consider this a compliance with Law Decree no 11 of 25th June 1995 which replaced Kingdom of Bahrain Antiquities of 1970, as amended by Law Decree no . 17 of 1985. considered to be the property of the government.</p> <p>The Contractor shall keep the antiquities safe, stop work, and take all the necessary steps to preserve them. He shall notify the engineer of the location of the discovery.</p>

Antiquities

Clause	Instruction as to Antiquities
13.2	The Engineer shall issue instruction as of what to do with the antiquities. This includes the permission for the examination, excavation or removal of the antiquities.

Programme

Clause	Programme
14.1	<p>Within 14 days for the Agreement, the Contractor shall submit to the Engineer detailed program for its approvals.</p> <p>The Contractor may submit to the Engineer descriptions of the arrangement and method to be adopted by the Contractor for the execution of the Works.</p>
	Revised Programme
14.2	<p>Due to lack of conformity in the progress of work with the approved program within 5 days of Engineer's request, the Contractor shall revise the program, showing the modifications and highlighting any matters that will affect the program.</p>

Programme

Clause	Approval of Programme
14.3	The submission to and approval by the Engineer of any Programme in accordance with Clause 14 shall relieved the Contractor from his contractual obligation under the Contract.
	Key Date Schedule (if applicable)
14.4	If applicable in the Appendix to Tender 14.4 and the Key Date Schedule, as set out in Part shall be Applicable.

Contractor's Employees

Clause	Contractor's Employees
16.1	<ul style="list-style-type: none"><li data-bbox="479 446 2374 561">▪ The Contractor shall provide and employ at the site technical, experienced, skilled employee's, foreman, etc.<li data-bbox="479 632 2374 746">▪ Such skilled, semi-skilled, and unskilled laborers that can execute, delivered the work in a timely manner.
	Removal of Persons from Works and Site
16.2	The Engineer may object to the removal of any person from the site and require the Contractor remove from site any person employed by the Contractor in connection to the execution of works due to misconduct, incompetent, or his presence at workplace is undesirable and the Contractor shall replace that person without disrupting the progress of works.

Labours Laws

Clause	Compliance with Labours Laws
17.1	The Contractor and his subcontractor shall comply with all the requirements under the Labour Laws.
	Housing of Labour
17.2	The Contractor shall not house any of his employee on the Site, unless under the approvals of the Employer
	Festival and Religions Customs
17.3	The Contractor and subcontractor shall honor tradition, culture, and Islamic holidays, and any other public holidays, prescribed by the government of the Kingdom of Bahrain.

Health and Safety

Clause	Health and Safety
19.1	<p>The contractor shall provide health and safety officers.</p> <ul style="list-style-type: none">▪ Shall comply with H&S of works and persons at site and other related activities.▪ To provide the name of the H&S to the employer H&S Officer.▪ Contractor to supply the H&S Officer of the Employ with information related to H&S.▪ To allow Employer's H&S Officer to visit Site and Inspect the Work.▪ To provide a detailed report on H&S matters as a precondition for Taking Over Certificate.

Care of Works

Clause	Care of Works
20.1	The Contractor is responsible for the protection and care of works from the commencement to completion and is also responsible for repairing and making good at his own cost during the defect liability period and any loss, damage to work, or temporary works, or injury.
	Excepted Risk
20.2	Excepted risks are defined as: <ul style="list-style-type: none">▪ War hostilities (declared or not).▪ Rebellion, Revolution, military, usurped by force etc.▪ Unless solely restricted to contractor own staff and subcontractor for disorder.▪ a cause solely due use or occupation by the Employer of any part of the Permanent Works.

Care of Works

Clause	Excepted Risk Continue
20.2	<ul style="list-style-type: none"><li data-bbox="443 476 2354 596">▪ A cause solely due to the design of works by the engineer or any other consultant engaged by the Employer.<li data-bbox="443 616 2354 736">▪ Ionizing radiation or contamination of radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.<li data-bbox="443 756 2354 876">▪ Pressure waves caused by aircraft or aircraft or other aerial devices traveling at sonic or supersonic speeds.

Insurance of Works

Clause	Insurance of Works
21.1	<p>The Contractor must insure the work in the joint of the Employer and the Contractor against all loss or damage from whatever cause arising other than those mentioned under the exception risk.</p> <p>The Contractor All Risk (CAR shall cover the period of construction to maintenance period.</p> <p>Including goods, materials equipment's for incorporation of works at their replacement cost, debris, demolition other material brought on site by the Contractor including everything required by the nominated subcontractor.</p>

Insurance of Works

Clause	Application of Insurance Monies
21.2	<ul style="list-style-type: none"><li data-bbox="443 451 2270 562">■ In case of damage or loss to works, temporary works, or Contractor's equipment, under clause 21.1 the Contractor must promptly rectify the situation.<li data-bbox="443 576 2303 688">■ All insurance proceed will be paid to the employer in installment as certified by the engineer.<li data-bbox="443 702 2283 813">■ If insurance is not required, it will be paid by to the Contractor upon instruction of the engineer.<li data-bbox="443 828 2007 876">■ If the insurance is insufficient, the Contractor will bear the deficiency.

Insurance of Works

Clause	Responsibility for amount not recovered
21.3	<p data-bbox="443 568 952 615"><u>Contract Responsibility</u></p> <ul data-bbox="443 629 2346 739" style="list-style-type: none"><li data-bbox="443 629 2346 739">▪ Coverage of uninsured and unrecovered shall be the responsibility of the responsible party.

Damage to Persons & Property

Clause	Damage to Person's and Property
22.1	<p>The Contractor shall indemnify the Employer against any losses and Claim as a result of injury or death, including any employees of the Employer and property at the work site.</p> <p>Except:</p> <ul style="list-style-type: none">▪ Where the employer has taken over such part.▪ Or such negligence caused by the Employer's own staff, agent.▪ In any loss or damages for both the contractor and Employer, amount of reimbursement shall be proportion according to the obligation of the Worker

Third Party Insurance

Clause	Third Party Insurance
23.1	Throughout, the execution of work the Contractor shall maintained a third-party insurance in case death, injury of Employers employee as for the amount mentioned in the Appendix to Tender.
	Cross Liabilities Clause
23.2	The insurance shall contain a cross-liabilities clause indemnifying each of the jointly insured against claims made on it by the other Jointly insured.

Professional Indemnity/Product liability Insurance

Clause	Professional Indemnity/Product liability Insurance
23.3	<p>If a Contractor or Sub-Contractor is responsible for providing designs for a project, they must take out and maintain professional indemnity / product liability insurance covering the Contractor's design liability. The insurance should be without any conditions and have unlimited claims for a period of 10 years.</p> <p>If the Engineer consents to more than one contractor / sub-contractors of taking insurance, the Contractor must obtain a signed Direct Agreement from each Sub-Contractor.</p>

Accident or Injury to Workmen

Clause	Accident or Injury to Workmen
24.1	<p>The Employer is not liable for damages or compensation for workman or sub-contractor injuries, except for accidents resulting from the Employer's act or default.</p> <p>The Contractor must indemnify the Employer against such damages and compensation, as well as any related claims, proceedings, costs, charges, and expenses.</p>
	Insurance Against Accident and Injury to Workmen
24.2	<p>The Employer is not liable for workman or sub-contractor injuries, except for accidents caused by the Employer's act or default, and the Contractor must indemnify the Employer on any related claims, proceedings, costs, charges, and expenses.</p>

Evidence and Terms of Insurance

Clause	Evidence and terms of Insurance and Approved Insurance Companies
25.1	The Contractor must provide proof of insurances under Clauses 21.1, 23.1, 23.3, and 24.2 to the Engineer before work begins, including originals, renewal notices, and payment receipts. The Contractor must also provide copies to the Employer, with approval not to be unreasonably withheld.
	Adequacy of Insurance
25.2	The contractor must inform insurers of changes in the Works' nature, extent, or program, and ensure the continued adequacy of insurances Clause 21.1, 23.1. 23.3 in accordance with the Contract terms.



Evidence and Terms of Insurance

Clause	Remedy on Contractor's Failure to Insure
25.3	<p>If the Contractor fails to maintain insurances under the Contract, the Employer may suspend the Works until the Contractor takes out the necessary insurances. The Contractor must protect the Works during suspension, and Clause 42 does not apply. The Employer's extra costs will be borne by the Contractor, and suspension does not allow for additional work or expenditure claims. The Employer can also affect insurance and pay premiums, deducting the Employer's payment from any monies due or recovering it as a debt.</p>

Laws

Clause	Proper Laws
26.1	The proper law under the Ministry of Works contract condition shall be the Law of the Kingdom of Bahrain.

Compliance with Laws

Clause	Compliance with Laws
27.1	The contractor must adhere to all laws and indemnify the employer against penalties and liabilities for any breach of these laws during the performance of the contract
	Giving of Notices and Payment of Fees
27.2	The Contractor must comply with all laws and regulations related to the Works, including those of public bodies and companies whose property or rights may be affected. Employers must not make additional payments, and these fees are included in the Contract Price.

Intellectual Property Rights

Clause	Intellectual Property Rights
28.1	The Contractor guarantees that no Drawing, Specifications, or other work contributes to the Works infringes on Intellectual Property Rights and promises to indemnify the Employer for legal liability and related costs.
	Licence
28.2	The Contractor holds Intellectual Property Rights in all Drawings, Specifications, and documents related to the Works, and grants the Employer an irrevocable, non-exclusive, royalty-free license to copy and use these documents for completion and use, with support from third parties.
	Liability for Drawings and Specifications
28.3	The contractor is not liable for using any Drawing, Specifications, or other document for any purpose other than what was agreed upon in the Contract.

Conduct of Work

Clause	Interference With Extra Ordinary Traffic Condition
29.1	The Works must be executed by the contractor without causing public inconvenience or disruption to public or private roads, footpaths, or properties, as long as the Contract permits, without any disturbance.

Compliance with Laws

Clause	Compliance with Laws
30.1	The Contractor is responsible for preventing damage to highways and bridges on the Site routes by limiting traffic and distributing loads, ensuring that extraordinary traffic from moving equipment is limited as much as possible, minimizing loss and damage.
	Water Borne Traffic
30.2	Clause 30.1 defines a waterborne transport as a highway involving a lock, dock, sea wall, or other related structure, and a vehicle including craft.

Opportunity for Other Contractors

Clause	Opportunity for Other Contractors
31.1	The Contractor must allow reasonable opportunities for other contractors or workmen to carry out their work on or near the Site, as per the Engineer's requirements. If the Contractor makes available roads or ways for maintenance, a fair contribution to the cost will be priced as a Variation in accordance with Clauses 51 and 52.

Keep Site Clear

Clause	Contractor to Keep Site Clear
32.1	The contractor is required to maintain a clean site, store or dispose of any contractor's equipment, materials, goods, and packing materials, and remove any rubbish or temporary works no longer needed during the works.

Clearance of Site on Completion

Clause	Clearance of Site on completion
33.1	The contractor is required to remove all equipment, surplus materials, rubbish, and temporary works from the site, subject to Clause 54.7 in the Part 2 Conditions, and leave the site clean and in good condition to the Engineer's satisfaction.

Conduct of Personal

S/NO	Descriptions
34.1	Alcoholic, liquor or drugs
34.2	Arm and Ammunition
34.3	Disorderly of Conduct



Site Facilities

Clause	Site Facilities
34.4	The Contractor <u>must provide adequate facilities</u> for the Engineer, including drinking water, shelter, sanitary facilities, canteen, office, and temporary premises, as well as facilities for the Employer and Consultants, at their own expense.

Quality Control

Clause	Quality of Materials and Workmanship
35.1	The quality of workmanship, materials, goods, and equipment used in the Works must adhere to Bahraini and international standards, be of the specified types, follow the Engineer's instructions, and undergo regular tests at the manufacturing or fabrication site.
	Contractors Assistance
35.2	The contractor is responsible for providing necessary assistance, instruments, machines, labor, and materials for testing work, and supplying samples of materials as required by the Engineer.
	Testing Before Release
35.3	Before releasing manufactured or fabricated materials or equipment from the manufacturing site, approval from the Engineer or independent testing laboratory must be obtained, ensuring that the items have passed the required tests as stated in the Specifications. Engineer.

Samples, Inspection and Testing

Clause	Cost of Samples
36.1	The Contractor is responsible for providing samples if they are specified in the Contract, or they can be priced as Variations according to Clauses 51 and 52, as instructed by the Engineer
	Inspection and Testing
36.2	The Engineer or Laboratory can inspect and test materials, goods, and equipment during manufacturing, fabrication, or preparation, provided they are conducted in workshops or locations outside the Contractor's control, but this does not relieve the Contractor of any obligations.

Samples, Inspection and Testing

Clause	Date for Inspection and Testing
36.3	The Contractor must agree on a time and place for inspection or testing of materials, goods, or equipment, and must be given 24 hours' notice by the Engineer. If the Engineer or Laboratory doesn't attend, the Contractor can proceed with tests, unless instructed otherwise. Certified test readings must be provided to the Engineer
	Cost of Test
36.4	The Contractor is responsible for testing and inspecting workmanship, materials, goods, or equipment provided for in the Contract, and if detailed enough to be included in the Contractor's tender.

Samples, Inspection and Testing

Clause	Additional Test
36.5	<p>If an Engineer orders a test not provided in the Contract or ordered by an independent person outside the site, the Contractor will bear the cost if the test shows materials, goods, equipment, or workmanship not in accordance with the Contract or the Engineer's instructions. If the test shows failure, the Engineer may require additional testing to verify the quality of materials, goods, equipment, or workmanship. The Contractor cannot claim time extension for these tests unless they relate to approved materials, goods, equipment, or workmanship.</p>

Inspection of Works

Clause	Inspection of Operation
37.1	The Engineer and authorized personnel must always have access to the Site, Works, workshops, and materials for preparation, and the Contractor must provide facilities and assistance for obtaining this access.
	Rejection
37.2	If materials, goods, or equipment are not ready for inspection or testing, the Engineer may reject them and inform the Contractor, if they are defective or not in accordance with the contract. The Contractor must rectify the defect or ensure compliance with the Contract. If requested, tests can be repeated under the same conditions. Engineer determines costs incurred by the Employer and recovers them from the Contractor.

Inspection of Works

Clause	Inspection of Operation
37.3	Neither any sample, test or inspection undertaken or instructed by the Engineer, nor any resultant approval shall relieve the Contractor of any of its responsibilities, obligations or liabilities under the Contract.

Examination of Works

Clause	Examination of Works Before Covering up
38.1	The Engineer must approve any work covered or put out of view, and the Contractor must allow the Engineer full examination and measurement opportunities. The Engineer must attend to examine work as soon as contractor given notice, unless deemed unnecessary.
	Uncovering and making Opening
38.2	The Contractor must uncover, and open works as directed by the Engineer, reinstate and make good any covered parts, If these are executed in accordance with the Contract, the Employer will cover the expenses, priced as a Variation in Clauses 51 and 52, while the Contractor will bear all costs if the uncover are defective.

Removal of Improper Works

Clause	Removals of Improper Works, Materials or Equipment's
39.1	The Engineer has the power to instruct on the removal of non-conformity work, materials, goods, or equipment from the site, the substitution of suitable work, and the removal and re-execution of work that is not in accordance with the Contract, despite previous tests or interim payments.

Commencement of Works

Clause	Commencement of Works, Progress and Completion
40.1	The Engineer has the power to instruct on the removal of non-conformity work, materials, goods, or equipment from the site, the substitution of suitable work, and the removal and re-execution of work that is not in accordance with the Contract, despite previous tests or interim payments.

Possession of Site

Clause	Possession of Site
41.1	The Employer will provide the Contractor with necessary possession of the Site, the order in which they will be made available, and the order in which the Works will be executed, following the Notice to Commence. The Employer will also provide additional portions of the Site as the Works progress, as per the Programme and Key Dates Schedule.
	Possession Non-Exclusive
41.2	Possession of the Site to the Contractor given under Clause 41.1 shall not be for its exclusive use except in respect of such parts as may be designated by the Engineer.

Suspension of Works

Clause	Suspension of Works
42.1	<p>As soon as the Engineer issued Instruction to suspend the Work, the Contractor should stop the work and protect the work site during the suspension.</p> <p>Provided always</p> <ul style="list-style-type: none">▪ The suspension provided under the Contract.▪ Due to default from the Contractor side▪ Due to weather condition▪ For the safety of work and its environs. <p>Note:</p> <ul style="list-style-type: none">▪ By Engineers Instruction▪ Suspension order shall be in writing▪ Verbal Instruction shall not be considered▪ Suspension order remained in full force unless a writing instruction countered it.

Suspension of Works

Clause	Suspension Lasting More Than 90 days
42.2	If the Engineer instructs a suspension of progress, and permission isn't given within 90 days, the Contractor can request permission within 28 days. If permission isn't granted, the Contractor can treat the suspension as an omission under Clause 51 or as an abandonment of the Contract by the Employer under Clause 64.1.
	Licenses and Facilities
42.3	The contractor is responsible for all necessary licenses and facilities for access to the site and must provide them at their own expense for the purposes of the works.
	Use of Site only for the Purpose of the Contract
42.4	The Contractor shall not use any portion of the Site for any purpose not connected with the Works except with the prior approval of the Engineer.

Suspension of Works

Clause	Access and Maintenance
42.5	The Contractor shall maintain access to, in and through the Site for the inspection, operation and maintenance of any of the Employer's property which lies within the Site or is accessed via the Site.
	Restriction of Access to Employer Property
42.6	The Contractor, Sub-Contractors, and their employees must not enter any employer-owned or controlled buildings or property without Engineer's approval and must inform all parties.
	Impossibility
42.7	If the Works are unable to be completed due to insurance risks, excepted risks, or authority acts, despite efforts by the Employer and Contractor, the Contractor must inform the Engineer, who will suspend the Works within 14 days.

Time for Completion

Clause	Time for Completion
43.1	<p>The Works and any sections required to be completed within a specified time must be completed within the specified time, calculated from the Commencement Date or an extended time allowed under Clause 44. If the Contractor fails to complete the Works within the specified time, the Engineer will issue a written notice, canceling the notice and requiring further written notice under Clause 43.1.</p> <p>The letter of extension of time when issue shall supersede earlier notice issued by the engineer.</p>

Extension of Time

Clause	Extension of time for Completion
44.1	<p>Event to trigger Extension of Time</p> <ul style="list-style-type: none">a. Delay by the Engineer under Clause 7.1 provided the Contractor has given 7 days notice.b. Discovery of Antiquities 13.1c. Delay in receiving third party consent and Contractor has taking all the necessary measure to salvage the situationd. Change in Lawe. Weather condition as recorded by meteorological office for area nearest to site.f. Delay by Authorityg. Opening for inspection or testingh. Damage to Person or Property to be insured 22.1 or by exceptional risk.

Extension of Time

Clause	Extension of time for Completion continue
44.1	<p>i. Suspension of Works in accordance with Clause 42 at the Cost Employer</p> <p>j. Failure of Employer to allow access to site</p> <p>k. Damage or Obstruction by any of the other Contractor appointed by Employer. Provided the Contractor has taking proper steps to mitigate on the subject.</p> <p>The Engineer after due consultation with Employer shall notify the Contractor the time allocated.</p>

Time for Completion

Clause	Unavoidable Additional Works or Expenditure
44.2	<p>In the event the Contractor is likely to carry out unavoidable additional Works or an expenditure as a direct result of the following: 44.1a, b, d, g, l, j and k, which would not be reimbursed by payment under the Contract provision.</p> <p>The Contractor may notify the Engineer in accordance with Clause 44.3 and 44.4. The Engineer with the consultation of the quantity surveyor, will determine the amount reasonably incurred.</p> <ul style="list-style-type: none">▪ The Contractor shall minimize the amount for any additional work and expenditure▪ The cost shall not include over head and profit▪ The Contractor shall not be entitled for any Claim other than those amount paid

Time for Completion

Clause	Notification of Claim
44.3	<p>For the Engineer to determine any Claim under Clause 44.1 or 44.2. the Contractor shall comply with the followings:</p> <ol style="list-style-type: none"><li data-bbox="428 705 2359 933">a. Within 7 days if such event has first arisen or because apparent that the event may likely cause additional work or an expenditure or delay the Contractor shall notify the Engineer and to includes proposals that will minimize any delays to the Time of Completion.<li data-bbox="428 953 2359 1248">b. Within 28 days or reasonable time that may be agreed by the Engineer. After such first notification detailed particulars of any requested extension of time and /or unavoidable additional works or expenditure Claims to includes detail analysis of the effect of the event and the critical path identified in the programme to which may considered for E.O.T

Time for Completion

Clause	Interim Particulars
44.4	<p>If events continue to occur such that the contractor cannot submit detailed particulars within the period of 28 days, he can nevertheless be entitled to an extension of time or unavoidable additional work if he submits his particulars for not more than 28 days and his final particulars for not more than 28 days.</p> <p>Upon receiving an interim determination of extension of time and receiving the final particulars, the engineer shall review all the circumstances and determine the overall extension of time.</p> <p>The engineer shall make his determination after due consultation with the quantity surveyor, and the contractor shall be notified and a copy sent to the employer.</p>

Working Hours

Clause	No nights, Friday or Public Holiday work
45.1	<p>Only subject to provision under the contract or specification, work shall not be carried out during public holidays, nights, and Fridays only without the approval of the engineer.</p> <p>Except where the work is necessary for health and safety reasons, this shall not be applicable to work that requires a double shift or rotation.</p>

Rate of Progress

Clause	Rate of Progress
46.1	<p>If the Engineer deems the progress of the Works or Section too slow to meet the prescribed or extended Time for Completion, the Contractor must be notified and take necessary steps to expedite progress. The Contractor is not entitled to additional payment for these steps. Permission to work at night or on Fridays is not unreasonably refused.</p> <ul style="list-style-type: none"><li data-bbox="428 853 438 868">•

Penalty

Clause	Penalty
47.1	If a contractor fails to complete the works within the specified time frame, they must pay the Employer the penalty amount specified in the Appendix to Tender, subject to an engineer's notice. The payment must not exceed the maximum percentage of the Contract Price. The Employer can deduct the penalty from any monies due to the Contractor, but this does not relieve the Contractor from its obligations or liabilities under the Contract.
	Reduction of Penalty
47.2	If a Taking Over Certificate is issued for a Section or part, the penalty for delay will be reduced proportionally to the value of the certified section or part.

Taking over of Works

Clause	Taking over
48.1	The Contractor must notify the Engineer of the Completion of the Works and request a Taking Over Certificate. The Engineer will issue the certificate within 21 days, either stating the date of Completion or providing instructions for the Contractor. The Engineer must also inform the Contractor of any defects affecting Completion. The Contractor can receive the certificate within 21 days, making good any notified defects.
	Taking over Section
48.2	<ol style="list-style-type: none">a. Any Section provided in the Contractb. Any substantial part of the permanent works that achieve completion that require by Employer.

Taking over of Works

Clause	Reinstatement of Surface
48.3	A Taking Over Certificate stating completion of a section of Permanent Works before the entire project is completed is not considered complete unless it explicitly states so.

Defects

Clause	Defect Liability Period
49.1	The defect liability period shall be stated in the Appendix to Tender; this came into effect from the date of issuance of the taking-over certificate. If more than one DLP were issued, then this would mention the extended defect liability period for the uncompleted work.
	Execution of Works of Repair
49.2	a. Finish outstanding works on the date stated in the Taking Over Certificate or as soon as practical after such a date. b. The defective works shall be repaired within 14 days after the expiration of DLP for all defect works found during inspection.

Defects

Clause	Cost of Execution of Work of Repair
49.3	All work mentioned under 49.2 shall be carried out under the contractor's own expenses as a result of work not in accordance with the contract, neglect, or failure to comply. In case of any fault in the design provided by the contractor, if the costs are for any other cause, this shall be valued and ascertained as a variation in accordance with Clauses 51 and 52.
	Remedy for Contractor's Failure in carry out Work Required
49.4	if the Contractor has failed to carry our such repairs Clause 2.8 shall apply.
	Contractor Search
49.5	The contractor must search for defects, imperfections, shrinkages, or faults during the Works or Defects Liability Period, if directed by the engineer. If the contractor is liable, he bears the cost and expenses of repair, rectifications, and making good of defects, and the same shall apply to the employer if liable.

Defects

Clause	Defect Liability Certificate
49.6	Within 28 days, a defect liability certificate has to be issued to the contractor. If a different defect liability certificate is issued on a different part, it will not be complete.
	Unfulfilled Obligation
49.7	The Contractor and Employer are still liable for unperformed obligations under the Contract before the Defects Liability Certificate is issued, subject to Clause 62.1.

Urgent Repairs

Clause	Urgent Repairs
50.1	<p>If an accident or failure occurs during the execution of the Works or during the Defects Liability Period, the Engineer deems urgent remedial work or repair necessary for safety. If the Contractor is unable to do the work, the Employer may hire additional personnel. If the Employer's work is deemed liable under the Contract, all expenses incurred are recoverable or deducted from the Contractor's monies.</p>

Variations

Clause	Variations
51.1	<p>The engineer may issue an instruction for variation under the following ground:.</p> <ul style="list-style-type: none">a. increase or decrease in quantity of work, material equipment, etc.b. Omissionc. Change in Characteristics of Qualityd. Change in level, lines, position, and dimension of any parte. Additional Worksf. Change in the specified sequence of timing <p>Note: No variation shall vitiate or invalidate the contract and shall be valued in accordance with Clauses 51 and 52, and the VO Form shall be issued for varying work.</p>

Variations

Clause	Contractor Proposed of Variation
51.2	The Contractor can propose a Variation to the Engineer, which will be considered by the Engineer and notified to the Contractor if approved by the Employer.
	Variation Submission
51.3	The Engineer must notify the Contractor of a proposed Variation within 14 days, and the Contractor must submit a Variation Submission detailing its effect on the Contract Price, Work Progress, and Completion Time.
	Engineer Consideration of Variation
51.4	The Engineer will review and agree to any Variation Submission submitted under Clause 51.3 with the Contractor within seven days, and notify the contractor through a VO Form or Withdraw the proposed variation



Variations

Clause	Time and Cost of Variation
51.5	The allocated time limit for agreeing on a variation is 28 days from the date of the engineer's instruction to proceed. If such a variation is not agreed upon within the provided time, the engineer will allocate more time to ascertain the cost. Such variation shall be reviewed in accordance with Clause 52. If the contractor disputes the adjustment made by the engineer, he can proceed with notification under Clause 67 for the Settlement of Dispute.
	Urgent Variation
51.6	Employer instructs contractor to use "urgent variation" form for urgent variation, referencing Clause 51.6. Variation submission is governed by Clause 51.3 and evaluated in accordance with Clauses 51.4 and 51.5.

Variations

Clause	Minimum Effect of Variations
51.7	Contractor shall minimize the time and cost that should have an effect in the Contract price. But parties to the Contractor shall use their best endeavor to minimize the cost and time.
	Binding Variation
51.8	Any variation under Clause 51 shall be binding to both parties when established and agreed upon.

Valuation of Variation

Clause	Valuation of Variation
52.1	Variations in a contract must be valued using the rates and prices listed in the Schedule of Rates and Prices/Bill of Quantities, unless otherwise agreed upon by the engineer, quantity surveyor, and contractor. If disagreement arises, the engineer must determine reasonable rates or prices. The contractor must provide all necessary documentation at any stage of the valuation process.
	Power of Engineer to Fix Rate
52.2	The engineer shall, with due consultation with the quantity surveyor, fix a rate; if such a rate is not agreed upon by the contractor, the engineer shall fix a reasonable rate.
	Engineer Consideration of Variation
52.3	No variation is to be considered without an instruction from the engineer for both Clause 51.3 (within 14 days) and 51.6.

Variations

Clause	Daywork
52.4	The Engineer may instruct a contractor to perform a variation on a daywork basis, and the contractor must be paid under the conditions and rates set in the Schedule of Rates and Prices/Bill of Quantities. The contractor must provide receipts and submit quotations for approval. For daywork work, the contractor must provide daily lists of workmen and materials used, with one copy signed by the Engineer. At the end of each month, the contractor must provide a priced statement of labor, materials, and equipment used. Payment is only granted if these lists are delivered punctually or if the Engineer finds them impractical.
	Continuation of Works
52.5	Any variation under Clause 51 shall be binding to both parties when established and agreed upon.

Claims Procedure

Clause	Notice of Claims
53.1	The Contractor must send an account to the Engineer monthly detailing all claims and any additional payments, and no claim for work should be considered without it. If claim details are unavailable, the Contractor must inform the Engineer and include full details in the next month's account.
	Contemporary Records
53.2	The Contractor must maintain contemporary records to support claims, and the Engineer can inspect these upon notice. The Contractor must allow inspections and provide copies as instructed by the Engineer. They must also allow the Quantity Surveyor to inspect all records.

Claims Procedure

Clause	Failure to Comply
53.3	If the contractor fails to adhere to Clause 53 and Clauses 44.3, 51, and 52 regarding a claim, their claim entitlement will be null and void.
	Payment of Claims
53.4	The Contractor can include the amount due to a claim in a payment application in accordance with clause 60 after consulting with the Engineer.

Goods, Materials and Equipment's

Clause	Approvals of Goods, materials and Equipment not Implied
55.1	Clause 55 does not guarantee Engineer approval or rejection of materials, goods, or equipment, and does not prevent the Engineer from rejecting any such items at any time.
	Vesting of materials, Goods and Equipment not Site
55.2	The Contractor must transfer the property of materials, goods, and equipment listed in the Appendix to Tender to the Employer before delivery to the Site, following Clause 55.3.

Goods, Materials and Equipment

Clause	Action by the Contractor
55.3	The contractor must transfer ownership of materials, goods, or equipment to the Employer by providing a Vesting Certificate, identifying them as Employer property, setting them aside and storing them to the Engineer's satisfaction, and sending a schedule listing the value of each item for inspection. This ensures the Employer has proper control over the materials, goods, and equipment.
	Vesting in Employer
55.4	The Engineer approves materials, goods, and equipment for Clause 55, and upon payment, they become the employer's absolute property. The Contractor holds these for delivery and incorporation in the works. The Engineer can reject materials or equipment that don't comply with the contract, and property is immediately returned to the Contractor. The Contractor is responsible for any loss or damage to these items and must obtain additional insurance.

Goods, Materials and Equipment

Clause	Lien on Goods, Materials and Equipment
55.5	Clause 55.3 prohibits any contractor, sub-contractor, or other person from having a lien on materials, goods, or equipment vested in the Employer. The Contractor must ensure the Employer's title and the exclusion of such a lien are communicated to all parties involved.
	Delivery to Employer Vested Materials, Goods and Equipment
55.6	The Contractor must deliver any materials, goods, or equipment owned by the Employer upon cessation of employment, unless Clause 55.3 applies. Failure to do so may result in the Employer removing the goods and materials and recovering the cost.

Goods, Materials and Equipment

Clause	Export Licenses
55.7	The Contractor must obtain an export license from the exporting country's authority for materials, goods, or equipment used in the Works, and any delay does not grant an extension.
	Materials Supply by the Employer
55.8	The Employer's materials for the Works remain the Contractor's property but are at the Contractor's sole risk until completion. The Contractor is responsible for any loss or damage and must insure materials. Unincorporated materials are returned at the Contractor's expense.
	Incorporation in Subcontract
55.9	The Contractor shall incorporate provisions equivalent to those provided in this Clause 55 in every Sub-Contract.

Remeasurement

Clause	Quantities
56.1	Clause 56 stipulates that the Schedule of Rates and Prices/Bill of Quantities represent estimated quantities of work, materials, and equipment, not the actual quantities required for the Contractor's obligations.

Work to be Measured

Clause	Work to be Measured
57.1	The Engineer must determine the value of work done according to the Contract, unless otherwise stated in the Appendix to Tender. If necessary, the Engineer must inform the Contractor, who must assist the Engineer and Quantity Surveyor. If the Contractor doesn't, the Engineer's measurement is considered correct. The Engineer must prepare monthly records of Permanent Work, and the Contractor must examine and agree upon them within 14 days. If not, they are considered correct.
	Measured Net
57.2	The Works shall be measured net, excluding general or local customs, unless otherwise specified in the Specifications.

Provisional and Prime Cost Sums

Clause	Expenditure for Provisional Sums
58.1	The expenditure of a Provisional Sum includes preparing design information, inviting contractors to submit prices and proposals, reviewing these by the Engineer, approving them by the Employer, and authorizing the Engineer to execute the work, unless a Nominated Sub-Contractor is proposed.
	Expenditure for Prime Cost Sums
58.2	The Prime Cost Sum expenditure involves preparing design information, determining a rate for pricing, inviting contractors to submit prices or own proposals, confirming contractor's profit and overheads, reviewing prices and proposals by Engineer and Quantity Surveyor, and authorizing the work and payment. This process is subject to Clause 58.3 and the Employer's proposal of a Nominated Sub-Contractor.

Provisional and Prime Cost Sums

Clause	Production of Vouchers
58.3	Clause 56 stipulates that the Schedule of Rates and Prices/Bill of Quantities represent estimated quantities of work, materials, and equipment, not the actual quantities required for the Contractor's obligations.

Nominated Subcontractor

Clause	Nominated Subcontractor
59.1	If stated to be applicable in the Appendix to Tender Clause 59 as set out in the Part 2 Conditions shall apply and shall be incorporated in the Contract.

Payment

Clause	Advance Payment
60.1	The Appendix to Tender allows for advance payment, the contractor can be applied to the Engineer after signing the Contract Agreement and presenting the Performance Bond and Advance Payment Guarantee and the certificate can be prepared within 14days.
	Monthly Payment
60.2	The Contractor must submit a monthly statement to the Engineer detailing the estimated contract value of Permanent Works, goods or materials delivered to the site, goods or materials vested in the Employer, other entitlements, and a deduction for advance payments. The Contractor must list amounts payable for Nominated Sub-Contractors and Retention Money separately, unless they believe the combined values do not justify an interim certificate.

Payment

Clause	Monthly Payment
60.3	The Engineer must certify the Contractor's monthly statement within 14 days, and the Employer must pay the Contractor within 42 days after delivery. The Engineer must determine the amount due to the Contractor for Clauses 60.2a and 60.2d, less Retention Money, and any appropriate amounts for Clauses 60.2b and 60.2c, with no obligation to issue an interim certificate for less than the specified amount in the Appendix to Tender.
	Final Account
60.4	The Contractor must submit a final account statement and verification information to the Engineer within the specified timeframe after the Taking Over Certificate for the entire project. The Engineer will issue a final certificate to the Employer and Contractor, outlining the final amount due under the Contract up to the Taking Over Certificate. The balance, excluding retention money, will be given credit to the Employer for all previously paid amounts and any remaining amounts. The balance will be paid within 42 days of the certificate's delivery.

Payment

Clause	Retention or Retention Bond
60.5	Retention Money under Clauses 60.3a and 60.3b is equal to the percentage in the Appendix to Tender, excluding Contractor dues. Retention Money is not retained if a Retention Bond is acceptable and provided.
	Payment of Retention Money
60.6	The Retention Money payment process involves the Engineer issuing a Taking Over Certificate for a section or part of the Works, with one half of the retained amount due on the date of issue. This amount must not exceed half of the total Retention Money deducted at the time of issue. The remaining half of the Retention Money is due upon delivery of the Taking Over Certificate for the entire Works, subject to the Contractor's obligations under Clause 7.2b. The Contractor is also required to issue a Defects Liability Certificate, with the Employer having the right to withhold payment until the completion of the remaining works. The Engineer can release part of the Retention Money to acknowledge zero or very low defects during an extended Defects Liability Period.

Payment

Clause	Correction and Withholding Certificate
60.8	The Engineer can remove or modify the value of work, materials, goods, or equipment not in line with the Contract, but must not reduce any sums previously certified for work done by a Nominated Sub-Contractor if the Contractor has already paid or is bound to pay that sum. If the Engineer reduces any overpaid sums, the Employer must reimburse the Contractor, with interest at the rate specified in Clause 60.7, from 42 days after the final certificate.
	Copy of Certificate to Contractor
60.9	Every certificate issued by the Engineer pursuant to this Clause 60 shall be simultaneously sent to the Employer and copied to the Contractor. (When Applicable).

Payment

Clause	Currency of Payment
60.10	All payments to the Contractor shall be made in Bahrain Dinars unless otherwise agreed by the Employer and the Contractor.
	Payment to Contractor Bank
60.11	The Contractor must arrange for its bank to complete and deliver a Request for Payment by Bank Transfer to the Employer, which will be subject to the conditions and provisions outlined in the Request.

Payment

Clause	Payment Due to the Contractor
60.12	The Employer can deduct costs, damages, or expenses owed to the Contractor from any due amounts or recover them through legal action or other means.
	Contract Price Not Subject to Adjustment
60.13	The contract price cannot be adjusted for cost increases or decreases due to labor rate changes, employment conditions, material costs, consumable stores, fuel, power, freight and insurance rates, landing charges, or other factors after the tender date, except as specified in the Contract Conditions.
	Custom
60.14	If a contractor's importation of goods or equipment into Bahrain increases or decreases the cost of the works, the Engineer will certified the net increase or decrease, and the Contractor will be refunded or allowed.

Warranty and Liability

Clause	Warranties
61.1	The Contractor is liable for the Works and each Section, despite a Defects Liability Certificate, for its statutory duties, warranties, and ongoing maintenance obligations under the Contract or other contracts.
	Decennial Liabilities
62.1	The contractor is responsible for errors, omissions, or negligence in the design and construction of the Works, as stated in Clause 8.2 and 8.3, and for defects in the design and construction of the Works if they become apparent within ten years of the completion date in the Taking Over Certificate.

Warranty and Liability

Clause	Cessation of Employer's Liability
62.2	The Employer is not liable to the Contractor for any issues related to the Contract or Work execution unless the Contractor claims them before the Defects Liability Certificate is issued.

Remedies and Power

Clause	Insolvency of Contractor
63.1	If the Contractor becomes bankrupt, faces a receiving order, or goes into liquidation, or assigns the Contract without the Employer's consent, their employment will automatically terminate. The Engineer and Employer can then take actions as described in Clause 63. This applies to amalgamation or reconstruction purposes only.

Remedies and Power

Clause	Default of Contractor
63.2	<p>If an Engineer deems the Contractor to have breached Clause 4.2, abandoned the Works or Contract, failed to commence the Works, failed to remove materials or equipment, not executed the Works in accordance with the Contract, or sub-contracted any part of the Works, the Employer may terminate the Contractor's employment after 14 days of notice. The Employer may use the Contractor's Equipment, Temporary Works, and unused materials, goods, and equipment for completion, and may sell them at any time to satisfy any outstanding amounts due from the Contractor under the Contract</p>

Power and Remedies

Clause	Valuation Date of Termination
63.3	The Engineer shall, as soon as practicable after termination of the employment of the Contractor pursuant to Clauses 63.1 or 63.2, fix and certify what amount, if any, had at the time of such termination been reasonably due to the Contractor in respect of work then done by it under the Contract and the value of any of the said unused or partially used materials, goods and equipment and any Temporary Works.

Warranty and Liability

Clause	Payment After Termination
63.4	If a contractor's employment is terminated under Clauses 63.1 or 63.2, the employer is not liable for any payment until the costs of completion, damages, and other expenses are ascertained and certified by the Engineer and Quantity Surveyor. The contractor is entitled to only the amount certified by the Engineer, and if the excess exceeds this, the contractor must pay the employer.

Warranty and Liability

Clause	Assignment Benefit of Agreement
63.5	<p>The Contractor must assign any agreements for materials, goods, or equipment upon termination of employment to the Employer without payment, unless prohibited by law or required by the Engineer. The Employer may pay the Sub-Contractor for any materials, goods, or equipment supplied or executed, provided amounts have not already been paid. Payments may be made out of Retention Money in the Employer's hands.</p>

Default of the Employer

Clause	Default of the Employer
64.1	If the Employer fails to pay the Contractor the Engineer's certificate within three months, interferes with its issue, abandons the Works, or informs the Contractor that it cannot meet its contractual obligations, the Contractor can terminate their employment by providing 14 days' notice to the Employer.

Default of the Employer

Clause	Clearance of Site
64.2	Upon the expiry of such notice the Contractor shall promptly remove from the Site all Contractor's Equipment and Temporary Works.

Default of the Employer

Clause	Payment after termination of Employer Default
64.3	If the contract is terminated, the Employer is responsible for payment to the Contractor, including any loss or damage resulting from the termination, as well as any payments specified in Clause 66.7, if applicable.

Default of the Employer

Clause	Prevention of Corruption
65.1	<p>The Contractor, Sub-Contractor, or any person on their behalf may receive commissions, advantages, gifts, gratuities, or bribes from the Employer or Engineer. These actions can lead to termination of employment and payment of any resulting loss or damage. The Employer can deduct these amounts from any monies due to the Contractor or recover them as a debt, as deemed advisable by the Employer.</p>

Settlement of Disputes

Clause	Settlement of Dispute
67.1	<p>If a dispute arises between the Employer and the Contractor regarding the Contract or Works, including any disagreement with the Engineer's decision, the Engineer will settle the matter, notifying the Employer and Contractor. The Contractor will continue with the Works unless the Contract is abandoned, and the Engineer's decision will be final and binding. The decision may be revised through mediation or arbitration if required by either party.</p>

Mediation

Date	Reference (if applicable)
67.2	If stated to be applicable in the Appendix to Tender Clause 67.2 as set out in the Part 2 Conditions shall apply and shall be incorporated in the Contract.

Arbitration

Clause	Arbitration
67.3	<p>If an Engineer fails to provide a decision within three months, or if the Employer or Contractor is dissatisfied, they can request arbitration within three months. The Arbitration Committee, consisting of three members, will be formed by the Employer and Contractor. If one party fails to appoint a member within 15 days, the H.E. Minister of Justice of the Kingdom of Bahrain will appoint one. The third member, the Chairman, will be appointed by agreement between the other two members.</p>

Arbitration

Clause	Arbitration
67.4	<p>The Arbitration Committee has the power to review and open up any decision, opinion, direction, certificate, or valuation of the Engineer. Both parties are limited to evidence or agreements provided by the Engineer. The Engineer's decision does not disqualify them from being called as a witness. Arbitration appointments are not made until after the issue of the Taking Over Certificate, unless the Engineer withholds the certificate. The award is final and binding, with costs at the Committee's discretion. The arbitration will take place in Bahrain, conducted in English.</p>



Annex to Condition of Contract

S/NO	Descriptions
Annex 1	Form of Advance Payment Guarantee
Annex 2	Form of Performance Bond
Annex 3	Form of Parent Guarantee
Annex 4	Form of Vesting Certificate
Annex 5	Form of Request by Direct Payment Transfer

Annex to Condition of Contract

S/No.	Descriptions
Annex 6	Form of Retention Bond
Annex 7	Form of Direct Agreement

Contractual Problems

Contractual Problems

Contractual Problem result to:

- Claim
- Delay and Cost

Claims

Claims

What is a Claim

A claim is a written demand or assertion by one of the contracting parties seeking

- (i) payment of a specific sum of money,
- (ii) adjustment or interpretation of contract terms, or
- (iii) other relief arising under or relating to the contract.

Principal Actors to Contractual Problems

S/No.	Parties
1	Employer/Client
2	Consultant
3	Contractor/Subcontractor
4	Other Stake holders

Areas where Construction Claims Arise

Areas Where Construction Claims Arise

S/No.	Basis
1	Poorly drafted Contract example Subcontracting Agreement by the Main Contractor
2	Variations
3	Poor Management
4	Poor Communications

Areas Where Construction Claims Arise

S/No.	Basis
5	Lack of Knowledge on the Required Know how
6	Conflicts between the Teams
7	Delay by the Authority
8	Works become impossible to perform

Areas Where Construction Claims Arise

S/No.	Basis
9	Unreliable Subcontractor
10	Lack of Proper Schedule
11	Availability of Cash Flow
12	Poor Document Management

Areas Where Construction Claims Arise

S/No.	Basis
13	Acceleration
14	Compliance of Laws & Statutory
15	Access to Site/Suspension
16	Non-Payment to Contractor's and Subcontractor's

Areas Where Construction Claims Arise

S/No.	Basis
17	Delay in Supply of Drawings, Materials, Payments, commencement, completion.
18	Due to idle of Machinery, inadequate and incomplete specifications, Bids Information, Ambiguities in the Contract document, interpretation of the contract, Unbalance Bidding, Change not required by the employer, Low quote, financial failure. Poor quality of works.
19	Failure to follow Procedure, Weather condition, Court interference, Due to Accident.
20	Termination of Contract of Employment

Delay

Effect	COC 2009 For Buildg. & E	Basis
Delay	7.1 & 7.2	Further Drawings, Delayed Drawings or Instructions
Delay	26.1, 27.1 & 44.1d	Compliance With Laws
Delay	41.1	Possession of Site & Rights of Access
Delay	2.1, 51 (1-5)	Engineer's Instructions

Delay

Effect	COC 2009 For Buildg. & E	Basis
Delay	10.(1-2) 44.1b	Unforeseeable Ground Conditions
Delay	40.1	Commencement
Delay	44.1f	Delay by the Authorities
Delay	46.1	Progress of Works

Area of Delay

Effect	COC 2009 For Buildg. & E	Basis
Delay	42.1	Consequence of Suspension
Delay	44.1f	Delay by the Authorities
Delay	46.1	Progress of Works
Delay	42.2	Prolonged Suspension



Area of Cost

Effect	COC 2009 For Buildg. & E	Basis
Cost	41.1 & 44.1J	Delay in the Possession / Rights of Access
Cost	5, 7.1, 7.2 & 51(1)	Further Drawings, Engineers and Variation
Cost	10.2, 12.1, 13.1&2	Enforceable Ground Conditions, Adverse Physical Conditions, Bore holes and Exploratory Excavation.
Cost	36.1	Additional Samples



Contractual Problems and Solutions Ministry of Works Contract Conditions 2009

Area of Cost

Effect	COC 2009 For Buildg. & E	Basis
Cost	36.5	Additional Test
Cost	42.1	Prolongation Costs
Cost	42.2	Prolongation Suspension
Cost	64.1a	Delayed Payments

Word of Cautions

	Basis
1	Make Sure the Contract is Well Drafted
2	Legal advice before you enter any Contract
3	Plan your works from on set
4	Lowest bidder is not always the case

Word of Cautions

	Basis
5	Party to the Contract must know their duty
6	The Employer/Client must have a say in the selection of subcontractor
7	Avoid changes
8	Make to have the correct resources / technology

Dispute

A Quote by Woodrow Wilson

“A dispute is a problem to be solved, together, rather than a battle to be won”

The Workshop Slide and Content

Disclaimer: Point to Note:.

“ The workshop slides shall not be used as the basis for any legal argument, claim, or counterclaim against the Ministry of Works and wherever.”

Question Answer



Questions

Answers



شكراً لاستماعكم
Thank you
