

GOVERNMENT OF PAKISTAN  
PORT QASIM AUTHORITY

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# **TENDER AND CONTRACT DOCUMENTS**

## **FOR CONSTRUCTION OF IRON-ORE AND COAL BERTH AND RELATED FACILITIES**

- VOL. I:**
- PART 1 INSTRUCTIONS TO TENDERERS**
  - PART 2 FORM OF TENDER AND APPENDICES**
  - PART 3 GENERAL CONDITIONS OF THE CONTRACT**
  - PART 4 PARTICULAR CONDITIONS OF THE CONTRACT**
  - PART 5 FORM OF CONTRACT AGREEMENT AND APPENDICES**

**DECEMBER 1975**

**JAPAN INTERNATIONAL COOPERATION AGENCY**

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# **TENDER AND CONTRACT DOCUMENTS**

## **FOR CONSTRUCTION OF IRON-ORE AND COAL BERTH AND RELATED FACILITIES**

- VOL. 1:**
- PART 1 INSTRUCTIONS TO TENDERERS**
  - PART 2 FORM OF TENDER AND APPENDICES**
  - PART 3 GENERAL CONDITIONS OF THE  
CONTRACT**
  - PART 4 PARTICULAR CONDITIONS OF THE  
CONTRACT**
  - PART 5 FORM OF CONTRACT AGREEMENT  
AND APPENDICES**

DECEMBER 1975

JAPAN INTERNATIONAL COOPERATION AGENCY

国際協力事業団		
受入 月日	'87. 6. 24	117
		72.8
登録 No.	08697	SD

C O R R I G E N D U M

THESE CONTRACT DOCUMENTS have been prepared on the anticipated availability of a loan from ADB. In case such a loan is not forth-coming from ADB, then the expression 'ADB', wherever occurring in these Documents, may be considered as replaced by the name of the Agency (to be notified later by the PQA) giving the loan for this project.

## TENDER NOTICE

### IRON ORE AND COAL BERTH AND RELATED FACILITIES

1. The PORT QASIM AUTHORITY have received a loan from the Asian Development Bank (ADB) toward the various schemes of the PORT QASIM construction Project including the cost for the Iron Ore and Coal Berth and Related Facilities and it is intended that, among other things, proceeds of this loan will be applied to payments under the CONTRACT.
2. Payments will be made in accordance with the terms and conditions of the Loan Agreement and will be subject, in all respects, to the terms and conditions of that Agreement.
3. The project, Port Qasim, for the Port Qasim Authority, is a new Iron Ore and Coal Berthing facility to be located in the Charo Creek area approximately 30 kilometers upstream from the mouth of Phitti, Creek in Sind Province. When complete, the port is designed to serve 75,000 DWT vessels. Being a new port facility the project encompasses all the various types of work and components required to make such a facility operable. The project being of a complex nature, the PQA has decided to undertake its construction through the following separate contracts:-
  - CONTRACT "A": Iron Ore and Coal Berth, and Related Facilities.
  - CONTRACT "B": Dredging of Navigational Channels.
  - CONTRACT "C": Construction of Navigational Aids including Light House, Leading Lights, Light Beacons and Related Facilities.
  - PROCUREMENT CONTRACTS:  
Procurement of certain Navigational Aids.
4. CONTRACT "A" Iron Ore and Coal Berth and Related facilities consists of the following:-
  - (i) Iron Ore and Coal Berth, and Approach Trestle.
  - (ii) Small Crafts Pier and Approach Passage
  - (iii) Land Reclamation.
  - (iv) Potable and firefighting water distribution system and oil supply lines.
  - (v) Power Supply and Electrical Facilities.
  - (vi) Terminal Building and Gate House.

5. Any and all Contractors, prequalified and formally selected by the PQA for this Tender, from the countries which are members of the ADB, are hereby invited to submit tenders in accordance with the Tender Documents.
6. The Tender Documents are available for a payment of Pak.Rs. \_\_\_\_\_ for 3 sets of Volumes I, II & III alongwith 2 sets of Tender Drawings.
7. The closing time and date for the submission of Tenders shall be \_\_\_\_\_, Pakistan Standard Time \_\_\_\_\_, 1976 and all the Tenders received will be publicly opened at the same time. All inquiries relating to this bid shall be directed to:

- Address: Project Director  
Port Qasim Authority  
5th Floor  
N.S.C. Building  
Moulvi Tamizuddin Khan Road  
Karachi - 2  
Pakistan.
- Telephone: 552071 - 5 Lines
- Cable:
- Office Hours:  
Monday thru. Saturday: 08:00 - 15:00  
Friday: 08:00 - 12:30

PART 1

INSTRUCTIONS TO TENDERERS

1. Pre-Qualification:

- a. Only construction firms pre-qualified by the PQA for this Tender are allowed to submit tenders. However, it is understood, that joint ventures of pre-qualified tenderers with construction firms originally not prequalified will be allowed, subject to prior approval of PQA.
- b. The tenderer shall submit names of at least 3 reputable electrical subcontractors well in advance of submission of tender. One or more firms out of this list will be approved by the ENGINEER and PQA out of which one shall be considered as subcontractor by the tenderer.
  - (1) The approval of any subcontractor by the ENGINEER and PQA shall not relieve the tenderer of his sole responsibility for the due fulfillment of the CONTRACT.

2. Tender Documents

- a. The Tender Documents comprise the following:

VOLUME I

- PART 1 - INSTRUCTIONS TO TENDERERS
- PART 2 - THE FORM OF TENDER and APPENDICES
- PART 3 - GENERAL CONDITIONS OF THE CONTRACT
- PART 4 - PARTICULAR CONDITIONS OF THE CONTRACT
- PART 5 - FORM OF CONTRACT AGREEMENT and APPENDICES

VOLUME II

TECHNICAL SPECIFICATIONS OF THE CONTRACT

VOLUME III

BILL OF QUANTITIES OF THE CONTRACT

VOLUME IV TENDER DRAWINGS

DRAWINGS AS LISTED IN VOLUME II, PART 1, SECTION 11.



PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

- b. Each tenderer shall receive three (3) sets of VOLUMES I, II and III and two (2) sets of the TENDER DRAWINGS
- c. In submitting tender, distribute Tender Documents as follows:
  - (1) To PORT QASIM AUTHORITY - One (1) set of Volumes I, II and III and (1) set Tender Drawings marked by the CONTRACTOR as 'ORIGINAL'
  - (2) To ENGINEER - One (1) set of Volumes I, II and III
  - (3) The remaining set is intended for the tenderers own record
- 3. The tenderer, whether or not he submits a tender, shall treat the details of the documents as private and confidential.
- 4. The tender shall be made in accordance with the Tender Documents and the requirements stipulated therein.
  - a. The tenderer may, additionally, submit alternative proposals for design and execution of the steel pipe piling, as well as for the design and execution of the related facilities. Any alternative proposal must at least be technically equivalent to the solutions presented in the tender design.
  - b. Firms and persons approved by PQA to submit Tenders are under no obligation to do so. At the same time Tenderers will not be reimbursed for any costs of any kind whatsoever incurred in connection with preparation and submissions of their Tenders.
- 5. The PQA does not guarantee the accuracy of the Tender Documents, or any part of them, or any statement made or information given therein, or of the estimated quantities given in the Bill of Quantities, or of any other information supplied by or on behalf of the PQA in respect of the WORKS.
- 6. Examination of Tender Documents and Site
  - a. The Tenderer shall carefully examine the General and Particular Conditions of the CONTRACT, the Technical Specifications of the CONTRACT, the individual Bills of Quantities, the Drawings and all other parts of the Tender Documents.
  - b. The Tenderer should visit and inspect the Site, on his own responsibility and at his own expense, to obtain all the information which may be necessary for the purpose of making a tender.
  - c. The Tenderer must satisfy himself as to the following:
    - (1) Existing facilities in the vicinity of the site

PART I  
INSTRUCTIONS TO TENDERERS

(contd.)

- (2) The nature of the existing roads or other means of communication for access to or egress from the site
  - (3) The available accommodations as regards land for temporary purposes, within or outside the site
  - (4) Existing conditions at the site
7. The Tenderer must make local and independent examination and enquiries as to the physical conditions prevailing at the Site and obtain his own information on all matters and things that may in any way influence him in making a Tender and fixing the rates in the Bill of Quantities. He must also satisfy himself as to the risks, obligations and responsibilities to be undertaken in and according to the CONTRACT to be entered into by him should his Tender be accepted.
8. The Tenderer must enquire and satisfy himself as to the sources of supply, the sufficiency of the means of obtaining and transporting at his cost all plant, materials, labour, fuel, water, electricity and other things required for or in connection with the WORKS. He must consider all other matters and possible contingencies affecting the execution, completion and maintenance of the WORKS.
9. The attention of the Tenderer is drawn to the fact that local regulations require special formalities to be complied with in connection with the ordering, purchasing and importing of materials from outside Pakistan. The importing of certain products obtainable in Pakistan is banned. Tenderer will be deemed to have obtained full information about all such matters and to have allowed in his Tender for all delays, additional costs and financing charges that may arise directly or indirectly therefrom.
10. Any neglect or failure on the part of the Tenderer to obtain reliable information on the spot or elsewhere upon the foregoing or any other matters affecting the execution, completion and maintenance of the WORKS, the rates, total amounts and the CONTRACT, shall not relieve the Tenderer whose Tender is accepted from any risks or liabilities or from the responsibility of completing, handing over and maintaining the WORKS, all as defined in the CONTRACT.
11. The rates and prices set down by the Tenderer against all the items in the Bill of Quantities are to be the full inclusive value of the finished work described thereunder and shall be deemed to include all costs of performing the Works including all taxes and duties, profits and costs of accepting the general risks, liabilities and obligations of every kind set forth or implied in the Contract.

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

12. Amount of CONTRACT

- a. The quantities set out in the Bill of Quantities are estimated only and their accuracy or inaccuracy shall in no way affect the validity of the Tender or of the CONTRACT based thereon. The total amount for the various items set out in the Bill of Quantities at the rates or amounts inserted by the Tender shall be stated in each case, but this figure is required solely for the purpose of facilitating the comparison of the various Tenders received and shall not be deemed to be the actual sum which is to be paid to the CONTRACTOR for the execution of the WORKS. Furthermore, reference is made to Clause 21.h. hereunder or Clause 55 of the General Conditions of the CONTRACT.
- b. The actual sum to be finally paid to the CONTRACTOR will be determined by measuring the work actually done in accordance with the CONTRACT, and valuing it at the rates or amounts inserted by the CONTRACTOR in the individual Bills of Quantities or as otherwise agreed upon under the CONTRACT.

13. The PORT QASIM AUTHORITY have received a loan from the Asian Development Bank (ADB) toward the various schemes of the PORT QASIM construction project including the cost for the construction of the Iron Ore and Coal Berth, Small Crafts Pier and Related Facilities and it is intended that, inter alia, proceeds of this loan will be applied to payments under the CONTRACT.
14. The CONTRACTOR will be required to finance all foreign purchases from the advance payments or from his own Foreign Currency resources. In the latter case, Foreign Currency will be refunded to the CONTRACTOR by the PQA through the monthly Bills and certificates in accordance with sub-clause 3 of Clause 60 of General Conditions of the Contract.
15. The attention of the Tenderer is drawn specially to the clauses in the Conditions of CONTRACT dealing with the arrangements for payment, CONTRACTOR's remuneration, condition of payment, monthly bills, bank guarantees, etc.
16. If the Tenderer does not clearly understand the meaning of any Specification, Drawing or other data, he may, address his enquiry in writing to the PQA. Such questions shall be received not later than 14 days before the date of opening of the Tenders. All explanations and amendments respectively given by the PQA or the ENGINEER shall be sent at the same time to all firms invited to submit Tenders.
17. Tenders must be prepared only on the documents supplied herewith. All entries are to be made in English and clearly in ink.

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

18. Signing Documents

- a. All covers of the bound Tender Documents shall be marked with the Tenderer's name and signed with the full signatures of the authorized persons. All pages and Drawings of the Tender Documents as well as all erasures and/or corrections, if any, are to be initialled by the same representatives.
- b. The Tenderer or his authorized representatives shall sign in full, stamp and date each of the Tender Documents in the spaces for the purpose, as well as all separate documents and drawings which shall be in English and form a supplement to the Tender.

19. No unauthorized alteration may be made in the Form of Tender or the accompanying Tender Documents. Any technical or other comments which are desired to be made, shall not be placed on any of the Tender Documents, but shall take the form of a separate statement, as brief as possible and referenced to items, clauses and pages of the Tender Documents.

20. Tenders must be complete, i.e.:

- a. The individual Bill of Quantities must be fully priced in all items, and totalled as required
- b. All schedules and Appendices of the Tender Documents must be properly filled in, completed and signed as required
- c. All drawings, descriptions, time schedules and data to be additionally supplied by the Tenderer as per Clause 21, must be in English and a copy attached to each Tender copy.

21. The Tenderers must supply with their Tenders:

- a. Written authorization of the assignees and certificate attesting their signatures from the Chamber of Commerce of the country of origin or a similar body.
- b. Contract of establishment of a joint venture, if any, duly notarised and witnessed, clearly stating all conditions e.g. purpose, name and address of the joint venture, name and address of the senior responsible partner and names and addresses of the other partner firms involved, as well as full details on shares, authorized assignees, joint liability and duration of the joint venture agreement.  
International construction firms can submit bids in joint ventures with Pakistani construction firms approved in advance by the PQA, provided the senior responsible partner of the joint venture is stipulated.
- c. Compilation of contractual reservations, if any, in technical and/or financial respects.

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

- d. Information on any Standards, equivalent but other than American or British, foreseen for supply of material and equipment or for the execution of construction works.
  - e. Preliminary time schedules, in outline form, which shall follow the requirements of Clause 14 of the General Conditions of the CONTRACT for time schedules to be submitted after the signing of the CONTRACT.
  - f. Layout on the Site installations foreseen during the different construction phases, including layout of temporary work yard(s).
  - g. Descriptions in outline of the general scheme of operation of individual construction works, such as transport, excavation and backfill, pile driving and boring works, scaffolding, shuttering, concrete works and the like giving full information on expected progress, plant in action etc.
  - h. Description and justification of any special construction method or sequence for the construction or erection of any part of the WORKS alongwith binding statement that all additional supplies and performances required in connection with such special construction methods or sequences have been included in the respective rates filled by the Tenderer in the bills of Quantities.
  - i. Description, drawings and details on the main construction equipment for pile driving, pile boring, lifting equipment and the like.
  - j. Descriptions, drawings and details, as well as preliminary structural calculations on alternative proposals as per Clause 4 hereof, if any, together with binding statements on required material quantities and costs.
  - k. All descriptions and data on construction gear and/or execution of the WORKS are not binding for the PQA. Later changes, if any are necessary because of non-effective and/or non-executable proposals of the CONTRACTOR, will not have any influence on the rates and prices.
22. In order to be considered, each Tender must be accompanied by a Bid Bond in the amount of Pak. Rs. 5,000,000, in US Dollars, Pounds Sterling or other approved Foreign Currency, duly certified by a Scheduled Bank in Pakistan at Karachi, valid for a period of 120 days from the date of opening of the Tender and drawn in favour of the PORT QASIM AUTHORITY. The Bid Bond of the unsuccessful Tenderers will be refunded within five months after the Tender are opened. The Bid Bond of the successful Tenderer will be refunded only after the CONTRACT has been signed and the Performance Bond has been furnished by him as per Clause 10 (2) of the General Conditions of the CONTRACT and Clause 2 of the Particular Conditions of the CONTRACT.

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

23. Each Tender set, original as well as duplicate copies, must comprise the complete Tender Documents, as mentioned under Clause 2 (duplicate set without the Tender Drawings), and two sets of all other documents, descriptions, drawings, details and data required as per these Instructions to Tenderers or in any other part of the Tender Documents. In the event of any variation in the two Tender sets, the original submitted to the PORT QASIM AUTHORITY in Karachi will be taken as correct and binding.

24.. Submission of Tender

- a. The Tender marked as 'ORIGINAL' is to be inserted in double envelope and addressed to:

Port Qasim Authority  
5th Floor  
N.S.C. Building  
Moulvi Tamizuddin Khan Road  
Karachi - 2  
Pakistan

- b. The inner envelope is to bear the name and address of the Tenderer and is to be sealed and inscribed as follows:

"Tender for Construction of Iron Ore and Coal Berth, Small Crafts Pier and Related Facilities."

- c. The ENGINEER's copy of the Tender set is to be addressed to:

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

25. Delivery of Tender:

- a. The 'ORIGINAL' and copy of the Tender set must reach the PORT QASIM AUTHORITY and the ENGINEER respectively before the time and date fixed in the Tender Notice for opening of the Tenders. Tenders received after opening of the bids will be rejected.
- b. The attention of the Tenderer is particularly drawn to the working of customs in the discharge of their duties, where air parcels are frequently opened. In his own interest and in order to preserve the confidential nature of Tender prices, the Tenderers are urged to pay attention to the following:
  - (1) To despatch the completed Tender Documents and any covering letter only by AIR MAIL which should be enclosed and labelled in the manner laid down in the foregoing Clause 24.
  - (2) All Tender and other drawings as well as technical literature and the like, may reasonably be sent off by air parcel or air freight, but since this would then be separate from the actual Tender, each parcel should contain specific evidence identifying the Tender to which the contents refer.

26. Tenders will be opened by the PORT QASIM AUTHORITY, in the presence of the ENGINEER or his authorized representatives and of those Tenderers desiring to attend.

27. Evaluation of Tender

- a. Subsequent to their opening, Tenders will be checked and evaluated by the ENGINEER.
  - (1) The Tender of any Tenderer who has not fully conformed with these Instructions to Tenderers may not be considered and may be rejected.
  - (2) The ENGINEER and PQA reserve the right to adjust arithmetical errors in any Tender. If the ENGINEER or PQA discovers major errors and/or omissions in any Tender, he may require the Tenderer to adjust the same, but in such cases the Tenderer will not be permitted to change any of the basic rates. If any discrepancy is found between the local currency, the foreign currency and the total rate, then the relevant individual local and foreign currency rates will be considered as correct and the total so arrived at will be used in assessing the Tender.

PART 1  
INSTRUCTIONS TO TENDERERS  
(contd.)

28. The PORT QASIM AUTHORITY reserve the right to reject any Tender without giving any reason, or to accept any Tender in whole or in part and do not bind themselves to accept the lowest or any Tender.
29. Promptly after opening of Tenders, the PQA assisted by the Engineer will undertake a detailed study and appraisal of the Tenders submitted. Once the PQA has arrived at a decision regarding the award of the Contract, he will inform the successful Tenderer in writing of his intent to enter into a contract for the performance of the WORKS covered by CONTRACT DOCUMENTS. The successful tenderer will be required to send to Karachi, Pakistan within 14 days of the date of receipt of such Letter of Intent, a representative or representatives with proper powers of attorney for the purpose of accepting the Notice to Proceed and executing a Contract Agreement in the form set out in the Contract Documents with such alterations or additions thereto as may be required to adapt such Agreement to the circumstances of the Tender.



PART 2

THE FORM OF TENDER AND APPENDICES

PART 2

FORM OF TENDER

To  
The Chairman of the Board  
Port Qasim Authority  
PQA Head Office  
Karachi Pakistan

Subject: Port Muhammad-Bin Qasim Project Construction of Iron Ore and  
Coal Berth, Small Crafts Pier, and Related Facilities

(The Appendices "A" through "H" and "J" through "N" form part  
of this Tender. Tenderers are requested to fill in the blank  
spaces in this Form of Tender and in the accompanying Appendices)

Sir:

1. Having inspected the Site and checked all local conditions affecting the WORKS, and having also examined all Tender Documents, including Instructions to Tenderers, General and Particular Conditions of the CONTRACT, Technical Specifications and Bill of Quantities for the construction of the above-named WORKS, we, the undersigned, offer to construct, execute, complete and maintain the whole of the said WORKS, in conformity with the said Tender Documents for the sum of:  
  
Pak. Rs. (in words) .....  
.....  
(in figures Pak. Rs. ....) of which an amount  
equal to Pak. Rs. (in words) .....  
.....  
(in figures Pak. Rs. ....) will be in Foreign Curren-  
cies as agreed upon under the CONTRACT or such other sums as may be  
ascertained in accordance with the said Conditions.
2. We accept all parts of the Tender Documents as valid and binding, also including those parts not countersigned in full by us. This also includes the Appendices to the Form of Tender attached hereto.
3. We acknowledge that we have satisfied ourselves about the Site, ser-  
vices, tidal, subsoil, climatic, traffic and all other conditions in  
Pakistan in general, and at the Site in particular, which influence  
the WORKS, and that we cannot raise any claim for not knowing them,  
or due to any inaccuracy of the Tender Documents or any of them, or  
any statement made therein or any information given in them.

PART 2  
FORM OF TENDER  
(contd.)

4. We undertake to carry out such alterations, additions, or curtailments of the WORKS as may from time to time be determined and ordered in writing, in accordance with the CONTRACT, and generally at the rates and prices entered by us against the comparable items in the Bill of Quantities.
5. The rates and prices which we have entered in the Bill of Quantities and Schedules, and all information and data attached with our Tender are complete and without any hidden technical and/or financial reservations or implications. They have been duly checked, and are correct in every respect.
6. The rates and prices entered in the Bill of Quantities and Schedules are firm. Extra payments in consideration of variations in wage rates, prices of certain basic materials, customs duties, taxes and the like, shall be made as far and to the extent, as specified in the CONTRACT.
7. We intend/do not intend to enter into a joint venture with the following firms:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

In accordance with the attached contract of establishment, every partner of this joint venture is liable to the PORT QASIM AUTHORITY as joint debtor, already at this stage. (Delete whichever is not applicable)

8. We attach herewith a Pay Order/Bank Certified cheque No. .... / Bank Guarantee Bond conforming to APPENDIX "L" to the Form of Tender, amounting to Pak. Rs. Five Million - (Pak. Rs. 5,000,000.) and payable in ..... as Bid Bond, in favor of Port Qasim Authority (delete Certified cheque or Guarantee Bond, whichever is not applicable)

PART 2  
FORM OF TENDER  
(contd.)

9. A certificate attesting the signatures of our authorized representatives is enclosed.
10. We undertake, if our Tender is accepted, to sign the Form of CONTRACT Agreement within 14 calendar days after receiving the Letter of Intent and to complete and deliver the whole of the WORKS comprised in the CONTRACT within 550 calendar days calculated from the signing of the Form of CONTRACT Agreement.
11. We agree to maintain the above WORKS after the issue of certificate of completion for the entire WORKS, for a period of 12 months, or as otherwise provided for in the CONTRACT.
12. If our Tender is accepted we will furnish a Performance Bond as per Appendix "I" to the Form of CONTRACT Agreement as assurance for due performance of the CONTRACT in accordance with Clause 10 of the General Conditions of the CONTRACT and Clause 2 of the Particular Conditions of the CONTRACT.
13. We agree to pay all costs towards the preparation of the CONTRACT Agreement.
14. We further agree to abide by this Tender for a period of 120 days from the date of opening of the Tenders and it shall remain binding upon us for this period.
15. Unless and until a formal Agreement is prepared and signed, this Tender together with your written acceptance thereof, shall constitute a binding CONTRACT between us.
16. We agree that should we withdraw the offer within the aforesaid period and/or fail to sign the formal Form of CONTRACT Agreement and/or to submit the Performance Bond, the PORT QASIM AUTHORITY shall be at liberty at their absolute discretion to appropriate our Bid Bond of Pak. Rs. 5,000,000. payable in ....., either as agreed liquidated damages without any proof whatsoever of the extent of such damages, or on account, reserving to themselves the right to recover from us any further loss or expenses to which they may have been put directly or indirectly by reason of any fault on our part as aforesaid.
17. We understand that you are not bound to accept the lowest or any Tender, you may receive.
18. We certify that this Tender has been prepared without contact or collaboration with other persons or firms, who have also submitted a Tender for these WORKS, and that it is fair in every respect and does not contain any secret or fraudulent arrangements.

PART 2  
FORM OF TENDER  
(contd.)

Dated this ..... day of ..... 1976  
Signature(s) .....  
in the capacity of .....  
duly authorized to sign Tenders for and on behalf of .....  
.....  
(Name of the Tenderer in block capitals)  
Address .....

(Seal of the Tenderer)

In the presence of:

Witness .....  
Address .....  
.....  
Occupation .....

APPENDIX "A" to THE FORM OF TENDER

(to be completed by the Tenderer)

Miscellaneous

<u>Subject</u>	<u>Provision</u>
1. Amount of Bid Bond	Pak. Rs. 5,000,000. payable in .....
2. Amount of Performance Bond	10% of the Price of the CONTRACT at the time of signing the Form of CONTRACT Agreement, payable in US Dollars, Pounds Sterling or other approved Foreign Currencies
3. Sureties for the proposed Performance Bond	1. Name ..... ..... Address ..... ..... .....  2. Name ..... ..... Address ..... ..... .....
4. Minimum amount of Third Party Insurance	Pak. Rs. 2 Million for accidents for injury to persons and Pak. Rs. 1 Million for damages to property in case of each such happening. In both cases number of incidents unlimited
5. Proposed time for completion of WORKS (550 calendar days or less, vide clause 10 of the Form of Tender)	..... (calendar days)

PART 2  
APPENDIX "A"  
(contd.)

<u>Subject</u>	<u>Provision</u>
6. Amount of Liquidated Damages for late completion, for each calendar day or a part thereof, after the completion date for the total WORKS, determined in accordance with the CONTRACT, payable in CONTRACT currencies Proportions as per Clause 47 of the General Conditions of the CONTRACT, and Clause 4 of the Particular Conditions of the CONTRACT.	Pak. Rs. 75,000. per calendar day, up to a maximum of 10% of the final CONTRACT price
7. Period of Maintenance (for further details see Clause 49 of the General Conditions of the CONTRACT) for the total of the WORKS	12 months
8. Minimum Amount of Interim certificate (Refer Clause 60(2) of G.C.C.)	Pak. Rs. 1,000,000
9. Percentage of Retention	In Local and Foreign Currencies each, 10% of the value of Interim Certificates, upto a maximum of 5% of each currency portion of the Price of the CONTRACT at the time of signing the CONTRACT Agreement.
10. Proposed advance payments vide Clause 60 of the General Conditions of the CONTRACT.	Pak. Rs. ....
(1) to be paid in Rupees	Pak. Rs. ....
(2) to be paid in Foreign Currency	Pak. Rs. ....
11. Name of the Foreign Currency	.....
Rate of Exchange as per Clause 12 of the General Conditions of the CONTRACT	100 Pak. Rs. equal to ..... .....

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "B" TO THE FORM OF TENDER

(to be filled in by the Tenderer)

CONSTRUCTIONAL PLANT

The following Constructional Plant items will be furnished and maintained by us at the Site for fulfilment of the CONTRACT. We take cognizance of and agree to the fact, that the submission of this list does not in any way relieve us of the obligation to furnish to the satisfaction of the ENGINEER, the entire plant and all other necessary items required for the timely execution and completion of the WORKS.

No. of Units	Description, in- cluding name of manufacturer	Size or capacity	Whether new or used and date of manufacture	Value of each item of equip- ment and rate of deprecia- tion allow- ed	Hire rate for dayworks per item and hour

Contd. ....



PART 2

APPENDIX "B" (contd.)

No. of Units	Description, in- cluding name of manufacturer	Size or capacity	Whether new or used and date of manufacture	Value of each item of equip- ment and rate of deprecia- tion allow- ed	Hire rate for dayworks per item and hour

The above hire rates, payable in local currency, include fuel and consum-  
able stores, overheads charges, profit, maintenance, servicing and all  
other costs, expenses and charges but exclusive of operators and attendants.

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "C" TO THE FORM OF TENDER

(to be filled in by the Tenderer)

CONTRACTOR'S SUPERVISORY SITE STAFF, SKILLED AND UNSKILLED LABOUR  
INCLUDING FOREMEN

The following personnel would comprise the supervisory staff to be assigned by us to the construction Site for fulfilment of the CONTRACT. We take cognizance of and agree to the fact that the submission of this list in no way relieves us of our obligation to provide adequate supervisory staff for the execution and completion of the WORKS to the satisfaction of the ENGINEER.

Serial No.	Designation	No. per 8 hr. Shift	Nationality

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "D" TO THE FORM OF TENDER  
(to be filled in by the Tenderer)

ENGINEERS AND SPECIALIST STAFF

Responsible Engineers and/or Specialists for	Name	Age	Nationality

Biographical data with relevant testimonys and details of experience  
of the above staff are attached to our Tender.

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "L" TO THE FORM OF TENDER

(to be filled in by the Tenderer  
only if he wants to employ Sub-  
Contractors)

SUB-CONTRACTORS

We intend to engage the following firms as sub-contractors experienced in the respective fields as mentioned against their names for executing the WORKS specified below. However, we declare ourselves bound to our Tender, even if any of the firms mentioned below is rejected by the PQA or the ENGINEER, for any reason whatsoever. We understand, and agree that the Approval of any sub-contractor does not relieve us of our sole responsibility for due fulfilment of the CONTRACT.

Serial No.	Name and Address of Intended Sub-Contractors	Type of Work

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "F" TO THE FORM OF TENDER

(to be filled in by the Tenderer)

VARIATIONS IN THE PRICE OF THE CONTRACT

As supplementation to Part 3, General Conditions of the CONTRACT, Clause 52, Paragraphs (2) and (4), we herewith declare ourselves in agreement with the following provision, and bound to the same for the entire period of the CONTRACT:

If the final Price of the CONTRACT (value of all WORKS executed, inclusive of extra items, but excluding "Bonus" and "Liquidated Damages" under clause 47 of contraction of any additional site or general overhead, and profit, contingencies and variations in basic wage rates and specific materials prices referred to in clause 12 of the General Conditions of the CONTRACT, calculated in accordance with the unit prices or lumpsum prices given in the individual Bills of Quantities, or as otherwise agreed or fixed, exceeds or falls below the Tender price calculated on the same basis by more than 15%, because of additions, variations or omissions, then the final Price of the CONTRACT will be considered as increased or decreased in both currencies, through the multiplication of the said price with the applicable factor indicated below.

Final Price of the CONTRACT as a Percentage of the Tendered sum 1)	Factor
50%	
60%	
70%	
80%	
85%	1.000
100%	1.000
115%	1.000
120%	
130%	
140%	
150%	

Signature .....

NAME .....

Date ..... 1976

- 1) Intermediate Percentage will be interpolated on a linear basis

APPENDIX "G" TO THE FORM OF TENDER  
(to be completed by the Tenderer)

DAYWORK SCHEDULE

We understand and agree that for execution of any work on the basis of daywork the written order of the ENGINEER is required.

Labour

Labour hours shall be paid in Pak.Rs. only, in accordance with the following schedule:

Serial No.	Type of Workmen	Rate per hour (Pak. Rs.)

The above hourly rates include the costs for insurance, pay of holidays, etc., supervising and all other unproductive site staff, for the use of small tools (picks, shovels, barrows, trowels, ladders, hand saws, buckets trestles, hammers, chisels and all items of a like nature), head office charges, profit etc., the total of which has been considered by a surcharge of .....% on the basic wages to be paid directly to the workmen.

PART 2

APPENDIX "G" (contd.)

Materials

Materials to be supplied for daywork shall be paid for at the invoiced prices of materials delivered to Site without deduction of any cash discounts not exceeding 2 1/2%, plus surcharge of .....% (in words: ..... percent) for contractor's overhead and profit.

The cost of distributing such materials to the individual points where daywork is in progress shall be payable in addition, provided it has the ENGINEER's Approval.

Plant

Any plant used for daywork shall be charged at the hire rates entered by us in Appendix "B" to the Form of Tender or if not listed therein, at comparable rates.

Plant Hirer's Account

In the event of it being necessary for us, with the ENGINEER's Approval, to employ plant on hire from another contractor, then the addition which we would require to the cost of plant hirer's account (calculated on the basis as stipulated in Appendix "B" and including cash discounts not exceeding 2 1/2%) is ..... % (in words: ..... percent).

Signature .....

NAME .....

Date ..... 1976

PART 2

APPENDIX "H" TO THE FORM OF TENDER

(to be filled in by the Tenderer,  
and is for assessment of Tenders  
only)

SCHEDULE OF BASIC WAGES

We confirm, that the below listed wages (inclusive of surcharges for specialized job conditions, but without social benefits, overtime etc.), to be directly paid to the labourer, have been taken as an initial basis for fixing of the prices given in our Tender:

Serial No.	Type of Workmen	Rs. per hour

We agree that increases incurred in the above listed wage rates during the duration of the CONTRACT will be reimbursed only as far and to the extent as stipulated under Part 3, General Conditions of CONTRACT, Clause 12 (2).

Signature .....

NAME .....

Date ..... 1976



APPENDIX "J" To THE FORM OF TENDER

(to be filled in by the Tenderer)

BASIC MATERIAL PRICES

We confirm, and are ready to submit documentary proof, that the following material prices for delivery free at Site (inclusive of octroi charges) are in accordance with valid Government Notifications and/or binding decisions of government or semi-government authorities, where applicable, and were prevalent exactly one month before the scheduled date of Tender opening, and have been taken as an initial basis for fixing of the prices given in our Tender.

PART 2  
APPENDIX "J" (contd.)

We agree that increases incurred in the above listed prices during the duration of the CONTRACT will be reimbursed only, as far and to the extent as stipulated under Clause 12 (2) of the General Conditions of the CONTRACT. Likewise we agree that decreases in the above listed prices during the duration of the CONTRACT will be reimbursed to the PQA as stipulated under Clause 12(2)(c) of the General Conditions of the CONTRACT.

Signature .....

NAME .....

Date ..... 1976

APPENDIX "K" to THE FORM OF TENDER  
(to be filled in by the Tenderer)

ACCOMPANIMENTS TO OUR TENDER

We have listed below all accompaniments to our Tender, including cover letter, clearly listing any conditions and reservations which may influence the execution of the WORKS and/or the Price of the CONTRACT, all drawings, descriptive matter and other information. We agree that all documents listed below will only become part of the CONTRACT, if expressly agreed upon in the Agreement of CONTRACT or its Annexures.

All accompaniments have been marked clearly with consecutive reference numbers from "K1" onwards.

Accompaniment No.	Title and description giving date and reference of letters and numbers of drawings
K 1  K 2	Cover Letter, dated .....

Contd. ....

PART 2

APPENDIX "K" (contd.)

Accompaniment No.	Title and description giving date and reference of letters and num- bers of drawings

Signature .....

NAME .....

Date ..... 1976

PART 2  
APPENDIX "L" to the  
FORM OF TENDER

B I D B O N D

KNOW ALL MEN BY THESE PRESENTS that we, .....  
..... (hereinafter called the BANK, do  
hereby bind ourselves and our successors, executors and administrators to  
pay to the PORT QASIM AUTHORITY, KARACHI, PAKISTAN, (hereinafter called the  
PQA), on first demand without any question and without reference to .....  
..... (hereinafter called the TENDERER), and without further  
question the sum of Pak. Rs. 5,000,000. (Five Million Pakistani Rupees),  
in .....

WHEREAS the TENDERER has tendered for the construction of an iron ore and  
coal berth, a small crafts pier and all related facilities requiring a  
Bid Bond in Foreign Currency equivalent to an amount of Pak. Rs. 5,000,000.  
- (Five Million Pakistan Rupees) to be deposited with the PORT QASIM AUTHORITY  
and binding the TENDERER to abide by his Tender for a period of .....  
days from the ..... (Date of opening of the Tender).

NOW THE CONDITION OF the above written Bond is such that:

1. Payment of Pak. Rs. 5,000,000 - (Five Million Pakistani Rupees)  
in Foreign Currency, will be made on the first demand of the  
BOARD and without reference to the TENDERER.
2. Its validity for lodgement of claims shall remain in full force and  
effect till ..... (4 months after  
opening of Tender) or till such extended time as the Bank may agree  
from time to time through a letter.

SIGNED SEALED AND DELIVERED

by the said BANK

in the presence of:

THE COMMON SEAL OF THE BANK  
WAS HEREUNTO AFFIXED IN THE  
PRESENCE OF:

APPENDIX "M" TO THE FORM OF TENDER

(to be filled in by the Tenderer)

PREPARATION OF TEMPORARY WORK YARD

The following items of work will be required and furnished by us in establishing our Temporary Work Yard(s). These items include the costs of all structures, components, the assembly of Construction Plants and all other work required to make the Temporary Work Yard(s) complete and operational for the fulfilment of the CONTRACT. We take cognizance of and agree to the fact, that the submission of this list does not in any way relieve us of the obligation to furnish to the satisfaction of the ENGINEER, all other necessary Temporary Work items required for the timely execution and completion of the WORKS. The detailed breakdown of cost of the following items is attached separately.

<u>Serial No.</u>	<u>Items of Work</u>	<u>Costs</u>

PART 2  
APPENDIX "M" (contd.)

Serial No.	Item of Work	Costs

The above items do not include the costs of importation or transportation of any Construction Plant to the Temporary Work Yard(s) or to the Site.

Signature .....

NAME .....

Dated ..... 1976

APPENDIX "N" TO THE FORM OF TENDER

(to be filled in by the Tenderer)

RUPEE EQUIVALENT OF ESTIMATED VALUE OF  
WORK TO BE EXECUTED BY THE CONTRACTOR  
UNDER THE CONTRACT.

Tenderer's estimate of the value of the Work which would be executed by him during each of the periods stated based on his programme of the Works and the Rates in the Bill of Quantities.

Half year	Local Currency Component Rupees	Rupees Equivalent of foreign exchange component(s) in:				Total Equivalent Pak. Rs.
		U.S. dollar	U.K. £			
Total Sum named in Tender						

Signature .....

NAME .....

Dated . . . . . 1976



PART 3

GENERAL CONDITIONS OF THE CONTRACT

### PART 3

#### GENERAL CONDITIONS OF THE CONTRACT

##### 1. DEFINITIONS AND INTERPRETATIONS

(1) In the CONTRACT (see the following for definition of the term "CONTRACT") the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

(a) GOVERNMENT means the Government of the Islamic Republic of Pakistan.

(b) POA means the PORT QASIM AUTHORITY, Pakistan and includes their legal successors. POA is the Employer inviting this Tender.

The Chairman means the Chairman of the POA or such person as may be acting in that capacity.

PQA is represented through the Project Director of PQA head office, Karachi.

(c) ADB means Asian Development Bank 2330 Roxas Boulevard, Pasay City, Philippines.

(d) ENGINEER means

within the scope of this CONTRACT or their successors or other person or persons appointed by the PQA to act in that capacity.

ENGINEER, with the limitations imposed under Clause 2.. further means the Resident Engineer of the aforesaid engineering firm who is approved by the PQA, and, when the functions of the ENGINEER mentioned in the text of the CONTRACT make it obvious, also the assistants and inspectors of the Resident Engineer, provided that such functions are concerned with subordinate supervision and control measures, not legally binding.

(e) CONTRACTOR means the person or persons, firm or company, whose Tender has been accepted by the PQA. The term CONTRACTOR, includes his personal representative, successors and his approved authorised representatives.

PART 3

1. Con't

(f) WORKS means all supplies and performances, which are to be executed by the CONTRACTOR in accordance with the CONTRACT. Insofar as to be understood from the wording of the text, WORKS also means the entirety of all or individual structures, which are to be constructed and maintained within the scope of the CONTRACT.

(g) CONTRACT means the contractual agreement between the PQA and the CONTRACTOR for the execution of the WORKS and includes the following documents:

- the CONTRACT Agreement and its Appendices;
- the Form of Tender and its Appendices, filled out and signed by the CONTRACTOR;
- the Instructions to Tenderers;
- the General Conditions of the CONTRACT;
- the Particular Conditions of the CONTRACT;
- the Technical Specifications;
- the individual Bills of Quantities priced by the CONTRACTOR;
- the Tender Drawings of the ENGINEER;
- the identical correspondence of the PQA or of the ENGINEER with all Tenderers before the opening of the Tender;
- the special correspondence with the CONTRACTOR, inclusive of the cover letter with the Tender, however only, if this is specially mentioned in the CONTRACT Agreement;
- the texts and drawings of the CONTRACTOR, which he has included with his Tender. Insofar as they are only the parts specially named in the CONTRACT Agreement;
- the final Drawings of the ENGINEER and those of the CONTRACTOR approved by the ENGINEER.

(h) "Price of CONTRACT" means the price of the accepted Tender, inclusive of all additions or deductions thereto as may be made under the Provisions of the Contract, but without "Bonus" or "Liquidated Damages" as per Clause 47.

(i) "Constructional Plant" means all appliances or things of whatsoever nature, required for the execution, completion or maintenance of the WORKS or Temporary Works as hereinafter defined, but does not include materials or other things intended to form or forming part of the permanent structures.

(j) "Temporary Works" means all temporary works of every kind, inclusive of the materials therefor, required in or about the execution, completion and maintenance of the structures. It also includes any material becoming part of the permanent structures, and any performances in connection therewith, required and used only due to or in consequence of the construction methods, construction stages, concreting procedures and the like.

1. Con't

(k) 'Drawings' means the ENGINEER's tender drawings and drawings referred to in the Specifications and any modifications of such drawings approved by the ENGINEER and such other drawings as may from time to time be furnished or approved by the ENGINEER.

(l) "Site" means the lands on, under, in or through which the WORKS are to be executed or carried out, as well as all land provided by the PQA for the purposes of the CONTRACT, including Temporary Work Yard, and furthermore, all terrain as may be expressly designated in the CONTRACT as forming part of the Site.

(m) "Approved" means approved in writing including subsequent written confirmation of previous verbal approval. "Approval" means written approval including the aforementioned. Any data, documents or drawings submitted with the Tender are only then deemed as approved, when expressly so fixed in the CONTRACT.

(n) "Foreign Currency" means the currency, which besides the Pakistani currency, represents the foreign currency portion expressed in Pak Rs., which must conform to the regulations of the ADB vide last paragraph of Clause 32, and is named in the Part 2., Form of Tender, APPENDIX "A" to the Form of Tender in Part 2 hereof.

(o) "Settlement of Account Drawings" means the drawings submitted by the CONTRACTOR showing the work done, in support of his bills.

(2) Singular and Plural: Words used only in the singular, also include the Plural, and vice versa where required by the context.

(3) Measurements and Weights: All other weights and other measuring units are based on the metric system, except where specifically indicated in the CONTRACT in which case the American Standard System of Weights and Measures shall apply.

2. DUTIES AND POWERS OF THE ENGINEER

(1) DUTIES: The duties of the ENGINEER are to design the permanent structures, watch and supervise the WORKS and to test and examine any materials to be used or workmanship employed in connection with the CONTRACT.

(2) The ENGINEER is Not Authorized to:

(a) Relieve the CONTRACTOR of any of his duties or obligations under the CONTRACT.

(b) Order any additional work which would result in major delay or major additional payment on the part of the PQA, except as expressly provided in the CONTRACT and approved by PQA.

(c) Order any major changes with regards to the WORKS.

2. Con't

(3) Resident Engineer: The ENGINEER will appoint a Resident Engineer to assist in fulfillment and carrying out of the ENGINEER's duties and responsibilities under the Contract.

(a) Unless written instructions are issued to the contrary by the ENGINEER, the Resident Engineer shall have delegated authority to act in the name of the ENGINEER and with the same duties and limitations as provided herein for the ENGINEER.

(b) Actions and decisions of Resident Engineer shall be as binding upon the CONTRACTOR as if given directly by the ENGINEER.

(c) Failures of Resident Engineer to reject or disapprove any work or materials not in compliance with the Specifications shall not prejudice the power of the ENGINEER to later or thereafter disapprove such work or materials and order the CONTRACTOR to make such corrections as the ENGINEER then deems necessary and appropriate or to order the pulling down, removal or breaking up thereof.

(d) The PQA or the CONTRACTOR may at any time appeal to the ENGINEER in respect of any decision or action taken by Resident Engineer; in which case the ENGINEER will immediately consider and render a decision.

(4) Approval by the ENGINEER of any part of the WORKS does not release the CONTRACTOR from his sole responsibility and liability for the supply of materials, equipment or 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 this 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 agents or employees or any other person performing any of the WORKS.

(5) Emergency Powers of the Resident ENGINEER: Notwithstanding the provisions of sub-clauses (1) to (4) of Clause 2 above if in the opinion of the Resident ENGINEER, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may direct the CONTRACTOR to carry out all such work or to do all such things as may be necessary in the opinion of the Resident ENGINEER to abate or reduce the risk. The CONTRACTOR shall forthwith comply without appeal with any such directions of the Resident ENGINEER. The ENGINEER shall determine the amount (if any) of extra payment to which the CONTRACTOR may be entitled in accordance with the CONTRACT in respect of work done pursuant to the provisions of this sub-clause.

3. ASSIGNMENT

The CONTRACTOR shall not assign the CONTRACT either fully or in part, or any benefit or interest therein or their under except by a charge in favour of the CONTRACTOR's bankers of any monies due or to become due under this CONTRACT, without the prior written Approval of the PQA.

4. SUB-LETTING

(1) The CONTRACTOR shall not sub-let the whole of the WORKS. The CONTRACTOR may sub-let parts of the WORKS only with the prior written Approval of the PQA and of the ENGINEER. If such Approval is granted, the CONTRACTOR is in no case released from any of his liabilities or obligations under the CONTRACT. He remains as fully responsible for the actions, defaults and neglects of any of his sub-contractors, or their representatives, staff or workers, as for the actions, defaults and neglects of his own representatives, staff or workers.

(a) The execution of work through provision of labour on a piece-work basis shall not be deemed to be sub-letting under this clause:

5. EXTENT OF CONTRACT

The CONTRACT comprises the construction, completion and maintenance of the WORKS, and insofar as not otherwise specified in the CONTRACT, the provision of all labour, materials, Constructional Plant, Temporary Works and everything whether of a permanent or temporary nature required in and for such construction, completion and maintenance, so far as the necessity for providing the same is specified in the CONTRACT or can be reasonably inferred from the CONTRACT.

6. DOCUMENTS AND INTERPRETATION OF THE CONTRACT

(1) The applicable language, in which the CONTRACT shall be construed and interpreted is English. The official language for general correspondence, technical information and data, operating instructions, literature, brochures, drawings, Standards regardless of national origin and test data shall also be English.

(a) All markings on equipment, recording devices, name plates and other objects shall also be in legible English. Shipping markings, addresses and marking of individual shipments shall be in printed capital letters and exclusively in English. The CONTRACTOR is obligated to replace any markings on objects in any other language than English, without additional costs for the PQA.

(2) The various documents forming the CONTRACT are to be viewed as mutually explanatory. In the events of any ambiguity or contradiction, which are found in these documents the CONTRACTOR shall immediately bring them to the notice of the ENGINEER. Such ambiguities or contradictions shall be explained and adjusted by the ENGINEER, who shall thereupon issue instructions to the CONTRACTOR directing in which manner the WORKS are to be executed. If in the opinion of the ENGINEER, compliance with any such instructions shall cause the CONTRACTOR costs, which by reason of any such ambiguity or contradiction, the CONTRACTOR did not and had reason not to anticipate, the ENGINEER shall certify an additional reasonable sum with Approval of the PQA to cover these costs.

### PART 3

#### 6. Con't

(3) Interpretation of CONTRACT: The ENGINEER may follow among others the following principles to arrive at the above mentioned decisions: .

(a) The CONTRACTOR assumes all risks without any limitations, which are connected with or result from the supply, and transportation of the Constructional Plant and all material and equipment, before arrival at the Site.

(b) The CONTRACTOR assumes all risks without any limitations having effect on the progress of works at the Site, insofar as not stated otherwise under Clause 44. Interruptions of work by any reason whatsoever do not entitle the CONTRACTOR to additional compensation except as mentioned under Clauses 40 and 44.

(c) With the exclusion of direct damages due to "excepted risks" (see Clause 20 and Clause 65), the CONTRACTOR assumes all other risks for the materials and equipment stored at the Site, for his Constructional Plant, all Temporary Works and for the partially or fully completed structures or parts thereof, namely till the start of the Period of Maintenance (also called "guarantee period" in certain places in this CONTRACT) for such structures or parts thereof.

(d) With the start of the Period of Maintenance for the completed structures or parts thereof, all risks pass over to the PQA, with the exception of those, whose origin lies at a time before the start of the Period of Maintenance (such for example, which result from construction not executed in accordance with the CONTRACT).

#### 7. DRAWINGS

##### (1) Documents Supplied by PQA

(a) The PQA will make available to the CONTRACTOR immediately after conclusion of the CONTRACT Agreement three (3) copies of all drawings and technical documents necessary for the execution of the WORKS.

(b) When additional copies of the drawings and technical documents are required by the CONTRACTOR, such copies will be made by PQA, and the CONTRACTOR shall reimburse PQA separately for the costs of such copies.

(c) The PQA will supply one set of reproducible ozalid or equivalent copy for use of the CONTRACTOR in preparing final as-built drawings.

(d) At the completion of the CONTRACT the CONTRACTOR shall return to PQA all drawings and documents provided under the CONTRACT.

7. Cont.

(2) Documents Supplied By CONTRACTOR: The CONTRACTOR shall himself prepare, subject to the APPROVAL of the ENGINEER, the following documents for the execution of the WORKS when applicable to the CONTRACT.

- (a) Site installation drawings
- (b) Initial, intermediate and final construction programmes and time schedules (see Clause 14)
- (c) Surveying and sounding drawings, and reports on subsoil investigations executed under the CONTRACT as required by the specifications.
- (d) Drawings and calculations for all Temporary Works. This also includes drawings and calculations for any parts of the permanent structures which are fully or partially used as Temporary Works or as a support thereof (vide 1. (j)).
- (e) Structural calculations for temporary construction and erection stages of the permanent structures, inclusive of determination of the strength and stability of already completed structural members, as well as of the stability of excavation embankments, retaining walls and the like, insofar as additional loads occur to them in the course of the execution of construction work.
- (f) Drawings and calculations in connection with any alternative proposal for design and execution of the WORKS, special construction method or sequence for construction or erection of the permanent structures or parts thereof.
- (g) Shop drawings, calculations and specification for all special equipment (e.g. cathodic protection installation, rubber fenders, steel or rubber bearings, electrical and mechanical installations and the like). For special equipment or construction materials, for which the manufacturing firms normally do not supply shop drawings, at least brochures with sketches on basic shape, installation dimensions and the like must be supplied in order to enable the ENGINEER to make an evaluation and to carry out a check.
- (h) Bar bending schedules for concrete works, as well as shop drawings and calculations for structural steel members, considering the customary practices of the manufacturing firms.
- (i) Reports and records on all tests and material tests carried out by the CONTRACTOR or by his suppliers.



(j) The records, reports and the like on definite construction measures to be supplied by the CONTRACTOR in accordance with the other provisions of the CONTRACT.

(k) Drawings of site measurements and of Settlement of Accounts or quantity calculations, lists and the like.

(l) As-built drawings for all WORKS showing all changes undertaken in the course of the construction work.

(m) Brochures and technical literature of all equipment and fixtures which are to be permanently installed in the Works. This data, at least relevant descriptions and salient features, shall be in English.

(n) All instructions (in the form of lists, manuals and the like), which are required by the PQA for proper operation and for expert maintenance and repair of the structures and facilities.

(3) Checking of Documents By CONTRACTOR:

(a) It is presupposed, that the CONTRACTOR has convinced himself of the technical feasibility of his construction methods, already before the submission of the Tender, taking into account all CONTRACT documents. He is obligated to once again thoroughly check all Drawings on the basis of the results of the CONTRACTOR'S local surveying work, with regard to the correctness of all main dimensions and to inform the ENGINEER of corrections considered necessary by him.

(b) The CONTRACTOR must examine all final working drawings of the ENGINEER with regard to the technical feasibility of the respective construction procedures foreseen by the CONTRACTOR, the correctness of the dimensions and on all other aspects, however, limited to those which are of significance for the execution of construction. In this connection, the CONTRACTOR must also use the experience he has gained till then in the execution of the construction and call the attention of the ENGINEER to circumstances, which would make a change in the design and calculation basis necessary in his opinion.

The CONTRACTOR must examine all the relevant documents prepared by the ENGINEER as mentioned above with complete responsibility. Inaccuracies in the dimensions and other data in Drawings so examined and signed by the CONTRACTOR, insofar as they have a negative effect on the execution of construction, are solely at the expense of the CONTRACTOR and do not entitle him to any extra claims.

(4) Checking of CONTRACTOR'S Documents:

(a) All drawings and calculations prepared by the CONTRACTOR are to be submitted to the ENGINEER for checking and Approval. The purpose of such checks is, to assist the CONTRACTOR in the interpretation and use of the Technical Specifications, General and Particular Conditions of the CONTRACT and other provisions of the CONTRACT, so that the possibility of deliveries of sub-standard materials and equipment to the Site is effectively restricted. Insofar as it concerns technical documents on the Temporary Works, construction stages and the like, the checks of the ENGINEER shall

be of help in beside ensuring the required safety during the construction work, the prevention of actions of the CONTRACTOR, likely to endanger or reduce the stability or the quality of the WORKS.

(b) The formal Approval of the ENGINEER is to be understood only in the foregoing sense and shall in no case release the CONTRACTOR from his sole responsibility and liability for the supply or construction of the WORKS and their parts in accordance with the CONTRACT.

(5) Use of Documents:

(a) The execution of construction according to the working drawings of the ENGINEER may be started, when a copy of the respective drawing verified and signed by the CONTRACTOR is available at the Site office of the ENGINEER through which the CONTRACTOR confirms his compliance with sub-clause (3) above.

(b) The manufacture of materials or equipment according to the working and shop drawings of the CONTRACTOR may be started, when a copy of the respective drawings, approved by the ENGINEER through signature is available, or in special cases, when such approval is conveyed in writing or by cable.

(6) The CONTRACTOR'S Submittals:

(a) The CONTRACTOR shall submit three (3) preliminary sets of all documents required under Clause (2) above (except settlement of accounts, survey and as-built drawings). Distribution shall be as follows:

- Two (2) sets to the ENGINEER's Site Office
- One (1) set to the PQA head office,

All such documents shall be marked "Preliminary."

(b) After review and checking the ENGINEER will return one (1) set of documents to the CONTRACTOR.

(c) The CONTRACTOR shall correct or supplement the documents as required by the ENGINEER, after which he shall submit six (6) copies and one (1) reproducible ozalid, or equivalent copy, to ENGINEER for his review. If still not approved by ENGINEER they will again be returned to the CONTRACTOR for corrections, supplementation and resubmittal. If approved, the ENGINEER will mark each document "Approved" and distribute them as follows:

- Retain one (1) copy for his file
- One (1) copy each to the head office of the PQA and to the Site office of the PQA
- Three (3) copies to the CONTRACTOR
- The reproducible copy will be handed over to the CONTRACTOR'S Site office where a file of all such reproducibles shall be kept until the completion of the project at which time they will be submitted to PQA at the same time as the CONTRACTOR submits his as-built drawings.

(7) Survey, Settlement of Account and As-Built Drawings:

(a) The CONTRACTOR shall submit four (4) copies of all drawings for preliminary check by the ENGINEER.

(b) After review the ENGINEER will return one (1) copy to the CONTRACTOR with corrections and supplementations noted.

(c) Survey and Settlement of Account Drawings shall be corrected and seven (7) copies returned to the ENGINEER.

- When approved by ENGINEER, three (3) copies, marked "Approved", will be returned to CONTRACTOR.

- The CONTRACTOR shall submit Three (3) copies of surveys and approved Settlement of Accounts Drawings with his billings which shall then remain in the records of the PQA.

(d) After preliminary check by the ENGINEER of the as-built drawings the CONTRACTOR shall make all corrections and supplementations on the reproducibles supplied by PQA for this purpose and shall submit the said reproducibles to the PQA after the completion of all work when requested by the ENGINEER.

(8) CONTRACTORS Files: One copy each of the aforementioned approved documents shall be filed by the CONTRACTOR at the Site and shall be available at all reasonable times for inspection and use by the PQA, the ENGINEER, as well as by any other person authorized by the ENGINEER in writing.

8. DRAWINGS AND DIRECTIONS DEVIATING FROM TENDER

(1) The ENGINEER is entitled and authorized to also supply Drawings and to give directions with deviations from the Tender Documents issued by the PQA, to the CONTRACTOR, for the purpose of a proper and reasonable execution and maintenance of the WORKS. The CONTRACTOR must carry them out and is bound to them. If not provided otherwise under Clauses 51 and 52 of the CONTRACT, he shall not demand any price corrections therefor.

(2) Any deviations from the Tender Documents issued by PQA, if they are due to or result from the CONTRACTORS's measures/decisions, approved by the ENGINEER, shall not justify any claim, whatsoever.

9. FORM OF CONTRACT AGREEMENT

At the latest, 14 calendar days after receiving the Letter of Intent, the CONTRACTOR must conclude and sign the Form of CONTRACT Agreement with the PQA in accordance with the attached form (vide Part 5), with such modifications as agreed upon and considered necessary.

10. NATIONAL CO-INSURANCE SCHEME AND PERFORMANCE BOND

(1) National Co-Insurance Scheme:

(a) The CONTRACTOR shall cover all risks incurring to him through obtaining and keeping in force insurance from the Pakistan Insurance Corporation under the National Co-Insurance Scheme. PQA will also agree to

10.(1)(a) Cont.

insurance from another Pakistani insurance company selected by the CONTRACTOR, provided a no-objection certificate of the concerned Ministry is obtained by the CONTRACTOR and submitted to PQA.

(b) With this in mind, among others but not limited to, the CONTRACTOR shall obtain and keep in force policies in respect of Performance Bond, Erection All Risks, Contractor's all Risk, Marine, Motor and Workmen's Compensation, which shall refer specially and solely to the CONTRACT, and which shall meet all obligations incurring on the CONTRACTOR within the scope of the CONTRACT for adequate and proper insurance of the WORKS, and fulfill them. This shall include insurance for imported materials and equipments for permanent installation in the WORKS. The CONTRACTOR shall also obtain a guarantee from the insurer that in the event of any loss or damage to the imported items, the relevant payments will be made in Foreign Currency. In case the National Co-Insurance Scheme is not in a position to provide the cover from a Pakistani insurer, or if neither the National Co-Insurance Scheme nor a Pakistani insurer are able to provide a cover in Foreign Currency, only in that event shall such a cover be obtained from foreign insurers. However, the Engineer and PQA reserve the right to check, examine and verify all the circumstances causing the CONTRACTOR to select foreign insurers and the CONTRACTOR is obligated to make available therefor all required information and documents.

(2) Performance Bond:

(a) Within Seven days of the signing of the CONTRACT Agreement, the CONTRACTOR shall deposit a Performance Bond as surety for the proper and conscientious execution of the WORKS. (Refer to Part 4, Particular Conditions of the Contract for the amount of Performance Bond required for this CONTRACT.) This Performance Bond shall be given fully in US Dollars, Pounds Sterling or other approved Foreign Currency, from the Pakistani insurer, or if cover cannot be obtained from them, from a Scheduled Bank in Pakistan selected by the CONTRACTOR in concurrence with the PQA. After completion and formal acceptance of all parts of the WORKS the Performance Bond will be released by the PQA in accordance with the terms in the General Conditions of the CONTRACT. If a Period of Maintenance is required under the CONTRACT the Performance Bond shall remain in effect until the end of said Period of Maintenance but may be reduced to the amounts specified in the Particular Conditions of the CONTRACT.

(b) The Performance Bond is binding, irrespective of variations, changes or time extensions, which are granted or agreed upon. It shall be formulated according to the form prescribed in PART 5, APPENDIX "I" to the form of CONTRACT Agreement and shall contain the statement, that the PQA can complete that portion of the WORKS, which the CONTRACTOR has not commenced or not satisfactorily executed, up to the amount of the Performance Bond, at the expense of the insurer or bank giving the guarantee.

11. SELF-RESPONSIBILITY OF THE CONTRACTOR FOR ALL TECHNICAL BASES OF THE CONTRACT

(1) The structures are adequately dimensioned and stable, but neither the ENGINEER nor the PQA take any responsibility with regard to alternative solutions proposed by the CONTRACTOR, as well as to the execution of the construction work, erection stages and Temporary Works, which responsibility is to be assumed to the full extent by the CONTRACTOR only.

(2) If, during the execution of the construction works, any alternative solution proposed by the CONTRACTOR, any construction method or sequence, any part of the Temporary Works or any item of the Constructional Plant selected by the CONTRACTOR, proves to be unsuitable or ineffective in the opinion of the ENGINEER, then the CONTRACTOR has to adjust, improve, change or substitute any such arrangement at his own expense. Thereby, the CONTRACTOR shall not be entitled to any claim whatsoever for compliance with the provisions of this Clause, whether any such unsuitable or ineffective construction method, plant or arrangement was proposed by the CONTRACTOR before or after signing of the CONTRACT Agreement, or whether it has been approved by the ENGINEER, or not.

(3) The PQA and the ENGINEER do not guarantee or warrant in any way the correctness of any data on the subsoil, or that the material to be found in the excavations or encountered during pile driving and/or pile boring works will be similar in nature to that of any samples which may have been exhibited or indicated on the Drawings or any other CONTRACT Documents or to material obtained from borings or trial holes. The CONTRACTOR shall be deemed to have made local and independent inquiries as to and shall take the whole risk of the nature of the subsoil or material to be excavated or penetrated, and the CONTRACTOR shall not be entitled to receive extra or additional payment nor to retire from the CONTRACT nor to be relieved of any of his obligations thereunder by reason of the nature of such subsoil or material being other than that indicated on the Drawings or in any other CONTRACT Documents or by any samples exhibited or deduced from the information provided by borings or trial holes.

12. SUFFICIENCY OF THE TENDER, UNIT PRICES, BASIC RATE OF EXCHANGE AND CURRENCY CLAUSE

(1) It is presupposed, that the CONTRACTOR has satisfied himself before submitting his Tender, as to the correctness and sufficiency of his Tender for the WORKS and of the rates and prices given in the individual Bills of Quantities and that the rates and prices cover all his obligations from the CONTRACT and all matters and things, which are necessary for the proper execution and maintenance of the WORKS.

(2) All Prices and unit rates in the CONTRACT are fixed and unchangeable. Additional payments, if due, will only be made insofar as especially provided below.

(a) The Tender prices shall be based on the rates of materials, duties, taxes, royalties, octroi charges, etc., and be in conformity with the laws, rules and regulations etc. of the Government of Pakistan, applicable and/or in force on the date, exactly one month before the scheduled date of Tender opening. Should there be any change in the above, whereby the CONTRACTOR's costs for executing the WORKS are increased, PQA shall reimburse to him such increases in cost only for the specific items listed below. For all other items, the Tender prices and unit rates shall be deemed to have already included the required surcharges for absorbing any possible cost increases in supplies, performances and appertaining services.

(i) import duties, sales-tax and applicable surcharges on goods directly imported and used in the WORKS by the CONTRACTOR, also if imported in the name of PQA, and for re-export of Constructional Plant and equipment, provided changes are due to legislation or Government Notification.

12.(2)(a) Cont.

(ii) octroi charges for reinforcing steel actually used in the Work, provided changes are due to KMC notifications.

(iii) reinforcing steel bars and cement actually used in the Works, provided changes are due to Government Notifications.

(iv) Social benefits to labour working at Site only, provided changes are due to legislation or Government Notification.

(b) All wages shall be deemed to be fixed wages for the whole duration of the CONTRACT. However, wages, as applicable to workmen working at Site will only be deemed as fixed for a period of 9 months from the date of issue of the Letter of Intent. Any increase in such wages after this period established through conventions with the labour unions, negotiated and settled in accordance with the labour laws and sanctioned by the Government Labour Welfare Authorities and/or labour courts will be shared equally by the PQA and the CONTRACTOR.

(c) In the event, that any changes specified in the foregoing, result in reduction in cost for the above mentioned items, the CONTRACTOR shall correspondingly reimburse the PQA for such savings.

(3) The Unit Rates, beside the basic costs such as for providing material and gear, for wages and salaries for workers and other personnel etc., also include all incidental costs and incidental performances, which are necessary for a proper execution of the WORKS in concurrence with the CONTRACT. Accordingly contained in the submitted unit rates are also the costs for:

(a) The provision, installation, operation and maintenance of the total Site installations, work and transportation gear, machines, scaffolding, shutterings and all other Temporary Works as defined under Clause 1 (j), construction offices, lodgings and material sheds etc., required for the WORKS, inclusive of all costs for the provision, operation and maintenance of workshops, working areas, sheds, storage rooms and areas, approaches to the Site and the like. Further included, are the costs for all working and storage areas and yards used by the CONTRACTOR, insofar as they have not been made available by the PQA.

(b) provision, and proper and safe storage of an adequate number of spare plant and spare parts, as well as of suitable materials for the manufacture of spare parts, and for repair to machines and plant.

(c) the required fuels, greases, coal, electric power, oxygen, acetylene, compressed air, water etc. (electric power and tap water may be made available by the PQA subject to quantity demanded being available on payment by the CONTRACTOR).

(d) separation allowances and travel allowances, for hotel, flight and other travel costs, for permanent or temporary accommodation for the key, skilled and other personnel, for vacation monies, overtime, additional salaries and all other relevant compensations; also the costs for medical attention, hospitalisation, health and accident insurance and other such costs.

(e) additional costs for a two or three shift operation of personnel and Constructional Plant as well as for Sunday and holiday work, if necessary.

(f) the required accident prevention facilities and safety devices.

(g) the entire illumination facilities for the Site; alongwith the provision, maintenance and shifting of warning lights, danger signals and fences, as well as the placing of guards for protecting and securing all Temporary Works, facilities, equipment, materials stores on the Site and structures under construction.

(h) the required means of communication, such as telephones, etc.

(i) the procuring of regular information from the storm warning services.

(j) the preparation of the time schedules, programmes for construction and mobilisation of plant and labour, of drawings for the Site installations and all Temporary Works as well as of all otherwise necessary drawings, plans, sketches, lists, tables, calculations and the like, insofar as such are to be prepared pursuant to the CONTRACT, inclusive of the costs for the supply of prints                      other copies.

(k) the responsible checking of the ENGINEER's Tender and working drawings as prescribed under Clause 7.(3).

(l) the supply of additional prints of all final design or working drawings, and other data, insofar as the PQA does not supply them without charge (vide Clause 7.).

(m) all post, air-mail, air freight and other freight charges, as well as the costs for telephone calls, telegrams and telex.

(n) the insurances for covering all risks incurring to the CONTRACTOR, to the extent such risks have been accepted by insurers.

(o) Preparing the CONTRACT Agreement, furnishing the Bid and the Performance Bonds, as well as bank guarantees for advance payments effected by the PQA and the interest costs for withheld amounts of bills, if any.

(p) any taxes within or beyond the jurisdiction of the GOVERNMENT, port fees, customs duties, octroi charges, terminal charges and all other taxes leviable to the CONTRACTOR.

(q) royalty and patent fees, licences, liability claims of third parties and the like in connection with the WORKS.

(r) all surveying and sounding work, as well as for any subsoil investigations and diving operations, if not paid for separately under the CONTRACT.

(s) the expenses for protection and curing of the concrete.

(t) the execution of all contractually agreed upon, field and shop tests and laboratory investigations at factories on the Site and at other localities, inclusive of supplying of all pertinent certificates.

(u) Provision, operation and maintenance of means of transportation and plant, such as boats, ladders, walkways etc., which are necessary for the inspection, checking and acceptance of the performance under the CONTRACT by the PQA and the ENGINEER, inclusive of the Costs for the provision of personnel required therefor.

(v) protection of all fully or partially completed facilities and/or structures, for the safe transition of respective construction stages, safeguard against construction risks, as well as for any additional supplies and performances required as per Clause 1.(j).

(w) all extra expenses for any work difficulties and work interruptions except those mentioned under Clauses 40 and 44.

(x) any unforeseen additional supplies and performances, construction measures, repairs etc., falling under the CONTRACTOR's risks, as far as not covered under the insurances (vide paragraph (n) above).

(y) all material price, transportation cost and wage increases, if not paid for separately under sub-clause (2), and therefore falling under the CONTRACTOR's risks, whether covered under the insurances (vide paragraph (n)), above, or not.

(z) the CONTRACTOR's own prefinancing, as well as for all other special supplies and performances, measures and installations, which are not specially listed here or elsewhere in the CONTRACT, but which in the opinion of the ENGINEER are necessary for proper and complete execution of the WORKS, and which can be fairly demanded from the CONTRACTOR.

(4) The Official Rate of exchange of Pak.Rs. in terms of various Foreign Currencies fixed by the State Bank of Pakistan on the date exactly one month before the scheduled date of Tender opening, will be treated as the fixed rate of exchange for purposes of payments as approved by the ENGINEER under this CONTRACT throughout the entire duration of the CONTRACT, irrespective of either the revaluation/devaluation of Pak.Rs. or any Foreign Currencies concerned under the CONTRACT.

### 13. WORK TO THE SATISFACTION OF THE ENGINEER

(1) The CONTRACTOR shall execute, complete and maintain the WORK in strict accordance with the CONTRACT to the satisfaction of the ENGINEER. He shall comply with and adhere strictly to the ENGINEER's instructions and directions on any matter, whether mentioned in the CONTRACT or not, touching or concerning the WORKS, whereby however, the sole responsibility of the CONTRACTOR for sound and safe execution of the WORKS will in no way be restricted. If the CONTRACTOR does not concur with any of the ENGINEER's instructions, he must object in writing within 3 days after receipt of such instructions, giving well founded and detailed reasons therefor.

(2) The CONTRACTOR shall take instructions and directions only from the ENGINEER.



14. TIME SCHEDULES AND CONSTRUCTION PROGRAMMES

(1) Within 30 calendar days after the signing of the CONTRACT Agreement, the CONTRACTOR shall submit detailed time schedules, construction programmes, material procurement and labour employment schedules for the WORKS, to the ENGINEER for checking and Approval. The latter will accord his Approval in concurrence with PQA.

(2) The CONTRACTOR will submit the following time schedules:

(a) The first time schedule shall show the general planned progress of the entire WORKS commencing with the Site installation and ending with the Site clearance after completion of the WORKS.

(b) The second time schedule shall show the dates of the various stages of the entire WORKS, also indicating the delivery dates of the required construction materials.

(c) The third time schedule, which shall refer only to all permanently installed equipment, must contain the data for placing of orders, manufacture, shipping, arrival and installation of the equipment at the Site.

(3) Those Time Schedules which the CONTRACTOR has already submitted in outline form with his Tender are flexible, but binding insofar as the important and key dates in accordance with the General Time Schedule of the Tender Documents are concerned.

(4) All Time Schedules are to be adjusted from time to time according to the actual progress of the WORKS with the definite condition that the final contractual completion date will remain unchanged unless extension of time is approved in accordance with the CONTRACT.

(5) Likewise the CONTRACTOR will submit comprehensive construction programmes, material procurement and labour employment schedules based on his Tender to the ENGINEER. These documents will also be reviewed and adjusted from time to time as per the progress of the WORKS. Review and adjustment shall be based on the information contained in the report and data supplied under Clause 35 herein.

(a) The CONTRACTOR shall at any time, whenever required by The ENGINEER furnish for his information particulars, in writing of the CONTRACTOR's arrangements for the carrying out of the WORKS and of the Constructional Plant and Temporary Works which the CONTRACTOR intends to supply, use or construct as the case may be. The submission to and Approval by the ENGINEER of such programmes or the furnishing of such particulars shall not relieve the CONTRACTOR of any of his duties or responsibilities under the CONTRACT.

15. CONTRACTOR'S SUPERINTENDENCE

(1) The CONTRACTOR shall give or provide all necessary superintendence during the execution of the WORKS and as long thereafter as the ENGINEER may consider necessary for the proper fulfilling of the CONTRACTOR's obligations under the CONTRACT. The CONTRACTOR or his competent and authorised agent or representative approved of in writing by the ENGINEER

(which Approval may at any time be withdrawn) is to be constantly on the WORKS and shall give his whole time to the superintendence of the same. The agent may depart from the Site for longer durations only, after notifying the ENGINEER, who will refuse his consent if in his opinion the WORKS at Site require the presence of the agent. The agent can only leave the Karachi area after the prior Approval of the ENGINEER in writing.

(2) If the Approval of the agent shall be withdrawn by the ENGINEER, the CONTRACTOR shall as soon as is practicable (having regard to the requirement of replacing him as hereinafter mentioned) after receiving written notice of such withdrawal remove the agent from the Site forthwith and shall not thereafter employ him again on the Site in any capacity and shall replace him by another agent approved by the ENGINEER.

(3) The authorised agent or representative shall receive on behalf of the CONTRACTOR directions and instructions from the ENGINEER.

#### 16. CONTRACTOR'S EMPLOYEES

(1) The CONTRACTOR shall provide and employ on the Site in connection with the execution and maintenance of the WORKS:

(a) only such technical assistants as are skilled and experienced in their respective callings and such sub-agents, foremen and leading hands who are competent to give proper supervision to the work they are required to supervise.

(b) the skilled, semi-skilled and unskilled labour, which are necessary for the proper and timely execution and maintenance of the WORKS.

(c) only such key staff-members, technical assistants, sub-agents, foremen, leading hands, skilled and unskilled workers, who meet the pertinent security regulations of the GOVERNMENT and who have not been discharged by the PQA at an earlier date for good reason.

(2) The CONTRACTOR must employ sufficient competent members of his staff in all categories of the work to ensure that the construction work and the work of repair and maintenance of equipment can be adequately supervised on each shift to the satisfaction of the ENGINEER.

(a) All material tests will be carried out only under the direction and supervision of the supervisory staff of the CONTRACTOR.

(3) Specialists: The ENGINEER has the right to demand if required, at the CONTRACTOR's own cost, the immediate availability at Site of further specialists or experts both local and expatriate to handle complicated problems in the course of the construction work, difficult repairs and the like.

(4) Other Skilled Personnel: The CONTRACTOR must make available highly experienced and reliable concrete, pile boring foremen, and equipment operators specially trained to handle respective equipment, for each shift.

16. (4) Cont.

PART 3

(a) All surface protection or preservation of materials of any kind is to be directed and supervised by a specialist, for whose employment the CONTRACTOR must thoroughly satisfy himself.

(b) The installation of the cathodic corrosion protection and other electrical facilities shall be supervised and/or executed by qualified specialists, acceptable to the ENGINEER.

(c) Welding work should be executed only by certified welders. The CONTRACTOR is therefore obligated when employing such welders to demand pertinent certificates and/or to undertake standard trade tests through his welding engineer, in the presence of the ENGINEER. In case the ENGINEER has any doubts with respect to the qualification of individual welders, he can at any time demand that such tests be repeated.

(5) The PQA and/or the ENGINEER shall be at liberty to object to and require the CONTRACTOR to remove forthwith from the WORKS any person employed by the CONTRACTOR in or about the execution or maintenance of the WORKS who in the opinion of the PQA and/or ENGINEER misconducts himself or is incompetent or negligent in the proper performance of his duties or whose employment is otherwise considered by the ENGINEER or PQA to be undesirable or a security risk and such person shall not be again employed upon the WORKS without the written permission of the ENGINEER. Any person so removed from the WORKS shall be replaced as soon as possible by a competent substitute approved by the ENGINEER.

17. SETTING-OUT

(1) The CONTRACTOR shall be responsible for the true and proper setting-out of the WORKS in relation to original points, lines and levels of reference given by the ENGINEER in writing. Therefore, he must check this basic data given by the ENGINEER and confirm its correctness in writing.

(2) The CONTRACTOR is responsible for the correctness of the position, levels, dimensions and alignment of all parts of the WORKS, as well as for the provision of all necessary instruments, appliances and labour in connection therewith.

(3) If at any time during the progress of the WORKS, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the WORKS, the CONTRACTOR on being required to do so by the ENGINEER, shall at his own expense rectify such error to the satisfaction of the ENGINEER. The checking of any setting-out, or of any line or level by the ENGINEER shall not in any way relieve the CONTRACTOR from his responsibility for the correctness thereof.

(4) The CONTRACTOR shall carefully protect and preserve all bench marks, sight-rails, pegs and other devices used in setting out the WORKS.

18. BORINGS AND OTHER SOIL INVESTIGATIONS

If during the execution of the WORKS, the necessity arises for further soil investigations beyond the scope as per requirements of the Technical Specifications, in the form or extent of borings, soundings and the like, the CONTRACTOR shall execute them or arrange for them to be

18. Cont.

PART 3

executed at his own expense, insofar as such additional work is required for the execution of WORKS but not for the design of the structures, for which PQA is responsible to reimburse the costs.

19. WATCHING, LIGHTING, BUOYS AND SUNKEN PLANT

(1) Watching and Lighting: The CONTRACTOR shall in connection with the WORKS provide and maintain at his own cost all lights, guards, fencing and watching when and where necessary or required by the ENGINEER or by any duly constituted authority for the protection of the WORKS or for the safety and convenience of the public or others.

(2) Providing Buoys: The CONTRACTOR shall provide, lay and maintain such buoys, moorings and fastenings as may be necessary to secure his floating plant, also such mark buoys as may be deemed necessary by the ENGINEER and/or the PQA to warn vessels of the existence of submerged portions of the WORKS. These buoys, moorings and fastenings shall be at the sole risk of the CONTRACTOR and he shall be responsible for any accidents arising therefrom or damage caused thereby or thereto or which may arise through the failure of the moorings or fastenings, the breaking adrift of the buoys or their absence from the positions where they should have been moored. The CONTRACTOR shall bear all costs and charges which may be incurred from time to time in connection with the lifting, moving and relaying of buoys, moorings and fastening during the continuance of the CONTRACT or which may appear necessary or desirable by the ENGINEER and/or the PQA. The CONTRACTOR shall remove and clear away all such buoys, moorings and fastenings when they are no longer required or as instructed by the ENGINEER or before the granting of the Final Certificate of Acceptance.

(3) Removal of Sunken Plant: The CONTRACTOR shall forthwith and with due despatch raise and remove any plant, floating or otherwise, belonging to him or to any of his sub-contractor or to any person employed by him which may be sunk in the course of the construction, completion or maintenance of the WORKS or otherwise deal with the same, as the PQA may direct. Until the same shall be raised and removed the CONTRACTOR shall set all such buoys and display at night such lights and do all such things for the safety of navigation as may be required by the Port Authorities. In the event of the CONTRACTOR not carrying out the obligations imposed upon him by this clause the PQA may buoy and light such sunken plant and raise and remove the same, without prejudice to the rights of the PQA to hold the CONTRACTOR liable, and the CONTRACTOR shall refund to the PQA all costs incurred in connection therewith. The fact that the sunken vessel, craft or plant is insured or has been declared a total loss shall not absolve the CONTRACTOR from his obligation under this clause to raise or remove the same.

20. CARE OF WORKS

(1) From the commencement of the WORKS at the Site till their completion and transfer to the PQA the CONTRACTOR is fully responsible for their care including that of the Temporary Works, even if they should have been executed

by any sub-contractors. If the WORKS at the Site or parts thereof, materials, equipment, Constructional Plant, or the Temporary Works suffer damage, loss or impairment from any cause whatsoever, save and except the excepted risks as defined in sub-clause (2) of this Clause, the CONTRACTOR shall at his own cost repair and make good the same, so that they are in good condition at the completion of the WORKS and in full conformity with the conditions of the CONTRACT and the ENGINEER's instruction. If damage, loss or impairment occur at the site due to an excepted risk, the CONTRACTOR shall, if and to the extent required by the ENGINEER, subject to the provisions of Clause 65 of these Conditions repair and make good the same as aforementioned, at the cost of the PQA.

(a) The CONTRACTOR shall also be liable for any damage to the WORKS caused by him in the course of any operation in the fulfilment of his obligations under Clause 49 of these Conditions.

(2) Excepted Risks: The "excepted risks" are war hostilities, whether war be declared or not, invasion, act of foreign enemies, rebellion, revolution, insurrection and civil war, curfew and national or local general strike, all to be applicable only if occurring in Pakistan and affecting the WORKS at Site, or (otherwise than among the CONTRACTOR's own employees) riot, commotion and disorder when affecting the WORKS at the Site and which may render it physically impossible to enter the Site of construction works by the CONTRACTOR's workmen, or the use or occupation by the PQA of any portion of the WORKS in respect of which a Certificate of Completion has been issued, all of which are herein collectively referred to as "the excepted risks".

## 21. INSURANCE OF THE WORKS, ETC.

(1) Without Limiting the obligations and the liability of the CONTRACTOR under Clause 20 (1) of these Conditions, the CONTRACTOR shall conclude policies in the joint names of the PQA and the CONTRACTOR against all damages and losses arising from any cause, insofar as he is responsible for them under the provisions of this CONTRACT. The insurance policies are to be concluded in such a manner, that the PQA and the CONTRACTOR are covered during the entire period of construction, and in addition, against all losses and damages during the Period of Maintenance, which arise from a cause occurring prior to the beginning of said Period of Maintenance, including the losses or damages which were caused by the CONTRACTOR in the course of the fulfilment of his obligations under Clause 49, namely for

(a) all sea and land transportation, including import of steel pile, for which PQA has effected an advance payment as per Clause 60 on presentation of the shipping documents;

(b) the WORKS and Temporary Works executed or installed from time to time to their full replacement value, in local as well as in foreign currency,

(c) the materials, Constructional Plant and other things brought on to the Site by the CONTRACTOR, to their full replacement value, in local as well as in foreign currency,

21. Cont.

PART 3

(2) These insurances are to be concluded with insurance firms approved by the PQA and registered in Pakistan, and at terms approved by the PQA (vide Clause 10).

(3) Although all expenses for supply, transport, insurance, import duties, taxes and the like for all imported materials, which become a part of the permanent structures, are to be borne by the CONTRACTOR, all insurances shall be arranged in the joint names of PQA and the CONTRACTOR.

(4) The CONTRACTOR shall, whenever required, produce to the ENGINEER, the policies of insurance and the receipts for payment of the current premiums. Provided always that without limiting his obligations and responsibilities as aforesaid, nothing contained in this clause, shall render the CONTRACTOR liable to insure against the necessity for the repair or reconstruction of any work constructed with materials or workmanship not in accordance with the requirements of the CONTRACT.

22. DAMAGE TO PERSONS AND PROPERTY

(1) The CONTRACTOR must indemnify and keep indemnified the PQA and the ENGINEER against all losses and claims for injuries or damage to any person or any property whatsoever, which may arise out of or in consequence of the construction and maintenance of the WORKS and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto.

(2) The CONTRACTOR shall not claim any personal liability for or with regard to any matter or thing which can be made binding hereby for the PQA or the ENGINEER, from either the Chairman or from any member or official of the PQA, nor from the ENGINEER or from any of his staff.

23. THIRD PARTY INSURANCE

(1) Before Commencing the performance of the WORKS, the CONTRACTOR but without limiting his obligations and liabilities under Clause 22 thereof, shall insure with a first-class insurer registered in Pakistan and approved by the PQA (vide Clause 10), against any damage, loss or injury, which may occur to any property, including that of the PQA, or to any person, including any employees of the PQA or the ENGINEER, by or arising out of the execution of the WORKS or Temporary Works or in the carrying out of the CONTRACT.

(2) Such Insurance shall be effected with an insurer and in terms approved by the PQA, and for at least the amounts stated in the Tender Documents. The CONTRACTOR shall whenever required produce to the ENGINEER the policy or policies of insurance and receipts for payment of the current premiums.

24. ACCIDENTS OR INJURIES TO WORKMEN

(1) The PQA and the ENGINEER do not assume any liability for or with regard to legal liability for damages or compensations payable at law as a result of accidents or injuries or epidemic illnesses of workmen or any other person in the service of the CONTRACTOR or of a sub-contractor. The CONTRACTOR shall indemnify and keep indemnified the PQA and the ENGINEER

24.(1) Cont.

against all damages compensations and liabilities of this type as well as against all any claims, demands, proceedings, damages, cost, charges and expenses whatsoever in respect thereof or in relation thereto.

(2) The CONTRACTOR shall insure against such liability with a first-class insurer registered in Pakistan and approved by the PQA (vide Clause 10). The insurance is to be maintained by the CONTRACTOR during the entire duration of the CONTRACT, in which persons are employed by him on the WORKS. He shall when required, produce to the ENGINEER such policy or policies of insurance and the receipts for payment of the current premiums. This insurance of the CONTRACTOR must also include the personnel of all sub-contractors and suppliers, insofar as they work on the Site, so that the PQA and the ENGINEER are also kept indemnified in this respect.

(3) The compliance with the Insurance obligation under sub-clause (2) above in no case releases the CONTRACTOR from the obligation to reasonably safeguard against the accident danger on the Site. The CONTRACTOR shall therefore take all reasonable precautions and adopt all safety measures to guard his personnel who are engaged in the execution of the WORKS, as well as third parties, from accidents and physical injuries, as well as from contagious diseases at the Site. The CONTRACTOR shall take steps to see, that all sources of danger at the Site are watched and secured. He must take care that satisfactory and proper lighting conditions exist at the Site for night work. All storage and working areas and yards are to be kept clean, in order to avoid the danger of diseases and epidemics.

(4) A reasonable number of the CONTRACTOR's employees shall be trained in first aid. First aid kits of the type, model, equipment and number approved by the PQA shall be furnished properly equipped by the CONTRACTOR, at all construction sites and working areas. The CONTRACTOR shall so arrange, that each injured or epidemically ill person is immediately transported to a nearby suitable hospital.

(5) The CONTRACTOR shall immediately make a written report to the ENGINEER on all accidents, which result from or in connection with the execution of the WORKS, regardless of whether such occurrences are taken place on or near the construction Site, and which result in injuries, death or damage to property inclusive of all details and statements of witnesses. In case of serious injuries, death or extensive damage to property, the PQA, as well as the ENGINEER shall be notified of the accident by cable or messenger..

(6) The CONTRACTOR is obligated to make payment to his Pakistani workers, staff, their dependents or heirs for any injuries or death, which may have occurred to them during the employment in or on the execution of the WORKS, in accordance with the provisions of the "WORKMEN'S COMPENSATION ACT 1923" as amended from time to time and other laws in force in Pakistan during the total duration of the CONTRACT.

(7) In case of diseases or plagues of epidemic nature, the CONTRACTOR must observe all rules, regulations or instructions issued by the competent authorities charged with the controls, and must in any case take all measures necessary to prevent the spreading of such diseases or plagues among others employed at the Site.

(8) Nothing under this clause shall be so interpreted, as to mean that the CONTRACTOR is relieved from the complete fulfilment of the applicable governmental or local rules, directives, laws and instructions in this respect.

25. LEGAL REMEDY ON CONTRACTOR'S FAILURE TO INSURE

If the CONTRACTOR shall fail to effect and keep in force the insurances referred to in Clauses 21, 23 and 24 hereof, or any other insurance which he may be required to affect under the terms of the CONTRACT, then and in any such case, the PQA may affect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose, and from time to time deduct the amounts so paid by the PQA as aforesaid from any monies due or which may become due to the CONTRACTOR or recover the same as a debt due from the CONTRACTOR.

26. GIVING OF NOTICES AND PAYMENT OF FEES, TAXES AND DUTIES

(1) Notices and Payment of Fees: The CONTRACTOR shall give all notices and pay all fees required to be given or paid by any national or state statute ordinance or other law or any regulation or bye-law of any local or other duly constituted authority in relation to the execution of the WORKS or of any Temporary Works and by the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the WORKS or any Temporary Works.

(a) The CONTRACTOR shall bear all expenses in connection with the landing and shipment of all plant, materials or other items brought into or despatched from Karachi for the purposes of the CONTRACT, including port dues, pilotage charges etc.

(b) Except for pilotage charges, the PQA will permit the CONTRACTOR's floating plant, craft etc. to use the Port Qasim harbour free of harbour dues during the continuance of the CONTRACT, but from the date of the Final Acceptance Certificate, the CONTRACTOR shall pay all dues, fees and other charges as may from time to time be in force in connection with the use of the harbour, by his floating plant, craft etc.

(2) Payment of Taxes and Duties. Although the PQA shall be named as consignee for all imported materials, which become a part of the permanent structures, the CONTRACTOR is solely responsible for all corporation, taxes personal income taxes and sales taxes, import duties and the like to be paid in Pakistan or elsewhere.

(a) The PQA will deduct 3% advance income tax from any bill payment to be made to the CONTRACTOR as per CONTRACT, in accordance with Rule No. 50, under Sub-section (3BB) of Section 18 of the Income Tax Act 1922 or according to similar such rules enacted by the GOVERNMENT from time to time during the duration of the CONTRACT, and deposit the same in the GOVERNMENT Treasury on the CONTRACTOR's behalf, under information to the CONTRACTOR. The PQA does not assume any liability whatsoever for such taxes and duties incurring on the CONTRACTOR.



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(3) Compliance with Statutes, Regulations, Etc.: The CONTRACTOR shall conform in all respect with the provisions of any statute ordinance or law as aforementioned and the regulation or bye-laws of any local or other duly constituted authority which may be applicable to the WORKS or to any Temporary Works and with such rules and regulations of public bodies and companies. The CONTRACTOR shall keep the PQA indemnified against all penalties and liabilities of every kind, for breach of any such statute, ordinance, law and bye-laws. The PQA will not effect any payment whatsoever to the CONTRACTOR in this connection, as all relevant amounts shall have been included by him in the unit prices at the time of submitting his Tender.

#### 27. ARCHAEOLOGICAL AND GEOLOGICAL DISCOVERIES

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the Site of the WORKS, shall as between the PQA and the CONTRACTOR be deemed to be the absolute property of the PQA. The CONTRACTOR shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such articles or things. He shall immediately upon discovery thereof and before removal, inform the ENGINEER of such discovery and carry out at the expense of the PQA the ENGINEER's order as to the disposal of the same.

#### 28. PATENT RIGHTS AND ROYALTIES

The CONTRACTOR shall save harmless and indemnify the PQA from and against all claims and proceedings for or on account of infringement of any patent rights, design, trade mark or name, or other protected rights in respect of any Constructional Plant, machine work or material used for or in connection with the WORKS and Temporary Works or any of them, and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever, in respect thereof or in relation thereto. The CONTRACTOR shall pay all tonnage and other royalties, rent and other payments or compensation for getting stone, sand, gravel, clay or other materials required for the WORKS or Temporary Works or any of them.

#### 29. INTERFERENCE WITH TRAFFIC AND ADJOINING PROPERTIES

All operations necessary for the execution of the WORKS and for the construction of any Temporary Works shall so far as compliance with the requirements of the CONTRACT permits, be carried on so as not to interfere unnecessarily or improperly with the public convenience or the access to use and occupation of public or private roads and footpaths or to or of properties whether in the possession of the PQA or of any other person. The CONTRACTOR shall save harmless and indemnify the PQA in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters insofar as the CONTRACTOR is responsible therefor.

#### 30. EXTRAORDINARY TRAFFIC

(1) The CONTRACTOR must initiate all measures, in order to prevent any of the highways or bridges communicating with or on the routes to the Site from being damaged or impaired by any traffic of

the CONTRACTOR or any of his sub-contractors and suppliers. He shall in particular select routes, choose and use vehicles and restrict and distribute loads so that any unavoidable overloads from the moving of plant and material from and to the Site shall be limited as far as possible and that no unnecessary damage or impairment may be occasioned to such highways and bridges.

(2) Should it be found necessary for the CONTRACTOR to move one or more loads of Constructional Plant, machinery or pre-constructed units or parts of units of work over part of a highway or bridge, the moving whereof is likely to damage any highway or bridge unless special protection or strengthening is carried out, then the CONTRACTOR shall before moving the load on to such highway or bridge obtain the approval of the competent supervisory authority. At the same time, he shall send to the ENGINEER, for information, a duplicate copy of the documents submitted for approval and his proposals for protection or strengthening the said highway or bridge. When the competent supervisory authority has given its approval and the ENGINEER has received a copy of the said approval notice from the CONTRACTOR, the CONTRACTOR shall execute his proposals, with required changes and supplementations recommended by the ENGINEER. The CONTRACTOR alone bears the full liability and responsibility for such transportation and for the required strengthening work. The cost for all such strengthening work shall be deemed to be covered by the unit rates, so that the CONTRACTOR shall not under any circumstances make any claim on the PQA.

(3) If, during the carrying out of the WORKS or at any time thereafter, the CONTRACTOR shall receive any claim due to damage or impairment of highways or bridges or the like arising out of the execution of the WORKS, he must carry on the relevant negotiations himself and bear all costs and other expenses connected with claims, proceedings, damages, charges and the like.

(4) If during the execution of the WORKS the use of waterborne transport by the CONTRACTOR, may be required, the foregoing provisions of this clause shall be construed as though "highway" is waterway, inclusive of quay walls, pier facilities, moles and other marine structures and the term "vehicle" is inclusive of water craft, and shall have effect accordingly. In such cases the CONTRACTOR shall at all times during the continuance of the CONTRACT comply with all the regulations and rules of the Port Authorities in respect of navigation and shall immediately carry out any orders or instructions of the Port Authorities with regard to berthing or unberthing any of his craft wherever berthed, lying at moorings or anchored within the jurisdiction of the Port and generally he shall conduct his proceedings and operations in such a way as to cause as little inconvenience as possible.

### 31. OPPORTUNITIES FOR OTHER CONTRACTORS

The CONTRACTOR shall in accordance with the instructions of the ENGINEER, afford all reasonable opportunities for carrying out their work to any other contractors employed by the PQA and their workmen and to the workmen of the PQA and of any other duly constituted authorities who may be employed in the execution on or near the Site of any work not included in the CONTRACT or of any contract which the PQA may enter into in connection with or ancillary to the WORKS. If however, the CONTRACTOR shall on the

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written request of the ENGINEER make available to any such other contractor or to the PQA or any such authority any roads or ways for the maintenance of which the CONTRACTOR is responsible, or permit the use by any such of his scaffolding or other plant on the Site, or provide any other service of whatsoever nature for any such, the PQA shall pay to the CONTRACTOR in respect of such use or service such sum or sums as shall in the opinion of the ENGINEER be reasonable.

32. SUPPLY OF CONSTRUCTIONAL PLANT, MATERIALS, STRUCTURAL PARTS AND LABOUR

(1) The CONTRACTOR shall at his own expense, supply and provide all the Constructional Plant, Temporary Works, materials both for temporary and for permanent structures, labour (including the supervision thereof), transport to or from the Site and in and about the WORKS, and other things of every kind required for the construction, completion and maintenance of the WORKS. The CONTRACTOR must select his Constructional Plant according to the technical requirements of the construction work and taking the prescribed constructional completion dates into consideration. The Approval of the ENGINEER for the use of any plant does not in any case relieve the CONTRACTOR of his sole responsibility for suitability, efficiency and condition thereof.

(2) If, during the course of the construction work, the necessity arises in the opinion of the ENGINEER, of replacing approved, but turned out ineffective and/or unsuitable Constructional Plant or of procuring additional plant, the CONTRACTOR is obligated, in accordance with the respective time schedule situation, to carry out at his own expense these measures in the quickest possible, reasonable way, without consideration of the cost incurred thereby Reasonable here means every technically feasible transport by land or shipment by air freight, insofar as air lines carry out the transport on regularly scheduled flights.

(3) The CONTRACTOR must provide sufficient spare parts for his Constructional Plant at the Site. He must furthermore endeavour to make early contacts with qualified local firms, or to so equip and staff his workshop on the Site, that simple temporary or spare parts can be fabricated on the spot. For such cases, the CONTRACTOR must keep on hand sufficient material in standard sizes and qualities, as required. The obligation of the CONTRACTOR fixed in the proceeding paragraph is also applicable for the import of spare parts, which cannot be fabricated or procured either at the Site or in Pakistan.

(4) The CONTRACTOR must note that all plant, equipment or materials, purchased for the WORKS and from the Foreign Currency utilised under the CONTRACT, will only be from member countries of the ADB.

33. SITE ORDERLINESS AND CLEARANCE OF SITE ON COMPLETION

(1) During the execution of the WORKS, the CONTRACTOR must have all waste removed by the persons under his charge at intervals of not more than 48 hours. In case the CONTRACTOR does not remove rubbish, waste etc., within the aforesaid period, the ENGINEER will have it removed by another party and the CONTRACTOR will be charged for such costs.

(2) Adjoining roads, rails and ways should be kept clean and free of obstacles at all times.

(3) On the completion of the WORKS, the CONTRACTOR shall clear away and remove from the Site or from any areas outside the PQA premises used for the WORKS, all Constructional Plant, surplus materials, rubbish and Temporary Works of every kind and leave the whole of the WORKS, the Site and other areas clean and in workmanlike condition to the satisfaction of the ENGINEER. The ENGINEER will not accept the WORKS or any part thereof, if their sites or any other areas outside the PQA's premises used for the WORKS, have not been cleaned to his satisfaction. The ENGINEER shall have the right to withhold a reasonable sum of money due to the CONTRACTOR, till all construction sites and working or storage areas are clean and restored to the original state, and all damages to roads, ways and the property of third parties have been repaired to the full satisfaction of the ENGINEER in concurrence with the PQA.

#### 34. LABOUR AND RELATED CONDITIONS

(1) Engagement of Labour and Conditions: The CONTRACTOR shall make his own arrangements for the engagement of all labour. In respect of the engagement, employment, transport, paying, feeding, housing and working conditions of labour and of all other matters connected therewith, the CONTRACTOR shall at all times during the continuance of the CONTRACT conform in all respects with and carry out all obligations imposed on him by the provisions and requirements of any law and of any Regulations or Orders of any Government (Central/Provincial or Local) or any authority which may be applicable including any such law, regulation or order passed or made or coming into force after the date of the CONTRACTOR's Tender. In particular but without prejudice to the generality of the foregoing provisions, the CONTRACTOR shall conform with and do or refrain from doing anything he may be required to do, or refrain from doing by any legislation or ordinances so far as applicable relating to factories or relating to industrial disputes and any regulations or tenders thereunder.

(2) Foreign Employees: If the CONTRACTOR employs foreigners, he must observe the applicable guiding principles and instructions of the GOVERNMENT. The salary agreements and other arrangements between the CONTRACTOR and his employees shall take place with consideration of the locally applicable regulations and laws.

(3) Local Employees: The CONTRACTOR shall not employ anyone on the Site, who was previously or is an employee of the PQA or the ENGINEER without first obtaining the Approval of the PQA or the ENGINEER respectively.

(4) Other Limitations: Special reference is made to Clause 16 hereto.

(5) International Flights: The Pakistan International Airlines shall be use for international flights by the CONTRACTOR'S personal as well as for transport of goods as far as possible.

(6) Income Tax and Deductions, Visas and Work Permits: The CONTRACTOR is responsible for ensuring that all of the employees pay income tax or any other levies under the laws of the GOVERNMENT. He will also be

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liable for payment of his own corporate, company or the profit taxes and other levies, as required under the local law.

(a) The CONTRACTOR must at his own expense procure work permits from the competent authorities, in order to be able to employ his foreign personnel in Pakistan. The CONTRACTOR is responsible for all formalities in connection with passes, procurment of visas, police registration, work permit and expenditures for customs duties for personal property imposed on the foreign employees engaged on the WORKS. If the CONTRACTOR so requests, the PQA may recommend him to the proper authorities for work permits and other formalities.

(7) Supply of Water And Sanitary Facilities: The CONTRACTOR shall so far as is reasonably practicable, having regard to local conditions, provide on the Site to the satisfaction of the ENGINEER, and adequate supply of drinking and other water and adequate sanitary facilities for the use of his staff and workmen.

(8) Alcoholic Liquor and Drugs: The CONTRACTOR shall not under any circumstances permit on the Site, the giving, bartering, distribution, sale and the use of any alcoholic liquor and drugs. Violators must be immediately expelled from the Site.

(9) Arms and Ammunition: The CONTRACTOR shall not import, give, sell, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind.

(10) Festivals and Religious Customs: The CONTRACTOR shall in all dealings with labour in his employ, have due regard to all recognized festivals, days of rest and religious or other customs.

(11) 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 the purpose of dealing with and overcoming the same.

(12) Disorderly Conduct: The CONTRACTOR shall at all times take all requisite precautions and use his best endeavours to prevent any unlawful riotous or disorderly conduct by or amongst his employees or his sub-contractor's employees and for the preservation of peace and protection of persons and property on or in the neighbourhood of the Site against the same.

(13) CONTRACTOR Responsibility: The CONTRACTOR shall be fully responsible for the observance of the foregoing provisions by his sub-contractors and suppliers.

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#### 35. PROGRESS REPORTS, LABOUR, CONSTRUCTIONAL PLANT AND MATERIALS LISTS

(1) The CONTRACTOR must submit to the ENGINEER, daily progress reports of the WORKS, giving full information about the supervisory staff, the number of labour in different classes and of other personnel employed by the CONTRACTOR at the Site, on Constructional Plant in use, material in stock, and on arrival or essential material and equipment for permanent installation. The reports shall also include detailed specifications of works executed daily, and data on temperatures, rainfall, wind, humidity and information on all other facts and events of importance to the progress of the WORKS, together with reasons for delay, if any.

(2) In a similar manner, the CONTRACTOR shall submit to the ENGINEER, the required number of comprehensive monthly reports in the form specified by the ENGINEER, together with detailed lists showing the percentages of already executed WORKS, materials and equipment in stock and to be expected during the following months, not later than 3 days after the end of every month. In case of delays affecting the maintaining of the scheduled progress of the WORKS, the CONTRACTOR must give detailed reasons and justifications therefor and advance proposals for making up the lost time.

#### 36. MATERIALS AND WORKMANSHIP

(1) All materials, permanent equipment and workmanship must comply with the relevant provisions of the CONTRACT and the instructions of the ENGINEER. They will be subjected to such tests and inspections at all times and in any state of completion as the ENGINEER may direct at the place of manufacture or fabrication or at the Site, or at all or any of such places. The CONTRACTOR shall provide without additional charge such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work or equipment and the quality, weight or quantity of and material used. He shall supply samples of materials before incorporation in the WORKS for testing as may be selected and required by the ENGINEER. Furthermore, the CONTRACTOR must supply at his own cost, as required by the ENGINEER or automatically, when the Specifications so require, to the ENGINEER, and to the PQA for information, adequate brochures and samples of all permanent equipment, small hardware materials, prefabricated parts etc., which are to be incorporated into the WORKS, for the purpose of Approval. Such brochures, samples shall be submitted in due time, at least 20 days before ordering, shipping or installing of the relevant parts or materials as required, in order to permit tests and checks thereon. All permanently installed parts and materials, as well as prefabricated parts used, must be identical with the approved samples. Samples of equipment, small hardware, materials and similar items will be returned to the CONTRACTOR if they were specifically ordered for installation in the WORKS.

(a) All Site and laboratory tests shall be carried out in the presence of the ENGINEER, and if desired from time to time, also in the presence of a representative of the PQA. The ENGINEER is to be informed of such tests in due time, but at least 24 hours in advance.

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(b) Inspections of the WORKS will be undertaken by the ENGINEER and/or by the PQA at their discretion at any time without previous notification to the CONTRACTOR.

(2) CONTRACTORS Responsibility: Factory, shop or Site visits and inspections by the ENGINEER, with or without participation of the PQA do not in any manner release the CONTRACTOR from his obligation to perform first-class work in accordance with the CONTRACT.

(a) In case of faulty materials or unworkmanlike execution, which are ascertained later, the ENGINEER will reject such sub-standard parts of the WORKS. Any replacement parts required to be imported must be brought in to Pakistan by airfreight, at the CONTRACTOR's expense regardless of the amount of such costs.

(3) Cost of Samples: All samples necessary for a proper execution of tests or for examination are to be supplied by the CONTRACTOR at his own expense.

(4) Costs of Tests. The costs of all tests are to be borne by the CONTRACTOR, if such tests are clearly intended from the Specifications or the General Conditions, or if it is self-evident according to general practice. Test loadings at site, of piles or of fully or partially completed structures will be paid for as per the relevant items, if foreseen in the individual Bills of Quantities or as ordered by the ENGINEER.

(5) Costs of Tests not Provided for: If the CONTRACTOR is instructed by the ENGINEER, in concurrence with the PQA, for any reason whatsoever, to carry out tests which bear no direct connection to the WORKS, the costs of these tests, for which special written orders will then be given, are to be borne by the PQA.

(a) If in the opinion of the ENGINEER, independent tests through a neutral party outside the Site or the place of manufacture or fabrication, are required in the interest of the WORKS, the costs of such tests are to be borne by the CONTRACTOR, Should the results of such tests indicate that the works or materials do not meet the provisions of the CONTRACT or the instructions of the ENGINEER; otherwise such tests shall be paid for by the PQA.

37. ACCESS TO SITE

The PQA and the ENGINEER and any person authorised by either of them, shall at all times have access to the WORKS and to the Site and to all workshops and places where work is being prepared or where materials, manufactured articles, or machinery are being obtained for the WORKS. The CONTRACTOR shall afford every facility for and every assistance in or in obtaining the right to such an access.

38. EXAMINATION OF WORK BEFORE COVERING UP

(1) No Work shall be covered up or put out of view without the Approval of the ENGINEER. The CONTRACTOR shall afford full opportunity for the ENGINEER to examine any work or part thereof before covering up and so far as necessary, to measure the same. This is especially valid for foundations, before permanent work is placed thereon. The CONTRACTOR must in any case give the ENGINEER due notice, whenever such works or foundations are ready or about to be ready for examination, and the ENGINEER shall without unreasonable delay, unless he considers it unnecessary and advises the CONTRACTOR accordingly, attend for the purpose of examining and measuring such work or foundation.

(2) Uncovering and Making Openings: The CONTRACTOR shall uncover any structural member or any part or parts of the WORKS or make openings in or through the same as the ENGINEER may from time to time direct and shall reinstate and make good such members, part or parts to the satisfaction of the ENGINEER. If any such member, part or parts have been covered up or put out of view after compliance with the requirements of sub-clause (1) above, and are found to have been executed in accordance with the CONTRACT, the expenses of uncovering, making openings in or through reinstating and making good the same, shall be borne by the PQA, but in any other case, all such expenses shall be borne by the CONTRACTOR, and shall be recoverable from him by the PQA or may be deducted by the PQA from any monies due or which may become due to the CONTRACTOR.

39. REMOVAL OF WORKS AND MATERIALS, WHICH DO NOT COMPLY WITH THE CONTRACT

(1) The ENGINEER shall have the power during the progress of the WORKS, to order in writing from time to time

(a) the removal of any materials or equipment from the Site, within such time as may be specified in the order, when in the opinion of the ENGINEER, they are not in accordance with the CONTRACT;

(b) the substitution of proper and suitable materials (vide Clause 36, sub-clause (2)), and

(c) the removal and proper re-execution (notwithstanding any previous test thereof or interim payment therefor) of any work, which in respect of materials or workmanship is not in the opinion of the ENGINEER in accordance with the CONTRACT.

(2) Any decision of the ENGINEER under sub-Clause (1) above shall be final and conclusive.

(3) Default of CONTRACTOR: In case of default on the part of the CONTRACTOR in carrying out such order the PQA shall be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be borne by the CONTRACTOR and shall be recoverable from him by the PQA or may be deducted by the PQA from any monies due or which may become due to the CONTRACTOR.



40      SUSPENSION OF THE WORKS

(1) The CONTRACTOR shall on the written order of the ENGINEER (hereinafter referred to as Suspension Order) suspend the progress of the WORKS or any part thereof for so long and in such a manner as the ENGINEER, in concurrence with the PQA, considers necessary. He shall also during such a partial or total suspension, secure and protect the WORKS to the extent as required under the CONTRACT.

(a) Any additional claims of the CONTRACTOR are excluded for a period or consecutive periods of suspension amounting in all up to 25 calendar days. This duration is extended to 60 calendar days if suspension of only parts of the WORKS occur, so that the CONTRACTOR through pertinent rearrangements on the remaining part of the WORKS, can continue his work. If the applicable periods are exceeded, the PQA will bear the additional costs, inclusive of all running wages and salaries incurred at Site, depreciation and maintenance of plant, Site on-costs and general overhead costs of the CONTRACTOR during the period or consecutive periods in which the suspension exceeds the aforesaid limits of 25 or 60 calendar days, unless such suspension is

- (i) - otherwise provided for in the CONTRACT, or
- (ii) - necessary for the proper execution of the work for any reason whatsoever or by reason of weather conditions affecting the safety or quality of the WORKS or by some default on the part of the CONTRACTOR, or
- (iii) - necessary for the safety of the WORKS or any part thereof.

(b) A prerequisite for the CONTRACTOR's claim for compensation of additional costs is, that he informs the ENGINEER in writing, within 30 days after receipt of the Suspension Order of the ENGINEER, of his intention to file claims. The ENGINEER will assess and recommend the extra payment (if any) to be made to the CONTRACTOR in respect of any claim, which in the opinion of the ENGINEER is fair and reasonable. The ENGINEER's recommendation would be subject to the consideration and Approval of the PQA.

(c) In case a suspension of the WORKS will result in additional costs for the PQA, the CONTRACTOR is obligated to keep these extra costs as low as possible through pertinent arrangements at the Site. The ENGINEER will not accept any additional claims from the CONTRACTOR, which could have been avoided with reasonable and more practicable arrangements by the CONTRACTOR.

(d) If a particular situation may require, after pertinent consideration by the ENGINEER, in concurrence with the PQA, that a suspension for a part or the whole of the WORK will extend beyond the period or consecutive period of 60 days or 25 calendar days respectively, the ENGINEER shall have the right in concurrence with the PQA, to shorten the WORKS in accordance with Clause 51. The PQA further shall have the right to cancel the CONTRACT in total, or for definite works or parts thereof. The provisions under Clause 65 are valid under such circumstances, as far as applicable.

(2) Suspension Lasting More Than 90 Days: If on any Suspension Order of the ENGINEER, the progress of the whole WORKS shall be suspended for a period or consecutive periods amounting in all to 90

calendar days, or if the ENGINEER having previously issued a Suspension Order for a period which has lasted less than 90 calendar days, shall within less than 90 calendar days from the expiration of that period of suspension issue a further Suspension Order, the CONTRACTOR may serve a written notice on the ENGINEER requiring permission within 28 calendar days from the receipt thereof to proceed with the WORKS or a part thereof. If such permission to proceed is not granted within that time, the CONTRACTOR by a further written notice so served, may elect to treat the suspension where it affects only a part of the WORKS as an omission of such part under Clause 51 of these Conditions, or where it affects the whole WORKS as an abandonment of the CONTRACT by the PQA.

(3) Suspensions of the whole WORKS or parts thereof, provided the latter affect the maintaining of the contractual completion date, shall entitle the CONTRACTOR to claim an extension of the completion date, which extension is to be determined in accordance with Clause 44 and subject to the Approval of the ENGINEER, in concurrence with the PQA.

#### 41. COMMENCEMENT OF THE WORKS

The CONTRACTOR shall commence the WORKS on the Site within 30 calendar days of the signing of CONTRACT Agreement. He must proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by the ENGINEER.

#### 42. POSSESSION OF THE SITE

(1) The respective areas of the Site designated in the Drawings will be handed over to the CONTRACTOR in the determined sequence according to the CONTRACT, and/or in accordance with the CONTRACTOR's proposals for execution of the WORKS as approved by the ENGINEER. The PQA will carry out this handing over each time after receipt of the CONTRACTOR's application approved by the ENGINEER.

(a) At the commencement of the CONTRACT, the CONTRACTOR will be handed over by the PQA an adequately large part of the Site, which takes his requirements into account, enabling him to commence the WORKS and to proceed with the programme referred to in Clause 14. Such part will include suitable and adequate areas for the setting up of storage and working places as well as for the erection of sheds, storage rooms, workshops, labour accommodation, offices etc., and the access to the Site area within the PQA premises, and will be placed at the CONTRACTOR's disposal without charge.

(b) Further areas required by the CONTRACTOR outside the premises of the PQA must be procured by him at his own expense.

(c) The CONTRACTOR shall prepare, improve and maintain at his own expense, all areas placed at his disposal as well as all roads and approaches used by him inside or outside the PQA premises, on the normal standards.

(2) The CONTRACTOR is solely responsible for all damages, which may occur within and outside of the PQA premises due to his own negligence and carelessness or for any other reasons, and he is liable in every case for such damages.

(3) The CONTRACTOR must erect and maintain at his own expense, all necessary first-aid and sanitary facilities, as well as any other buildings necessary for reasonable accommodation of his workers and other persons. All canteens, camps working and storage areas, including the temporary ones, shall be constantly kept in a good and hygienic condition. The PQA reserves the right to check the provision and maintenance of the sanitary facilities by health officials, and if necessary, to have the ENGINEER issue pertinent instructions. The CONTRACTOR shall immediately comply with these instructions without any right to additional compensation.

(4) The CONTRACTOR shall bear all expenses and charges for special or temporary way leaves required by him in connection with access to the Site. The CONTRACTOR shall also provide at his own cost any additional accommodation outside the Site required by him for the purposes of or in connection with the CONTRACT.

#### 43. TIME FOR COMPLETION

(1) Subject to any requirement in the CONTRACT as to the completion of any portion of the WORK before completion of the whole, the WORKS shall, if not otherwise agreed upon under the CONTRACT, be completed within the time stipulated under Part 4, Particular Conditions of the CONTRACT.

(2) The Time(s) stipulated shall be calculated from the day the Form of CONTRACT Agreement is signed.

#### 44. EXTENSION OF TIME FOR COMPLETION

Should the amount of extra or additional work of any kind, or any other special circumstances due to suspension of the WORKS (vide Clause 40) or due to excepted risks (vide Clause 20) be such as fairly to entitle the CONTRACTOR to an extension of time for the completion of the WORKS, the ENGINEER shall determine the amount of such extension. Provided that the ENGINEER is not bound to take into account any extra or additional work or other special circumstances unless the CONTRACTOR has, within 28 days after such work has been commenced or such circumstances have arisen or as soon thereafter as is practicable, delivered to the ENGINEER full and detailed particulars of any claim to extension of time to which he may consider himself entitled, in order that such claim may be investigated at the time. The ENGINEER's Approval for an extension of the completion date does not entitle the CONTRACTOR to any financial claims whatsoever on the PQA, apart from the specially named cases, of longer suspensions of the WORKS referred to under Clause 40 and of excepted risks as defined in Clause 20 (2).

#### 45. NIGHT, SUNDAY AND HOLIDAY WORK

The CONTRACTOR may be permitted to carry out the WORKS also by double or three shift operation, if he has undertaken to provide satisfactory working conditions for this operation at the Site, and has received the Approval of the ENGINEER. Work may only be carried out on Sundays and on holidays, as they come into question for the Karachi area, with special Approval of the ENGINEER and/or the competent authorities, when such work is unavoidable or absolutely necessary for the saving of life

or property or for the safety of the WORKS, or when other extraordinary circumstances so require.

46. RATE OF PROGRESS

The whole of the materials, equipment, plant and labour to be provided by the CONTRACTOR under Clause 5. of these Conditions and the mode, manner and speed of execution and maintenance of the WORKS, are to be of a kind and conducted in a manner to the satisfaction of the ENGINEER. Should the rate of progress of the WORKS or any part thereof be at any time, in the opinion of the ENGINEER, too slow to ensure the completion of the WORKS by the prescribed time or extended time for completion, the ENGINEER shall so notify the CONTRACTOR in writing. The CONTRACTOR shall thereupon make such arrangements, as approved by the ENGINEER, at his own expense, to expedite progress so as to complete the WORKS by the prescribed or extended time for completion. If the work is not being carried on by day and by night, and the CONTRACTOR shall request permission to work by night as well as by day, then, if the ENGINEER shall grant such permission, the CONTRACTOR shall not be entitled to any additional payment for so doing. All work at night shall be carried out without unreasonable noise and disturbance. The CONTRACTOR shall indemnify the PQA from and against any liability for damages on account of noise or other disturbance created while or in carrying out the work, and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability.

47. LIQUIDATED DAMAGES AND BONUS

(1) Amount of Liquidated Damages: If the CONTRACTOR fails to complete the WORKS within the time prescribed in Part 4, Particular Conditions of the Contract, or within the extended times, he shall pay to the PQA as liquidated damages for such default and not as a penalty, the sum(s) of money designated under Part 4, Particular Conditions of the CONTRACT, for every calendar day or part thereof which shall elapse between the prescribed time of completion(s) of the CONTRACT, or the extended time as the case may be, and the actual date(s) of completion:

(a) Said money shall be divided into local and foreign currency according to their proportion established in the Tender.

(b) The PQA may without prejudice to any other method of recovery deduct the amount of such damages from any moneys in its hand due or which may become due to the CONTRACTOR. The payment or deduction of such damages shall not relieve the CONTRACTOR from his obligation to complete the WORKS, or from any other of his obligations and liabilities under the CONTRACT.

(2) Bonus: For every calendar day, or part thereof, by which the CONTRACTOR should complete the WORKS earlier than the date(s) prescribed in Part 4, Particular Conditions of the CONTRACT, or the extended time as the case may be, he shall receive a bonus of the amount(s) designated under Part 4, Particular Conditions of the CONTRACT.

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(a) Said money shall be divided into local and foreign currency according to their proportion established in the Tender.

(b) Any bonus due to the CONTRACTOR shall be paid after the successful and final conclusion of the total WORKS, and with his final invoice.

48. CERTIFICATE OF COMPLETION OF WORKS

As soon as in the opinion of the ENGINEER, the WORKS shall have been substantially completed (vide also Clause 49 (2)), and shall have satisfactorily passed any final test that may be prescribed by the CONTRACT, the ENGINEER shall, on receiving a written undertaking by the CONTRACTOR to finish any outstanding work during the first 28 days of the Period of Maintenance, issue a Certificate of Completion "Final Acceptance Certificate" elsewhere in the CONTRACT) with the concurrence of PQA, in respect of the WORKS. The Period of Maintenance for the WORKS, where applicable, shall commence from the date of such a certificate.

49. PERIOD OF MAINTENANCE AND REPAIRS

(1) Definition: The expression "Period of Maintenance" in these Conditions, shall mean the period of maintenance agreed upon in the CONTRACT, calculated from the date of completion of the WORKS, certified by the ENGINEER in accordance with Clause 48, or in the event of more than one certificate having been issued by the ENGINEER, from the respective dates so certified.

(2) Execution of Repair Work: To the intent that the WORKS shall at, or as soon as practicable after the expiration of the Period of Maintenance, be delivered to the PQA in as good and perfect a condition (fair wear and tear excepted) to the satisfaction of the PQA, as that in which they were at, or 28 days after the commencement of the Period of Maintenance, the CONTRACTOR shall execute all such work of repair, amendment reconstruction, rectification and making good of defects, imperfection, shrinkages or other faults as may be required of the CONTRACTOR in writing by the ENGINEER during the Period of Maintenance or within fourteen days after its expiration, as a result of an inspection made by or on behalf of the PQA prior to its expiration.

(3) Costs: If during the Period of Maintenance, the CONTRACTOR is required for repair or replacement of any defective parts or works, due to workmanship or materials not being in accordance with the CONTRACT or due to neglect or failure on the part of the CONTRACTOR to comply with any obligations expressed or implied on the CONTRACTOR's part. or due to erroneous designs of the CONTRACTOR or his sub-contractors or his suppliers, such performances and pertinent supplies shall be taken over by the CONTRACTOR and all necessary repairs or replacements performed at his own cost and expense, unless such necessity is on account of happenings, for which in the opinion of the PQA the CONTRACTOR is not responsible under the CONTRACT.

49 cont.

(4) CONTRACTORS Failure to Carry out Work: If the CONTRACTOR shall fail to do any such work as aforesaid required by the PQA, the PQA shall be entitled to carry out such work by its own workmen or by other contractors. The PQA shall be entitled to recover from the CONTRACTOR the cost of such work or may deduct the same from any monies due or that may become due to the CONTRACTOR on the basis of the CONTRACT.

50. INVESTIGATION INTO CAUSE OF DEFECTS

If during the execution of the WORKS and also during the Period of Maintenance facts become recognisable which call attention to existing short-comings or defects, or which may cause any future deficiency or damage to the WORKS or any part thereof, the CONTRACTOR shall, if required by the ENGINEER in writing, investigate and determine any source of danger or the cause of any defect, imperfection or fault under the directions of the ENGINEER. The CONTRACTOR will be responsible to pay for all expenses required to carry out such investigations in addition to the costs for rectification of defects, if any, as required under the relevant clauses of the CONTRACT, unless it is established and confirmed in writing by the ENGINEER with concurrence of the PQA that the CONTRACTOR is not liable for such damages or defects under the CONTRACT. In the latter event PQA will reimburse such costs without prejudice to other terms and Conditions of the CONTRACT.

51. ALTERATIONS, ADDITIONS AND OMISSIONS

(1) Variations: The ENGINEER, in concurrence with the PQA can order any variation of the form, quality or quantity of the WORKS or any part thereof, that may in his opinion be necessary. For that purpose, or if it appears desirable to the ENGINEER for any other reason, he shall have the power; in concurrence with the PQA, to issue the following binding directives:

(a) to increase or decrease the quantity of any work included in the CONTRACT;

(b) to omit any such works;

(c) to change the character or quality or kind of any such work;

(d) to change the levels, lines, positions and dimensions of any part of the WORKS and

(e) to execute additional work of any kind, in connection with or ancillary to the WORKS.

(2) The CONTRACT and especially the unit rates are not in any way vitiated or invalidated by the aforesaid variations, but the value (if any) of all such variations shall be taken into account in ascertaining the amount of the final Price of the CONTRACT and the payments of account herefor.

51. Cont.

(3) Orders for Variations: No such variation shall be made by the CONTRACTOR without any order in writing of the ENGINEER hereinafter referred to as Variation Order. However, no order in writing shall be required for increase or decrease in the quantities of any work, where such increase or decrease is not the result of an order under this clause given by the ENGINEER, but is the result of the quantities exceeding or being less than those stated in the individual Bills of Quantities. The CONTRACTOR shall also comply with verbal directives, if the ENGINEER considers it advisable to do so, for any reason. The written confirmation of any such order verbally given by the ENGINEER either before or after carrying out of the order, shall be deemed as a written directive within the meaning of this clause. If the CONTRACTOR shall confirm in writing to the ENGINEER any verbal order of the ENGINEER and such confirmation shall not be contradicted by the ENGINEER within a period of three weeks, after the receipt of such a letter, it shall be deemed to be an order in writing by the ENGINEER.

52. VALUATION OF VARIATIONS, DAYWORK AND CLAIMS

(1) Unit Rates for Extra Work: The ENGINEER with concurrence of the PQA shall determine the amount (if any), which in his opinion should be added to or deducted from the Price of the CONTRACT, in respect of any extra or additional work done or work omitted by a Variation Order. All such work shall be valued at the unit rates set out in the CONTRACT, if in the opinion of the ENGINEER the same shall be applicable. If the CONTRACT shall not contain any unit rates applicable to the extra or additional work, then suitable rates and prices based upon the rates and prices contained in the Bill of Quantities shall be agreed upon between the PQA and the CONTRACTOR.

(a) Power of ENGINEER: In the event of disagreement on rates and prices for Variation Orders, the ENGINEER shall fix such prices as shall in his opinion be reasonable and proper.

(b) BOQ Rates: The rates and prices in the Bill of Quantities except as expressly provided otherwise shall be deemed to consist of procurement, supply and incorporation of materials in the WORKS, including but not limited to the following costs.

(i) - Material cost, i.e. C&F Karachi, if material to be imported.

(ii) - CONTRACTOR's overheads, risk and profit in connection with the supply, as surcharge to material cost as stated above.

(iii) - Insurance, all taxes, import duties and the like

(iv) - All landing, clearance and transport costs in Pakistan, as well as all expenditures for handling, storage and incorporation of the materials into the permanent WORKS at Site, etc., inclusive of all appertaining plant and labour/staff costs, as well as of other Site overheads, risk and profit.

(c) Material Supply: In case any material deviating from the Specifications and the individual Bills of Quantities must be delivered on instruction of the ENGINEER, the CONTRACTOR will be paid for the above cost items as follows, under variation order:

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52.(1)(c) Cont.

(i) - as per actual invoiced prices of materials delivered to Site with the addition of the percentage of surcharge as indicated under surcharge on delivery costs, APPENDIX "G" to the Form of Tender in Part 2, OR

(ii) - as per unit rates for comparable items of the individual Bills of Quantities, or if not existing then as approved by the ENGINEER and agreed upon by PQA.

(2) Adjustment of Price: If the prerequisites under sub-clause (4) hereof have been fulfilled, i.e. if the total amount of omissions or additions relative to the amount of the whole of the WORKS of the CONTRACT shall be such, that in the opinion of the ENGINEER the rates or prices contained in the CONTRACT are by reason of such omissions or additions rendered unreasonable or inapplicable, then an adjustment of the final Price of the CONTRACT without any changes in the unit rates shall be made as per APPENDIX "F" to the Form of Tender, Part 2.

(3) Notifications: A change of the Price of the CONTRACT under sub-clause (1) of this clause or an adjustment of the final Price of the CONTRACT in accordance with sub-clause (2) above shall only then take place, if as soon after the date of issuing of the Variation Order, as is practicable and in the case of extra or additional work, before the commencement of the work or as soon thereafter as is practicable, the following notice shall have been given in writing:

(a) by the CONTRACTOR to the ENGINEER of his intention to claim extra payment or an adjustment of the final Price of the CONTRACT, or

(b) by the ENGINEER to the CONTRACTOR of his intention to issue a variation order as per sub-clause (1), or to adjust the final Price of the CONTRACT in accordance with sub-clause (2) hereof.

(4) Variations Exceeding 15%: Within the meaning of sub-clause (2) above the CONTRACTOR can only claim and PQA shall be entitled to demand an adjustment of the final Price of the CONTRACT, if the provisions as stipulated under APPENDIX "F" to the Form of Tender, Part 2, are fulfilled to such an extent as agreed therein.

(5) Daywork: The ENGINEER may, if in his opinion it is necessary or desirable, order in writing, that any additional or substituted work shall be executed on a daywork basis. The payment to the CONTRACTOR for such work shall then be made according to the conditions for daywork under APPENDIX "G" to the Form of Tender, Part 2.

(a) The CONTRACTOR shall furnish to the ENGINEER, such receipts or other vouchers as may be necessary to prove the amounts paid, and before ordering materials shall submit to the ENGINEER quotations for the same for his Approval.



(b) In respect of all work executed on a daywork basis, the CONTRACTOR shall during the continuance of such work, deliver each day to the ENGINEER an exact list in triplicate of the name, occupation and times of all workmen employed on such work and a statement also in triplicate showing the description and quantity of all materials and plant or tools used thereon or therefor (other than tools which are included in the hourly rates of the daywork schedule under APPENDIX "G" to the Form of Tender Part 2). One copy of each list and statement will, if correct or when agreed, be signed by the ENGINEER and returned to the CONTRACTOR. At the end of each month, the CONTRACTOR shall deliver to the ENGINEER, a priced statement of the labour, material and plant or tools used (except as aforesaid). The CONTRACTOR shall not be entitled to any payment, unless such lists and statements have been fully and punctually rendered and such daywork has been applied to the monthly payments on account in accordance with Paragraph (6). If the ENGINEER shall consider that for any reason, the sending of such list or statement by the CONTRACTOR in accordance with the foregoing provision is impracticable, he shall nevertheless be entitled to authorise payment for such work either as daywork (on being satisfied as to the time employed and plant and materials used on such work), or at such value therefor as shall in his opinion be fair and reasonable.

(6) Claims: The CONTRACTOR shall send to the ENGINEER once a month, an account giving particulars (as full and detailed as possible) of all claims for any additional expense to which the CONTRACTOR may consider himself entitled and of all extra or additional work, inclusive of the daywork ordered by the ENGINEER, which he has executed during the preceeding month. No claim for payment for any such work will be considered, which has not been included in such particulars.

(a) The CONTRACTOR shall not be entitled to demand payment of interest on any claims, for the period before the claim has been approved by the ENGINEER and sanctioned by the PQA.

### 53. PLANT, TEMPORARY WORKS AND MATERIALS

(1) All Constructional Plant, Temporary Works and materials provided by the CONTRACTOR, shall when brought on to the Site, be deemed to be exclusively intended for the construction and completion of the WORKS.

(2) Status of Ownership: All Constructional Plant, Temporary Works, and materials shall when brought on to the Site be deemed to have passed into the possession of the PQA, and the CONTRACTOR may not remove them from the Site either fully or partly, without the written permission of the ENGINEER. The PQA will however, accord the CONTRACTOR the exclusive use of such Constructional Plant, Temporary Works and materials for the construction and completion of the WORKS, provided that the case does not occur, which gives the PQA the right to expel the CONTRACTOR from the Site and to continue with the WORKS itself.

(a) After final dismantling of any such Constructional Plant, Temporary Works or materials for temporary use with the Approval of the

ENGINEER, these shall be deemed to be transferred back to the CONTRACTOR's property again. After completion of the WORKS, the rest of the said Constructional Plant and Temporary Works as well as any unused materials supplied by the CONTRACTOR, will likewise be transferred back to the CONTRACTOR and shall be removed from the Site by him.

(b) Should the CONTRACTOR neglect, after completion of the WORKS, to remove any of the aforesaid Constructional Plant, Temporary Works or unused materials, within a reasonable period approved by the ENGINEER, the PQA may sell the same. It will then, after deduction of the costs, dues and expenditures, pay the CONTRACTOR the balance from the proceeds of the sale (if available).

(3) Liability for Damage: The PQA shall not at any time be liable for the loss or damage to any of the Constructional Plant, Temporary Works or materials available at the Site (except according to Clauses 20 and 65) or when the Constructional Plant, Temporary Works or materials have been outside the Site during such loss or damage.

(4) Customs Clearance: Although the PQA shall be named as consignee for all imported materials, which become a part of the permanent structures, all import formalities, duties and charges for any imported materials, equipment, Constructional Plant and Temporary Works are to be arranged and/or to be paid for by the CONTRACTOR.

(a) The amount of the customs duty will correspond to the rate in force at the time of the import into Pakistan and must be paid in the full amount by the CONTRACTOR at the time. The customs authorities will require a proforma invoice, which contains the costs and freight rates of each shipment, so that the correct import duty can be determined.

(b) The CONTRACTOR must also arrange for all import duty approvals and pay all required incidental customs costs. If the CONTRACTOR requests any assistance from the PQA, the PQA will only give recommendations to the competent authority.

(5) Report On Import Articles: The Contractor shall supply the PQA and the ENGINEER receipts for all articles imported by the CONTRACTOR under the CONTRACT, in order to register each individual shipment received at the Site. Each shipment shall be carefully checked on its arrival at the Site, by the CONTRACTOR in the presence of the ENGINEER.

(6) Unloading and Storage: The CONTRACTOR shall carefully unload at the Site all Constructional Plant, Temporary Works, materials, equipment item etc., and place or stack them in a proper manner in areas approved by the ENGINEER. Everything must be so protected, that damage and inconvenience to others are avoided as much as possible. The storage shall be such, that inspections can be easily carried out. All packing, ship containers, planks, coverings and the like remain or become the property of the CONTRACTOR even those containing plant, equipment or materials to be permanently installed in the Work and are to be removed by him from the site.

(7) Right to Buy: The PQA has the right to receive first preference to buy any or all Constructional Plant, materials etc., likely to be sold by the CONTRACTOR in Pakistan on completion of the WORKS.

(8) RE-Export: The CONTRACTOR shall procure the necessary information himself regarding the regulations for re-export of his Constructional Plant and unused materials, according to which the customs duties paid by the CONTRACTOR may be reimbursed to him to a certain amount by the customs authorities or the competent ministry. The CONTRACTOR shall check all such regulations and convince himself of their applicability. Special approvals, deviating from these regulations, are not possible. The PQA will not undertake any action in this respect, even if requested by the CONTRACTOR.

54. NO TACIT APPROVAL OF MATERIALS, ETC.

The application of Clause 53 does not mean the tacit Approval of the therein mentioned materials etc. by the ENGINEER, and does not exclude the rejection of the materials at any time by the ENGINEER.

55. QUANTITIES STATED IN THE INDIVIDUAL BILLS OF QUANTITIES

The quantities set out in the individual Bills of Quantities are the estimated quantities of the WORKS as per the ENGINEER's Tender Design, but they are not to be taken as the actual and correct quantities of the WORKS to be executed by the CONTRACTOR in fulfillment of their obligations under the CONTRACT and paid by PQA. Quantities of supplies and performances which are not to be paid for separately in accordance with the CONTRACT but which have to be executed as per Specifications and Conditions of CONTRACT, will not be measured, as the costs of such quantities are covered in the CONTRACTOR's unit rate.

56. WORKS TO BE MEASURED

(1) With the restrictions mentioned in Clause 55, the executed quantities will be taken from the approved working, or as-built drawings. If this is not possible by way of exception, the ENGINEER shall ascertain and determine by measurement on the spot, the extent of the work executed under the CONTRACT. He shall, when he requires any part or parts of the WORKS to be measured, give notice to the CONTRACTOR's authorised agent or representative, who shall forthwith attend or send a qualified engineer to assist the ENGINEER in making such measurement and shall furnish all particulars required by either of them. Should the CONTRACTOR not attend or neglect or omit to send such assistant, then the measurement made by the ENGINEER or approved by him, shall be taken to be the correct measurement of the concerned part of the WORKS.

(2) For measuring of such permanent work which is to be determined by records and drawings, the CONTRACTOR must prepare the pertinent settlement of account documents monthly. Field measurements are to be prepared in triplicate at the spot, out of which one copy countersigned by the ENGINEER

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56.(2) Cont.

will be returned to the CONTRACTOR. Within 14 days after receipt of these documents, the ENGINEER will check and approve them, or demand corrections, and then sign the corrected documents after renewed submission and Approval.

57. METHOD OF MEASUREMENT

The WORKS shall be measured net, notwithstanding any general or local custom, except where otherwise specifically described or prescribed in the CONTRACT.

58. PROVISIONAL AND ALTERNATIVE ITEMS, AND ITEMS FOR CONTINGENCIES

(1) Provisional and Alternative Items: Prices and unit rates of provisional or alternative items shall be fixed as all other rates and prices of the CONTRACT. Therefore, all payments in connection with such works will be determined in accordance with the normal provisions of the CONTRACT and will be made against the bills of the CONTRACTOR approved by the ENGINEER, regardless whether such works have been executed by the CONTRACTOR or by any of his sub-contractors.

(a) The provisional and alternative item given in the individual Bills of Quantities shall facilitate determining the most economical and technical solution taking into account the limitation of funds. Therefore the ENGINEER reserves the right to decide on the execution of any such work, in concurrence with the PQA at any time during the duration of the CONTRACT.

(b) Works in accordance with alternative or provisional items shall only be executed by the CONTRACTOR on written instructions of the ENGINEER.

(2) Items for Contingencies: All sums set out in the Bill of Quantities for contingencies shall be used only at the direction and discretion of the ENGINEER. If not used wholly or in part, the amount not used shall not be considered in fixing the final Price of the CONTRACT.

59. SUB-CONTRACTORS

(1) The engagement of any sub-contractors as well as their scope of work and extent of performances as stated in APPENDIX "E" to the Form of Tender, Part 2, requires the Approval of the ENGINEER, which will be accorded only in concurrence with the PQA. The contract, which the CONTRACTOR enters into with a sub-contractor, regarding the respective works or supplies, shall be deemed to contain the same conditions and obligations as placed on the CONTRACTOR by the PQA under the CONTRACT.

(2) The contract, which the CONTRACTOR concludes with any sub-contractor, does not produce any contractual connection of such sub-contractor with the PQA whatsoever.

60. CERTIFICATES AND PAYMENTS

(1) Advance Payment: Should the CONTRACTOR so desire, the PQA will effect certain advance payments to him after the signing of the Form of CONTRACT Agreement, Refer to Particular Conditions of the CONTRACT for percentage of CONTRACT price allowable. According to the request of the CONTRACTOR, these advance payments will be effected partially in Pak.Rs. and partially in Foreign Currency. A prerequisite for these payments is the submission of guarantees in a form approved by PQA from a Scheduled Bank in Pakistan. If and when requested by the PQA the CONTRACTOR shall supply pertinent vouchers, such as Invoices, shipping documents etc., showing that the advance payments are used only for this CONTRACT.

(a) Each guarantee will be returned to the bank, after the respective advance payment has been recovered from the running bills, and thus the advance discharged.

(2) Advance Payment for Steel Pile: The CONTRACTOR may, for the procurement of steel piles, receive from the PQA in addition to the monthly payments, against a proper, special bill supported by shipping documents, an advance payment in Foreign Currency of 50% of the delivery price f.o.b. shipping port. As balance for the remaining delivery price including transportation costs, insurance costs and customs duties, the CONTRACTOR may receive an additional advance in Foreign Currency as well as in Pak.Rs., after said materials have arrived at the Site and been accepted by the ENGINEER, against a further special bill, which must be submitted to the ENGINEER in accordance with sub-clause (3) hereof. The CONTRACTOR shall submit to the PQA, a guarantee, in an approved form, from a Scheduled Bank in Pakistan for the respective payments of such advances as aforesaid above in foreign and local currencies and shall keep this guarantee in force until the advance payments have been fully recovered through deductions as per sub-Clause (3) (f) hereof.

(3) Monthly Payments: The settlement and payment of each supply and/or performance as per the individual Bills of Quantities shall be undertaken only monthly after preliminary acceptance of the pertinent part of the WORKS, provided that the total payable amount of the bill is at least Pak.Rs. 1,000,000 before deduction of Retention Money.

(a) Basically, all monthly payments will be effected only according to the contractually agreed upon unit rates of the individual Bills of Quantities.

(b) The CONTRACTOR shall submit to the ENGINEER after the end of each month four copies each signed by the Contractor of a statement showing the amounts to which he may consider himself to be entitled upto the end of the month. Such statements shall be duly supported by measurement sheets and Settlement of Account Drawings.

When the measurement sheets and Settlement of Account Drawings have been preliminarily approved by the ENGINEER, the CONTRACTOR may prepare draft bills in quadruplicate. The outline form of these bills, in which the portions in Pak.Ps. and in Foreign Currency have to be listed

60.(3)(b) Cont.

separately, in accordance with CONTRACT Currency Proportions mentioned in the Tender has to be approved by the PQA and the ENGINEER, after preliminary checking by the ENGINEER the CONTRACTOR shall resubmit his corrected bills for any part of the WORKS, to the ENGINEER in seven copies, together with the required measurement sheets, drawings and other vouchers. All bills will be finally checked in detail by the ENGINEER and forwarded to the PQA in triplicate as soon as the Certificate of Approval from the ENGINEER is received.

(c) After their own additional check, the PQA will release the bill for payment and will remit the portion in local and foreign currency to the account of the CONTRACTOR.

(d) With the above procedure the portions in Pak.Rs. and foreign currencies of the monthly bills of the CONTRACTOR will be paid to the account of the CONTRACTOR within 4 weeks after submission of such corrected bills to the ENGINEER, provided they are correct and in order. If errors exist in the bills, the process will be correspondingly delayed.

(e) One copy of each bill approved for payment shall be forwarded by the CONTRACTOR to the ADB in the Philippines at the same time for their information.

(f) Monthly payments will be made after deduction of the advance or interim payments, the retention money and the like, as follows:

(i) - Deduction of any advance payment in local and/or Foreign Currency as per sub-clause (1) of this clause, at 20% of the respective total amounts of the running bill in each currency, or, if the advance in one currency is already repaid, of the total amount of the other currencies of the monthly bill. Such deduction will be continued till all advances both in local and Foreign Currencies are fully recovered.

(ii) - Deduction of the proportionate amounts in Pak.Rs. and Foreign Currency, at 20% of the effected advance payments for steel piles as under sub-clause (2) of this clause.

(iii) - As Retention Money, the ENGINEER will make proportionate deductions in Pakistani Rupees and in Foreign Currency from the first and the following monthly bills of the CONTRACTOR at 10% of both the local and Foreign Currencies of the bill until the total of such deductions amounts to 5% of the Price of the CONTRACT at the time of signing the CONTRACT agreement.

(iv) - Advance income tax deduction of 3% of the net payable bill amounts in accordance with Rule No. 50, under sub-section (3BB) of section 18 of the Income Tax Act 1922 or similar such rules enacted by the GOVERNMENT from time to time during the duration of the CONTRACT. These deductions shall however be deposited in the GOVERNMENT treasury by PQA on behalf of the CONTRACTOR.

(v) - Eventual deductions from the amounts of the bills, if any, which result from sub-clause (4) of this clause.

(4) Withholding Payments:

(a) The PQA may withhold the whole or a part of any payment requested by the CONTRACTOR, if it is necessary in the opinion of the PQA to protect itself against losses on account of the following reasons:

- (i) - Defective work not rectified.
- (ii) - Non-fulfillment of any demanded and due guarantee.
- (iii) - Claims of third parties raised against the PQA, 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 PQA, or to another contractor working on the Site, 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 eliminated to the satisfaction of the PQA and the ENGINEER, payments to the CONTRACTOR will be undertaken by the PQA without delay.

(5) Deductions: All costs, damages or expenses disbursed by the PQA, for which the CONTRACTOR is responsible under this CONTRACT, may be deducted by the PQA from any payments due to the CONTRACTOR, or to become due.

(6) Corrections and Retentions: The ENGINEER may introduce any corrections or changes in the certificate issued by him at an earlier date, and is empowered to retain any certificate, if the WORKS, or any part thereof, have not been executed to his satisfaction.

(7) Final Payment Documents:

(a) The CONTRACTOR shall submit the following documents to the PQA, certified by the ENGINEER, before receiving the final payments:

- (i) - Completion Certificate (Final Acceptance Certificate) for the whole of the WORKS issued by the ENGINEER, which shall automatically signify the complete handing over of all parts of the WORKS, under the CONTRACT, from the CONTRACTOR to the PQA.
- (ii) - An affidavit by the CONTRACTOR, that the WORKS, have been executed according to a first class standard and have no concealed defects known to him.
- (iii) - Certificate of agreement with all measures and decisions taken by the PQA the ENGINEER and their representatives in the course of and in connection with the WORKS and the execution of the CONTRACT.
- (iv) - Release from lien, according to which, there is no lien from him or from a third-party, on any delivery or performance of the CONTRACTOR, in connection with the CONTRACT.

(b) The final payment will be made after all the above documents and the final bill of the CONTRACT have been approved by the ENGINEER in concurrence with the PQA.

(8) Non-Responsibility of ENGINEER: Nothing following from the CONTRACT, shall place any responsibility on the ENGINEER, for any payments to the CONTRACTOR for or with regard to the WORKS or in respect to his fulfillment of any other obligations under the CONTRACT.

60.(8) Cont.

(9) Repayment of the Retention Money:

(a) The PQA will withhold the retention money in full till the issuing of the Completion Certificate (Final Acceptance Certificate) for the whole of the WORKS.

(b) If, under the CONTRACT a Period of Maintenance is required, portions of the retention money will be withheld by the PQA per specified amounts listed in Part 4, Particular Conditions of the CONTRACT.

(c) In case the ENGINEER certifies in writing that any part of the Retention Money devolves upon or belongs to the PQA due to non-fulfillment of the CONTRACT by the CONTRACTOR, the so certified sum shall be deducted from the payments to be effected under the conditions of this clause.

61. APPROVAL ONLY BY MAINTENANCE CERTIFICATE

When maintenance is required under the CONTRACT, no certificate other than the Maintenance Certificate referred to in the following Clause 62, shall be deemed to constitute approval of any work or other matter in respect of which it is issued, or shall be taken as an admission of the due performance of the CONTRACT or any part thereof, or of the accuracy of any claim or demand made by the CONTRACTOR, or of additional or varied work having been ordered by the ENGINEER, nor shall any other certificate conclude or prejudice any of the powers of the ENGINEER.

62. MAINTENANCE CERTIFICATE WHEN MAINTENANCE IS REQUIRED UNDER THE CONTRACT

(1) The CONTRACT shall not be considered as completed until a Maintenance Certificate shall have been signed by the PQA, stating that the whole of the WORKS have been completed and maintained to the satisfaction of the PQA. The Maintenance Certificate shall be given by the PQA twenty-eight days after the expiration of the Period of Maintenance of the last part of the WORKS or as soon thereafter as any works during such period pursuant to Clauses 49 and 50 hereof shall have been completed to the satisfaction of the PQA. Full effect shall be given to this clause, notwithstanding any previous entry on the WORKS or the taking possession, working or using thereof or any part thereof by the PQA. The issue of the Maintenance Certificate shall be a binding condition precedent to payment to the CONTRACTOR of the last portion of the Retention Money under Clause 60.

(2) Liability: The PQA shall not be liable to the CONTRACTOR for any matter or thing arising out of or in connection with the CONTRACT or the execution of the WORKS, unless the CONTRACTOR shall have made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.



(3) Unfulfilled Obligations: Notwithstanding the issue of the Maintenance Certificate, the CONTRACTOR and (subject to sub-clause (2) of this clause) the PQA, shall remain liable for the fulfillment of any obligation under the provisions of the CONTRACT prior to the issue of the Maintenance Certificate, which remains unperformed at the time such certificate is issued. For the purposes of determining the nature and extent of any such obligation, the CONTRACT shall be deemed to remain in force between the parties hereto.

63. FORFEITURE

(1) If the CONTRACTOR shall become bankrupt or have a receiving order made against him or shall present his petition in bankruptcy, or shall make an arrangement with or assignment in favour of his creditors, or shall agree to carry out the CONTRACT under a committee of inspection of his creditors, or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or if the CONTRACTOR shall assign the CONTRACT without the written consent of the PQA first obtained, or shall have an execution levied on his goods, or if the ENGINEER shall certify in writing to the PQA that in his opinion, the CONTRACTOR:

(a) has abandoned the CONTRACT, or

(b) without reasonable excuse has failed to commence the WORKS or has suspended the progress of the WORKS for 28 days after receiving from the ENGINEER written Notice to Proceed, or

(c) has failed to remove materials from the Site or to pull down and replace work for 28 days after receiving from the ENGINEER written notice that the said materials or work had been condemned and rejected by the ENGINEER under these conditions, or

(d) is not executing the WORKS in accordance with the CONTRACT, or is persistently or flagrantly neglecting to carry out his obligations under the CONTRACT, or

(e) has to the detriment of good workmanship or defiance of the ENGINEER's instructions to the contrary, sub-let any part of the CONTRACT, or

(f) is not meeting the time schedule of the CONTRACT with his work progress, and is either not willing or not able to exert greater efforts with regard to the progress of the WORKS, or

(g) violates the laws of the Islamic Republic of Pakistan,

then the PQA may, after giving 14 days' notice in writing to the CONTRACTOR, enter upon the Site and the WORKS and expel the CONTRACTOR therefrom without thereby avoiding the CONTRACT or releasing the CONTRACTOR from any of his obligations or liabilities under the CONTRACT or affecting the rights and powers conferred on the PQA or the ENGINEER by the CONTRACT. The PQA can then redeem the Performance Bond, complete the

WORKS himself or engage another Contractor for the purpose of completing the WORKS. The PQA or such other Contractor may use for such completion so much of the Constructional Plant, the Temporary Works and materials, which have been deemed to be reserved exclusively for the construction and completion of the WORKS under the provisions of the CONTRACT, as they may think proper. The PQA may at any time sell any of the said Constructional Plant, Temporary Works and unused materials and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him from the CONTRACTOR under the CONTRACT.

(2) The Forfeiture of the CONTRACT becomes invalid, if the CONTRACTOR, within 10 days after receipt of the notice of forfeiture, eliminates the causes which have evoked the forfeiture. In this case, the CONTRACTOR may continue the WORKS after Approval of the ENGINEER.

(3) Determination of Compensation: The ENGINEER shall, as soon as may be practicable after any such entry and expulsion by the PQA, fix and determine and certify ex parte or by or after reference to the parties of the CONTRACT, or after such investigation or enquiries as he may think fit to make or institute, what amount (if any) had at the time of such entry and expulsion been reasonably earned by the CONTRACTOR. This sum shall contain:

(a) The settlement of accounts of the completed parts of the WORKS under the CONTRACT.

(b) A partial amount of the Site installation and clearance costs, corresponding to the executed part of the WORKS.

(c) The compensation for any construction materials and other materials delivered to the Site but not yet used, to the extent accepted by the PQA.

(d) The compensation for the preliminary work performed in the offices, workshops etc., to the extent approved by the ENGINEER.

In case of forfeiture, the CONTRACTOR shall have no claim to indemnification for any loss of profits.

(4) Payment after Forfeiture: If the PQA shall enter the Site and expel the CONTRACTOR under this clause, it shall not be liable to pay the CONTRACTOR any money on account of the CONTRACT until the expiration of the Period of Maintenance and thereafter, until the costs of completion and maintenance, losses due to delay in completion (if any) and all other expenses incurred by the PQA have been ascertained and the amount thereof certified by the ENGINEER. The CONTRACTOR shall then be entitled to receive only such sum or sums (if any) as the ENGINEER may certify would have been due to him upon due completion by him after deducting the said amount. But if such amount shall exceed the sum which would have been payable to the CONTRACTOR on due completion by him then the CONTRACTOR shall, upon demand, pay to the PQA the amount of such excess. This amount shall be deemed a debt due by the CONTRACTOR to the PQA and shall be recoverable accordingly.

64. URGENT REPAIR WORK

If by reason of any accident or failure or other event occurring to or in connection with the WORKS or any part thereof, either during the execution of the WORKS or during the Period of Maintenance, any remedial or other work or repair shall in the opinion of the ENGINEER be urgently necessary for security, and the CONTRACTOR is unable or unwilling at once to do such work or repair, the PQA may by its own or other workmen do such work or repair as the ENGINEER may consider necessary. If the work or repair so done by the PQA is work, which in the opinion of the ENGINEER, the CONTRACTOR was liable to do at his own expense under the CONTRACT, all costs and charges properly incurred by the PQA in so doing shall on demand be paid by the CONTRACTOR to the PQA, or may be deducted by the PQA from any monies due or which may become due to the CONTRACTOR. Provided always, that the ENGINEER shall as soon after the occurrence of any such emergency as may be reasonably practicable, notify the CONTRACTOR thereof in writing.

65. RISK OF WAR AND SIMILAR RISKS

(1) Continuation of Work: If during the currency of the CONTRACT there shall be an outbreak of war (whether war is declared or not) in any part of the World, or of civil war, rebellion, revolution, insurrection or usurped power in Pakistan (hereinafter referred to as "the said outbreak") which shall materially and decisively effect the execution of the WORKS, the CONTRACTOR shall for a period of 28 days reckoned from midnight on the date the said outbreak first occurs, continue so far as is physically possible to execute the WORKS in accordance with the CONTRACT.

(a) The CONTRACTOR will have to satisfy the ENGINEER and PQA both, that as a direct impact of such an outbreak, physical execution of the WORKS is no longer possible. He will be responsible to make any temporary arrangements during such a development for looking after the Site, maintenance of his tool and plant or make any such arrangements during the interim period till such hostilities are over.

(2) Effect of Completion of Work within 28 Days: If at any time before the expiration of the said period of 28 days the WORKS shall have been completed, or completed so far as to be usable, all the provisions of the CONTRACT shall continue to have full force and effect, save that

(a) The CONTRACTOR shall, in lieu of fulfilling his obligations under Clauses 49 and 50 hereof, be entitled at his option to allow against the sum due to him under the provision of sub-clause (6), the cost (calculated at the prices ruling at the beginning of the said period of 28 days) as certified by PQA at the expiration of the Period of Maintenance for the repair, rectification or making good of which the CONTRACTOR would have been liable under the said clauses, had they continued to be applicable.

(b) The PQA shall not be entitled at the expiration of the Period of Maintenance to withhold payment under Clause 60 hereof of the last

PART 3

65.(2)(b) Cont.

portion of the Retention Money or any part thereof except such sum as may be allowable by the CONTRACTOR under the provisions of the last preceding paragraph, which sum may (without prejudice to any other mode of recovery thereof), be deducted by the PQA from such last portion.

(3) Right of PQA To Terminate CONTRACT: If the WORKS shall not have been completed as aforesaid, the PQA shall be entitled to terminate the CONTRACT (save as to the rights of the parties under this Clause and Clause 67 hereof) by giving notice in writing to the CONTRACTOR at any time after the aforesaid period of 28 days has expired and upon such notice being given, the CONTRACT shall (except as above mentioned) forthwith terminate, but without prejudice to the rights of either party in respect of any antecedent breach thereof.

(4) Removal of Plant: If the CONTRACT is terminated under the provisions of the last preceding paragraph, the CONTRACTOR shall with all reasonable despatch remove from the Site all his Constructional Plant shall give facilities to his sub-contractors to remove similarly all Constructional Plant belonging to them, and in the event of any failure so to do the PQA shall have the like powers as are contained in Clause 53 hereof in regard to failure to remove Constructional Plant on completion of the WORKS.

(5) Payment on Termination: If the CONTRACT shall be terminated as aforesaid, the CONTRACTOR shall be paid by the PQA (insofar as such amounts or items shall not have already been covered by payments on account made to the CONTRACTOR) for all parts of the WORKS executed prior to the date of termination at the rates and prices provided in the CONTRACT, and in addition:

(a) The amounts payable in respect of any preliminary items so far as the work or service comprised therein has been carried out or performed at the Site, and a proper proportion as certified by the ENGINEER of any such items, the work or service comprised in which has been partially carried out or performed at the Site.

(b) The cost of materials or goods reasonably ordered for the WORKS or Temporary Works which have been delivered to the Site or of those which the CONTRACTOR is legally liable to accept delivery, provided that such materials or goods will actually arrive safely at Site. All such materials or goods become the property of the PQA upon such payment being made by it.

(c) A sum to be certified by the ENGINEER, being the amount of any expenditure reasonably incurred by the CONTRACTOR at the Site in the expectation of completing the whole of the WORKS, insofar as such expenditure shall not have been covered by the payments in the sub-clause before mentioned.

(d) Any additional sum payable under the provisions of sub-clause (6) (b) and (c) of this clause.

(e) The reasonable cost of removal of the plant under sub-clause (4) of this clause and (if required by the CONTRACTOR), of return thereof to the

65.(5)(e) Cont.

CONTRACTOR's main plant yard in his country of registration, or to any other destination, if no higher costs are incurred.

(f) The reasonable cost of repatriation to the place where they were recruited or to their domicile of all the CONTRACTOR's staff and workmen employed at Site on or in connection with the WORKS at the time of such termination of the CONTRACT.

Provided always that against any payments due from the PQA under this sub-clause, the PQA shall be entitled to be credited with any outstandings balances due from the CONTRACTOR under clause 60 hereof and any other sums which at the date of termination were recoverable by PQA from the CONTRACTOR under the terms of the CONTRACT.

(6) Outbreak of War: Whether the CONTRACT shall be terminated under the provisions of sub-clause (3) of this clause or not, the following provisions shall apply or be deemed to have applied as from the date of the said termination, notwithstanding anything expressed in or implied by the other terms of the CONTRACT, i.e.:

(a) The CONTRACTOR shall be under no liability whatsoever by way of indemnity or otherwise, for or in respect of damage to the permanent WORKS or parts thereof, to the Constructional Plant, the Temporary Works or any materials brought on to the Site by the CONTRACTOR, for the purpose of executing the WORKS, or to property, whether of the PQA or of third parties or for, or in respect of injury or loss of life to persons which is the consequence whether direct or indirect of war hostilities (whether war has been declared or not), invasion, act of the State's enemies, civil war, rebellion or revolution, and the PQA shall indemnify the CONTRACTOR against all such liabilities and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising thereout or in connection therewith.

(b) If the permanent WORKS or parts thereof, or the Constructional Plant or the Temporary Works or any materials on the Site (whether for the former or the latter) shall sustain destruction or any damage by reason of any of the causes mentioned in the last preceding paragraph, the CONTRACTOR shall nevertheless be entitled to payment for any such items so destroyed or damaged, and the CONTRACTOR shall be entitled to be paid by the PQA the cost of making good any such destruction or damage whether to permanent parts of the WORKS or to Temporary Works so far as may be required by the ENGINEER or as may be necessary for the completion of the WORKS, on a prime cost basis plus such profit as the ENGINEER may certify to be reasonable. Costs incurred to the CONTRACTOR due to interruptions of construction works will also be reimbursed, to the extent as certified by the ENGINEER and/or the PQA.

(c) Damage or injury caused by the explosion whenever occurring, of any mine, bomb, shell, grenade or other projectile, missile or munition and whether occurring before or after the cessation of hostilities shall be deemed to be the consequence of any of the events mentioned in sub-clause 6 (a) of this clause.

66. PAYMENT IN EVENT OF FRUSTATION

(1) In the event of the CONTRACT being frustrated, i.e. if the performance of the CONTRACT becomes physically and/or legally impossible, whether by war or otherwise, the sum payable by the PQA to the CONTRACTOR in respect of the work executed, shall be the same as that which would have been payable under Clause 65 hereof, if the CONTRACT had been terminated under the provisions of Clause 65 hereof.

(2) Any increase whatsoever in the rates of materials, labour charges or other overheads expenses or revaluation or devaluation of the Pakistani or any other currency or currencies or any surmountable difficulty encountered during the execution of the WORKS shall not be considered as a ground for frustrating this CONTRACT.

67. LEGAL BASES, SETTLEMENT OF DISPUTES

(1) Pakistani Contract: The CONTRACT shall be and be deemed to be Pakistani contract and shall accordingly be governed by and construed according to the laws for the time being in force in Pakistan. Should any or more conditions of the CONTRACT be lacking in legal effectiveness on account of ambiguity or for any other reason whatsoever, the same shall not impair the validity of any other conditions or of the CONTRACT as a whole.

(a) The Pakistani Courts shall have exclusive jurisdiction to hear and determine all actions and proceedings arising out of the CONTRACT, and the CONTRACTOR hereby submits to the jurisdiction of the Pakistani Courts for the purpose of any such actions and proceedings.

(2) Settlement of Disputes: If any dispute or difference of any kind whatsoever arise between the PQA or the ENGINEER and the CONTRACTOR in connection with or arising out of the CONTRACT or the carrying out of the Works (whether during the progress of the WORKS or after their completion and whether before or after the termination, abandonment or breach of the CONTRACT), it shall in the first place be referred to and settled by the ENGINEER, who within a period of 90 days after being requested to do so, shall give written notice of his decision to the PQA and the CONTRACTOR.

(a) Save as hereinafter provided, such decision in respect of every matter so referred shall be final and binding upon the CONTRACTOR and the PQA until the completion of the WORKS and shall forthwith be given effect to by the CONTRACTOR, who shall proceed with the WORKS with all due diligence, whether he requires arbitration as hereinafter provided or not.

(b) If the ENGINEER has given written notice of his decision to the PQA and the CONTRACTOR and no claim to arbitration has been communicated to him by the PQA and the CONTRACTOR within a period of 90 days from receipt of such notice, the said decision shall remain final and binding upon the CONTRACTOR and PQA.

(c) If the ENGINEER shall fail to give notice of his decision as aforesaid within a period of 90 days after being requested as aforesaid, or if the CONTRACTOR or the PQA should be dissatisfied with any such decision, then

67.(2)(c) Cont.

the CONTRACTOR or PQA may within 90 days after receiving notice of such decision, or within 90 days after the expiration of the first named period of 90 days (as the case may be) require that the matters in dispute be referred to arbitration as hereinafter provided.

(d) This court of arbitration will be carried out according to the Arbitration Act 1940. It will be held in Karachi in any case. The point at issue will thereby be submitted to two arbitrators, of whom one will be nominated by the PQA and the other by the CONTRACTOR, or in case both arbitrators cannot agree, turned over to an umpire named by the arbitrators. The decision of the arbitrators or the umpire shall be final and binding for both parties, the PQA and the CONTRACTOR.

(e) Each such arbitrator's /umpire's award must conform to the legal decrees and provisions, which are applicable for courts of arbitration, and which are in force in Pakistan at that time. The valuation of the costs in connection with the reference or the award shall devolve on the arbitrators, or should they be unable to agree, on the umpire named by them.

(f) All disputes and differences, for which the eventual decision of the ENGINEER is not, as aforesaid, final and binding, shall be finally settled by the arbitrators/umpires named under this clause.

(g) The said arbitrators/umpires shall have full power to open up, review and revise any decision, opinion, direction, certificate or valuation of the ENGINEER. Neither party shall be limited in the proceedings before such courts of arbitration, to the evidence or arguments put before the ENGINEER for the purpose of obtaining his said decision.

(h) No decision given by the ENGINEER in accordance with the foregoing provisions, shall disqualify him from being called as a witness and giving evidence before the court of arbitration on any matter whatsoever relevant to the dispute or difference referred to the court of arbitration as aforesaid.

(i) The arbitrators/umpires shall not enter on the reference until after the completion or alleged completion of the WORKS, unless with the written consent of the PQA and the CONTRACTOR, provided always

- that such reference may be opened before such completion or a alleged completion in respect of the withholding by the ENGINEER of any certificate, or the withholding of any portion of the Retention Money to which the CONTRACTOR claims in accordance with the Conditions set out in this CONTRACT to be entitled, or in respect of the exercise of the ENGINEER's power to give a certificate under Clause 63 (1) of these Conditions.

- that the giving of a Certificate of Completion under Clause 48 hereof shall not be a condition precedent to the opening of any such reference.

(j) Work under this CONTRACT, which has nothing to do with such a dispute, question or difference, shall be continued without any delay during the court of arbitration. The same is valid for the disputed

67.(2)(j) Cont.

portion of the WORKS, insofar as the dispute does not extend to essential questions of the technical solution to be selected.

68. LEGAL NOTICES

(1) Service of Notice on CONTRACTOR: Any notice to be given to the CONTRACTOR under the terms of the CONTRACT shall be served, by sending the same to the CONTRACTOR's head office as well as to his local site office, by registered air mail, or to leave it at the head office and the local site office against receipt.

(2) Service of Notice on PQA: Any notice to be given to the PQA by the CONTRACTOR under the terms of the CONTRACT is to be sent to him by registered post (as in sub-clause (1) above), or to be left against receipt. The site office of the ENGINEER, shall receive a copy.

(3) Service of Notice on ENGINEER: Notices from the PQA or the CONTRACTOR to the ENGINEER are to be despatched as aforesaid, both to the head office of the ENGINEER, as well as at the same time to the Site office of the Engineer.

\* \* \* \* \*



PART 4

PARTICULAR CONDITIONS OF THE CONTRACT

1. The Particular Conditions of the CONTRACT supplements Part 3, General Conditions of the CONTRACT; and refer to particular conditions and requirements of this specific CONTRACT and add, delete or modify specific Clauses of, or add new Clauses to, the General Conditions of the CONTRACT.
  - a. The General Conditions of the CONTRACT is hereinafter referred to as "G.C."
2. PERFORMANCE BOND
  - a. Refer to G.C. Clause 10(2)
  - b. Amount of Performance Bond shall be 10% of the Price of the CONTRACT at the time of signing the Form of CONTRACT Agreement.
  - c. After completion and formal acceptance of all parts of the WORKS, the Performance Bond sum can be reduced to 5% of the CONTRACT Price applicable at that time, whereby this reduced Bond shall be made available till the end of the 12 month Period of Maintenance for the total of the WORKS (vide Clause 7 below). The Bond will thereafter be released by the PQA in accordance with terms of the CONTRACT.
3. USE OF PAKISTANI GOODS AND SERVICES
  - a. Refer to G.C. Clause 36.
  - b. So far as may be consistent with his obligations under the CONTRACT, the CONTRACTOR shall make the maximum possible use of materials supplies and equipment indigenous to or produced in Pakistan and the services available in Pakistan or operated by Pakistan
4. TIME OF COMPLETION
  - a. Refer to G.C. Clause 43
  - b. The WORKS shall, if not otherwise agreed upon under the CONTRACT, be completed within 550 calendar days calculated from the date of signing of the Form of CONTRACT Agreement.
5. LIQUIDATED DAMAGES
  - a. Refer to G.C. Clause 47(1)
  - b. Liquidated Damages for late completion of the total WORKS shall be:

Pak. Rs. 75,000.- per calendar day up to a maximum of  
10% of the final CONTRACT Price.

6. BONUS

- a. Refer to G.C. Clause 47(2)
- b. Omit all reference to Bonuses on this CONTRACT. The CONTRACTOR shall not be entitled to any Bonus under this CONTRACT.

7. PERIOD OF MAINTENANCE

- a. Refer to G.C. Clause 49
- b. The Period of Maintenance for the toaal of the WORKS shall be 12 months.

8. REPAYMENT OF THE RETENTION MONEY

- a. Refer to G.C. Clause 60(9)(b)
- b. At the commencement of the Period of Maintenance the CONTRACTOR will be paid 50% of the Retention Money. Another 25% will be settled 6 months later, on satisfactory termination of the first half of the Period of Maintenance; and provided that all outstanding claims, questions, disputes and differences of opinion have been decided and settled between the PQA and the CONTRACTOR, and have been so confirmed by the CONTRACTOR in writing; and provided that the PQA has issued the Maintenance Certificate for the total WORKS: then the rest of the Retention Money will be paid to the CONTRACTOR.
- c. After issuance of the Completion Certificate for the whole of the WORKS(vide G.C. Clause 60(9)(a), and the CONTRACTOR has been paid 50% of the Retention Money (vide Clause (2) above) the CONTRACTOR may obtain the release of the remaining Retention Money through the furnishing of an equivalent guarantee. This procedure subject to the approval of the Engineer and the PQA, is applicable only when it is obvious that the CONTRACTOR intends to expedite the repair work. The guarantee must comply with the following:
  - (1) Drawn up for Pak. Rs. and Foreign Currency in the percentages established by the CONTRACT.
  - (2) Form of guarantee approved by the ENGINEER and PQA.
  - (3) Issued by a Scheduled Bank in Pakistan approved by PQA.

9. ADVANCE PAYMENT

- a. Refer to G.C. Clause 60(1)
- b. Should the CONTRACTOR so desire, the PQA will effect certain advance payments to him, after the signing of the Form of CONTRACT Agreement, up to a maximum of 10% of the Price of the CONTRACT at the time of signing the Form of CONTRACT Agreement.

10. EXCLUSION OF ARBITRATION

- a) Refer to G.C. Clause 67
- b) In any case where the conditions of the Contract provide that the decision of the ENGINEER is to be final and conclusive, such decision shall not be referable to arbitration under clause 67 hereof nor shall be the same be questioned in any other form of proceedings whatsoever.

PART 5

THE FORM OF CONTRACT AGREEMENT

AND

APPENDICES

FORM OF CONTRACT AGREEMENT

This Agreement, made the ..... day of .....  
 ..... Nineteen Hundred .....  
 between the PORT QASIM AUTHORITY hereinafter called the PQA, (which expression shall wherever the context so admits or requires be deemed to include their successors) on the one part, and ..... of .....  
 ..... hereinafter called the CONTRACTOR (which expression shall wherever the context so admits or requires be deemed to include their Executors, Administrator, Successors and permitted Assignees) on the other part.

Whereas the PQA is desirous to construct a new port facility, consisting of an iron ore and coal berth, a small crafts pier and all related facilities hereinafter referred to as the WORKS, and has accepted a Tender of the CONTRACTOR for the construction, completion and maintenance of such WORKS.

And Whereas the CONTRACTOR hereby undertakes to deposit with the PQA within seven days of signing of this CONTRACT Agreement, the Performance Bond in the sum of Pak. Rs. .... and has given to the PQA a lien on such sum as security for the due fulfilment of the CONTRACT. Now this Agreement Witnesseth as follow:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of the CONTRACT hereinafter referred to.
2. The following documents, which for the purpose of identification have been signed by ..... on behalf of the CONTRACTOR and by ..... on behalf of the PQA, all of which shall be deemed to form and be read and construed as part of this Agreement, viz:
  - (a) Part 1 - Instructions to Tenderers
  - (b) Part 2 - The Form of Tender, inclusive of the pertinent APPENDICES "A" through "I" and "J" through "N"
  - (c) Part 3 - General Conditions of the CONTRACT
  - (d) Part 4 - Particular Conditions of the CONTRACT
  - (e) Part 5 - Form of CONTRACT Agreement and Appendices
  - (f) - The Technical Specifications
  - (g) - The Individual Bills of Quantities
  - (h) - The Drawings
  - (i) - The Relevant Correspondence and other Documents as per Part 3, General Conditions of the CONTRACT, Clause 1. (1)(g)

PART 5  
FORM OF CONTRACT AGREEMENT  
(contd.)

3. In consideration of the payments to be made by the PQA to the CONTRACTOR as hereinafter mentioned, the CONTRACTOR hereby covenants with the PQA to construct, complete and maintain the WORKS in conformity in all respects, with the provisions of the CONTRACT.
4. The PQA hereby covenants to pay to the CONTRACTOR in consideration of the construction and maintenance of the WORKS, the Price of the CONTRACT in the manner prescribed by the CONTRACT.

In Witness Whereof, the parties hereto have hereunto set their respective hands and seals the day and year first above written.

Signed, Sealed and Delivered by the:

Chairman and one member on behalf of the PORT QASIM AUTHORITY

Signed by ..... Chairman, PQA

in the presence of .....

Signed by ..... Member

in the presence of .....

and

..... for and on behalf of .....

Signed by ..... CONTRACTOR

In the presence of .....

PART 5  
APPENDIX "I" to the  
FORM OF CONTRACT AGREEMENT

PERFORMANCE BOND

By this Bond, we .....  
of .....  
whose registered office is at .....  
in .....  
(hereinafter called the "Surety"), do hereby bind ourselves and our successors and assignees jointly and severally by these presents to pay to the PORT QASIM AUTHORITY (hereinafter called the PQA), unconditionally on demand and without further question the sum of Rupees .....  
..... (Rs. ....),  
payable in ..... Sealed with our seal and dated this .....  
..... day of .....  
Nineteen Hundred and .....

Whereas .....  
of ..... whose registered office  
is at ..... in .....  
(hereinafter called the CONTRACTOR), by an Agreement dated the .....  
..... day of .....  
Nineteen Hundred and ..... made between the  
PQA of the one part and the CONTRACTOR of the other part has entered into a Contract (hereinafter called CONTRACT) for the construction, completion and maintenance of certain WORKS as therein mentioned in conformity with the provisions of the said CONTRACT, and the sum mentioned in the above-written Bond represents the security deposit to be furnished by the CONTRACTOR for due fulfilment of the said CONTRACT.

Now the Conditions of the above written Bond are such, that if the CONTRACTOR shall duly perform and observe all the terms, provisions, conditions and stipulations of the said CONTRACT on the CONTRACTOR's part to be performed and observed according to the true purport, intent and meaning thereof as determined by the PQA, who shall be the sole judge in the matter, or if on default by the CONTRACTOR for which the PQA shall be the sole judge, the Surety shall satisfy and discharge the damages sustained by the PQA thereby as determined by the PQA and without reference to the CONTRACTOR up to the amount of the above written Bond, then this obligation shall be null and void but otherwise shall be and remain in full force and effect, but no alteration in terms of the said CONTRACT made by agreement between the PQA and the CONTRACTOR or in the extent or the nature of the WORKS to be constructed completed and maintained thereunder and no allowance of the time by the PQA under the said CONTRACT nor any forbearance or forgiveness in or in respect of any matter or thing concerning the said CONTRACT on the part of the PQA, shall in any way release the Surety from any liability under the above written Bond.

PART 5  
APPENDIX "I" to the  
FORM OF CONTRACT AGREEMENT

Signed, Sealed and Delivered by the

said .....

The Common Seal of .....

..... Limited

was hereunto affixed in the presence of:

1. ....

2. ....



PART 5  
APPENDIX "I" to the  
FORM OF CONTRACT AGREEMENT

The Chairman,  
PORT QASIM AUTHORITY,  
PQA Head Office  
K a r a c h i

GUARANTEE NO.

Port Muhammad - Bin - Qasim Project, construction of Iron Ore and Coal Berth,  
Small Crafts Pier, and Related Facilities

WHEREAS the PORT QASIM AUTHORITY (hereinafter called the PQA) have entered  
into a CONTRACT with .....  
.....  
..... (hereinafter called the CONTRACTOR) for  
the above named WORKS)

AND WHEREAS the PQA have agreed to advance the CONTRACTOR at their request  
an amount of Rs. ....  
in local currency ( ..... ) and of Rs. ....  
..... in Foreign Currency (.....)  
.....)

In the consideration of the PQA making the above advance we hereby guaran-  
tee that the CONTRACTOR, Messrs. ....  
..... shall use the  
advance for the above named project, and if they fail or commit default in  
fulfilment of any of their obligation for which the advance payment is made,  
we shall be liable to PQA for the payment of the amount in respect of which  
they have so failed not exceeding the aforementioned sums.

Notice in writing of any default as aforesaid on the part of the CONTRACTOR  
will be given by the PQA to us, and on first demand from the PQA payment  
shall be made by us for all sums then due from this guarantee without further  
reference to the CONTRACTOR and without question and that PQA verdict in  
this behalf shall be final and binding on us.

PART 5  
APPENDIX "II" (contd.)

As and when the said advance payment is adjusted against payment(s) for the running bills of the CONTRACTOR, then this guarantee shall automatically stand reduced to the extent of such adjustment(s).

This guarantee, so reduced, shall remain in force until the advance payment is fully adjusted against the payments for the running bills of the CONTRACTOR, or until .....(state date of completion) whichever date is earlier.

Claims, if any, must reach the undersigned within one month after ..... (state date of completion) otherwise they will be invalid.

We agree and undertake that the aforesaid period of validity shall be extended for a further period mutually to be agreed upon between the PQA and the CONTRACTOR if on the above mentioned date the advance payments are not fully adjusted against the payments for the running bills of the CONTRACTOR.

Signed, sealed and delivered .....

.....

in the presence of witness dated this .....

day of .....

Signed by the presence of .....

