

Articles Of Agreement

This Sub-Contract Agreement is made on the day of 20.....

between

of (or whose registered office or business address is situated at).....

..... (hereinafter called 'the Contractor')

and

of (or whose registered office or business address is situated at).....

..... (hereinafter called 'the Sub-Contractor').

This Sub-Contract Agreement is made pursuant to the agreement for (*)

at

(hereinafter referred to as 'the Main Contract')

made the day of 20.....

between.....

of (or whose registered office or business address is situated at).....

..... (hereinafter called 'the Employer') and the Contractor.

Whereas

The Employer is desirous of (**).....

(hereinafter called 'the Sub-Contract Works') which forms part of the Main Contract Works and has caused the following drawings

(hereinafter referred to as 'the Sub-Contract Drawings') and the Sub-Contract Bills to be prepared by his Architect and/or Consultant.

(*) *Brief description of the Main Contract Works.*

(**) *Brief description of the Sub-Contract Works.*

Whereas

The Contractor is desirous that the Sub-Contract Works should be executed by the Sub-Contractor and has accepted a tender from the Sub-Contractor for the execution and completion of the Sub-Contract Works.

The Sub-Contractor has had reasonable opportunity to examine and have full knowledge of the Main Contract (except the detailed rates and prices).

Now it is hereby agreed as follows:

Article 1

In consideration of the payments to be made by the Contractor to the Sub-Contractor as hereinafter mentioned, the Sub-Contractor shall carry out and complete the Sub-Contract Works in conformity in all respects with the provisions of the Sub-Contract.

**Sub-Contractor's
Obligations**

Article 2

The Contractor shall pay the Sub-Contractor the sum of Ringgit Malaysia:
.....
..... (RM)
(hereinafter referred to as 'the Sub-Contract Sum') or such other sum as shall become payable hereunder at the times and in the manner specified in the Sub-Contract.

Sub-Contract Sum

Article 3

The term 'the Architect' in the Sub-Contract shall mean
.....
of.....
.....
.....
or in the event of such Person ceasing to be the Architect for the purpose of the Sub-Contract, such other Person as the Employer shall appoint within twenty eight (28) Days therefrom. No Architect so appointed under the Main Contract shall be entitled to disregard or overrule any certificate or opinion or decision or approval or instruction given by the preceding Architect.

Architect

Article 4

The term 'the Engineer' in the Sub-Contract shall mean:

Engineer

(a) Structural & Civil Engineer:
.....
of.....
.....
.....

(b) Mechanical & Electrical Engineer:
.....
of.....
.....
.....

or in the event of such Person ceasing to be the Engineer for the purpose of the Sub-Contract, such other Person as the Employer shall appoint within twenty eight (28) Days therefrom. The Engineer shall perform the duties expected of his profession, and the Architect may from time to time delegate such duties and authority of the Architect to the Engineer as the Architect deems fit.

Article 5

The term ‘the Quantity Surveyor’ in the Sub-Contract shall mean.....
.....
of.....
.....
.....

Quantity Surveyor

or in the event of such Person ceasing to be the Quantity Surveyor for the purpose of the Sub-Contract, such other Person as the Employer shall appoint within twenty eight (28) Days therefrom. The Quantity Surveyor shall perform the duties expected of his profession, and the Architect may from time to time delegate such duties and authority of the Architect to the Quantity Surveyor as the Architect deems fit.

Article 6

The term ‘the Specialist Consultant’ in the Sub-Contract shall mean:

Specialist Consultant

(a)
of.....
.....
.....

(b)
of.....
.....
.....

(c)
of.....
.....
.....

or in the event of such Person ceasing to be the Specialist Consultant for the purpose of the Sub-Contract, such other Person as the Employer shall appoint within twenty eight (28) Days therefrom. The Specialist Consultant shall perform the duties expected of his profession, and the Architect may from time to time delegate such duties and authority of the Architect to the Specialist Consultant as the Architect deems fit.

Article 7

In the Sub-Contract Documents as hereafter defined, the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

Definitions

- (a) **Appendix** means the Appendix to the Sub-Contract Conditions;
- (b) **Appropriate Authority** means any statutory authority having jurisdiction over the Sub-Contract Works;
- (c) **Architect** means the Person named in Article 3 and shall be a Professional Architect or any other form of practice registered under the Architects Act 1967 and approved by the Board of Architects, Malaysia;
- (d) **Architect's Instruction** or **AI** - as described in Clause 5.1;
- (e) **As-built Drawings** means as-built drawings for works designed (including alternative design) by the Nominated Sub-Contractor and any other as-built drawings required to be provided as specified in the Sub-Contract Documents;
- (f) **Certificate of Extension of Time** means the certificate issued by the Contractor under Clause 21.5;
- (g) **Certificate of Non-Completion** means the certificate issued by the Contractor under Clause 16.1;
- (h) **Certificate of Practical Completion of Nominated Sub-Contract Works** means the certificate issued by the Architect under Clause 17.2;
- (i) **Clause** means the clauses in the Sub-Contract Conditions;
- (j) **Confirmation of Architect's Instruction** or **CAI** – as described in Clause 5.1;
- (k) **Consultant** means the Engineer, Quantity Surveyor and/or Specialist Consultant as appropriate;
- (l) **Contractor** means the party named in the Articles of Agreement and includes the Contractor's legal successors or personal representatives or any Person to whom the rights and obligations of the Contractor have been transferred with the agreement of the Employer;
- (m) **Contractor's All Risks Insurance ('CAR Insurance')** means an insurance policy which provides cover against all risks specified in the Main Contract;
- (n) **Day** means calendar day including the weekly day of rest but excluding gazetted holidays in the location where the Sub-Contract Works is carried out;
- (o) **Defects** means defects, shrinkages or other faults due to materials or workmanship not in accordance with the Sub-Contract and/or due to faulty design (if any) undertaken by the Sub-Contractor;
- (p) **Defects Liability Period** means the period stated in the Appendix 'C';
- (q) **Employer** means the party named in the Articles of Agreement in the Sub-Contract and the Main Contract and includes the Employer's legal successors or personal representatives or any Person to whom the rights and obligations of the Employer have been transferred;
- (r) **Engineer** means the Person named in Article 4 and shall be a Professional Engineer or any other form of practice registered under the Registration of Engineers Act 1967 and approved by the Board of Engineers, Malaysia;
- (s) **Final Account** means the documents showing the adjustment of the Sub-Contract Sum issued under Clause 26.7;

- (t) **Force Majeure** means any circumstances beyond the control of the Sub-Contractor caused by terrorist acts, governmental or regulatory action, epidemics and natural disasters;
- (u) **Interim Certificate** means the progress payment certificate issued by the Architect under Clause 30.1 of the Main Contract Conditions;
- (v) **Letter of Appointment** means the letter from the Contractor to the Sub-Contractor accepting him as the Nominated Sub-Contractor;
- (w) **Main Contract** means the agreement between the Employer and Contractor;
- (x) **Main Contract Conditions** means the conditions of the Main Contract;
- (y) **Main Contract Works** means the works described in the Main Contract;
- (z) **Month** means calendar month;
- (aa) **Performance Bond** means the bond required to be provided by the Sub-Contractor as a security for the due performance of the Sub-Contract under Clause ~~32.1~~33.1;
- (ab) **Period of Honouring Certificates** means the period for honouring certificates stated in the Appendix under Clause 30.1 of the Main Contract Conditions;
- (ac) **Person** means an individual, sole proprietorship, firm (partnership) or body corporate;
- (ad) **Practical Completion** or **Practically Completed** means the state of completion described in Clause 17.1;
- (ae) **Provisional** or **Provisional Quantity** means the estimated quantities of work provided in the Sub-Contract Bills for work to be executed or for the supply of any materials and goods which cannot be determined or detailed at the time;
- (af) **Quantity Surveyor** means the Person named in Article 5 and shall be a Registered Quantity Surveyor or any other form of practice registered under the Quantity Surveyors Act 1967 and approved by the Board of Quantity Surveyors, Malaysia;
- (ag) **Relevant Event** means any one of the events for extension of time set out in Clause 21.4;
- (ah) **Retention Fund** means the sum retained in accordance with Clause 26.4;
- (ai) **Service Provider** means any company or body authorised to provide water, electricity, ~~telephone~~telecommunication, sewerage and other related services;
- (aj) **Site** means the land and other places on, in, under, over or through which the Main Contract Works are to be executed and is provided by the Employer for the purposes of the Main Contract including other land and places obtained by the Contractor and accepted by the Employer as forming part of the Site;
- (ak) **Site Agent** means the person appointed by the Sub-Contractor under Clause 10.1;
- (al) **Site Staff** means the person appointed by the Employer under Clause 10.1 of the Main Contract Conditions;
- (am) **Specialist Consultant** means the Person named in Article 6 and such Person shall be a Specialist Consultant appointed by the Employer for a designated scope of professional work;

- (an) **Sub-Contract or Sub-Contract Documents** comprise the following documents:
 - (i) the Letter of Appointment by the Contractor;
 - (ii) the Articles of Agreement;
 - (iii) the Sub-Contract Conditions;
 - (iv) the Sub-Contract Drawings;
 - (v) the Sub-Contract Bills; and
 - (vi) other documents incorporated in the Sub-Contract Documents, unless expressly stated to be excluded therefrom;
- (ao) **Sub-Contract Bills** comprise the following documents (as may be applicable):
 - (i) Instructions to Tenderers;
 - (ii) Conditions of Tendering;
 - (iii) Form of Tender;
 - (iv) Preliminaries;
 - (v) Preamble and Specification;
 - (vi) Summary of the Tender (or Sub-Contract Sum);
 - (vii) Schedule of works and schedule of rates or Bills of Quantities; and
 - (viii) any other documents specifically mentioned in any of the above documents;
- (ap) **Sub-Contract Completion Date** means the date(s) for completion agreed by the Contractor and Sub-Contractor under Clauses 15.1 and 15.2 or the last extended date granted under Clause 21.6;
- (aq) **Sub-Contract Conditions** means the conditions of the Sub-Contract;
- (ar) **Sub-Contract Date of Commencement** means the date(s) stated in Appendix A or, if no such date is stated, the date shall be fourteen (14) Days from the date of the Letter of Appointment;
- (as) **Sub-Contract Sum** means the sum stated in Article 2;
- (at) **Sub-Contract Works** means the works described in the Articles of Agreement and referred to in the Sub-Contract Documents and includes any changes made to these works in accordance with the Sub-Contract;
- (au) **Sub-Contractor** means the party named in the second part of the Articles of Agreement and includes the Sub-Contractor's legal successors or personal representatives or any Person to whom the rights and obligations of the Sub-Contractor have been transferred with the agreement of the Contractor;
- (av) **Variation** means changes made to the Sub-Contract Works as defined under Clause 12.1; and
- (aw) **Week** means a period of seven (7) consecutive days.

Article 8

In the interpretation of the Sub-Contract, unless the context requires otherwise, the following shall apply:

- (a) **Gender** - words of one gender include the other gender, and words denoting natural persons include corporations and firms and all such words are to be construed interchangeably in that manner;
- (b) **Headings and Marginal Notes** - the headings and marginal notes in the Sub-Contract Conditions are not to be taken into consideration in the interpretation or construction of the of the Sub-Contract Conditions;
- (c) **Reference to legislation** - a reference to any Acts is deemed to include references to any subsequent amendments, consolidation or replacement of the Acts;
- (d) **Singular and Plural** - words importing the singular also include the plural and vice versa where the context requires; and
- (e) Where any word or phrase is given a defined meaning, any other grammatical form of that word or phrase has a corresponding meaning.

Meanings

IN WITNESS WHEREOF

* The hand of the Contractor has been hereunto set the day and year first above written in the presence of:

) Signature of Contractor
)
) Name
)
) NRIC No.

Signature of Witness.....

Name.....

NRIC No.....

* The Common Seal of
was hereunto affixed in the presence of:

Signature of Director.....

Signature of Director/Secretary*.....

Name

Name

NRIC No.....

NRIC No.

IN WITNESS WHEREOF

* The hand of the Sub-Contractor has been hereunto set the day and year first above written in the presence of:

) Signature of Sub-Contractor.....
)
) Name
)
) NRIC No.

Signature of Witness.....

Name

NRIC No.....

* The Common Seal of
was hereunto affixed in the presence of:

Signature of Director.....

Signature of Director/Secretary*.....

Name

Name

NRIC No.....

NRIC No.

** Delete as appropriate
The affixing of the Common Seal to be witnessed in accordance with the Memorandum & Articles of Association of the Company.*

The Sub-Contract Conditions

	1.0	Sub-Contractor And Contractor
Sub-Contract pursuant to Main Contract	1.1	The Sub-Contract is entered into between the parties as Contractor on the one part and as Sub-Contractor on the other part under Clause 27.0 of the Main Contract Conditions.
Sub-Contractor's knowledge of Main Contract	1.2	The Sub-Contractor shall be deemed to have full knowledge of all the provisions of the Main Contract except the detailed rates and prices. The Contractor shall make the Main Contract (other than the details of the Contractor's rates and prices) available for inspection by the Sub-Contractor and if so requested by the Sub-Contractor, shall provide the Sub-Contractor with a true copy of the Main Contract (without details of the Contractor's rates and prices), at the cost of the Sub-Contractor.
Ambiguities between the Main and Sub-Contract	1.3	If there are any ambiguities or inconsistencies between any of the Sub-Contract Conditions and the Main Contract Conditions, the Main Contract Conditions shall prevail in order to resolve any such ambiguities or inconsistencies. Where such ambiguities or inconsistencies relate to the works, materials, goods and workmanship to be carried out or supplied under the Sub-Contract, the Sub-Contract shall prevail over the Main Contract.
	2.0	Sub-Contractor's Obligations
Completion of Sub-Contract Works in accordance with Sub-Contract Documents	2.1	The Sub-Contractor shall upon and subject to the Sub-Contract Conditions carry out and complete the Sub-Contract Works in accordance with the Sub-Contract Documents and in compliance therewith provide designs (if any), materials, goods and standards of workmanship of the quality and standard described in the Sub-Contract Documents and/or required by the Contractor and Architect or Consultant in accordance with the provisions of the Sub-Contract.
Temporary work and construction method	2.2	Unless designed by the Architect or Consultant, the Sub-Contractor shall be fully responsible for the adequacy, stability and safety of all temporary works and of all methods of construction of the Sub-Contract Works, irrespective of any approval by the Contractor, Architect or Consultant.
Sub-Contractor's design and responsibilities	2.3	If the Sub-Contractor proposes any alternative design to that specified in the Sub-Contract Works or if the Sub-Contract leaves any matter of design, specification or choice of materials, goods and workmanship to the Sub-Contractor, the Sub-Contractor shall ensure that such works are fit for its purpose. The copyright of the Sub-Contractor's design and alternative design belongs to the Sub-Contractor, but the Contractor and Employer shall be entitled to use the design and alternative design for the completion, maintenance, repair and future extension of the Main Contract Works. The acceptance by the Contractor and Architect or Consultant of the Sub-Contractor's design and alternative design shall not relieve the Sub-Contractor of his responsibilities under the Sub-Contract.
Discrepancy or divergence between documents	2.4	The Sub-Contractor shall use the Sub-Contract Documents and any other subsequent documents issued by the Contractor and Architect to plan the Sub-Contract Works prior to execution. If during the said planning and subsequent execution of the Sub-Contract Works, the Sub-Contractor finds any discrepancy in or divergence between any of the Sub-Contract Documents and any subsequent documents issued by the Contractor and Architect, he shall give to the Contractor (with a copy to the Architect) a written notice in sufficient time before commencement of construction of the affected works, specifying the discrepancy or divergence to enable the Contractor to request the Architect to issue written instructions within a period which would not materially affect the progress of the affected works, having regard to the Sub-Contract Completion Date. Such discrepancy or divergence shall not vitiate the Sub-Contract.
	3.0	Sub-Contractor's Liability Under Incorporated Provisions Of The Main Contract
Sub-Contractor's compliance with the Main Contract	3.1	The Sub-Contractor shall observe, perform and comply with all the provisions of the Main Contract on the part of the Contractor to be observed, performed and complied with, so far as they relate and apply to the Sub-Contract Works.

Sub-Contractor to discharge obligation	3.2	The Sub-Contractor shall execute and complete the Sub-Contract Works so as to enable the Contractor to discharge his obligation under the Main Contract.
Sub-Contractor to indemnify the Contractor	3.3	The Sub-Contractor shall indemnify and save harmless the Contractor against and from: <ul style="list-style-type: none"> 3.3(a) any breach, non-observance or non-performance by the Sub-Contractor, his servants, agents or sub-contractors of any of the provisions of the Main Contract; and 3.3(b) any act or omission of the Sub-Contractor, his servants, agents or sub-contractors which involves the Contractor in any liability to the Employer under the provisions of the Main Contract.
	4.0	Benefits Under The Main Contract
Sub-Contractor's rights and benefits under Main Contract	4.1	The Contractor shall so far as he lawfully can, at the request of the Sub-Contractor, obtain for him any rights or benefits under the Main Contract so far as the same are applicable to the Sub-Contract Works and which are not inconsistent with the express terms of the Sub-Contract. Any action taken by the Contractor in compliance with any aforesaid request shall be at the cost of the Sub-Contractor. Subject to the Sub-Contractor giving the Contractor such indemnity and security as the Contractor may reasonably require, the Contractor shall allow the Sub-Contractor to use the Contractor's name and if necessary join with the Sub-Contractor in any dispute resolution procedure.
	5.0	Architect's Instructions ('AI')
AI and CAI	5.1	All instructions issued by the Architect to the Contractor shall be in writing expressly entitled "Architect's Instruction" ('AI'). All other forms of written instructions including drawings issued by the Architect shall be an AI: <ul style="list-style-type: none"> 5.1(a) upon written confirmation from the Contractor entitled "Confirmation of Architect's Instruction" ('CAI'); or 5.1(b) upon subsequent confirmation of the written instructions by the Architect with an AI. <p>The Contractor shall forthwith issue to the Sub-Contractor all AI and CAI affecting the Sub-Contract Works and may issue any further direction in writing to the Sub-Contractor in regards to such AI and CAI. The Sub-Contractor shall forthwith comply with such AI and CAI and any further directions issued by the Contractor. If the Architect has not issued an AI, the Sub-Contractor shall request the Contractor to so confirm such instruction in a CAI to the Architect.</p>
Consent by Contractor for Architect to issue AI directly to Sub-Contractor	5.2	All instructions to the Sub-Contractor shall be issued by the Contractor. However, the Contractor may consent to the Architect issuing any written instruction affecting the Sub-Contract Works directly to the Sub-Contractor. In that event, the Architect must extend a copy of the written instruction to the Contractor. The Contractor shall, when he considers it appropriate to do so, issue further directions in writing of his own to the Sub-Contractor. Any consent by the Contractor for the Architect to issue any written instruction directly to the Sub-Contractor shall be notified in writing by the Contractor to the Architect and Sub-Contractor.
Provisions empowering instructions	5.3	Upon receipt of a written instruction from the Architect, the Sub-Contractor may require the Contractor to request the Architect to specify in writing which provision of the Main Contract Conditions empowers the issuance of the said instruction. The Contractor shall forthwith comply with any such request and extend to the Sub-Contractor a copy of the Architect's response to the Contractor's request. If the Sub-Contractor thereafter complies with the said instruction without requesting the Contractor to invoke any dispute resolution procedure under the Main Contract to establish the Architect's power in that regard, the instruction shall be deemed to have been duly given under the specified provision.

	6.0	Sub-Contract Documents And As-built Drawings
Sub-Contract Documents	6.1	The Sub-Contract Documents are to be read as mutually explanatory of one another. In the event of any conflict or inconsistencies between any of the documents in the Sub-Contract Documents, the priority in the interpretation of such documents shall be in the following descending order: <ul style="list-style-type: none"> 6.1(a) the Letter of Appointment by the Contractor; 6.1(b) the Articles of Agreement; 6.1(c) the Sub-Contract Conditions; 6.1(d) the Sub-Contract Drawings; 6.1(e) the Sub-Contract Bills; and 6.1(f) other documents incorporated in the Sub-Contract Documents, unless expressly stated to be excluded in any of the Sub-Contract Document.
As-built Drawings and operation and maintenance manuals	6.2	The Sub-Contractor shall supply As-built Drawings and/or operation and maintenance manuals specified in the Sub-Contract Documents in the manner and within the time specified therein. Where these are not specified, the Sub-Contractor shall supply four (4) copies of the above items before the Main Contract Completion Date.
	7.0	Statutory Obligations, Notices, Fees And Charges
Statutory requirements	7.1	The Sub-Contractor shall comply with and submit all notices required by any laws, regulations, by-laws, terms and conditions of any Appropriate Authority and Service Provider in respect of the execution of the Sub-Contract Works and all temporary works.
Inconsistencies with statutory requirements	7.2	If the Sub-Contractor finds any inconsistencies between the Sub-Contract Documents (including any subsequent documents issued by the Architect) and any laws, regulations, by-laws, terms and conditions of any Appropriate Authority and Service Provider, he shall immediately specify the inconsistencies and give to the Contractor a written notice (with a copy to the Architect and Consultant) before commencement of construction of the affected works.
Conforming to statutory obligations	7.3	If within seven (7) Days of having given written notice to the Contractor (with a copy to the Architect and Consultant), the Sub-Contractor does not receive any written instructions in regard to the matters specified in Clause 7.2, he shall proceed with the work to conform with such laws, regulations, by-laws, terms and conditions of any Appropriate Authority and Service Provider. Any changes so necessitated shall be deemed to be a Variation required by the Architect and Consultant.
Fees, levies and charges	7.4	The Sub-Contractor shall pay and indemnify the Contractor against any liability in respect of any fees, levies and charges including any penalties which may arise from the Sub-Contractor's non-compliance with any laws, regulations, by-laws, terms and conditions of any Appropriate Authority and Service Provider in respect of the execution of the Sub-Contract Works and all temporary works. If the Sub-Contractor fails to pay, the Contractor may pay such amount and such amount together with any additional cost in this connection shall be set-off by the Contractor under Clause 26.13.
	8.0	Materials, Goods And Workmanship To Conform To Description, Testing And Inspection
Provision of vouchers	8.1	The Sub-Contractor shall upon the request of the Contractor or Architect, provide them with vouchers or such other evidence to prove that the materials and goods comply with Clause 2.1.
Inspection and testing	8.2	The Sub-Contractor shall provide samples of materials and goods for testing before incorporation into the Sub-Contract Works. The Contractor (with the consent of the Architect) or the Architect may issue written instructions requiring the Sub-Contractor to open up for inspection any work covered up, or to arrange for or carry out any test on any materials and goods already incorporated in the Sub-Contract Works or of any executed work. The cost of such opening up or testing together with the cost of making good shall be added to the Sub-Contract Sum unless:

	8.2(a)	the cost is provided for in the Sub-Contract Bills;
	8.2(b)	the inspection or test shows that the works, materials and goods were not in accordance with the Sub-Contract; or
	8.2(c)	the inspection or test was in the opinion of the Contractor and Architect required in consequence of some prior negligence, omission, default and/or breach of contract by the Sub-Contractor.
Sub-Contractor's obligation not relieved	8.3	The provisions of Clauses 8.1 and 8.2 shall not relieve the Sub-Contractor of his obligations to execute the work and supply materials and goods in accordance with the Sub-Contract.
Work not in accordance with the Sub-Contract	8.4	If the Contractor finds any work, materials, goods or workmanship to be not in accordance with the Sub-Contract, the Contractor shall instruct the Sub-Contractor in writing:
	8.4(a)	to remove from and not to bring to the Site such materials and goods;
	8.4(b)	to demolish and reconstruct such work to comply with the Sub-Contract;
	8.4(c)	to rectify such work as instructed by the Contractor with no adjustment to the Sub-Contract Sum;
	8.4(d)	to submit a method statement within seven (7) Days from receipt of the written instruction (or within such period as may be specified by the Contractor) proposing how such works, materials, goods or workmanship can be rectified. If the Contractor accepts the Sub-Contractor's proposal, the Sub-Contractor shall carry out the rectification work with no adjustment to the Sub-Contract Sum or alternatively, the Contractor may reject the proposal and issue any other written instruction under this clause; or
	8.4(e)	with the consent of the Employer, to leave all or any such works, materials, goods or workmanship in the Sub-Contract Works subject to an appropriate deduction from the Sub-Contract Sum and the Sub-Contractor shall remain liable for the same.
No compensation for time and cost	8.5	Compliance by the Sub-Contractor with a written instruction issued under Clause 8.4 shall not entitle the Sub-Contractor to an extension of time nor compensation for any loss and/or expense that may be incurred.
Warranties in respect of any materials and goods	8.6	If the Sub-Contract requires any manufacturer or supplier to give a warranty or guarantee in respect of any proprietary systems, materials and goods supplied, the Sub-Contractor shall procure such warranties or guarantees in time for the Contractor to submit to the Employer. The provision of such warranties or guarantees shall in no way relieve or release the Sub-Contractor from any liabilities under the Sub-Contract.
	9.0	Royalties And Intellectual Property Rights
Indemnity to Contractor	9.1	Subject to Clause 9.2, all royalties or other sums payable in respect of the supply and use in carrying out the Sub-Contract Works of any articles, processes, inventions or drawings shall be deemed to have been included in the Sub-Contract Sum. The Sub-Contractor shall indemnify the Contractor against all claims, proceedings, damages, costs and expenses which may be brought against the Contractor or to which he may be subjected to by reason of the Sub-Contractor infringing or being held to have infringed any intellectual property rights.
Sub-Contractor's liability to pay	9.2	Where in compliance with a written instruction, the Sub-Contractor has informed the Contractor and Architect in writing that there may be an infringement of intellectual property rights but the Contractor (with the consent of the Architect) still instructs the Sub-Contractor in writing to comply, the Sub-Contractor shall not be liable for any infringement. All royalties, damages or other monies which the Sub-Contractor may be liable to pay for such infringement shall be added to the Sub-Contract Sum.
Government royalties	9.3	Except where otherwise provided for in the Sub-Contract, the Sub-Contractor shall pay all Government royalties, levies, rent and all other payments in connection with the Sub-Contract Works.

	10.0	Site Agent
Site Agent	10.1	The Sub-Contractor shall ensure that at all times during the execution of the Sub-Contract Works, he has on the Site a competent person to be the Site Agent who is capable of receiving directions or instructions in English or Bahasa Malaysia. The Site Agent shall be assisted by such assistants and supervisory staff as necessary to execute the Sub-Contract Works efficiently and satisfactorily. All instructions and directions given to the Site Agent by the Contractor shall be deemed to have been given to the Sub-Contractor.
	11.0	Access To The Works
Making Site and Main Contract Works available to Sub-Contractor	11.1	The Contractor shall from time to time make available to the Sub-Contractor such parts of the Site and the Main Contract Works and such means of access as shall be necessary to enable the Sub-Contractor to execute the Sub-Contract Works, but the Contractor shall not be bound to give to the Sub-Contractor possession or exclusive control of any part of the Site or the Main Contract Works.
Access to Sub-Contract Works	11.2	The Contractor, Architect, Consultant and their authorised representatives shall at all times have reasonable access to the Sub-Contract Works and to the factories, workshops or other places where any construction plant, materials, goods or work are being fabricated, prepared or stored for the Sub-Contract.
	12.0	Variations
Definition of Variation	12.1	The term “Variation” means the alteration or modification of the design, quality or quantity of the Sub-Contract Works including: <ul style="list-style-type: none"> 12.1(a) the addition, omission or substitution of any work; 12.1(b) the alteration of the kind or standard of any materials and goods to be used in the Sub-Contract Works; 12.1(c) the removal from the Site of any work executed or materials and goods brought thereon by the Sub-Contractor for the purposes of the Sub-Contract Works other than work, materials and goods which are not in accordance with the Sub-Contract; and 12.1(d) any changes to the provisions in the Sub-Contract with regards to: <ul style="list-style-type: none"> 12.1(d)(i) any limitation of working hours; 12.1(d)(ii) working space; 12.1(d)(iii) access to or utilisation of any specific part of the Site; and 12.1(d)(iv) the execution and completion of the work in any specific order, and 12.1(d)(v) the execution of temporary works, <p>but shall exclude any changes intended to rectify any negligence, omission, default and/or breach of contract by the Sub-Contractor and such changes shall be executed by the Sub-Contractor entirely at his own cost.</p>
Valuation rules	12.2	The valuation of Variations and work executed by the Sub-Contractor for which a Provisional Quantity is included in the Sub-Contract and the expenditure of Provisional Sums shall be made in accordance with the following rules: <ul style="list-style-type: none"> 12.2(a) where work is of a similar character to, is executed under similar conditions as, and does not significantly change the quantity of work as set out in the Sub-Contract Bills, the rates and prices in the Sub-Contract Bills shall determine the valuation;

- 12.2(b) where work is of a similar character to work as set out in the Sub-Contract Bills but is not executed under similar conditions or is executed under similar conditions but there is a significant change in the quantity of work carried out, the rates and prices in the Sub-Contract Bills shall be the basis for determining the valuation which shall include a fair adjustment to take into account for such difference;
- 12.2(c) where work is not of a similar character to work as set out in the Sub-Contract Bills, the valuation shall be at fair market rates and prices determined by the Architect or Consultant;
- 12.2(d) where work cannot be properly measured and valued in accordance with Clause 12.2(a), (b) or (c), the Sub-Contractor shall be allowed:
- 12.2(d)(i) the daywork rates in the Sub-Contract Bills; or
- 12.2(d)(ii) where there are no daywork rates in the Sub-Contract Bills, at the actual cost to the Sub-Contractor of his materials, additional construction plant and scaffolding, transport and labour for the work concerned, plus fifteen (15) percent, which percentage shall include the use of all tools, standing plant, standing scaffolding, supervision, overheads and profit.
- In either case, vouchers specifying the time spent daily upon the work, the workers' names, materials, additional construction plant, scaffolding and transport used shall be signed by the Contractor's and Sub-Contractor's Site Agent and verified by the Site Staff and shall be delivered to the Contractor, Architect and Consultant at weekly intervals with the final records delivered not later than fourteen (14) Days after the work has been completed;
- 12.2(e) the rates and prices in the Sub-Contract Bills shall determine the valuation of items omitted. If omissions substantially vary the conditions under which any remaining items of work are carried out, the prices of such remaining items shall be valued under Clause 12.2(a), (b) or (c); and
- 12.2(f) in respect of Provisional ~~Quantities~~Quantity, the quantities stated in Sub-Contract Bills shall be re-measured by the Architect or Consultant based on the actual quantities executed ~~within sixty (60) Days after the said works are completed~~. The rates and prices in the Sub-Contract Bills shall determine their valuations.

**Additional
expense caused
by Variation**

- 12.3 Where a Variation has caused or is likely to cause the Sub-Contractor to incur additional expenses for which he would not be paid under any provisions in Clause 12.2, the Sub-Contractor may make a claim for such additional expenses provided always that:
- 12.3(a) the Sub-Contractor shall give written notice to the Contractor (with a copy to the Architect) of his intention to claim for such additional expenses together with an initial estimate of his claim duly supported with all necessary calculations. Such notice must be given within twenty one (21) Days from the date of the AI or CAI giving rise to his claim. The giving of such written notice shall be a condition precedent to any entitlement to additional expenses that the Sub-Contractor may have under the Sub-Contract; and
- 12.3(b) within twenty eight (28) Days of completing such Variation, the Sub-Contractor shall send to the Contractor (with a copy to the Architect and Consultant) complete particulars of his claim for additional expenses together with all necessary calculations to substantiate his claims. If the Sub-Contractor fails to submit the required particulars within the stated time (or within such longer period as may be agreed in writing by the Architect), it shall be deemed that the Sub-Contractor has waived his rights to any such additional expenses.

Access to Sub-Contractor's books and documents	12.4	The Sub-Contractor shall keep contemporaneous records to substantiate all his claims for additional expenses under Clause 12.3, and shall submit all particulars to the Contractor (with a copy to the Architect and Consultant). The Contractor, Architect and Consultant shall have access to all books, documents, reports, papers or records in the possession, custody or control of the Sub-Contractor that are material to the claim and the Sub-Contractor shall provide free of charge a copy each to the Contractor, Architect and Consultant when requested. All such documents shall remain available in accordance with this clause until all claims have been resolved. The Sub-Contractor shall use his best endeavour to ensure that all such documents in the possession, custody or control of his sub-contractors and/or suppliers that are material to the claim are similarly available.
Variations and additional expenses added to Sub-Contract Sum	12.5	As soon as the Architect and/or Consultant have has ascertained the amount of Variations and/or additional expenses claimed by the Sub-Contractor under Clause 12.3, the amount so ascertained shall be added to the Sub-Contract Sum. When an Interim Certificate is issued after the date of ascertainment, such amount shall be included in the certificate.
	13.0	Sub-Contract Sum
Sub-Contract Sum not to be adjusted or altered	13.1	The Sub-Contract Sum shall not be adjusted or altered in any way whatsoever other than in accordance with the express provisions of the Sub-Contract. Any arithmetical errors or any errors in the prices and rates shall be corrected and/or rationalised by the Architect or Consultant without any change to the Sub-Contract Sum before the signing of the Sub-Contract.
	14.0	Materials And Goods
Materials and goods not to be removed	14.1	Materials and goods delivered to the Site for incorporation into the permanent works shall not be removed until completion of the Sub-Contract Works unless prior consent in writing from the Architect has been obtained, which consent shall not be unreasonably withheld or delayed.
Materials and goods paid for become Employer's property	14.2	Where the value of such materials and goods has in accordance with Clause 26.2 been included in any Interim Certificate under which the Employer has effected payment to the Contractor, such materials and goods shall become the property of the Employer.
Warranty of title of goods and materials	14.3	The Sub-Contractor shall be deemed to have warranted that he has title free from encumbrances for such materials and goods upon application to the Contractor for the inclusion of the value of such materials and goods in any application for payments under Clause 26.1. In the event that the Sub-Contractor is found to have made a false warranty, any loss suffered by the Contractor shall be made good by the Sub-Contractor or shall be set-off under Clause 26.13.
	15.0	Commencement And Completion Of Sub-Contract Works
Commencement and completion of Sub-Contract Works	15.1	The Sub-Contractor shall commence the design (if any), fabrication and other off-site works on the Sub-Contract Date of Commencement and shall regularly and diligently proceed with the on-site work in accordance with the work programme agreed between the Contractor and the Sub-Contractor and to complete the Sub-Contract Works by the Sub-Contract Completion Date(s) established in such work programme. When the Sub-Contract Works are completed, the Architect shall issue a Certificate of Practical Completion.
Sectional completion dates	15.2	Where there are different Sub-Contract Completion Dates for sections of the Sub-Contract Works stated in Sub-Contract Documents, the Architect shall issue a Certificate of Sectional Completion when the sections of the works are Practically Completed. The provisions of the Sub-Contract in regard to the Certificate of Practical Completion, extension of time, the Defects Liability Period, the release of Retention Fund and liability for loss and/or expense shall apply with necessary changes as if each such section was a separate and distinct contract.

Sub-Contractor's works programme	15.3	After the issue of the Letter of Appointment by the Contractor to the Sub-Contractor, the Contractor and the Sub-Contractor shall agree on a works programme. The agreed works programme shall take into consideration the information provided by the Sub-Contractor in the tender submission and any amendments required by the Contractor for compliance by the Sub-Contractor, to enable the Contractor to complete the Main Contract Works by the Main Contract completion date. The Sub-Contractor shall without charge to the Contractor, provide to the Contractor six (6) copies of the agreed works programme. If the Sub-Contract Works or any part are delayed for whatever reasons, the Contractor may instruct the Sub-Contractor (with a copy to the Architect) to revise the works programme, and the Sub-Contractor shall without charge to the Contractor, provide the Contractor with six (6) copies of the same. The works programme shall not constitute part of the Sub-Contract, whether physically incorporated or not into the Sub-Contract Documents. The acceptance by the Contractor of the works programme shall not relieve the Sub-Contractor of his obligations, duties or responsibilities under the Sub-Contract. A copy of all the works programme and revised programmes shall be forwarded forthwith by the Contractor to the Architect and/or Consultant. The works programme may be used by the Contractor, Architect or Consultant to monitor progress of the Sub-Contract Works, and the Contractor and Architect is entitled to rely on the works programme as a basis for the assessment of extension of time and the effect on the progress of the Sub-Contract Works.
Co-operation, order and timing for carrying out the Sub-Contract Works	15.4	The Sub-Contractor acknowledges that the Contractor will have other works on the Site carried out by other sub-contractors and craftsmen, tradesmen or others (whether employed by the Contractor or Employer) working concurrently and in close proximity to the Sub-Contractor, and that it is of paramount importance that all works on Site are fully and completely co-ordinated by the Contractor in view of their concurrent and sequential nature. The Sub-Contractor shall co-operate at all times with those responsible for carrying out the works on Site and shall abide by all directions of the Contractor as to the order and timing of carrying out the Sub-Contract Works. In the event of any disagreement with the Contractor as to the order and timing of carrying out the Sub-Contract Works, the Sub-Contractor shall as soon as possible inform the Contractor in writing (with a copy to the Architect) giving reasons for his disagreement, so that the Contractor can re-adjust his requirement with minimum time and cost repercussion. In the event of any dispute between the Sub-Contractor and Contractor, the Sub-Contractor shall refer such dispute to the Architect for a decision. The Architect shall make a decision within fourteen (14) Days from receipt of all written submissions relating to the dispute by the parties. If a party disputes the Architect's decision, he shall nevertheless be bound by the Architect's decision during the currency of the Sub-Contract, but shall give a written notice to the other party within six (6) Weeks from the date of the Architect's decision, of his intention to refer the dispute to arbitration. Any arbitration shall commence only after the completion of the Main Contract Works.
Submission of drawings	15.5	Where the Sub-Contract requires the Sub-Contractor to submit design drawings (if any), co-ordination, shop or builders' work drawings for the acceptance by the Architect or Consultant, the Sub-Contractor shall supply six (6) copies of such drawings to the Contractor, who shall submit four (4) copies to the Architect or Consultant. The acceptance by the Architect or Consultant of any such Sub-Contractor's design or drawings shall not relieve the Sub-Contractor of his responsibilities under the Sub-Contract.
	16.0	Failure Of Sub-Contractor To Complete On Time
Failure of Sub-Contractor to complete	16.1	If the Sub-Contractor fails to complete the Sub-Contract Works by the Sub-Contract Completion Date(s), the Contractor shall issue a Certificate of Non-Completion (with a copy to the Architect and Consultant) stating that in his opinion, the Sub-Contract Works (or any section of the Sub-Contract Works) ought reasonably so to have been completed. The Contractor shall then be entitled to set-off a sum for any loss and/or expense suffered or incurred by the Contractor, after taking into consideration the apportioning of liability where the delays may also be caused by the Contractor and other Nominated Sub-Contractors. As an alternative to loss and/or expense, the parties may agree to the amount of Liquidated Damages stated in Appendix 'A'. The loss and/or expense or any Liquidated Damages shall be set-off by the Contractor under Clause 26.13.

	17.0	Practical Completion And Defects Liability
Practical Completion	17.1	<p>The Sub-Contract Works are Practically Completed when:</p> <p>17.1(a) in the opinion of the Contractor and Architect, the Employer can have full use of the Sub-Contract Works for their intended purposes, notwithstanding that there may be works and defects of a minor nature still to be executed and the Sub-Contractor has given to the Contractor and Architect a written undertaking to make good and to complete such works and defects within a reasonable time specified to the Contractor by the Architect; and</p> <p>17.1(b) other requirements expressly stated in the Sub-Contract Documents as a pre-requisite for the issuance of the Certificate of Practical Completion have been complied with.</p>
Certificate of Practical Completion	17.2	<p>When the Sub-Contract Works are Practically Completed, the Sub-Contractor shall forthwith give a written notice to that effect to the Contractor (with a copy to the Architect). The Contractor shall immediately send to the Architect (with a copy to the Sub-Contractor) his written observations on the Sub-Contractor's application. The Architect shall within fourteen (14) Days do either one of the following:</p> <p>17.2(a) if the Architect is of the opinion that the Sub-Contract Works are not Practically Completed under Clause 17.1, the Architect shall give written notice to the Contractor (with a copy to the Sub-Contractor) stating the reasons for his opinion and specifying the works that are incomplete and/or the conditions that have not been complied with; or</p> <p>17.2(b) if the Architect is of the opinion that the Sub-Contract Works are Practically Completed under Clause 17.1, the Architect shall issue the Certificate of Practical Completion. The date of Practical Completion shall be:</p> <p>17.2(b)(i) the date of receipt of the Sub-Contractor's written undertaking to make good and to complete works and defects of a minor nature, where there are such works and defects; or</p> <p>17.2(b)(ii) the date of receipt of the Sub-Contractor's written notice, where there are no works and defects of a minor nature.</p> <p>The Certificate of Practical Completion shall be issued to the Sub-Contractor with copies extended to the Contractor and Employer.</p>
Sub-Contractor's failure to comply with undertaking	17.3	<p>Where applicable, the Sub-Contractor shall comply with his undertaking to attend to the works and defects of a minor nature under Clause 17.1(a) within the specified time. In the event the Sub-Contractor fails to comply with his undertaking the Contractor may without prejudice to any other rights and remedies which he may possess under the Sub-Contract do any one of the following:</p> <p>17.3(a) with the consent of the Employer, grant the Sub-Contractor additional ex-gratia time to be specified by the Architect to enable the Sub-Contractor to comply with his said undertaking;</p> <p>17.3(b) employ and pay other Person to execute any work which may be necessary to give effect to the Sub-Contractor's said undertaking. All costs incurred including any loss and/or expense shall be set-off by the Contractor under Clause 26.13; or</p> <p>17.3(c) with the consent of the Employer, accept to leave all or any such works and defects of a minor nature in the Sub-Contract Works subject to an appropriate set-off under Clause 26.13.</p>
Obligation to clear out on completion	17.4	<p>Upon Practical Completion of the Sub-Contract Works, the Sub-Contractor shall clear out and leave the Sub-Contract Works and all areas made available to him.</p>

Schedule of Defects	17.5	Any Defects in the Sub-Contract Works which appear within the Defects Liability Period shall be specified by the Architect or Consultant in a schedule of defects which he shall deliver to the Contractor (with a copy to the Sub-Contractor) not later than fourteen (14) Days after the expiration of the Defects Liability Period. The Sub-Contractor shall make good the Defects specified within twenty eight (28) Days after receipt of the schedule of defects (or within such longer period as may be agreed in writing by the Contractor and Architect or Consultant) at the Sub-Contractor's cost. If the Sub-Contractor fails to attend to the Defects, the Contractor may, without prejudice to any other rights and remedies which he may possess under the Sub-Contract, employ and pay other Person to rectify the Defects and all costs incurred shall be set-off by the Contractor under Clause 26.13. If the Architect or Consultant with the consent of the Employer, instructs the Contractor to leave the Defects in the Sub-Contract Works, then an appropriate deduction for such Defects not made good by the Sub-Contractor shall be set-off by the Employer under Clause 30.4 of the Main Contract Conditions and correspondingly by the Contractor under Clause 26.13.
Instruction to make good Defects	17.6	Notwithstanding Clause 17.5, the Contractor may at any time during the Defects Liability Period issue written instructions requiring any critical Defects which need urgent rectification to be made good within a reasonable time specified by the Contractor at the Sub-Contractor's cost. If the Sub-Contractor fails to attend to such Defects within the time specified by the Contractor, the Contractor may employ and pay other Person to rectify such Defects and all costs incurred shall be set-off by the Contractor under Clause 26.13.
Remedial work due to Defects in the Sub-Contract Works	17.7	If the Contractor executes any remedial work to any part of the Main Contract Works due to Defects in the Sub-Contract Works, then the cost of execution of such work shall be set-off by the Contractor under Clause 26.13. The Architect with the consent of the Employer, may instruct the Contractor not to carry out any such remedial work subject to an appropriate set-off under Clause 30.4 of the Main Contract Conditions. Such deduction by the Employer shall be set-off by the Contractor from the Sub-Contract Sum under Clause 26.13.
Remedial work due to Defects in the Main Contract Works	17.8	If the Sub-Contractor executes any remedial work to or in connection with the Sub-Contract Works (whether permanent or temporary) required by the Contractor or Architect or rendered necessary by reason of any defects in the Main Contract Works, then the Contractor shall pay to the Sub-Contractor the cost of the execution of such remedial works. The Architect with the consent of the Employer, may instruct the Contractor and Sub-Contractor not to carry out any such remedial work subject to an appropriate set-off under Clause 30.4 of the Main Contract Conditions.
	18.0	Assignment And Sub-Contracting
Assignment by Sub-Contractor	18.1	Other than assigning his rights, interests or benefits under the Sub-Contract to his financial institution, the Sub-Contractor shall not without the written consent of both the Contractor and Employer (such consent shall not be unreasonably delayed or withheld) assign the same to other parties.
No sub-contracting	18.2	Except where otherwise provided by the Sub-Contract, the Sub-Contractor shall not wholly or substantially sub-contract the Sub-Contract Works. Where the Sub-Contractor sub-contracts labour only of craftsmen, skilled or semi-skilled workmen to carry out any portion of the Sub-Contract Works, this shall not constitute sub-contracting within the meaning of this clause.

	19.0	Injury To Person Or Loss And/Or Damage Of Property And Indemnity To Contractor
Sub-Contractor's indemnity against injury or death	19.1	The Sub-Contractor shall be liable for and shall indemnify the Contractor against any damage, expense, liability, loss, claim or proceedings whatsoever whether arising at common law or by statute in respect of personal injury to or death of any person arising out of or in the course of or caused by the carrying out the Sub-Contract Works and provided always that the same is due to any negligence, omission, default and/or breach of contract by the Sub-Contractor or of any Person for whom the Sub-Contractor is responsible.
Sub-Contractor's indemnity against loss and/or damage	19.2	The Sub-Contractor shall be liable for and shall indemnify the Contractor against any damage, expense, liability, loss, claim or proceedings due to loss and/or damage of any kind whatsoever to any property real or personal, including the Main Contract Works and any other property of the Employer, in so far as such loss and/or damage arises out of or in the course of or by reason of the execution of the Sub-Contract Works and provided always that the same is due to any negligence, omission, default and/or breach of contract by the Sub-Contractor or of any Person for whom the Sub-Contractor is responsible.
Sub-Contractor's indemnities against claims by workmen	19.3	The Sub-Contractor shall be liable for and shall indemnify the Contractor against any damage, expense, liability, loss, claim or proceedings whatsoever arising out of claims by any and every workman employed in and for the execution of the Sub-Contract Works and for payment of compensation under or by virtue of the Workmen's Compensation Act 1952 and the Employees' Social Security Act 1969.
Indemnities not to be defeated	19.4	The indemnities given by the Sub-Contractor under Clauses 19.1 to 19.3 shall not be defeated or reduced by reason of any negligence or omission of the Contractor, Employer, Architect, Consultant or other authorised representatives in failing to supervise or control the Sub-Contractor's site operation or methods of working or temporary work or to detect or prevent or remedy defective work or to ensure proper performance of any obligation of the Sub-Contractor under the Sub-Contract.
	20.0	Insurance
SOSCO for local workmen	20.1	Without prejudice to his liability to indemnify the Contractor under Clause 19.0, the Sub-Contractor shall register or cause to register all local workmen employed on the Sub-Contract Works and who are subject to registration under the Employees' Social Security Scheme (hereinafter referred to as "SOCSCO") in accordance with the Employees' Social Security Act 1969. The Sub-Contractor shall make payment of all contributions from time to time when the same ought to be paid.
Insurance for local workmen not subject to SOCSCO	20.2	Without prejudice to his liability to indemnify the Contractor under Clause 19.0, the Sub-Contractor shall take out and maintain in the joint names of the Sub-Contractor, Employer and Contractor an insurance policy for local workmen who are not subject to registration under SOCSCO. Such insurance policy shall be effected and maintained as necessary to cover all liabilities including common law liability in respect of any claim which may arise in the course of the execution of the Sub-Contract Works. The insurance policy shall be valid up to the Sub-Contract Completion Date and the extended maintenance cover shall be for the Defects Liability Period plus a further three (3) Months. If the Sub-Contractor is unable to complete by the Sub-Contract Completion Date or complete making good the Defects within the insured period, he shall ensure that the insurance is accordingly extended for the same period of delay. The Sub-Contractor shall effect the said extension of the insurance cover not less than one (1) Month before the expiry of the insurance currently in force.

Workmen's compensation insurance for foreign workers	20.3	Without prejudice to his liability to indemnify the Contractor under Clause 19.0, the Sub-Contractor shall take out and maintain an insurance policy for all foreign workers employed on the Sub-Contract Works as required by the Workmen's Compensation Act 1952, and the Workmen's Compensation (Foreign Worker's Compensation Scheme) (Insurance) Order 1998. Such insurance policy shall be effected and maintained as necessary to cover all liabilities including common law liability in respect of any claim which may arise in the course of the execution of the Sub-Contract Works. The insurance policy shall be valid up to the Sub-Contract Completion Date and the extended maintenance cover shall be for the Defects Liability Period plus a further three (3) Months. If the Sub-Contractor is unable to complete by the Sub-Contract Completion Date or complete making good the Defects within the insured period, he shall ensure that the insurance is accordingly extended for the same period of delay. The Sub-Contractor shall effect the said extension of the insurance cover not less than one (1) Month before the expiry of the insurance currently in force.
CAR insurance by Contractor under Clause 20.A of the Main Contract Conditions	20.4	If the Contractor's All Risks ('CAR') insurance is to be taken out by the Contractor under Clauses 19.0 and 20.A of the Main Contract Conditions, the Contractor shall within twenty eight (28) Days of the issuance of the Letter of Appointment to the Sub-Contractor, but in any case before the commencement of any work by the Sub-Contractor, furnish to the Sub-Contractor a certified true copy of such insurance policy taken out in accordance with Clauses 19.0 and 20.A of the Main Contract Conditions. If the Sub-Contractor having regard to his indemnity to the Contractor under Clause 19.0 of the Sub-Contract Conditions, desires to have additional insurance cover in addition to the risks already covered by the Contractor, he shall do so at his own cost.
CAR insurance by Employer under Clause 20.B or 20.C of the Main Contract Conditions	20.5	If the CAR insurance is to be taken out by the Employer under Clauses 19.0 and 20.B or 20.C of the Main Contract Conditions, the Contractor (after having obtain a certified copy of all insurance policies from the Employer), shall within twenty eight (28) Days of the issuance of the Letter of Appointment to the Sub-Contractor, but in any case before the commencement of any work by the Sub-Contractor, furnish to the Sub-Contractor a certified true copy of such insurance policy. If the Sub-Contractor having regard to his indemnity to the Contractor under Clause 19.0 of the Sub-Contract Conditions, desires to have additional insurance cover in addition to the risks already covered by the Employer, he shall do so at his own cost.
Placing of insurance of licensed insurance companies	20.6	The insurance referred to in Clauses 20.2, 20.3, 20.4 and 20.5 shall be placed with licensed insurance companies approved by the Contractor or Employer and the Sub-Contractor shall deposit with the Contractor the policy and the receipt of premiums paid. If the Sub-Contractor makes default in insuring or continuing to insure as aforesaid, the Contractor may (but is not obligated to) insure against any risks in respect of which the default has occurred and the amount of premiums and any other cost incurred or paid by the Contractor shall be set-off by the Contractor under Clause 26.13.
	21.0	Extension Of Time
Notification of Relevant Events causing delay	21.1	If the Sub-Contractor is of the opinion that the completion of the Sub-Contract Works is or will be delayed beyond the Sub-Contract Completion Date by any of the Relevant Events stated in Clause 21.4, he may apply for an extension of time provided always that: <ul style="list-style-type: none"> 21.1(a) the Sub-Contractor shall give written notice to the Contractor (with a copy to the Architect and Consultant) of his intention to claim for such extension of time together with an initial estimate of the extension of time he may require supported with all particulars of the cause of delay. Such notice must be given within twenty one (21) Days from the date of the AI, CAI or the commencement of the Relevant Event, whichever is earlier. The giving of such written notice shall be a condition precedent to any entitlement for an extension of time; 21.1(b) the Contractor shall within seven (7) Days of receipt of such written notice by the Sub-Contractor inform the Architect and Consultant (with a copy to the Sub-Contractor) and include any Contractor's response to the Sub-Contractor's application as to the cause of the delay; and

		21.1(c)	within twenty eight (28) Days of the end of the cause of delay, the Sub-Contractor shall send to the Contractor (with copy to the Architect and Consultant) his final claim for extension of time duly supported with all particulars to enable the Architect to issue a written recommendation on any extension of time to be granted by the Contractor. If the Sub-Contractor fails to submit such particulars within the stated time (or within such longer period as may be agreed in writing by the Contractor and Architect), it shall be deemed that the Sub-Contractor has assessed that such Relevant Event will not delay the completion of the Sub-Contract Works beyond the Sub-Contract Completion Date.
Architect's written recommendation to an extension of time		21.2	<p>If the Architect is of the opinion that the particulars submitted by the Contractor (and Sub-Contractor) are insufficient to enable him to decide on the application for extension of time, the Architect shall within twenty eight (28) Days from receipt of the Contractor's particulars inform the Contractor of any deficiency in his submission, and may require the Contractor (and Sub-Contractor) to provide such further particulars within a further twenty eight (28) Days or such other period of time as may be stated by the Architect.</p> <p>When the Contractor (and Sub-Contractor) has submitted sufficient particulars for the Architect's consideration, the Architect shall subject to Clauses 21.3 and 21.7, issue to the Contractor (with a copy to the Sub-Contractor) his written rejection or recommendation for an extension of time, not later than six (6) Weeks from the receipt by the Architect of the particulars from the Contractor, irrespective of whether such particulars are received by the Architect before or after the Sub-Contract Completion Date.</p> <p>In arriving at his recommendation, the Architect may take into account the following:</p> <p>21.2(a) the effect or extent of any work omitted under the Sub-Contract, provided always that the Architect shall not fix a completion date earlier than the Sub-Contract Completion Date; and</p> <p>21.2(b) any other Relevant Events which in the Architect's opinion will have an effect on the Sub-Contractor's entitlement to an extension of time.</p>
Appeal against Architect's recommendation		21.3	Where the Sub-Contractor disputes the written rejection or recommendation of the Architect, then subject to the Sub-Contractor giving to the Contractor such indemnity and security as the Contractor may reasonably require, the Contractor shall allow the Sub-Contractor to use the Contractor's name and if necessary join with the Sub-Contractor in any dispute resolution procedure.
Relevant Events		21.4	<p>The following are the Relevant Events referred to in Clause 21.0:</p> <p>21.4(a) Force Majeure;</p> <p>21.4(b) exceptionally inclement weather;</p> <p>21.4(c) loss and/or damage occasioned by one or more of the contingencies referred to in Clause 20.A, 20.B or 20.C of the Main Contract Conditions as the case may be, provided always that the same is not due to any negligence, omission, default and/or breach of contract by the Contractor and/or Sub-Contractor;</p> <p>21.4(d) civil commotion, strike or lockout affecting any of the trades employed upon the Sub-Contract Works or any of the trades engaged in the preparation, manufacture or transportation of any materials and goods required for the Sub-Contract Works;</p>

- 21.4(e) the Sub-Contractor not having received in due time the necessary AI or CAI (including those for or in regard to the expenditure of P.C. Sums and Provisional Sums, further drawings, details, levels and any other information) for which he had specifically applied in writing to the Contractor. The Sub-Contractor's application must be submitted to the Contractor in sufficient time before the commencement of construction of the affected works, to enable the Contractor to obtain the necessary AI from the Architect within a period which would not materially affect the progress of the affected works, having regard to the Sub-Contract Completion Date. Provided always that the AI or CAI was not required as a result of any negligence, omission, default and/or breach of contract by the Sub-Contractor;
- 21.4(f) delay by the Employer in giving possession of the Site or any section of the Site in accordance with Clauses 21.1 and 21.2 of the Main Contract Conditions;
- 21.4(g) compliance with AI issued by the Architect under Clauses 1.4, 11.2 and 21.4 of the Main Contract Conditions;
- 21.4(h) re-nomination of a Sub-Contractor as set out in Clause 27.11 of the Main Contract Conditions;
- 21.4(i) delay on the part of craftsmen, tradesmen or other contractors employed or engaged by the Employer in executing work not forming part of the Main or Sub-Contract Works or the failure to execute such work;
- 21.4(j) delay or failure in the supply of materials and goods which the Employer had agreed to supply for the Sub-Contract Works;
- 21.4(k) the opening up for inspection of any work covered up, testing any materials, goods or executed work in accordance with Clause 8.2, unless the inspection or test:
 - 21.4(k)(i) is provided for in the Sub-Contract Bills;
 - 21.4(k)(ii) shows that the works, materials and goods were not in accordance with the Sub-Contract; or
 - 21.4(k)(iii) is required by the Contractor or Architect in consequence of some prior negligence, omission, default and/or breach of contract by the Sub-Contractor;
- 21.4(l) any act of prevention or breach of the Main Contract by the Employer;
- 21.4(m) war damage under Clause 32.1 of the Main Contract Conditions;
- 21.4(n) compliance with AI issued in connection with the discovery of antiquities under Clause 33.1 of the Main Contract Conditions;
- 21.4(o) compliance with any changes to any law, regulations, by-law or terms and conditions of any Appropriate Authority and Service Provider;
- 21.4(p) delay caused by any Appropriate Authority and Service Provider in carrying out, or failure to carry out their work which affects the Sub-Contractor's work progress, provided always that such delay is not due to any negligence, omission, default and/or breach of contract by the Contractor and/or Sub-Contractor;
- 21.4(q) appointment of a replacement Person under Articles 3, 4, 5 and 6;
- 21.4(r) compliance with AI in connection with disputes with neighbouring property owners provided always that such dispute is not caused by negligence, omission, default and/or breach of contract by the Contractor and/or Sub-Contractor;
- 21.4(s) delay as a result of the execution of work for which a Provisional Quantity is included in the Sub-Contract Bills which in the opinion of the Architect is not a reasonably accurate forecast of the quantity of work required;

		21.4(t)	failure of the Employer to give in due time entry to or exit from the Site or any part through or over any land, by way of passage adjoining or connected to the Site and in possession and control of the Employer;
		21.4(u)	suspension by the Contractor of his obligations under Clauses 30.7 and 30.8 of the Main Contract Conditions;
		21.4(v)	suspension of the whole or part of the Main Contract Works by order of an Appropriate Authority provided always that the same is not due to any negligence, omission, default and/or breach of contract by the Contractor and/or Sub-Contractor; and
		21.4(w)	any other ground for extension of time expressly stated in the Sub-Contract.
Delay caused by the Contractor	21.5		If the Sub-Contractor is of the opinion that the progress or completion of the Sub-Contract Works is or will be delayed beyond the Sub-Contract Completion Date by any negligence, omission, default and/or breach of contract by the Contractor, the Sub-Contractor may apply for an extension of time provided always that:
		21.5(a)	the Sub-Contractor shall give written notice to the Contractor (with a copy to the Architect and Consultant) his intention to claim for such extension of time together with an initial estimate of the extension of time he may require supported with all particulars of the cause of delay. Such notice must be given within twenty one (21) Days from the date of the cause of the delay. The giving of such written notice shall be a condition precedent to any entitlement to an entitlement of extension of time; and
		21.5(b)	within twenty eight (28) Days of the end of the cause of delay, the Sub-Contractor shall send to the Contractor (with copy to the Architect and Consultant) his final claim for extension of time, supported with all particulars to enable the Contractor to assess an extension of time to be granted. If the Sub-Contractor fails to submit such particulars within the stated time (or within such longer period as may be agreed in writing by the Contractor), it shall be deemed that the Sub-Contractor has assessed that such event will not delay the completion of the Sub-Contract Works beyond the Sub-Contract Completion Date.
Determination of extension of time	21.6		If the Contractor is of the opinion that the particulars submitted by the Sub-Contractor are insufficient to enable him to decide on the application for extension of time, the Contractor shall within twenty eight (28) Days from receipt of the Sub-Contractor's particulars inform him of any deficiency in his submission and shall require the Sub-Contractor to provide such further particulars within a further twenty eight (28) Days or such longer period of time as may be stated by the Contractor.
			When the Sub-Contractor has submitted sufficient particulars for the Contractor's consideration under Clause 21.5, the Contractor shall not later than six (6) Weeks from receipt of the Sub-Contractor's complete particulars, either reject the Sub-Contractor's application with reasons or issue the Certificate of Extension of Time with details to the Sub-Contractor.
			In determining the extension of time due to the Sub-Contractor, the Contractor shall take into consideration the Architect's recommendation under Clause 21.2 and the Sub-Contractor's entitlement under this clause. In this regard, the Contractor may also consider any matter that has not been specifically notified by the Sub-Contractor.
Sub-Contractor to prevent delay	21.7		The Sub-Contractor shall constantly use his best endeavour to prevent and reduce delay in the progress of the Sub-Contract Works, and to do all that may reasonably be required to the satisfaction of the Contractor to prevent and reduce delay or further delay in the completion of the Sub-Contract Works beyond the Sub-Contract Completion Date.

Review of written recommendation of extension of time by the Architect	21.8	The Architect may within twelve (12) Weeks after the date of Practical Completion of the Sub-Contract Works review any previous written recommendation for an extension of time given under Clause 21.2, and inform the Contractor (with a copy to the Sub-Contractor) of his decision. The Architect upon reviewing a previous written recommendation for an extension of time may take into consideration any Relevant Event which in the Architect's opinion will have an effect on the Sub-Contractor's entitlement to an extension of time even though it may not have been specifically notified by the Sub-Contractor. No such final review of extension of time shall result in a decrease in any extension of time previously recommended.
Final determination of extension of time by the Contractor	21.9	The Contractor may within fifteen (15) Weeks after the date of Practical Completion of the Sub-Contract Works review any previous decision given under Clauses 21.2 and 21.6 and after taking into consideration the Architect's review of any previous written recommendation (if any) given under Clause 21.8, inform the Sub-Contractor (with a copy to the Architect) of his review of any extension of time. No such final review of extension of time shall result in a decrease in any extension of time previously granted to the Sub-Contractor by the Contractor. In the event the fixing of such later Sub-Contract Completion Date affects the amount of loss and/or expense which the Contractor is entitled to retain, he shall repay the surplus amount to the Sub-Contractor within the Period of Honouring Certificates stated in Appendix 'C', from the date of issuance of the Contractor's final review of extension of time.
	22.0	Loss And/Or Expense Caused By Matters Affecting The Regular Progress Of The Sub-Contract Works
Loss and/or expense caused by matters affecting progress of the Sub-Contract Works	22.1	Where the regular progress of the Sub-Contract Works has been or is likely to be materially affected by any of the matters expressly referred to in Clause 22.3, and the Sub-Contractor has incurred or is likely to incur loss and/or expense which could not be reimbursed by a payment made under any other provision in the Sub-Contract, the Sub-Contractor may make a claim for such loss and/or expense provided always that: <p>22.1(a) the Sub-Contractor shall give written notice to the Contractor (with a copy to the Architect and Consultant) of his intention to claim for such loss and/or expense together with an initial estimate of his claim duly supported with all necessary calculations. Such notice must be given within twenty one (21) Days from the date of the AI, CAI or start of the occurrence of the matters referred to in Clause 22.3, whichever is earlier. The giving of such written notice shall be a condition precedent to any entitlement to loss and expense that the Sub-Contractor may have under the Sub-Contract and/or Common Law; and</p> <p>22.1(b) within twenty eight (28) Days after the matters referred to in Clause 22.3 have ended, the Sub-Contractor shall send to the Contractor (with a copy to the Architect and Consultant) complete particulars of his claim for loss and/or expense together with all necessary supporting calculations to substantiate his claims. If the Sub-Contractor fails to submit the required particulars within the stated time (or within such longer period as may be agreed in writing by the Contractor and Architect), it shall be deemed that the Sub-Contractor has waived his rights to any such loss and/or expense.</p>
Access to Sub-Contractor's books and documents	22.2	The Sub-Contractor shall keep contemporaneous records of all his claims for loss and/or expense. In order to verify the Sub-Contractor's claim, the Contractor, Architect and Consultant shall have access to all books, documents, reports, papers or records in the possession, custody or control of the Sub-Contractor that are material to the claim and the Sub-Contractor shall provide free of charge, a copy each to the Contractor, Architect and Consultant when requested. All such documents shall remain available in accordance with this clause until all claims have been resolved. The Sub-Contractor shall use his best endeavour to ensure that all such documents in the possession, custody or control of sub-contractors and/or suppliers that are material to the claim are similarly available.

Matters materially affecting progress of the Sub-Contract Works

22.3

The following are the matters referred to in Clause 22.1:

- 22.3(a) the Sub-Contractor not having received in due time the necessary AI or CAI (including those for or in regard to the expenditure of P.C. Sums and Provisional Sums, further drawings, details, levels and any other information) for which he had specifically applied in writing to the Contractor. The Sub-Contractor's application must be submitted in sufficient time before the commencement of construction of the affected works, to enable the Contractor to obtain the necessary AI from the Architect within a period which would not materially affect the progress of the affected works having regard to the Sub-Contract Completion Date. Provided always that the AI was not required as a result of any negligence, omission, default and/or breach of contract by the Sub-Contractor;
- 22.3(b) delay by the Employer in giving possession of the Site or any section of the Site in accordance with Clauses 21.1 and 21.2 of the Main Contract Conditions;
- 22.3(c) compliance with a written instruction issued by the Architect in regard to the postponement or suspension of all or any part of the Sub-Contract Works to be executed under Clause 21.4 of the Main Contract Conditions;
- 22.3(d) delay on the part of craftsmen, tradesmen or other contractors employed or engaged by the Employer in executing work not forming part of the Main or Sub-Contract Works or the failure to execute such work;
- 22.3(e) delay or failure in the supply of materials and goods which the Employer had agreed to supply for the Main Contract Works or Sub-Contract Works;
- 22.3(f) the opening up for inspection of any work covered up, testing any materials, goods or executed work in accordance with Clause 8.2, unless the inspection or test showed that the works, materials and goods were not in accordance with the Sub-Contract or was in the opinion of the Contractor and Architect required in consequence of some prior negligence, omission, default and/or breach of contract by the Sub-Contractor;
- 22.3(g) any act of prevention or breach of the Main Contract by the Employer;
- 22.3(h) delay as a result of a compliance with AI issued in connection with the discovery of antiquities under Clause 33.1 of the Main Contract Conditions;
- 22.3(i) appointment of a replacement Person under Articles 3, 4, 5 and 6;
- 22.3(j) compliance with a written instruction issued by the Architect in connection with disputes with neighbouring property owners provided always that the same is not caused by negligence, omission, default and/or breach of contract by the Sub-Contractor;
- 22.3(k) delay as a result of the execution of work for which a Provisional Quantity is included in the Sub-Contract Bills which in the opinion of the Architect is not a reasonably accurate forecast of the quantity of work required;
- 22.3(l) failure of the Employer to give in due time entry to or exit from the Site or any part through or over any land, by way of passage adjoining or connected to the Site and in the possession and control of the Employer;
- 22.3(m) suspension by the Contractor of his obligations under Clauses 30.7 and 30.8 of the Main Contract Conditions; and
- 22.3(n) suspension of the whole or part of the Main Contract Works by order of an Appropriate Authority provided always that the same is due to negligence or omission on the part of the Employer, Architect or Consultant.

Loss and/or expense to be included in certificate

22.4

The Sub-Contractor shall not be entitled to any loss and/or expense unless he complies with all the provisions of Clause 22.1. Subject to the Sub-Contractor complying with Clause 22.1, the Architect or Consultant shall ascertain the amount of such loss and/or expense. Any amount so ascertained from time to time for such loss and/or expense shall be added to the Sub-Contract Sum, and if a payment certificate is issued after the date of ascertainment, such amount shall be included in the certificate.

Breach of Sub-Contract – Sub-Contractor’s claim

22.5 Where the regular progress of the Sub-Contract Works has been or is likely to be disrupted by any negligence, omission, default and/or breach of contract by the Contractor, and the Sub-Contractor had incurred or is likely to incur loss and/or expense, the Sub-Contractor shall be entitled to recover such loss and/or expense from the Contractor as a debt. Provided always that:

22.5(a) the Sub-Contractor shall give written notice to the Contractor of his intention to claim for such loss and/or expense within twenty one (21) Days from the commencement of the cause of disturbance giving rise to the claim, and the written notice shall specify the negligence, omission, default and/or breach of contract and its consequences. The giving of such written notice shall be a condition precedent to any entitlement that the Sub-Contractor may have under the Sub-Contract; and

22.5(b) within twenty eight (28) Days of the Sub-Contractor giving written notice (or within such longer period as may be agreed in writing by the Contractor), the Sub-Contractor shall send to the Contractor particulars of his claim for loss and/or expense together with all necessary supporting calculations to substantiate his claim. If the Sub-Contractor fails to submit the required particulars within the stated time (or within such longer period as may be agreed in writing by the Contractor), it may be deemed that the Sub-Contractor has no claim for loss and/or expense.

If the Contractor has any dispute with the Sub-Contractor’s notice or the amount of the Sub-Contractor’s claim, the Contractor shall within twenty one (21) Days of receipt of such written notice or claim, send to the Sub-Contractor a written notice by hand or by registered post setting out the reasons and particulars for such disagreement. If the parties are unable to agree on the dispute within a further twenty one (21) Days after the receipt of the Sub-Contractor’s response, the parties shall refer the dispute to adjudication under Clause 2830.1. The Sub-Contractor shall be entitled to be paid the loss and/or expense within twenty one (21) Days after the amount has been agreed by the Contractor or the adjudicator has issued his decision.

Breach of Sub-Contract – Contractor’s claim

22.6 Where the regular progress of the Main Contract Works has been or is likely to be disrupted by negligence, omission, default and/or breach of contract by the Sub-Contractor, and the Contractor had incurred or is likely to incur loss and/or expense the Contractor shall be entitled to recover such loss and/or expense from the Sub-Contractor as a debt or to set-off the same from any monies due or to become due to the Sub-Contractor under the Sub-Contract or to recover the same from the Performance Bond, provided always that:

22.6(a) the Contractor shall give written notice to the Sub-Contractor, delivered by hand or by registered post of his intention to claim for such loss and/or expense within twenty one (21) Days from the commencement of the cause of disturbance giving rise to the claim, and the written notice shall specify the negligence, omission, default and/or breach of contract and its consequences. The giving of such written notice shall be a condition precedent to any entitlement that the Contractor may have under the Sub-Contract; and

22.6(b) within twenty eight (28) Days of the Contractor giving written notice (or within such longer period as may be agreed in writing by the Sub-Contractor), the Contractor shall send to the Sub-Contractor particulars of the claim for loss and/or expense together with all necessary supporting calculations to substantiate his claims. If the Contractor fails to submit the required particulars within the stated time (or within such longer period as may be agreed in writing by the Sub-Contractor), it may be deemed that the Contractor has no claim for loss and/or expense.

If the Sub-Contractor after receipt of the written notice from the Contractor disputes the amount of set-off, the Sub-Contractor may within twenty one (21) Days of receipt of such written notice, send to the Contractor by hand or by registered post a statement setting out the reasons and particulars for such disagreement. If the parties are unable to agree on the amount of set-off within a further twenty one (21) Days after the receipt of the Sub-Contractor’s response, the parties shall refer the dispute to adjudication in accordance with Clause 2830.1. The Contractor shall not be entitled to exercise any set-off unless the amount has been agreed by the Sub-Contractor or the adjudicator has issued his decision.

Loss and/or expense between the parties to be mutually resolved	22.7	Any claims for loss and/or expense under Clauses 22.5 and 22.6 are matters to be resolved between the Contractor and Sub-Contractor, and the amount shall not be included in the Final Account.
	23.0	Determination Of Sub-Contractor's Employment By Contractor
Defaults by Sub-Contractor	23.1	The Contractor may determine the employment of the Sub-Contractor if the Sub-Contractor defaults in any of the following: <ul style="list-style-type: none"> 23.1(a) if without reasonable cause, he fails to commence the Sub-Contract Works in accordance with the Sub-Contract; 23.1(b) if without reasonable cause, he wholly or substantially suspends the carrying out of the Sub-Contract Works before completion; 23.1(c) if he fails to proceed with the design (to the extent required by the Sub-Contract) and/or proceed regularly and/or diligently with the Sub-Contract Works; 23.1(d) if he persistently refuses or neglects to comply with an AI; 23.1(e) if he fails to comply with the provisions of Clause 18.0; or 23.1(f) if he has abandoned the Sub-Contract Works.
Procedure for determination	23.2	Upon the occurrence of any default under Clause 23.1, and if the Contractor intends to determine the Sub-Contractor's employment, the Contractor shall send to the Architect (with a copy to the Sub-Contractor) a written report of the Sub-Contractor's default. The Architect may request that the Sub-Contractor respond to the Contractor's report before he decides whether to give his written consent under Clause 27.8 of the Main Contract Conditions to determine the employment of the Sub-Contractor. If the Architect gives his written consent to determine the employment of the Sub-Contractor, the Contractor shall give to the Sub-Contractor a written notice delivered by hand or by registered post specifying the default. If the Sub-Contractor shall continue with such default for fourteen (14) Days from the receipt of such written notice, then the Contractor may, within ten (10) Days from the expiry of the said fourteen (14) Days, by a further written notice delivered by hand or by registered post, forthwith determine the employment of the Sub-Contractor under the Sub-Contract. Provided always that such notice shall not be given unreasonably or vexatiously.
Sub-Contractor's insolvency	23.3	In the event of the Sub-Contractor becoming insolvent or making a composition or arrangement with his creditors, or have a winding up order made, or (except for purposes of reconstruction or amalgamation) a resolution for voluntary winding up, or having a liquidator or receiver or manager of his business or undertaking duly appointed, or having possession taken by or on behalf of the holders of any debentures secured by a floating charge, or of any property comprised in or subject to the floating charge, the employment of the Sub-Contractor shall be forthwith automatically determined.
Rights and duties of the Contractor and Sub-Contractor	23.4	In the event that the employment of the Sub-Contractor is determined under Clause 23.1 or 23.3, the following shall be the respective rights and duties of the Contractor and Sub-Contractor: <ul style="list-style-type: none"> 23.4(a) the Employer through the Architect shall nominate a Person as the new Nominated Sub-Contractor, or employ and pay other Person to carry out and complete the Sub-Contract Works and make good any defects. Such Person may enter upon the Sub-Contract Works and use all temporary buildings, construction plant, tools, equipment, materials and goods intended for, delivered to and placed on or adjacent to the Site, except those that are on hire by the Sub-Contractor, and may purchase all materials and goods necessary for the carrying out and the completion of the Sub-Contract Works. The Sub-Contractor, if so required by the Contractor, shall within twenty one (21) Days of the date of determination, assign to the Contractor the benefit of any agreement for the continuation of the hire of construction plant and equipment already on Site;

	23.4(b)	the Sub-Contractor if so required by the Contractor, shall within twenty one (21) Days of the date of determination, assign to the Contractor without payment the benefit of any agreement for the supply of materials and goods and/or for the execution of any work for the purposes of the Sub-Contract to the extent that the same is assignable;
	23.4(c)	the Sub-Contractor when required in writing by the Contractor shall remove from the Sub-Contract Works any temporary buildings, construction plant, tools, equipment, materials and goods belonging to or hired by him. If within a reasonable time after any such instruction has been issued to the Sub-Contractor, and he has not complied therewith, then the Contractor may without liability remove and sell any such property belonging to the Sub-Contractor (except those that are on hire) and hold the proceeds less all costs incurred to the credit of the Sub-Contractor; and
	23.4(d)	the Sub-Contractor shall allow or pay to the Contractor all cost incurred to complete the Sub-Contract Works including all loss and/or expense suffered by the Contractor. Upon completion of the Sub-Contract Works, an account taking into consideration the value of works carried out by the Sub-Contractor and all cost incurred by the Contractor to complete the Sub-Contract Works including loss and/or expense suffered by the Contractor, shall be incorporated in a final account prepared in accordance with Clause 23.7.
No payment upon determination	23.5	Until after the completion of the Sub-Contract Works as referred to in Clause 23.4(a), the Contractor shall not be bound by any provision in the Sub-Contract to make any further payment to the Sub-Contractor, including payments which have been certified but not yet paid due but excluding payments which have been certified and are due but remain unpaid when the employment of the Sub-Contractor was determined.
Records of Sub-Contract Works	23.6	The Architect or Consultant shall within twenty eight (28) Days of the determination of the Sub-Contractor's employment, give a written notice to the Contractor and Sub-Contractor of the date of inspection on Site to jointly record the extent of the Sub-Contract Works executed and the materials and goods delivered to the Site. The Contractor and Sub-Contractor shall provide all necessary assistance to the Architect and Consultant to perform their task. Upon completion of the record by the Architect or Consultant, a copy shall be sent to the Contractor and Sub-Contractor and such records shall form the basis for the evaluation of the value of the works executed and materials and goods delivered to the Site by the Sub-Contractor up to the date of determination.
Final account upon determination	23.7	The Architect or Consultant shall within six (6) three (3) Months on completion of the availability of the final cost incurred to complete the Main -Sub-Contract Works, submit to the Sub-Contractor and Contractor for their agreement, a final account shall be for all cost incurred to complete the Sub-Contract Works including the sums previously certified to the Sub-Contractor before the date of determination, Liquidated Damages and all loss and expense and set-off suffered by the Employer and Contractor.
	23.7(a)	If nothing in the said final account is disputed by the Contractor and Sub-Contractor within three (3) Months from the date of receipt of the final account from the Architect or Consultant, the final account shall be conclusive and deemed agreed by the parties. If the amount in the final account exceeds the total amount which would have been payable on completion in accordance with the Sub-Contract, the difference shall be a debt payable to the Contractor by the Sub-Contractor or where applicable, the Contractor may recover such sum from the Performance Bond. If the said amount is less than the said total amount, the difference shall be a debt payable to the Sub-Contractor by the Contractor.

		23.7(b)	If either party has any dispute on the final account, the party disputing the final account shall by written notice to the other party (with copies to the Architect and Consultant) set out any disagreement complete with particulars within three (3) Months of the date of receipt of the final account from the Architect or Consultant. The Architect or Consultant within three (3) Months from the date of receipt of the grounds of dispute shall either amend or not amend the final account. Any party disagreeing with the amended final account or decision not to amend the final account shall refer the dispute to arbitration under Clause 2931.0 within three (3) Months from the date of receipt of the amended final account or decision not to amend the final account. Failure to refer the dispute to arbitration within the stipulated time, the final account or amended final account shall deem to be conclusive and deemed agreed by the parties.
		23.7(c)	Any dispute on set-off which the Contractor is entitled to make under the Sub-Contract shall be referred to arbitration.
Remedy limited to damages only	23.8		Upon receipt of a written notice by the Sub-Contractor from the Contractor to determine the employment of the Sub-Contractor, the Sub-Contractor shall within fourteen (14) Days from the receipt of the said written notice remove his personnel and labour force (but not construction plant, tools and equipment unless so instructed by the Contractor or Architect) from the Site. Irrespective of the validity of the said written notice the Sub-Contractor's remedy shall be limited to compensation for damages only.
Contractor's rights and remedies not prejudiced	23.9		The provisions of Clause 23.0 are without prejudice to any other rights and remedies which the Contractor may possess.
	24.0		Determination Of Own Employment By Sub-Contractor
Defaults by Contractor	24.1		The Sub-Contractor may determine his own employment if the Contractor defaults in any of the following:
		24.1(a)	if without reasonable cause, the Contractor wholly or substantially suspends the carrying out of the Main Contract Works;
		24.1(b)	if without reasonable cause, the Contractor fails to proceed with the Main Contract Works with due diligence so that the reasonable progress of the Sub-Contract Works is seriously affected; or
		24.1(c)	if the Contractor fails or neglects to pay the Sub-Contractor the amount properly due on any certificate (less any set-off which the Contractor is expressly entitled to make under the Sub-Contract), within seven (7) Days after the Period of Honouring Certificate.
Procedure for determination	24.2		Upon the occurrence of any default under Clause 24.1, and if the Sub-Contractor decides to determine his own employment then, the Sub-Contractor shall give to the Contractor, a written notice delivered by hand or by registered post specifying the default. If the Contractor shall continue such default for fourteen (14) Days from the receipt of such written notice then, the Sub-Contractor may within ten (10) Days from the expiry of the said fourteen (14) Days, by a further written notice delivered by hand or by registered post forthwith determine his own employment under the Sub-Contract. Provided always that such notice shall not be given unreasonably or vexatiously.
Contractor's insolvency	24.3		In the event of the Contractor becoming insolvent or making a composition or arrangement with his creditors, or have a winding up order made, or (except for purposes of reconstruction or amalgamation) a resolution for voluntary winding up, or having a liquidator or receiver or manager of his business or undertaking duly appointed, or having possession taken by or on behalf of the holders of any debentures secured by a floating charge, or of any property comprised in or subject to the floating charge, the employment of the Sub-Contractor shall be forthwith automatically determined.
Rights and duties of Sub-Contractor and Contractor	24.4		In the event that the employment of the Sub-Contractor is determined under Clause 24.1, the following shall be the respective rights and duties of the Contractor and Sub-Contractor:

	24.4(a)	the Sub-Contractor shall within fourteen (14) Days or within such longer period as may be agreed in writing by the Contractor, remove from the site all his temporary buildings, construction plant, tools, materials and goods and shall be paid the cost of demobilisation;
	24.4(b)	the Sub-Contractor shall be paid for the total value of work properly completed, the total value of work begun and executed but not completed, the cost of materials and goods properly ordered for the Sub-Contract Works (but not incorporated into the Sub-Contract Works) for which the Sub-Contractor shall have paid or is legally bound to accept delivery and on such payment by the Contractor any materials and goods so paid for shall become the property of the Contractor; and
	24.4(c)	the Contractor shall allow or pay to the Sub-Contractor any loss and/or expense suffered by the Sub-Contractor caused by such determination.
Records of Sub-Contract Works	24.5	Upon determination by the Sub-Contractor of his own employment, the Sub-Contractor shall within twenty eight (28) Days of the written notice of determination, give a written notice to the Contractor (with a copy to the Architect and Consultant) of the date of inspection on Site to jointly record the extent of the Sub-Contract Works executed and the materials and goods delivered to the Site. Upon completion of the record, a copy shall be sent by the Sub-Contractor to the Contractor (with a copy to the Architect and Consultant) and the records shall form the basis for the evaluation of the cost of the works executed by the Sub-Contractor.
Settlement of account	24.6	The Sub-Contractor shall within six (6) Months after determination of his own employment, submit to the Contractor, Architect and Consultant for the Contractor's agreement, a final account for the total value of work properly executed, the value of materials and goods supplied and loss and/or expense suffered by the Sub-Contractor caused by such determination.
	24.6(a)	If nothing in the said final account is disputed by the Contractor within three (3) Months from the date of receipt of the final account from the Sub-Contractor, the final account shall be conclusive and deemed agreed by the parties. If after taking into consideration any sums previously paid to the Sub-Contractor under the Sub-Contract less any set-off which the Contractor is expressly entitled to make under the Sub-Contract, there is a balance due to the Sub-Contractor, the amount to be paid by the Contractor shall be payable within seven (7) Days after the Period of Honouring Certificates. If such amounts added to the sums previously paid to the Sub-Contractor before the date of determination exceed the total amount which would have been payable on completion in accordance with the Sub-Contract, the difference shall be a debt payable to the Contractor by the Sub-Contractor.
	24.6(b)	If the Contractor disputes the final account, the Contractor shall give written notice to the Sub-Contractor (with copies to the Architect and Consultant) setting out any disagreement complete with particulars within three (3) Months of the date of receipt of the final account from the Sub-Contractor. The Sub-Contractor within three (3) Months from the date of receipt of the grounds of dispute shall either amend or not amend the final account. In the event the Contractor disagrees with the amended final account or the decision not to amend the final account, the Contractor shall refer the dispute to arbitration under Clause 29.31.0 within three (3) Months from the date of receipt of the amended final account or decision not to amend the final account. Failure to refer the dispute to arbitration within the stipulated time, the final account or amended final account shall deem to be conclusive and deemed agreed by the parties.
	24.6(c)	Any dispute on set-off which the Contractor is entitled to make under the Sub-Contract shall be referred to arbitration.
Sub-Contractor's rights and remedies not prejudiced	24.7	The provisions of Clause 24.0 are without prejudice to any other rights and remedies which the Sub-Contractor may possess.

	25.0	Determination Of Contractor’s Employment Under The Main Contract
Determination of Contractor’s employment by Employer	25.1	If the employment of the Contractor is determined by the Employer under Clause 25.0 of the Main Contract Conditions, then the employment of the Sub-Contractor under the Sub-Contract shall be forthwith automatically determined and the provision of Clauses 23.6 and 23.7 of the Sub-Contract shall apply.
Determination of Contractor’s employment by Contractor	25.2	If the Contractor determines his own employment under Clause 26.0 of the Main Contract Conditions, then the employment of the Sub-Contractor under the Sub-Contract shall be forthwith automatically determined. The Sub-Contractor shall supply all necessary information to the Contractor in order that the Contractor can include a record of works executed by the Sub-Contractor to be followed by a final account to be submitted to the Employer as required under Clauses 26.4 and 26.5 of the Main Contract Conditions.
	26.0	Certificates And Payment
Contractor to include Sub-Contractor’s payment application	26.1	The Sub-Contractor shall at such intervals agreed with the Contractor, submit complete details and particulars to the Contractor to consider and ascertain the amount to be included in the payment application under the Main Contract. Any failure by the Sub-Contractor to submit a payment application within the agreed time shall be deemed to be a waiver of his contractual entitlement for that interim payment.
Sub-Contractor’s payment	26.2	The Sub-Contractor’s payment application shall, subject to any agreement between the parties as to stage payments, be the total value of work properly executed and include the percentage of the value of materials and goods stated in Appendix ‘C’. The materials and goods must be for incorporation into the permanent works and have been delivered to and properly stored at the Site and be protected against loss, damage or deterioration, and be in accordance with the Sub-Contract. The payment application shall only include the value of materials and goods which are reasonably, properly and not prematurely brought to the Site.
Sub-Contractor’s payment and Contractor’s entitlement to set-off	26.3	When issuing any payment certificates under Clause 30.1 of the Main Contract Conditions, the Architect shall also indicate separately any amount due to the Sub-Contractor under the Sub-Contract. The payment by the Contractor to the Sub-Contractor shall be made within seven (7) Days after the Period of Honouring Certificates, less any Retention Fund which may be retained by the Contractor in accordance with the Main Contract Conditions, and less the amounts previously certified under the Sub-Contract Conditions. The Contractor shall be entitled to separately withhold and/or deduct from any payment due to the Sub-Contractor any set-off which the Contractor is expressly entitled to make under the Sub-Contract.
Retention Fund	26.4	The Contractor shall retain from the payment certificate the Retention Fund which shall be held by the Employer under Clause 30.5 of the Main Contract Conditions, an amount equal to the Percentage of Certified Value Retained as stated in Appendix ‘C’. <p>26.4(a) an amount equal to the Percentage of Certified Value Retained as stated in Appendix ‘C’; or</p> <p>26.4(b) when the amount retained in accordance to Clause 26.4(a) equals the Sub-Contractor’s limit of Retention Fund, no further amount shall be retained. The Sub-Contractor’s limit of Retention Fund shall be a sum equivalent to the same percentage as the Limit of Retention Fund stated in Appendix ‘C’.</p>
Employer may make direct payment to Sub-Contractor	26.5	The Contractor shall provide the Architect within fourteen (14) Days of the Architect’s request, reasonable proof that all amounts stated as due and included in the previous payment certificates to the Sub-Contractor have been discharged. Where the Contractor fails to discharge his payment obligations and where requested by the Sub-Contractor, the Architect may in accordance with Clause 27.6 of the Main Contract Condition issue a certificate stating the amount in respect of which the Contractor has failed to provide such proof. Where the Architect has so certified, the Employer may (but not obliged to) pay such amounts directly to the Sub-Contractor and deduct the same from any sums due or to become due to the Contractor. Any direct payment made under Clause 27.6 of the Main Contract Conditions shall not create a privity of contract between the Employer and Sub-Contractor.

Payment of Sub-Contractor's Retention Fund	26.6	Upon the issuance of the Certificate of Practical Completion, the Sub-Contractor shall be entitled to the release of one half of the Retention Fund. Upon the issuance of the Certificate of Making Good Defects under the Main Contract, the Sub-Contractor shall be entitled to the release of the residue of the Retention Fund.
Final Account	26.7	<p>Within three (3) Months after Practical Completion of the Sub-Contract Works, the Sub-Contractor shall send to the Contractor with copies to the Architect and Consultant, all documents necessary for preparing the Final Account. Such document shall contain all the latest construction drawings and details (bound together), details of all quantities, rates and prices and any adjustment of the Sub-Contract Sum and additional payment or compensation claimed by the Sub-Contractor under the Sub-Contract together with any explanation and supporting vouchers, documents and calculations which may be necessary to enable the Final Account to be prepared by the Architect or Consultant. The Final Account shall be completed within six (6) Months from receipt of all the documents from the Sub-Contractor. The period for completion of the Final Account shall be adjusted if there is any delay by the Sub-Contractor in sending the necessary documents. In the event the Sub-Contractor fails to submit all documents necessary for preparing the Final Account, the Architect or Consultant shall nevertheless complete and issue the same based on the information available within the Period to complete the Final Account stated in Appendix 'A'. On completion of the Final Account, the Architect or Consultant shall then send a copy of the document to the Contractor and Sub-Contractor.</p> <p>26.7(a) If nothing in the said Final Account is disputed by the Contractor or Sub-Contractor within three (3) Months from the date of receipt of the Final Account from the Architect or Consultant, the Final Account shall be conclusive and deemed agreed by the parties.</p> <p>26.7(b) If either party disputes the Final Account, the party disputing the Final Account shall by written notice to the other party (with copies to the Architect and Consultant) set out any disagreement complete with particulars within three (3) Months of the date of receipt of the Final Account from the Architect or Consultant. The Architect or Consultant within three (3) Months from the date of receipt of the grounds of dispute shall either amend or not amend the Final Account. Any party disagreeing with the amended Final Account or decision not to amend the Final Account shall refer the dispute to arbitration under Clause 2931.0 within three (3) Months from the date of receipt of the amended Final Account or decision not to amend the Final Account. Failure to refer the dispute to arbitration within the stipulated time, the Final Account or amended Final Account shall deem to be conclusive and deemed agreed by the parties.</p> <p>26.7(c) Any dispute on set-off which the Contractor is entitled to make under the Sub-Contract shall be referred to arbitration.</p>
Items in Final Account	26.8	<p>The Final Account of the Sub-Contract Works shall show:</p> <p>26.8(a) the adjustment made to the Sub-Contract Sum;</p> <p>26.8(b) the amounts to which the Architect considers that the Sub-Contractor is entitled under the express provisions of the Sub-Contract;</p> <p>26.8(c) the omission of all P.C. Sums and the related profit provided by the Sub-Contractor in the Sub-Contract Documents and the substitution of the amounts payable to the Sub-Contractors together with the pro-rata amount for profit; and</p> <p>26.8(d) the adjustment of Provisional Sums and omission of any Provisional Sums if not expended.</p> <p>The following shall not be included in the Final Account and are matters to be resolved separately between the Contractor and Sub-Contractor:</p> <p>26.8(e) any loss and/or expense or Liquidated Damages imposed by the Contractor under Clause 16.1;</p> <p>26.8(f) cost of remedial works carried out by the Contractor due to Defects in the Sub-Contract Works under Clause 17.7;</p>

	26.8(g)	cost of remedial works carried out by the Sub-Contractor due to Defects in the Main Contract Works under Clause 17.8;
	26.8(h)	loss and/or expense claim by the Contractor as a result of any disruption caused by any negligence, omission, default and/or breach of contract by the Sub-Contractor under Clause 22.6;
	26.8(i)	loss and/or expense claim by the Sub-Contractor as a result of any disruption caused by negligence, omission, default and/or breach of contract by the Contractor under Clause 22.5;
	26.8(j)	set-off by the Contractor where it is expressly provided in the Sub-Contract under Clause 26.13; and
	26.8(k)	interest payable by either of the parties to the other party under Clause 26.17.
Early final payment to Sub-Contractor	26.9	If on completion of the Final Account, the Architect wishes to certify the final payment to the Sub-Contractor before the issuance of the Final Certificate to the Contractor under the Main Contract, the Sub-Contractor shall provide an indemnity acceptable to the Contractor against all of his liabilities under the Sub-Contract, and provided always that all As-built Drawings and/or operation and maintenance manuals as specified in the Sub-Contract and any warranties required to be provided under the Sub-Contract had been submitted, the Architect shall then in accordance with and subject to the provision of Clause 27.7 of the Main Contract Conditions, issue a certificate to the Contractor which includes an amount to cover such final payment to the Sub-Contractor. The Contractor shall pay to the Sub-Contractor the amount so certified taking into consideration any outstanding claims between the Contractor and Sub-Contractor under Clause 26.8. The payment shall be made within seven (7) Days after the Period of Honouring Certificates.
Final payment and Final Certificate not conclusive	26.10	The Final Account shall be conclusive on the final value of the Sub-Contract Works with the exception of any outstanding claims between the Contractor and Sub-Contractor under Clause 26.8. The final payment to the Sub-Contractor or the issuance of the Final Certificate under the Main Contract shall not be conclusive evidence that any work, materials and goods to which it relates and designs (if any) executed by the Sub-Contractor are in accordance with the Sub-Contract.
Conclusiveness of the Final Account	26.11	Unless a written notice for arbitration shall have been given under Clause 29 31.0 by either party within the stipulated time stated in Clause 26.7, the Final Account or the last amended Final Account shall be conclusive and deemed agreed by the parties other than any outstanding items to be resolved separately between the Contractor and Sub-Contractor under Clauses 26.8(e) to 26.8(k), except where the Final Account is erroneous by reason of:
	26.11(a)	fraud, dishonesty or fraudulent concealment relating to the Sub-Contract Works; or
	26.11(b)	any arithmetical errors in any computation.
Commencement of arbitration proceedings	26.12	In the event that a written notice of arbitration has been served, the Contractor is obliged under Clause 34.10 37.6 of the Main Contract Conditions to commence arbitration proceedings after Practical Completion or alleged Practical Completion of the Main Contract Works or determination or alleged determination of the Main Contractor's employment under the Main Contract or abandonment of the Main Contract Works.
Set-off claims by Contractor	26.13	The Contractor shall be entitled to set-off the amount of all cost incurred and loss and expense where it is expressly provided under Clauses 7.4, 14.3, 16.1, 17.3(b), 17.3(c), 17.5, 17.6, 17.7, 20.6, 26.17 and Appendix 'B'. No set-off under this clause may be made unless:
	26.13(a)	the Contractor has submitted to the Sub-Contractor complete details of their assessment of such set-off; and
	26.13(b)	the Contractor has given the Sub-Contractor a written notice delivered by hand or by registered post, specifying his intention to set-off the amount and the grounds on which such set-off is made. Unless expressly stated elsewhere, such written notice shall be given not later than twenty eight (28) Days before any set-off is deducted from any payment by the Contractor.

If the Sub-Contractor after receipt of the written notice from the Contractor, disputes the amount of set-off, the Sub-Contractor may within twenty one (21) Days of receipt of such written notice, send to the Contractor by hand or by registered post a statement setting out the reasons and particulars for such disagreement. If the parties are unable to agree on the amount of set-off within a further twenty one (21) Days after the receipt of the Sub-Contractor's response, either party shall refer the dispute to adjudication under Clause 28.30.1. The Contractor shall not be entitled to exercise any set-off unless the amount has been agreed by the Sub-Contractor or the adjudicator has issued his decision.

Set-off by Employer under the Main Contract	26.14	Where the Employer exercises the right of set-off under the provisions of the Main Contract and/or deduct any Liquidated Damages from any payment due to the Contractor, then the payment or non payment to the Contractor by the Employer after such set-off shall be deemed to be payment received in full by the Contractor on the date such payment is due.
Suspension of Sub-Contract Works for non payment	26.15	Without prejudice to the Sub-Contractor's rights to determine his own employment under Clause 24.0, if the Contractor fails or neglects to pay the Sub-Contractor the amount due as shown in the payment certificate (less any set-off which the Contractor is expressly entitled to make under the Sub-Contract) and such failure shall continue for fourteen (14) Days after the receipt of a written notice delivered by hand or by registered post from the Sub-Contractor stating that if payment is not made within the fourteen (14) Days, the Sub-Contractor may by a further written notice delivered by hand or by registered post, forthwith suspend the execution of the Sub-Contract Works until such time when payment is made. Provided always that such notice shall not be given unreasonably or vexatiously.
Suspension of Main Contract Works by the Contractor under the Main Contract	26.16	Where under the Main Contract, the Contractor exercises his right to suspend performance of his obligations, the Contractor shall so notify the Sub-Contractor in writing and may direct the Sub-Contractor to suspend performance of the Sub-Contract Works. The Sub-Contractor shall be entitled to an appropriate extension of time under Clause 21.0 and loss and/or expense under Clause 22.0.
Interest	26.17	If the Contractor fails to pay the Sub-Contractor the amount due on any certificate (less any loss and/or expense or any Liquidated Damages under Clause 16.1 and set-off under Clause 26.13) seven (7) Days after the Period of Honouring Certificates, or the Sub-Contractor owes a debt or fails to pay any sum due and owing to the Contractor within twenty-one (21) Days after receipt of written notification by the Contractor of such debt or amount owing, a simple interest based on the Maybank Base Lending Rate plus one (1) percent shall be payable by the defaulting party on such outstanding amount until the date payment is made.
	27.0	General Attendance Upon Sub-Contractor
General Attendance	27.1	General Attendance as stated in Appendix 'B' to the Sub-Contract Conditions shall be provided by the Contractor to the Sub-Contractor. Save as otherwise provided in the General Attendance, the Sub-Contractor shall at his own expense provide all additional services and facilities or agree with the Contractor to provide the services and facilities at additional cost to be agreed between them.
Use of scaffolding	27.2	The Contractor, Sub-Contractor, their employees and workmen respectively in common with all other Person having a like right for the purposes of the Main Contract and Sub-Contract Works shall be entitled to use any standing scaffolding belonging to or provided by the Contractor or Sub-Contractor as the case may be, while it remains so standing upon the Site. The Contractor and Sub-Contractor shall give written notice to the other party prior to the removal of any standing scaffolding.
Contractor and Sub-Contractor shall not wrongfully interfere	27.3	The Contractor, Sub-Contractor, their employees and workmen respectively in common with all other Person having a like right for the purposes of the Main Contract and Sub-Contract Works shall not wrongfully use or interfere with the construction plant, ways, scaffolding, temporary works, appliances or other property respectively belonging to or provided by either of them.

	28.0	Mediation
Mediation under PAM rules	28.1	Notwithstanding Clauses 30.0 and 31.0 of the Sub-Contract Conditions, upon the written agreement of both the Contractor and Sub-Contractor, the parties may refer any dispute for mediation. If the parties fail to agree on a mediator after twenty one (21) Days from the date of the written agreement to refer the dispute to mediation, any party can apply to the President of Pertubuhan Akitek Malaysia to appoint a mediator. Upon appointment, the mediator shall initiate the mediation in accordance with the current edition of the PAM Mediation Rules or any modification or revision to such rules.
Mediation shall not prejudice the parties' rights to adjudication or arbitration	28.2	Prior reference of the dispute to mediation under Clause 28.1 shall not be a condition precedent for its reference to adjudication or arbitration by either the Contractor or Sub-Contractor, nor shall any of their rights to refer the dispute to adjudication under Clause 30.0 or arbitration under Clause 31.0 of these Sub-Contract Conditions be in any way prejudiced or affected by this clause.
	29.0	Expert Determination
Disputes on all matters	29.1	At any time, the parties by written agreement may refer any disputes on all matters for determination by an expert.
Expert determination under PAM Rules	29.2	If the parties fail to agree on an expert after fourteen (14) Days from the date of the written agreement, any party can apply to the President of Pertubuhan Arkitek Malaysia to appoint an expert. Upon appointment, the expert shall initiate the expert determination in accordance with the current edition of the PAM Expert Determination Rules or any modification or revision to such rules.
Expert determination shall not prejudice the parties' rights to adjudication or arbitration	29.3	Prior reference of the dispute under Clause 29.1 shall not be a condition precedent for its reference to adjudication or arbitration by either the Contractor or the Employer, nor shall any of their rights to refer the dispute to adjudication under Clause 30.0 or arbitration under Clause 31.0 of these Sub-Contract Conditions be in any way prejudiced or affected by this clause.
	2830.0	Adjudication
Claims and set-off disputes referred to adjudication	2830.1	Reference to adjudication is a condition precedent to arbitration for disputes under Clauses 22.5, 22.6 and 26.13 before practical completion of the Main Contract Works. The parties by written agreement are free to refer any other disputes to adjudication. Any dispute under Clauses 22.5, 22.6 and 26.13 after practical completion of the Main Contract Works shall be referred to arbitration under Clause 29 31.1.
Notice to refer to adjudication	2830.2	Where a party requires a dispute or difference under Clause 2830.1 to be referred to adjudication, such disputes or differences shall be referred to an adjudicator to be agreed between the parties. If after the expiration of twenty one (21) Days from the date of the written notice to concur on the appointment of the adjudicator, there is a failure to agree on the appointment, the party initiating the adjudication shall apply to the President of Pertubuhan Akitek Malaysia to appoint an adjudicator, and such adjudicator so appointed shall be deemed to be appointed with the agreement and consent of the parties to the Contract.
Adjudication Rules	2830.3	Upon appointment, the adjudicator shall initiate the adjudication in accordance with the current edition of the PAM Adjudication Rules or any modification or revision to such rules.
Decision of the adjudicator	2830.4	If a party disputes the adjudicator's decision, he shall nevertheless be bound by the adjudicator's decision until Practical Completion, but shall give a written notice to the other party to refer the dispute which was the subject of the adjudication to arbitration within six (6) Weeks from the date of the adjudicator's decision. The adjudicator's decision shall be final and binding on the parties if the dispute on the adjudicator's decision is not referred to arbitration within the stipulated time. The parties may settle any dispute with the adjudicator's decision by written agreement between the parties or by arbitration under Clause 29 31.0.

	2931.0	Arbitration
Disputes referred to arbitration	2931.1	In the event that there is a dispute over any adjudicator's decision, and/or any dispute of whatsoever kind between the Contractor and Sub-Contractor in connection with the Sub-Contract, it shall be referred to an arbitrator agreed between the parties or failing such agreement, the arbitrator shall be appointed in accordance with Clause 34.6 37.2 of the Main Contract Conditions. Such arbitration proceedings shall not commence until after practical completion or alleged practical completion of the Main Contract Works or determination or alleged determination of the Sub-Contractor's employment or abandonment of the Sub-Contract Works or Main Contract Works. The arbitration proceedings shall be in accordance with the provisions of the Arbitration Act 2005 or any statutory modification or re-enactment to the Act and the current edition of the PAM Arbitration Rules or any modification or revision to such rules.
Powers of arbitrator	2931.2	<p>The arbitrator shall without prejudice to the generality of his powers, have power:</p> <p>2931.2(a) to rectify the Sub-Contract so that it accurately reflects the true agreement made by the Contractor and Sub-Contractor;</p> <p>2931.2(b) to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the parties;</p> <p>2931.2(c) to ascertain and award any sum which ought to have been the subject of or included in any certificate;</p> <p>2931.2(d) to open up, review and revise any certificate, opinion, decision, requirement, or notice;</p> <p>2931.2(e) to determine all matters in dispute submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given;</p> <p>2931.2(f) to award interest from such dates at such rates and with such rests as he thinks fit:</p> <p style="margin-left: 20px;">2931.2(f)(i) on the whole or part of any amount awarded by him in respect of any period up to the date of the award;</p> <p style="margin-left: 20px;">2931.2(f)(ii) on the whole or part of any amount claimed in the arbitration and outstanding at the commencement of the arbitral proceedings but paid before the award was made, in respect of any period up to the date of payment; and</p> <p>2931.2(g) to award interest from the date of the award (or any later date) until payment, at such rates and with such rests as he thinks fit on the outstanding amount of any award.</p>
Consolidation of arbitration proceedings	2931.3	If any dispute arises in connection with the Main Contract and such dispute concerns the Sub-Contract Works, the Contractor may by written notice to the Sub-Contractor require that any such dispute under the Sub-Contract be referred to the appointed arbitrator under the Main Contract subject to the agreement of the Employer (such agreement not to be unreasonably withheld) and provided always that the arbitrator's hearing of witnesses has not commenced. Where the arbitrator is willing to act and has no conflict of interest in so acting, and the Sub-Contractor has no valid grounds why the arbitrator should not act under the Sub-Contract, such dispute shall be referred to the same arbitrator. In such event, the arbitrator may consolidate the proceedings.
Appointment of arbitrator by Pertubuhan Akitek Malaysia	2931.4	In the event the Sub-Contractor objects to the arbitrator appointed in accordance with Clause 29 31.3, he shall submit his objection in writing to the Contractor. If the Contractor considers that the objection may be without merit, the Sub-Contractor shall agree to refer the objection to the President of Pertubuhan Akitek Malaysia to make a final decision on the objection of the arbitrator, and both parties agree to be bound by such decision.

Alternatively, the parties may concur in the appointment of a new arbitrator. If after the expiration of twenty one (21) Days after a party has initiated the appointment of an arbitrator, there is a failure to agree on the appointment, the party initiating the arbitration shall apply to the President of Pertubuhan Akitek Malaysia to appoint a new arbitrator, and such arbitrator so appointed shall be deemed to be so appointed with the agreement and consent of the parties to the Sub-Contract.

	30.0	Mediation
Mediation under PAM rules	30.1	Notwithstanding Clauses 28.0 and 29.0 of the Sub-Contract Conditions, upon the written agreement of both the Contractor and Sub-Contractor, the parties may refer any dispute for mediation. If the parties fail to agree on a mediator after twenty one (21) Days from the date of the written agreement to refer the dispute to mediation, any party can apply to the President of Pertubuhan Akitek Malaysia to appoint a mediator. Upon appointment, the mediator shall initiate the mediation in accordance with the current edition of the PAM Mediation Rules or any modification or revision to such rules.
Mediation does not prejudice the parties rights to arbitration	30.2	Prior reference of the dispute to mediation under Clause 30.1 shall not be a condition precedent for its reference to adjudication or arbitration by either the Contractor or Sub-Contractor, nor shall any of their rights to refer the dispute to adjudication or arbitration under Clauses 28.0 and 29.0 of the Sub-Contract Conditions be in any way prejudiced or affected by this clause.
	321.0	Notice
Notice	321.1	Any written notice or other document to be given under the Sub-Contract shall be given or sent by: 321.1(a) hand; 321.1(b) ordinary mail or registered post; or 321.1(c) facsimile transmission; or 32.1(d) by electronic transmission.
Notice deemed served	321.2	Any written notice or other document shall be deemed to have been duly served upon and received by the addressee: 321.2(a) if delivered by hand, at the time of delivery; 321.2(b) if sent by ordinary mail or registered post, after three (3) Days of posting; or 321.2(c) if transmitted by way of facsimile transmission, at time of transmission; or 32.2(d) if transmitted by way of electronic transmission, at time of transmission.
Proof of Notice	321.3	In proving the giving of a written notice or any other document under or in respect of the Sub-Contract, it shall be sufficient to show: 321.3(a) in the case of hand delivery, a signed acknowledgement of receipt; 321.3(b) in the case of registered post, a receipt of posting from the Post Office; or 321.3(c) in the case of facsimile transmission, that the facsimile transmission was duly transmitted from the dispatching terminal, as evidenced by a transmission report generated by the transmitting equipment; or 32.3(d) in the case of electronic transmission, that the electronic transmission was duly transmitted from the dispatching terminal, as evidenced by a transmission report generated by the transmitting equipment.
Written communication	321.4	All written communication shall be sent to the address stated in the Articles of Agreement unless otherwise notified in writing.

	332.0	Performance Bond
Submission of Performance Bond	332.1	The Sub-Contractor shall within fourteen (14) Days from receipt of the Letter of Appointment, submit to the Contractor a Performance Bond for a sum equivalent to the percentage of the Sub-Contract Sum stated in Appendix 'A' as a security for the due performance and observance by the Sub-Contractor of his obligations under the Sub-Contract.
Form of the Performance Bond	332.2	The Performance Bond shall be in the form issued in the terms and conditions specified in the Sub-Contract or otherwise approved by the Contractor.
Validity of the Performance Bond	332.3	The Performance Bond submitted by the Sub-Contractor shall remain valid until three (3) Months after the Completion Date for the Main Contract. Where the Sub-Contract Works would not be completed by the Completion Date for the Main Contract, the Contractor shall instruct the Sub-Contractor before the expiry of the Performance bond, extend the duration of the Performance Bond to expire three (3) Months after the projected Practical Completion of the Main Contract Works.
Failure to extend the validity	332.4	If the Sub-Contractor fails to provide or maintain the validity of the Performance Bond in accordance with this clause, then without prejudice to any other rights and remedies which the Contractor may possess, the Contractor shall be entitled to withhold or deduct an amount equal to the Performance Bond from any payment due or to become due to the Sub-Contractor.
Payments from the Performance Bond	332.5	In the event that the Contractor determines the employment of the Sub-Contractor in accordance with Clause 23.0, or if there is any breach of the Sub-Contract, and subject to the Architect certifying such breach by the Sub-Contractor , the Contractor may call on the Performance Bond and utilise and make payments out of or deduction from the Performance Bond for the completion of and/or rectification of the Sub-Contract Works and reimbursement of loss, expense and/or damage suffered by the Contractor. On completion of the Sub-Contract Works, any balance of monies remaining from the Performance Bond shall be refunded to the Sub-Contractor without interest.
Return of Performance Bond	332.6	In the event the Sub-Contractor determines his own employment in accordance with Clause 24.0, the Contractor shall within twenty-eight (28) fourteen (14) Days return the Performance Bond to the Sub-Contractor for cancellation.
	343.0	Governing Law
Governing Law	343.1	The law governing the Sub-Contract shall be the Laws of Malaysia.

Appendix ‘A’ To The Sub-Contract Conditions

Clause

Sub-Contract Date of Commencement [if none stated is fourteen (14) Days from the date of the Letter of Appointment] **15.1**

Sub-Contract Completion Date for the whole of the Sub-Contract Works **15.1**

OR

Sub-Contract Completion Dates for sections of the Sub-Contract Works as follows:

Item	Section of Sub-Contract Works	Clause	Period to complete section of work to be fixed by the Notice to start work	Earliest commencement date on Site	Latest commencement date on Site
1		15.1	.....<i>Weeks</i>	.....	.....
2		15.1	.....<i>Weeks</i>	.....	.....
3		15.1	.....<i>Weeks</i>	.....	.....
4		15.1	.....<i>Weeks</i>	.....	.....
5		15.1	.....<i>Weeks</i>	.....	.....

Liquidated Damages

(if agreed by the parties as an alternative to loss and/or expense)

(a) For the Sub-Contract Works **16.1** RM.....per Day

OR

(b) Section of the Sub-Contract Works

16.1 RM.....per Day

Period to complete the Final Account [if none stated is twelve (12) Months from the date of Practical Completion of the Sub-Contract Works] **26.7** Months

Amount of Performance Bond [if none stated is 5% of the Sub-Contract Sum] ~~33.1~~**32.1** RM

Appendix 'B' To The Sub-Contract Conditions

General Attendance (Clause 27.0)

Note:

1. The Sub-Contractor shall refer to the Sub-Contract Bills for any amendments/variatioins to the items of attendance to be provided by the Contractor. If there are any amendments/variatioins or inconsistencies in the Sub-Contract Bills with the items of attendance provided below, the provisions in the Sub-Contract Bills shall take precedence over the items stated below.
2. In the event the Contractor, at the request of the Sub-Contractor, provides services and facilities additional to the General Attendance or if the Sub-Contractor fails to comply with any particular provisions, the extra cost for these provisions, if provided by the Contractor shall be paid by the Sub-Contractor and the Contractor shall be entitled to set-off the extra cost under Clause 26.13.

The following General Attendance shall be provided by the Contractor to the Sub-Contractor:

- i) The Contractor shall afford free and full use of standing scaffolding as provided in Clause 27.2.
- ii) The Contractor shall allow the Sub-Contractor shared use of messrooms, sanitary and welfare facilities.
- iii) The Contractor shall provide reasonable space only for the Sub-Contractor's office and storage accommodation. The Sub-Contractor shall be responsible for the cost of erecting, maintaining, moving as necessary and ultimately removing these facilities on completion of his Sub-Contract Works.
- iv) The Contractor shall provide free use of temporary lighting and power for the safe access to and egress from the Main Contract Works. Temporary lighting and power provided by the Contractor for general purposes, where available at or near the site of the Sub-Contract Works, may be used by the Sub-Contractor. If the Sub-Contractor requires additional lighting and power not provided by the Contractor, he shall at his own cost provide distribution cables and equipment for his needs to connect to power sockets provided by the Contractor in reasonable locations.
- v) The Contractor shall provide free use of reasonable water supply which will terminate at standpipes in reasonable locations. A temporary water supply provided by the Contractor for other general purpose, where available at or near the site of the Sub-Contract Works, may be used by the Sub-Contractor. If the Sub-Contractor requires additional water distribution pipes not provided by the Contractor, he shall at his own cost provide such distribution pipes and equipment for his needs to connect to water connection positions provided by the Contractor in reasonable locations.
- vi) The Contractor shall provide to the Sub-Contractor datum, reference lines and levels relevant to the Sub-Contract Works, and the Sub-Contractor shall use such datum, reference lines and levels to set out the Sub-Contract Works.
- vii) The Contractor shall provide general temporary propping to the structure to facilitate the safe handling of all equipment to their permanent positions.
- viii) The Contractor shall provide to the Sub-Contractor free reasonable use of the Contractor's existing hoisting and crange facilities for such times as they remain operational on Site. The Sub-Contractor shall be responsible at his own cost for the distribution of items required for the execution of the Sub-Contract Works and shall provide any additional hoisting and crange facilities which may be required for that purpose.
- ix) The Contractor shall assist in arranging for source of any special power supplies required by the Sub-Contractor. (Current and fuel consumed shall be paid by the Sub-Contractor).
- x) The Contractor shall at his own cost regularly remove all rubbish and debris off the Site. The Sub-Contractor shall regularly clear away to a dump or any reasonable place designated by the Contractor within the Site, all rubbish resulting from the execution of the Sub-Contract Works and shall keep all work areas tidy at all times and whenever instructed by the Contractor.
- xi) The Contractor shall organize and chair regular site meetings among all Sub-Contractors, Suppliers, etc. and shall submit to the Architect and Consultant one (1) copy of the minutes of each of such meeting for their information.

Appendix 'B' To The Sub-Contract Conditions (Cont'd)

It is to be noted that the Sub-Contractor shall include in the Sub-Contract Sum, inter alia, the costs in connection with the following:

- i) Provision in good time to the Contractor, Architect and Consultant, all details and particulars relating to their work in regard to sizes and positions in which chases, holes, mortices and similar items are required to be formed or left in the structure, and the Sub-Contractor shall be responsible to provide the requirements indicated. For the avoidance of doubt, any provisions not notified to the Contractor, Architect and Consultant by the Sub-Contractor or installed within the stipulated time required by the Sub-Contractor shall be provided by the Sub-Contractor at his own cost or if provided by the Contractor, shall be at the cost of the Sub-Contractor.
- ii) Provision of special temporary propping and strengthening to the structure to meet their specific requirements to facilitate the safe handling of all equipment to their permanent positions.
- iii) Unloading, getting in, storing, handling and hoisting of materials, construction plant and tools and bulky and/or heavy equipment which forms part of the Sub-Contractor's installation.
- iv) Provision, erection, maintenance and removal of temporary office and storage accommodation including paying all assessment and other charges.
- v) Connection to temporary water, lighting and power supplies, made available by the Contractor for the execution of the Main Contract Works, and supplying and running distribution pipes, distribution cables, leads and electrical gear required.
- vi) Provision of all fuel, gas, steam, special power supplies, and all other services that may be required for the starting, testing, adjusting, balancing and commissioning of his installations. The Sub-Contractor shall also be responsible for the provision of meters or sub-meters if required to register the current consumed and pay for all current or fuel consumed if the testing and commissioning of the installations are connected to the permanent supply.
- vii) Taking full responsibility for any loss of or damage to his construction plant, tools, equipment and other property on the site.
- viii) Keeping his works free from accumulation of rubbish and debris at all times as the progress of the work permits and on the completion of the Sub-Contract Work, the Sub-Contractor shall clear and remove all rubbish and debris from his premises to the final disposal points as directed by the Contractor for the Contractor's final disposal and carting away from the Site.

Appendix 'C' To The Sub-Contract Conditions

The following are the details of the Appendix to the Main Contract Conditions:
Clause

Defects Liability Period [if none other stated is twelve (12) Months from the day stated in the Certificate of Practical Completion of the Works]	15.4	.....
Insurance cover for accidental bodily injury to or illness of third parties (whether fatal or not), accidental loss of or damage to property belonging to third parties (the aggregate liability of the insurers shall be limited by twice the limit of indemnity caused by any one occurrence) [if none stated the insured liability shall be not less than RM1 million]	19.1 and 20.A or 20.B or 20.C	RM.....
Insurance deductible amount [if none stated shall be not more than RM50,000 an occurrence]	19.1 and 20.A or 20.B or 20.C	RM.....
Percentage to cover Professional fees for reinstatement [if none stated is a sum equivalent to 10% of the Contract Sum]	20.A or 20.B or 20.C	RM.....
Amount for removal of Debris [if none stated is a sum not less than the equivalent of 1% of the Contract Sum]	20.A or 20.B or 20.C	RM.....
Value of existing structure together with all the contents owned by the Employer or for which he is responsible	20.C	RM.....
Date of Commencement	21.021.1	.....
Completion Date	21.021.1	.....
Liquidated Damages	22.0	at the rate of RM per Day
Sectional Completion (*)	21.021.2	

Brief description of section of the Work	Date of Commencement (21.20)	Completion Date (21.30)	Liquidated Damages at the rate of (22.10)
1	RM .....per Day
2	RM .....per Day
3	RM .....per Day

Period of Delay [if none stated is a continuous period of three (3) Months]	21.10 and 26.1(d)0	.....
Interim Claim Interval [if none stated is one (1) Month]	30.1 and 30.13	.....
Period of Honouring Certificates [if none stated is twenty one (21) Days from the date of the Certificate]	30.1	.....
Percentage of the value of materials and goods included in the Certificate [if none stated is 100%]	30.2	.....
Percentage of Certified Value Retained [if none stated is 40 5% of the value of work executed and materials on site included in the certificate subject to the Limit of Retention Fund]	30.5	.....
Limit of Retention Fund [if none stated is 5% of the Contract Sum]	30.5	RM.....
Period to complete the Final Account [if none stated shall be fifteen (15) Months from the date of Practical Completion]	30.10	.....
Amount of Performance Bond [if none stated is 5% of the Contract Sum]	397.1	RM.....

(*) Footnote - This is to be used when there are different completion dates for identified sections or parts of works