

CHAPTER V.
PART II. PARTICULAR CONDITIONS

The subject of this agreement is realized according to the Law of 23 April 1964 – Civil Law Code (Journal of Laws no. 16, item 93, with further amendments), Law of April 24, 2009 on investment projects concerning the Liquefied Natural Gas Regasification Terminal in Świnoujście (Journal of Bills No. 84, item 700) and “Conditions of Contract for Building and Engineering Works Designed by the Employer”, first addition 1999 published by the International Federation of Consulting Engineers (Federation Internationale des Ingenieurs-Conseils – FIDIC, P.O. Box 86, CH-1000 Lausanne 12, Switzerland) – first English Polish edition published in year 2000 by Cosmopoli Consultants, 02-551 Warszawa ul. Łowicka 43, Poland.

The Conditions of Contract consist of Part I - General Conditions of Contract as indicated above, and Part II - Particular Conditions of Contract, which supersede General Conditions.

Particular Conditions of Contract.

Particular Conditions should be read jointly with the General Conditions of Contract for Building and Engineering Works Designed by the Employer

Particular Conditions supersede general Conditions. Numbering of Clauses in the Particular Conditions is sequential and is consistent with the numbering of Clauses in the General Conditions.

General Conditions determine rights and responsibilities of the Parties to the Contract – the Employer and the Contractor. Particular Conditions change, supplement and introduce new clauses to comply with the regulations of the Polish Law.

In the event of discrepancies between corresponding clauses of general Conditions and particular Conditions, the particular Conditions will prevail.

Statements of the clauses not changed in the Particular Conditions remain binding as worded in the General Conditions.

CLAUSE 1 - GENERAL PROVISIONS.

1.1. Definitions

1.1.1. Contract

1.1.1.1. **Contract** – the text of Sub-Clause is deleted and replaced with „means Contract Agreement”

1.1.1.2. **Contract Agreement** – the text of Sub-Clause is deleted and replaced with „means an agreement entered between the Employer and the Contractor as a result of awarded order and it is related to Sub-Clause 1.6”

1.1.1.5. **Specification** – the text of Sub-Clause is deleted and replaced with „Technical Specification of Execution and Take Over of Works – means a document, describing scope of works and conditions for their Execution and Take Over”

1.1.1.6. **Drawings** – it is added „Means also design documentation submitted to the Contractor”

1.1.9 **Bill of Quantities** – the text of Sub-Clause is deleted and replaced with „means a document having such a name and incorporated in the List”.

Additional Sub-Clauses and definitions are added

- 1.1.1.9. **Building Site Log** means a diary, issued according to the Polish Law, constituting a formal document for registration of the Works Progress and any events taking place on the Building Site.
- 1.1.1.10. **Works Permit** means the Decision nr 3/2010 of 15 January 2010. of the West Pomerania Voivodship Governor for the approval of the design and granting a Works permit for „Building Berthing Infrastructure in the external port in Świnoujście”.
- 1.1.1.11. **Register of Measurement** means a log approved by the Engineer, having pages numbered, and used for entering the quantities in the form of calculations, sketches and additional attachments. All entries in the Register need to be approved by the Engineer.

The following Sub-Clauses and definitions are added:

- 1.1.2.11. **Employer’s Supervising Engineer** – means a person, qualified as per requirements set in Charter 2 of the Building Law (independent technical functions in the construction industry) and having a role of the building site engineering supervisor as per art. 25 and 26 of the Building Laws. According to the Contract such person is authorised by the Engineer according to the Sub-Clause 3.2 of the General Conditions of Contract.
- 1.1.2.13. **Designer** – means a person, having been qualified as per requirements set in Charter 2 of the Building Law and having a role assigned in art. 20 and 21 of the Building Laws. According to the Contract such person is employed by the Employer and answers directly to the Employer.
- 1.1.2.14. **Site Manager** - means a person, qualified as per requirements set in Charter 2 of the Building Laws (independent technical functions in the construction industry) and having a role of the Site Manager as per art. 22 and 23 of the Building Laws. According to the Contract such person is nominated and must be approved by the Engineer.
- 1.1.3. Dates, Tests, Periods and Completion.**
- 1.1.3.1. **Base Date** – This date is not applicable and is deleted.

The following definitions are added:

- 1.1.6.10. **Building Law** – means the Law dated 07.07.1994 – Building Laws (Journal of Laws No. 156 of 01.09.2006 as amended) and other working regulations.

1.5 Priority of Documents

Delete the documents listed in points (a)-(h) and replace with:

- (1) Contract Agreement,
- (2) Letter of Acceptance,
- (3) Particular Conditions
- (4) „Conditions of Contract for Building and Engineering Works Designed by the Employer”
– General Conditions - FIDIC 1999,
- (5) Specification,
- (6) Building and working documentation,
- (7) Contractor’s Offer and Appendix to Tender, including Bill of Quantities,

- (8) Works Schedule as per Sub-Clause 8.3,
- (9) Listing and other documents constituting the Contract

1.6 Contract Agreement

In the first sentence number of days „28” is replaced with „14”.

1.7. Assignment

The text of Sub-Clause is removed and replaced with:

„The Contractor can not assign Any part of Works to Any third party.

The Contractor can not, without the Employer’s agreement, assign to a third party the rights to the due payment or any payment, which is to become due under the Contract.

1.14 Joint and Several Liability

Point (c) will be replaced with:

„(c) The Contractor under no circumstances will change its structure. A change of the legal status will not take place without the Employer’s consent.

Clause 3 – Engineer.

3.1. Engineer’s Duties and Authorities

After third paragraph 3.1.1 is added:

„The Engineer should obtain the Employer’s acceptance before proceedings with his duties according to the following Clauses:

- (a) Sub-Clause 3.2. Delegation by the Engineer,
- (b) Sub-Clause 4.3. Contractor’s Representative,
- (c) Sub-Clause 4.4. Subcontractors
- (d) Sub-Clause 8.4. Extension of Time for Completion,
- (e) Sub-Clause 8.8. Suspension of Work,
- (f) Sub-Clause 12.3. Evaluation,
- (g) Clause 13 Variations and Adjustments,
- (h) Sub-Clause 17.4 Consequences of Employer’s Risk,
- (i) Sub-Clause 20.1. Contractor’s Claims.

The Employer declares not to impose Any further restrictions on the Engineer’s authority without agreement reached with the Contractor.

The following Sub-Clause is added:

3.6. Participation in the Coordination meetings

The Engineer and the Contractor’s Representative will be able to require from each Other an attendance in the Progress meetings in order to discuss current Progress and planned Schedule of Works. The Engineer will prepare minutes from the meeting and distributes copies of the minutes to All attendees and the Employer.

CLAUSE 4 – CONTRACTOR.

4.1 Contractor's General Obligations

In the first sentence, after Word „Contractor” the wording is added „according to the design documentation, with accuracy required from the professional firm offering such service, as per good engineering practice, rules of law, observing the Employer's directives, using new and good quality materials admitted to the market, which will have valid quality and technical certification”.

After forth paragraph the following paragraphs are added.:

The Contractor will obtain on its own costs additional permits, required in the Republic of Poland, from the relevant authorities (such permits may concern temporary traffic arrangement for transport of oversized elements, residence, etc.). The Contractor should submit to the Employer a list of all the permits required to start and complete the Works according to the Schedule.

- The Contractor will observe all the requirements set in permits. The Contractor is required to allow permits issuing authorities to carry out inspections and to monitor progress of works. The Contractor should also allow the aforementioned authorities to participate in tests and all checking procedures. However, participation of authorities will not discharge the Contractor from any responsibilities assigned by the Contract. Above facility refers also to the Employer's management team.

- Any activities, particularly those associated with closing roads, cutting off mains water or other public utilities will not take place without prior permission issued by the Engineer. The Contractor will give the Engineer at least 7 days notice about such activities, to enable preparation of suitable supervision and safety measures.

4.2 Performance Security

In the first paragraph the number of days „28” is replaced with „21”.

4.3 Contractor's Representative

The first paragraph is replaced with:

„The Contractor will employ the Representative named in the Offer and such person will be authorised to every competence needed to perform the Contractor's role as per Contract.

At the end of the Sub-Clause 4.3 the following is added:

If such situation is not taking place, the Contractor will secure suitably qualified interpreter/translator, who will have adequate general and technical translation knowledge.

4.4 Subcontractors

Sentence: „the Contractor shall not subcontract the whole of the Works” is replaced with:

„The Contractor shall not subcontract any Works, other than those indicated in the Offer, without prior Employer's consent.

The point (e) is added as follows:

(e) The Contractor not later than 28 days prior commencement of the Subcontractor's Works, shall submit to the Employer via Engineer a draft of the subcontract agreement. The Employer upon Engineer's opinion will decide about granting a permit to such agreement. If the Employer will not submit his objection or amendments in writing within 14 days, it will be equal to his permission to enter such agreement. After permission is granted, or no objection or amendments are submitted, the Contractor shall submit the signed agreement before commencement of the Subcontractor works.

In case of subcontracting the Works, the Contractor shall pay to the Subcontractor agreed amount observing the payment terms set In the subcontracting contract.

If by a due date determined in the contract, which has been approved by the Employer, the Contractor will not pay the total due amount or part of it, and the Subcontractor will turn to the Employer with request for due payment directly to the Employer as per art.647¹ § 5 Civil Law Code, with adequate documents proving entitlement for payment and take over certification of the invoiced works, the Employer can pay the due amount as requested. The above payment will be paid in the currency which is agreed in the subcontracting contract.

The Employer, after payment of the due Mount directly to the Subcontractor, according to the rule of “Joint and Several Responsibility” as per Art. 647¹ §5 Civil Law Code will be entitled to charge this amount from the Contractor’s liabilities due to the Employer, according to the letter of the Sub-Clause 2.5 “Employer’s Claims”.

The Agreements between Contractors and Subcontractors entered by the Joint Venture, shall bind al the Joint Venture Partners.

All the Agreements between Contractors and Subcontractors must contain a clause, enabling the Subcontractor to turn to the Employer, with information about an outstanding Subcontractor’s invoice payments.

4.8. Safety Procedures

At the end of point (a) the following is added:

„, and supplies the Employer with the Health and Safety Plan, which shall take into account specific conditions of works, and shall comply with requirements of art. 21a paragraph 4 of the Building Law of 7 July 1994, and Ministry of Infrastructure Regulations of 23 June 2003, concerning Health and Safety and Health and Safety Plans, not later then 7 days before commencement of Works.

4.9. Quality Assurance

The Sub-Clause is supplemented by the following:

Within 30 days from the date of signing the Contract the Contractor shall submit to the Engineer for his approval the Quality Assurance Plan, which will comply with point 6.1 of General requirements of the Technical Specification of Execution and Take Over of Works. .

The Engineer is entitled to audit the QA system in every element.

4.12 Unforeseeable Physical Conditions

The following is added to the text:

„, The Contractor will allow in his offer the Weather Conditions, such as: temperature, icing of the sea, sea conditions, wind force, according to the 25 years of register data held by the National Meteorological Institute for the region. The unforeseeable weather conditions can be only considered after exceeding the above average parameters, adding 10 days, in which the works can not be carried out due to the weather conditions. Only after exceeding these conditions the Contractor can submit financial or time claims.

4.18 Protection of the Environment

The following paragraph is added:

„,The Contractor is committed to:

- observe all the requirements concerning Protection of the Environment, contained in the Technical Specification of Execution and Take Over of Works, and recalled there Regulations,
- be responsible for management and Protection of Environment,

and

„The Contractor will obtain all the agreements and permits for disposal of liquid and solid waste and safe discharge of the rain and foul sewage from the entire site, or other works associated areas, not causing any damage to the properties or environment.

The Contractor shall indemnify the Employer against any risk of breaching by the Contractor the Regulations for Environmental Protection, and if such indemnity is impossible to obtain, the Contractor shall be committed to pay any charges occurring for the Employer as a result of breaching the above regulations.

The Contractor should also allow for restrictions in executing the Works due to the environmental requirements, such as: restricted working hours for the piling equipment, recess in dredging works due to the Herring spawning season, and other limitations governed by the Decision about the environmental requirements for granting permit to works, and further recommendations issued by the Environmental Supervisor, who will be nominated by the Employer as per requirement of the Decision about the environmental requirements for granting permit to works of 18 June 2009.

4.23. Contractor's Operations on Site

In the third paragraph the last sentence is deleted.

The following Sub-Clauses are added:

4.25. Coordination Meetings

Within 7 days after submitting to the Engineer a Progress Report, the meeting will take place on site, during which the progress of contract and any current Works execution difficulties will be discussed. On the meeting the Contractor, the Engineer and the Employer representatives will participate. Such meetings will be organized in monthly schedule.

Within 7 days from the above meeting the Engineer will submit the meeting Protocol. Such Protocol will not replace any other documents required by the Contract Agreement, described in Sub-Clause 1.3.

The Engineer and the Contractor can demand additional meetings as required. The meeting notice delivered to all the participants should be 7 days.

6.2 Rates of Wages and Conditions of Labour

At the end of Sub-Clause 6.2 the following is added:

The statements of this Sub-Clause refer to the entire personnel, and all the cost, fees and payments shall be born by the Contractor. Any risk related to this Sub-Clause, including insurance obligations, duty, medical insurance, cost of living, holidays and any others shall be included in the Contract Price.

6.5 Working Hours

The entire text of the Sub-Clause is deleted and replaced with:

“After taking into account any requirements set in the Contract Agreement, the Contractor will be able to introduce his working pattern as continuous day and night operations, including statutory holidays, observing however all the conditions set in the Decision about the environmental requirements for granting permit to works of 18 June 2009.”

6.7 „Health and Safety”

The fourth paragraph is added as follows:

„The Contractor will secure Health and Safety conditions according to the Health and Safety Plan, described in Sub-Clause 4.8”.

The additional Sub-Clause is added:

6.12 Foreign Personnel

„If the Contractor will employ a foreign personnel to execute the Works, the Contractor should secure the valid visas and permit to work. The Contractor will be responsible for return of the personnel to the place of origin. The Contractor will be also responsible for the transport of bodies of deceased person and a funeral in case of death in the country of any member of the personnel or dependants. This responsibility also refers to the travelling.

CLAUSE 7 – PLANT, MATERIALS AND WORKMANSHIP

7.2 Samples

The point (c) is added as follows:

„(c) documents required by the Law of 16 April 2004 about the Construction Products (Journal of Laws. No. 92, item. 881).”

7.8 Royalties

In the point (b) after the „disposal” the words are added „and deposition”.

CLAUSE 8 – COMMENCEMENT, DELAYS AND SUSPENSION

8.3 Programme

In the first sentence the figure „28” is replaced with figure „14”, and after the Word “Engineer” the wording is added ”for opinion and acceptance by the Employer”, and after the word “programme” the wording is added “in the paper version and in editable MS Project Format, incorporating staging of Works”

After the first sentence the sentence is added “Acceptance of the Programme does not remove responsibility of the Contractor for realization of Contract.”

The second sentence of the first paragraph is replaced with the following:

„Whenever the Programme becomes inconsistent with current Progress of Works, the Contractor shall submit within 7 days a Remedial Action Programme, which should incorporate Contractor’s activities, which remove delay within 3 months. If the delays are not remedied in this time the Contractor will update the Programme within 7 days. Acceptance of the corrected Programme requires the same procedure as the acceptance of the original Programme.”

At the end of point (a) after the word „testing” the wording is added „and taking into account the letter concerning right to access the site of Sub-Clause 2.”

Point (b) is not applicable.

Point (e) is added as follows:

„Programme of Payments set in monthly periods or corrected Payment Programme.

The second paragraph is deleted and replaced as follows:

„If, within 21 days from submission of the Programme to the Engineer, the Engineer and/or the Employer will not submit any comments to the Programme, it will be considered as

approved. In case of submission of any comments the Contractor will be under obligation to upgrade the programme within 7 days. Upgrade of the Programme incorporating the submitted comments will be equal to approval the Programme. If the Contractor will not take into account the submitted comments in the above period, and the Programme will be substantially incoherent with the Contract the Engineer will be entitled to suspend all or part of Works. Any consequences of such suspension will be born by the Contractor. The Contractor can execute the programme from the moment it has been approved.”

The last paragraph becomes as follows:

„The Contractor should keep on the building site a copy of the approved Programme in the graphical form approved by the Engineer.”

8.6 Rate of Progress

After the first paragraph the following text is added:

„The Contractor shall submit the upgraded Programme within 7 days from the notice received from the Engineer.”

CLAUSE 11 – DEFECTS LIABILITY

The new Sub-Clause 11.12 is added

11.12. Quality Guarantee

The Contractor will provide a written Quality Guarantee for the period stated in the Contract. The Guarantee comes into force from the date of taking over of works determined in the Take Over Certificate. If there is any Guarantee executed work the time of the guarantee period is extended. The Contractor will submit the written Guarantee at the time of notification about Works being ready for Take Over.

The Employer can exercise his entitlement to the latent defects claims, regardless to the guarantee provided by the Quality Guarantee. During the period of the Quality Guarantee the Contractor shall carry out with the Engineer and Employer an inspection of Works.

if the Contractor refuses taking part in such inspection, the inspection protocol produced by the Engineer will be sufficient to submit a guarantee claim. The Engineer will notify the Contractor in writing about inspection. All latent defects will be remedied by the Contractor at its cost immediately after notification about them, but not later then in 30 days. The notification should be submitted in writing immediately after finding the defect, within the month after defect has been found. The notification can be administered by fax, telefax, email with later confirmation by official post. The notification is delivered to the address given in the Contract Agreement.

In case when equipment needs to be taken of site to be repaired, it will be done at the Contractor’s cost after Employer’s consent concerning dates.

In case when the Contractor will not carry out the repairs or replacement of faulty equipment within 30 days the Employer can carry out repair at the Contractor’s risk and cost.

The Contractor will replace the faulty equipment after carrying out 3 repairs, if it is still not operated as it should be.

If the equipment is replaced for the equipment free of defects as a guarantee claim, or there has been a major repair carried out, the period of the guarantee starts from the beginning from the date of delivery and installation of the new part or repaired part.

In case of replacement of parts the rules are as follows:

The repair or replacement is confirmed in writing.

The Contractor can employ a third party to carry out repair or replacement after obtaining a consent from the Employer.

During the insurance validity period the Contractor shall carry out repair of the defected items, elements Works and Plant or they shall be replaced for the items free of defects.

The entire remedial works shall be carried out with no charge to the Employer.

CLAUSE 12 – MEASUREMENT AND EVALUATION

12.1 Works to be measured

The first paragraph is replaced as follows:

„Works should be measured and evaluated according to this Clause and Specification for Execution and Take Over of Works.”

The Sub-Clause 12.1 is supplemented by adding the following:

„Results of measurements should be entered in the Register of Measurement immediately after they have been carried out.”

12.3 Evaluation

The point (a) is not applicable.

CLAUSE 13 – VARIATIONS AND ADJUSTMENTS

13.1 Right to vary

The first paragraph of the Sub-Clause is deleted and replaced as follows:

„Changes can be implemented using one of the following methods:

- The Engineer can issue a Variation Order without and agreement concerning dates and cost;
- the Contractor can submit a Variation according to Sub-Clause 13.2 to secure an engineering value for both sides of the Contract. In such case the Contractor can commence variation works after obtaining a Variation Order from the Engineer.
- The Engineer can request a Proposal follows the letter of Sub-Clause 13.3. In such case the contractor can commence a Variation Works after approval of the Variation Proposal, and which can be the final for the technical specification, dates and cost, or provisional, without dates and cost.

13.3 Variations Procedure

At the end of the Sub-Clause 13.3 the following is added. :

“In case when Variation Or Variations instructed by the Engineer will entail rise of the Contract Price above Accepted Contract Amount, the Engineer will prepare in cooperation with the Employer an Addendum to the Contract Agreement, which will incorporate justification for such changes.”

CLAUSE 14 CENA KONTRAKTOWA I PŁATNOŚĆ

14.1 The Contract Price

In Sub-Clause 14.1 the point (d) is deleted.

Sub-Clause 14.1 is supplemented by the following:

„The base for the calculation of the due payment for the completed works will be the unit prices, which have been included in the Bill of Quantities, and the quantity established after measurements, according to the Sub-Clause 12.1 and recorded in the Register of Measurements.”

14.2. Advanced Payment

Subclause 14.2 is not applicable.

14.3 Application for Interim Payment Certificate

The first paragraph of the Sub-Clause 14.3 is replaced as follows:

„After a period, in which the value of completed works exceeded 15 mln PLN the Contractor will submit to the Engineer a financial statement, which will show detailed costing of Works for which he is entitled to receive a payment. The Statement will be associated with the documents confirming the completion of such Works, and current Progress report. Each Interim statement should contain a statement from the Contractor and a statement from the subcontractors confirming that all due subcontractors’ invoices has been paid.

Regardless of the conditions of this Sub-Clause or any other condition set in the Contract Agreement, no amount will be certified for the payment, unless Performance Security is proved valid by the Employer”

14.4 Schedule of Payments

Sub-Clause 14.4 is not applicable.

14.5. Plant and Materials intended for the Works

Sub-Clause 14.4 is not applicable.

14.7 Payments

a) The point (a) of the Sub-Clause is deleted, and at the end of the Sub-Clause the following is added:

“The Employer can deduct from the Contractor’s invoice an amount due for the subcontractor’s payment, if the subcontractor will apply to the Employer, copying his Application to the Engineer, for the direct payment as per Sub-Clause 4.4, while the Contractor will not submit sufficient evidence, that refusal of payment has been justified by the letter of the Contract Agreement, and that the subcontractor has been notified about refusal in the right time and as per approved procedures.”

14.8 Late Payment

The second paragraph is replaced with:

„Credit costs will calculated using discounted interest rate of the Polish National Bank the first day of the month, in which the payment deadline expired plus 3 percent points. The credit cost for the late payment refers do the time between actual payment (without this Day) and the date when the Employer’s account will be charged (including this Day).”

14.10 Statement at Completion

In the first sentence figure „84” is replaced by the figure „30”.

The following text is added:

„In the Statement on Completion the Parties to the Agreement will account any reductions paid by the Employer directly to the subcontractors as per clause 4.4 (g) and as per procedures set in Sub-Clause 14.7”.

14.11 Application for Final Payment Certificate

In the first paragraph the figure „56” is replaced by the figure „28”.

The following text is added:

“In the Final Statement the Parties to the Agreement will account any reductions paid by the Employer directly to the subcontractors as per clause 4.4 (e)”

14.13 Issue of Final Payment Certificate

In the first and second paragraph the figure „28” is replaced by the figure „14”.

The following text is added:

„In the Final Payment Certificate the Engineer will account any reductions paid by the Employer directly to the subcontractors as per clause 4.4 (e)”

14.14 Cessation of Employer’s Liabilities

The last paragraph is deleted.

The following Sub-Clause is added::

14.16 Invoicing

„Any payments due to the Contractor according to the Contract Agreement will be made after submission of VAT invoices, issued according to the current regulations. And:

- a) All the VAT invoices should account for the appropriate VAT.
- b) Invoices will be paid within 30 days.

CLAUSE 15 – TERMINATION BY EMPLOYER

15.5 Employer’s Entitlement to Termination

At the beginning of the Sub-Clause the following is added:

„If the important changes in the circumstances take place, when execution of the Contract is not in the public interest, what could not be foreseen when the Contract Agreement was entered, or when it becomes apparent that the realization of the Contract by the Contractor constitutes a risks to the state security of Poland, or when the Contractor becomes involved in the corruption practices or frauds, the Employer can withdraw from the Contract within 30 days of becoming aware of such circumstances. In such case the Contractor can claim the payment only for executed already part of Works.

CLAUSE 16 – SUSPENSION AND TERMINATION BY CONTRACTOR

16.1 Contractor’s Entitlement to Termination

At the end of the third paragraph, after words “...as soon as it is reasonable practicable” the following wording is added: “but not later then 7 days from receipt of such payment certificate, evidence or payment”.

16.2 Termination by Contractor

At the end of the bracket in point (c) and the following text is added:

”, Sub-Clause 8.7 [Delay Damages] or Sub-Clause 14.6 [Issuing Interim Payment Certificates])”

In the point (c) figure „42” is replaced by the figure „84”.

CLAUSE 17 – RISK AND RESPONSIBILITY

17.6 Limitation of Liabilities

The second paragraph of the Sub-Clause 17.6 is deleted.

CLAUSE 18 – INSURANCE

18.1 General Requirements for Insurances

The last 2 sentences of the second paragraph are deleted.

Sub-Clause 18.1 is supplemented by adding at the end the following:

“No works can be commenced prior submission by the Contractor to the Employer copies of the insurance policies with confirmed instalment payments.

If, during execution of Works, the Contractor is unable to submit an evidence of the above instalment payments and validity of the insurance Police, the Engineer can suspend the works instantly. Consequences of such suspension will be solely the Contractor’s liability.”

18.2 Insurance of Works and Contractor’s Equipment

In the first paragraph the wording “from the date by which the evidence is to be submitted under sub paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurance]” is replaced by the text: “from the first working day after commencement of Works”.

In the first and third paragraphs add the following:

„It is understood that such compensations are paid in the Polish currency PLN”

The following paragraph is added at the end:

„The Contractor will be responsible for notification of the Insurance Company about any changes in the profile and scope of works, and will be also responsible for adequate insurance cover all the time during realization of the Contract. The value of the insurance will not be less than the value described in the Appendix to Tender.

CLAUSE 19 – FORCE MAJEURE

19.6. Optional Termination, Payment and Release

In the point (d) the following is deleted ”and return of these items to the Contractor’s Works in his country (Or to any other destination at no greater cost);”

The point (e) is deleted.

CLAUSE 20 – CLAIMS, DISPUTES AND ARBITRATION

20.2 Appointment of the dispute Adjudication Board

Sub-Clause 20.2 has the new title as follows:

„**Adjudication of Disputes**”

Any disputes which could arise in connection with realization of the subject Contract will be adjudicated by the common Law Courts, relevant for the location of the Employer’s address.

Sub-Clauses from 20.3 to 20.8 will not be applicable.

The following Clause is added:

CLAUSE 21 – AUDITS AND INSPECTIONS

21.1

The Contractor becomes committed to provide to the Government Supervising Authorities, people authorized by the Government Supervising Authorities, controlling and inspecting institutions, including National and European authorities, upon their request an information and necessary documentation concerning conditions of execution of Works.

The Government Supervising Authorities and other authorised institutions shall be allowed to examine the documents or to carry out an audit if they consider it to be necessary for search of the evidence when suspected exceptional expenditure has been highlighted.

21.2.

The Contractor will allow the Government Supervising Authorities, controlling and inspecting institutions, including National and European Authorities, the verification of the project progress, by means of examining the documents or local inspection, and for performing of the full audit, if necessary, by checking all the documents attached with invoicing, accounts documentation and other documents involved in financing of the Contract. The audit can take place up to 3 years after last payment.

21.3.

The Contractor is committed to provide suitable access for the Representatives of the Government Supervising Authorities, controlling and inspecting institutions, including National and European Authorities, to the site and other places where the Contract is performed, including IT facilities, as well as all the documents and Data Bases concerning project financial management, with all the necessary assistance.

The access should be granted with consideration for confidentiality of third parties, without damage to the liabilities rising from the public law, to which these parties answer. The documents must be easily accessible and segregated in a way, which will allow comfortable examining. The Contractor ought to inform the Employer about their précised location.

22. Environmental Supervision

The Contractor shall be required to carry out any instruction from the Engineer, which arise from the Environmental Supervision, which will be performed by the external party appointed as per requirements of the Decision about Environmental Conditions for permission to carry out the works of 18 June 2009.