

## Annex A. Proposed Sample Form of Contract Agreement

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### CONSTRUCTION CONTRACT

**KNOW ALL MEN BY THESE PRESENTS:**

This **CONTRACT** entered into on \_\_\_\_\_ at \_\_\_\_\_, Philippines, by and between:  
\_\_\_\_\_, a corporation duly organized and existing under Philippine laws with office address at \_\_\_\_\_, duly represented herein by \_\_\_\_\_, or [name of individual, of legal age, single/married, and with address at \_\_\_\_\_], hereinafter referred to as the “**OWNER**”.

and

\_\_\_\_\_, a corporation duly organized and existing under Philippine laws with office address at \_\_\_\_\_, duly represented herein by \_\_\_\_\_, or [name of individual, of legal age, single/married, and with address at \_\_\_\_\_], hereinafter referred to as the “**CONTRACTOR**”.

**WITNESSETH:**

**WHEREAS**, the **OWNER** desires to construct a [kind of project] (the “**PROJECT**”) \_\_\_\_\_ located at \_\_\_\_\_;

**WHEREAS**, the **CONTRACTOR** possesses the necessary license, capital, resources, and experience to construct the **PROJECT**;

**WHEREAS**, the **OWNER** has agreed to engage the services of the **CONTRACTOR** and the **CONTRACTOR** has agreed to provide its services to the **OWNER**, subject to the terms and conditions of this **CONTRACT**;

**NOW, THEREFORE**, for and in consideration of the above premises and of the mutual stipulations stated below, the **OWNER** and the **CONTRACTOR** have agreed as follows:

**ARTICLE 1  
SCOPE OF WORK**

- 1.1** The **CONTRACTOR** shall supply all the necessary labor, tools, materials, equipment, and supervision to construct and complete the **PROJECT** (“**WORK**”). The **CONTRACTOR** shall perform all the **WORK** and fulfill the conditions required in this **CONTRACT** and the **CONTRACT DOCUMENTS**.
- 1.2** The Contractor shall comply with all applicable laws, ordinances, rules and regulations, including the regulations of utilities supplying water, gas, telephone and electricity for the Project. The Contractor shall bear all additional cost and damages that may arise from non-compliance with such laws, ordinances, rules and regulations.
- 1.3** The Contractor shall assist the Owner in securing all the permits and licenses necessary to execute the Work, including any temporary works and easements.
- 1.4** The Contractor shall pay all applicable taxes, including Value-Added Tax (VAT), duties and fees due on the Project. The Owner shall be entitled to withhold from the payment to the Contractor any amount the Owner is required to withhold by law or by any government authority.

- 1.5** Prior to commencement of the Work, the Contractor shall ascertain the condition of the PROJECT site and any adjacent properties or buildings and inform the OWNER of the results of its inspection and survey.
- 1.6** The Contractor shall be primarily responsible for all safety measures in prosecuting the Work and shall comply with all laws regarding safety in construction. The Contractor shall erect and properly maintain at all times such barriers, shoring, supports, braces, lights, danger signs, and necessary safeguards in prosecuting the Work to prevent injury to persons on, about, or adjacent to the premises where the Work is being performed and protect from damage the Work, the Owner's property and/or the adjoining properties.
- 1.7** The Contractor shall provide and maintain temporary structures and facilities for temporary office and housing, at such places the Owner shall approve or designate, for the use of its personnel and laborers with necessary basic facilities such as water, light, sanitary toilet, and telephone.
- 1.8** The Contractor shall use such methods and deploy such manpower to ensure the completion of the Work of the required quality within the Completion Time.
- 1.9** The Contractor shall provide without additional charge all reasonable facilities, labor and materials necessary for the convenient inspection and tests that may be required by the inspectors.
- 1.10** The Contractor shall perform any work and shall furnish and install all materials and equipment necessary during an emergency endangering life or property, and shall act at its discretion, and even without special instruction or authorization from the Owner, to prevent or minimize such threatened loss or injury. Such work performed by the Contractor shall be treated as a Change Order unless such was caused or brought about by its fault or negligence.
- 1.11** The Contractor shall at all times keep the premises free from waste materials or rubbish and shall be responsible for the cleaning up of the site and the Work at the completion of the Work, and shall turn over the work for occupancy. The Contractor shall remove all temporary work, all its tools, scaffoldings, and surplus materials, including all dirt, stains, and the like on all finishing of floors, walls and ceiling, decorative work, finishing hardware and fixtures. If the Contractor failed to do so, the Owner may clean up the site and charge the cost thereof to the Contractor as the Owner shall determine to be just.
- 1.12** The Contractor shall test-run the Facility (all the equipment, fixtures and utilities) successfully before the Work can be accepted as substantially completed. Should the Contractor be unable to do so through no fault of his, the Contractor shall automatically be entitled to an extension of Completion Time equal to the period of delay.
- 1.13** The Contractor shall secure and submit all of the following, as applicable, as a condition for the release of the final payment:
  - a. Certificate of Final Building Occupancy unless such cannot be obtained through no fault of the Contractor;
  - b. Certificate of Final Inspection of electrical, telephone, sanitary, mechanical, water, gas, safety and other utilities unless such cannot be obtained through no fault of the Contractor;
  - c. Original and three (3) sets of prints of As-Built Drawings of Electrical, Sanitary, Gas, Telephone and Mechanical works, if such works are within the scope of the Contract, showing the system and actual locations of outlets, fixtures, services and equipment that were installed;
  - d. Three (3) copies of Directory and Panel Boards and list of circuits;
  - e. Three (3) copies of Instructions and manual for operating and maintaining of fixtures and equipment; and
  - f. Three (3) copies of Keying Schedule.

**ARTICLE 2**  
**CONTRACT DOCUMENTS**

- 2.1** The CONTRACT DOCUMENTS, which are incorporated and made an integral part of this CONTRACT, shall consist of the following:
- (a) Construction Contract;
  - (b) Specifications;
  - (c) Drawings;
  - (d) Breakdown of Work and Corresponding Value;
  - (e) Construction Schedule and Equipment and Manpower Loading;
  - (f) Performance Bond;
  - (g) Payment Bond;
  - (h) Contractor's All Risk Insurance;
  - (i) Guarantee Bond;
  - (j) Extra Work/Change Orders;
  - (k) Subsequent agreements and documents mutually agreed upon and signed by the Owner and the Contractor; and
  - (l) Other Contract Documents.
- 2.2** The Contract and the Contract Documents shall be complementary with each other and what is called for by one shall be deemed to be called for by all. In case of conflict, ambiguity, or interpretation of any of its terms, it shall be resolved by applying the terms of the CONTRACT DOCUMENTS in the above order of preference. In case the issue cannot be resolved, the parties shall apply Construction Industry Authority of the Philippines ("CIAP") Document 102.
- 2.3** Prior to commencing the WORK, the Contractor shall notify the Owner in writing of any discrepancy, defective description, errors, omissions or ambiguity in any of the Contract Documents. The Owner shall make a determination of such conflict, discrepancy, defective description, error or omission, which shall be communicated to the Contractor in writing and shall form part of this CONTRACT.

**ARTICLE 3**  
**CONTRACT PRICE**

- 3.1** The Owner shall pay the Contractor Philippine Pesos \_\_\_\_\_ ("Contract Price"), in consideration of the CONTRACTOR's satisfactory performance and accomplishment of all the obligations specified under this Contract, which shall be payable in the manner stated in Article 4.
- 3.2** The Contract Price may be adjusted by the parties, at the request of the CONTRACTOR, for any of the following reasons:
- a. if there is work involving discrepancy, defective description, errors, omissions or ambiguity in any of the Contract Documents. The cost of such corrective work shall be agreed by the parties prior to implementation. Any work done by the Contractor involving such discrepancy, defective description, error, omission or ambiguity, not reported to and without the knowledge of the Owner, shall be at the Contractor's risk and expense.
  - b. if there is extra work and/or change in the scope of work. The value of such extra work or change order shall be determined and agreed upon in accordance with Article [\*\*\*].
  - c. if the Work is suspended on the grounds stipulated in Article 11.

**ARTICLE 4  
MANNER OF PAYMENT**

- 4.1** Upon execution of this Contract, the Owner shall pay the Contractor an **advance payment** equivalent to \_\_\_\_\_percent (%) of the Contract Price. Such advance payment shall be recouped from every Request for Payment by deducting a portion equivalent to the actual percentage of work accomplished until the advance payment is fully liquidated.
- 4.2** Within five (5) days after this Contract takes effect, the CONTRACTOR shall submit to the OWNER for approval a **Breakdown of Work and Corresponding Value** indicating the different parts of the Work and their corresponding value.
- 4.3** The Contractor shall periodically submit to the Owner a **Request for Payment** of actual work accomplished. Each Request for Payment shall be computed based on the Breakdown of Work and Corresponding Value.
- 4.4** The Owner shall, within ten (10) days from receipt of the Request for Payment, evaluate and pay the amount certified to be due to the Contractor for work accomplished. In case the Owner fails to pay on time, the Owner shall, in addition to the amount due, pay interest at one percent (1%) per month from due date.
- 4.5** The Owner shall retain 10% of the Contract Price (the “**retention money**”) from every Request for Payment. The retention money shall be released not later than 60 calendar days from substantial completion upon the issuance of a Guarantee Bond by the Contractor.
- 4.6** When the Contractor notifies the Owner in writing that the WORK under the Contract has been completely performed, the Owner shall promptly proceed to verify the WORK, make the final estimates, certify to the completion of the WORK, and accept the same.
- 4.7** Final payment of the Contract shall be released only after the Contractor submits all the requirements as herein provided and a Sworn Statement showing that all taxes due in connection with this Contract have been duly paid and stating that the WORK is free from any legal liens for unpaid claims of subcontractors and/or suppliers for the supply of materials and/or equipment to the Contractor for the Project.
- 4.8** The acceptance by the Contractor of final payment shall constitute a waiver of all its claims against the Owner, except the following:
- a. a claim covered by a prior notice to the Owner reserved by the Contractor to be filed in accordance with the Contract;
  - b. a claim pending before and unresolved by the Owner at the time the request for final payment is made;
  - c. a dispute referred to arbitration; and
  - d. a claim that the Owner acknowledges will not to be covered by the final payment.

**ARTICLE 5  
INDEMNIFICATION, BONDS AND INSURANCES**

- 5.1** The Contractor shall indemnify and hold the Owner free and harmless from any and all losses, claims, demands, payments, suits, actions, recoveries, and judgment of every nature and description brought or recovered against the Contractor and for any act or omission of the Contractor or its employees in the execution of the Work.

- 5.2 The Contractor shall render the Owner free and harmless for the death of, the disease contracted, or injury received by the Contractor or any of its employees or laborers; for any damage done by or to Contractor's plant or materials from any source or cause; and for damages caused by the Contractor or his employees to any property of the Owner and adjoining property.
- 5.3 The Contractor shall secure and maintain the following bonds and insurances from an insurance company acceptable to the Owner:
- a. **Performance Bond** to be posted prior to signing the Contract, equal to 15% of the Contract Price to guarantee faithful performance of the Work;
  - b. **Payment Bond** equal to 15% of the Contract Price covering its obligations to its workers, subcontractors, and suppliers arising from the Contract, which shall remain in effect until replaced by the Contractor's guarantee bond;
  - c. **Surety Bond** equivalent to the amount of the advance payment made by the Owner to the Contractor to guarantee the recoupment of the advance payment;
  - d. **Contractor's All Risk Insurance (CARI)** a comprehensive insurance and protection against loss or damage to the Work as well as third-party liability arising out of bodily injury or death or property damage which may arise from Work under the Contract;
  - e. **Guarantee Bond** equivalent to the amount of the retention released to the Contractor to guarantee that the workmanship and all the materials installed are of acceptable quality. The Performance Bond and Payment Bond will be released by the Owner upon posting by the Contractor of the Guarantee Bond.
- 5.4 The foregoing bonds and insurance shall continue to have force and effect beyond the effectivity period stated in the bond if the Work or the obligation for which it was issued has not been completely performed.
- 5.5 The additional premium on the bond for an extension of the Contract Time due to reasons other than the fault or negligence of the Contractor shall be billed at cost to the Owner.
- 5.6 The bonds may not be cancelled or otherwise terminated by the surety(ies) without the express written consent of both the Owner and the Contractor.

## ARTICLE 6 CONTRACT COMPLETION TIME

- 6.1 The Work shall commence upon signing of this Contract and upon securing the necessary permits and clearances and the release of advance payment, whichever comes later. The Work shall be completed within [number] calendar days counted from commencement date or until [date] ("**Completion Time**"), subject to extension of time as hereinafter provided.
- 6.2 The Contractor shall, immediately after the Contract has taken effect, submit for approval by the Owner a **Construction Schedule** in a form acceptable to the Owner, indicating the progress of the work, the equipment to be used, and the number of workers to be deployed to complete the Work within the Completion Time.
- 6.3 The Contractor shall be entitled to an equitable adjustment of Completion Time where the Contractor is obstructed or delayed in the execution or completion of the Work by reason of any of the following:
- (a) the act, neglect, delay or fault of the Owner, or any other contractor employed by the Owner on the Work;

- (b) third-party strikes or lockouts or strikes by employees other than the Contractor's employees or a lockout by an employer other than the Contractor;
  - (c) an act of God or force majeure such as fire, earthquake, flooding, epidemic, riots, terrorism, local or national emergency, and the like;
  - (d) unsuitable weather conditions which render the work impracticable or impossible or which slow down the prosecution of the Work;
  - (e) peace and order conditions;
  - (f) changes ordered or authorized by the Owner or authorized under the Contract; or
  - (g) delay authorized by the Owner pending the negotiation, mediation, or arbitration of a dispute between the Owner and the Contractor.
- 6.4** For delay caused by paragraphs (b), (c), (d), (e), and (f) above, the Contractor shall, within fifteen (15) days from the occurrence or termination of the event, notify the Owner, and the Owner shall, not later than fifteen (15) days from receipt of such notice, give the Contractor an equitable adjustment of the Completion Time. If the Owner fails to reply or to give an equitable adjustment within the said period, such shall be deemed an approval of the adjustment requested by the Contractor.
- 6.5** For delay caused by paragraphs (a) and (g) above, the Contractor shall be entitled to an adjustment of Completion Time equal to the delay caused by such factors.

#### **ARTICLE 7 LIQUIDATED DAMAGES**

If the Contractor fails or refuses to satisfactorily complete the Work within the specified Completion Time or within the agreed period of extension, after written notice from the Owner, the Contractor shall pay the Owner liquidated damages in the amount of 1/10 of 1% of the Contract Price per day of delay, without obligation on the part of the Owner to prove that it has incurred actual damages due to Contractor's delay in the performance of the Work. The total liquidated damages shall not exceed ten percent (10%) of the total Contract Price. Such amount shall be deducted by the Owner from any money due or which may become due the Contractor, or may be collected from the retention money or other securities posted by the Contractor.

#### **ARTICLE 8 CHANGES IN THE WORK**

- 8.1** The Owner may at any time order extra work or make changes in the scope of work consisting of additions or deletions or modifications, and shall issue the corresponding Extra Work/Change Order. The contract price and the contract period may be changed on account of such Extra Work/Change Order.
- 8.2** The value of any extra work or changes shall be determined and agreed upon by the Parties, provided it does not exceed 25% of the original Contract Price of the particular pay item. In no case, however, that the Contractor be entitled to payment of any extra work or changes without the approval of the Owner. If the Owner and the Contractor failed to arrive at an agreement as to the adjustment of Contract Price and/or Completion Time for the extra work, the Owner may award such extra work to another contractor.
- 8.3** If the changes caused an increase in contract price, the Contractor shall furnish proportionate additional performance bond corresponding to such increase. Should the extra work or changes (additive work) exceed 25% of the original Contract Price, such shall be covered by a supplemental contract.
- 8.4** In the case of deductive change order, the Contractor shall be entitled to 15% of the amount deducted to recover its overhead and profit.

**ARTICLE 9  
SUBCONTRACTING**

- 9.1** The Contractor shall not assign or subcontract any portion of the Works covered by this Contract unless approved by the Owner. Any assignment or subcontracting approved by the Owner shall be subject to the pertinent provisions of this Contract, including the requirement for bonds and insurances.
- 9.2** Any subcontractor hired by the Contractor to perform work under this Contract shall be the Contractor's sole responsibility, and nothing contained in this Contract shall create any contractual relation between the Owner and the Subcontractor.
- 9.3** The Contractor shall be fully responsible for the acts and omissions of its subcontractors and the persons either directly or indirectly employed by it and shall compensate the Owner for any damages suffered by it by reason of such acts or omissions.

**ARTICLE 10  
CORRECTIONS OF WORK**

- 10.1** Work that fails to comply with the Contract is defective and shall be condemned by the Owner upon discovery. The Contractor shall remove or replace, at its own cost, any bad or defective work or any defective or inferior materials or equipment or those not conforming to the Specifications. Should the Contractor fail to do so, the Owner may remove and replace them and deduct the cost thereof from any money due or to become due the Contractor.
- 10.2** The Owner shall issue to the Contractor, within thirty (30) days from date of substantial completion, one or more lists of defects found or discovered on the completed work (**punch list/s**). The Owner may add to the punch list items, but only as to corrective work in the original punch list, not later than sixty (60) days from substantial completion.
- 10.3** The Contractor shall correct, remove and replace poor or inferior work within thirty (30) days from receipt of the last item in the punch list. If the Contractor fails to do any such corrective work, the Owner shall, upon written notice to the Contractor, be entitled to carry out such work by its own workers or by another contractor, and charge the cost thereof to the Contractor. The amount of damages for corrective works not completed within the said period shall be based on the value of such uncompleted corrective work in the Breakdown of Work and Corresponding Value for approved billings.
- 10.4** The Owner shall notify the Contractor of any hidden defect discovered within one (1) year from posting of the Guarantee Bond. Should any defect develop in the Work within the guarantee period due to fault in material and/or workmanship, the Contractor shall make all repairs and do all necessary work to correct the defective work to the Owner's satisfaction. Such repairs and corrective works shall commence within five (5) days after receipt of written notice by the Owner and shall be done by the Contractor at its sole expense. If the Contractor fails to do the work, the Owner may have the work done by another contractor and charge the cost thereof against monies retained and/or against its sureties as herein provided for.
- 10.5** Nothing herein shall be deemed to limit the liability of the Contractor to third persons due to any loss or damage resulting from the collapse of the Work due to defects in the construction or the use of materials of inferior quality or due to any violation of the terms of the Contract in accordance with Article 1723 of the Civil Code of the Philippines.

**ARTICLE 11**  
**SUSPENSION OF WORK AND TERMINATION OF CONTRACT**

**11.1 CONTRACTOR'S RIGHT TO SUSPEND WORK OR TERMINATE CONTRACT**

- 11.1.1** The Contractor may suspend work or terminate the Contract upon fifteen (15) days written notice to the Owner for any of the following reasons:
- a. If the Owner fails to deliver the Project site to the Contractor within fifteen (15) days from the effectivity of the Contract;
  - b. If the Owner fails to secure the building or construction permit within thirty (30) days from the effectivity of the Contract;
  - c. If an order of any court or other public authority caused the Work to be stopped or suspended for an aggregate period of ninety (90) days or more through no act or fault of the Contractor or its employees;
  - d. If the Owner fails to pay the Request for Payment or any amount due the Contractor within the prescribed period and as herein provided;
  - e. If the Owner suspends the Work without just cause for more than an aggregate period of fifteen (15) days without the Contractor's consent;
  - f. If the Owner fails to deliver at the construction site the Owner-supplied construction materials and/or equipment for the scope of work along the critical path, beyond fifteen (15) days after the agreed scheduled date of delivery; and
  - g. If the Owner fails to issue its approval of Variation Orders for additional works along the critical path, beyond fifteen (15) days after its submission.
- 11.1.2** If the suspension is necessary for the proper execution of the Work or by reason of weather or other conditions affecting the safety of the Works and/or the Contractor's workers, the Contractor may request the Owner to suspend work in accordance with the applicable provisions herein provided.
- 11.1.3** The Contractor shall be entitled to an equitable adjustment of Completion Time and/or Contract Price for suspension of work due to the above circumstances.

**11.2 OWNER'S RIGHT TO SUSPEND WORK OR TERMINATE CONTRACT**

- 11.2.1 SUSPENSION WITHOUT CAUSE.** The Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than the aggregate period of fifteen (15) days. The Owner shall communicate to the Contractor such suspension in writing. The Owner shall indicate in the notice of suspension the date of resumption of the Work and the corresponding adjustment in the Contract Completion Time, which shall not be less than the period of suspension, and adjustment in Contract Price as may be deemed applicable.
- 11.2.2 SUSPENSION WITH CAUSE.** The Owner, by a written order, may direct the Contractor to stop the Work or any portion thereof for causes that affect the Work, which may include any of the following:
- (a) unsuitable weather or other conditions considered unfavorable for the prosecution of the Work;



- (b) failure of the Contractor to correct conditions that constitute a danger to its workers or the general public or to correct defective work;
- (c) failure of the Contractor to carry out valid orders issued by the Owner or to comply with any provision of the Contract, or its persistent failure to carry out the Works in accordance with the Contract;
- (d) the necessity for adjusting the Drawings to suit site conditions found during construction, or in case of a change in Drawings and Specifications;
- (e) failure of the Contractor to supply sufficient skilled workers or suitable materials or equipment;
- (f) failure of the Owner to supply Owner-supplied materials on time, where such failure is due to causes beyond the reasonable control of the Owner;
- (g) delay by the Owner in obtaining a right-of-way, where such obligation is assumed by the Owner under the Contract, and the delay is not due to the fault or negligence by the Owner;
- (h) force majeure or fortuitous event;
- (i) peace and order problems; or
- (j) any condition similar to the above that are beyond the control of the Owner.

The Contractor shall be entitled to an equitable adjustment of Completion Time and Contract Price for suspension of work due to items (a), (d), (f), (g), (h), (i), and (j) above. No such adjustment shall be allowed for item (a) if unsuitable weather conditions were taken into account in determining the Completion time as provided for in the Contract Documents. If the actual number of days of unsuitable weather exceeds the period taken into account in the Contract Documents, the Contractor shall be entitled to an adjustment of Completion Time and Contract Price.

For items (b), (c), and (e), the Owner may, after seven (7) days following receipt by the Contractor of written notice and without prejudice to any other remedy the Owner may have, make good such deficiencies. In such case, an appropriate change order shall be issued deducting from the payments due to the Contractor the cost of correcting such deficiencies, including compensation of additional services made necessary by such default, neglect or failure. If the payments due to the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

**11.2.3 TERMINATION WITH CAUSE.** The Owner may terminate the Contract upon the occurrence of any of the following:

- (a) the Contractor becomes insolvent or undergoes financial restructuring or rehabilitation;
- (b) if the Contractor makes a general assignment of its assets for the benefit of its creditors;
- (c) if a trustee or receiver is appointed for the Contractor or for any of the Contractor's property;
- (d) if the Contractor files a petition for suspension of payments or to reorganize under the bankruptcy or similar laws;
- (e) if the Contractor fails to comply with any pertinent law, ordinance, rule and regulation; or
- (f) if the Contractor violates in any substantial way any provision of the Contract; or

- (g) if there is a negative slippage of fifteen percent (15%) in the prosecution of the Work.

In such case, the Owner may, after giving the Contractor and its surety fifteen (15) days written notice, terminate the services of the Contractor, exclude the Contractor from the site, and take possession of the Work and of all the Contractor's tools, appliances, construction equipment and machinery at the site, and use the same into the Work, including those stored elsewhere for which the Owner has paid, and finish the Work as the Owner may deem expedient. The Contractor shall not be entitled to receive any further payment until the Work is finished. In case such materials and/or equipment do not belong to the Contractor, the Owner shall have the option to retain them for use in the Project, provided it does not violate the lease contract of the Contractor, and shall pay reasonable rent directly to the lessor for their use, chargeable against the Contractor.

- 11.2.4 TERMINATION WITHOUT CAUSE.** The Owner may, upon 15 days' written notice to the Contractor, without prejudice to any other right or remedy, elect to abandon the Work and terminate the Contract. In such case, the Contractor shall be paid for all works executed and any expense sustained, plus reasonable termination costs.

## **ARTICLE 12 COMPLETION OF WORK AND FINAL ACCEPTANCE**

- 12.1** The Contractor shall complete the Work in accordance with the Contract, within the Completion Time and as adjusted due to changes both directed and constructive.
- 12.2** The approval by the Owner of the Contractor's Request for Payment for completing at least ninety-five percent (95%) of the Work shall be deemed the Owner's acknowledgment that the Contractor has substantially completed the Work, unless the Owner can establish that the unfinished work prevents the normal use of the completed portion.
- 12.3** The Owner may also issue to the Contractor a written acknowledgment of substantial completion which may be in the form of a **Certificate of Substantial Completion** or equivalent document, but the date of such document shall not be controlling if substantial completion is shown to have been made at an earlier date, unless the Contractor accepts the certificate without taking exceptions thereto in writing within fifteen (15) days from receipt.
- 12.4** The Owner may take possession of and use any completed or partially completed portion of the Work, although the time for completing it or portions thereof may not have expired. In such case, the Owner shall issue a Certificate of Completion for such portion taken over and release the retention as required by the Contract, subject to applicable provisions herein provided. However, such taking of possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract, and neither shall it be deemed a waiver by the Owner of the right to claim damages due to delay in the completion of the Work. If such prior use increases the cost or delays the completion of any uncompleted work or causes the refinishing of completed work, the Contractor shall be entitled to extra compensation or extension of time or both.
- 12.5** Should the Contractor be unable to achieve 95% of the Work due to the fault, negligence or delay by the Owner, the Contractor shall be deemed to have achieved substantial completion, provided it has completed at least 95% of the Work minus the uncompleted facility or it has completed the work required on the facility but for that which is directly affected by Owner's fault, negligence or delay. The Owner shall release to the Contractor the Contract Price, less the cost of the uncompleted portion of the work and deductions authorized under this Contract such as liquidated damages, estimated cost

of defective work, and the amount of substantiated and unpaid claims by subcontractors and suppliers for materials and labor unjustifiably withheld by the Contractor.

**ARTICLE 13  
OWNER'S REPRESENTATIVE**

The Owner shall notify the Contractor in writing of the designation of a particular person as the Owner's Representative. Unless the Contractor is notified in writing of the limits of authority of the Owner's Representative, it shall be understood that the authority of the latter to act for and on behalf of the Owner is full and unqualified.

**ARTICLE 14  
DISPUTE RESOLUTION**

- 13.1** Any dispute or differences arising out of or in connection with this Contract shall be settled by negotiation within a non-extendible period of 30 days from written demand by either party.
- 13.2** If such negotiation should fail, the same shall be referred to the Construction Industry Arbitration Commission (CIAC) for settlement: first, through mediation under its Mediation Rules within a non-extendible period of 48 days, failing which, by arbitration under its Rules of Procedure Governing Construction Arbitration by [indicate number: one or three] arbitrator(s). The appointment of the mediator or arbitrator/s shall be made in accordance with such Rules promulgated by the CIAC.