

GENERAL TERMS
AND
CONDITIONS

TABLE OF CONTENTS

1	DEFINITIONS	1
	1.01 Definitions	1
	1.02 Interpretations	2
2	SITE REPRESENTATIVES	2
	2.01 Contractors Representatives	2
	2.02 IPSL'S Representative	3
3	ASSIGNMENT OR SUBLETTING	3
4	DRAWINGS AND TECHNICAL SPECIFICATIONS	3
	4.01 Custody of Drawings and Technical Specifications	3
	4.02 Drawings	4
	4.03 Notice of Discrepancy	4
	4.04 Decisions of IPSL	4
	4.05 WORKS shown on the Drawings and Technical Specifications	4
5	MANNER AND EXECUTION OF THE WORK	5
	5.01 Work	5
	5.02 Materials and Equipment	5
	5.03 Site Conditions	6
	5.04 Contractor Health, Safety and Environmental Requirements	6
	5.05 Co-ordination	6
	5.06 Access	7
	5.07 Site Cleaning	7
	5.08 Confidentiality	7
	5.09 Taxes and Liens	8
	5.10 Order and Discipline	9
	5.11 Damage to Persons and Property	9
	5.12 Claims against CONTRACTOR and/or IPSL	9
	5.13 Urgent Repairs	10

6	SAFETY SANITATION AND SECURITY	10
	6.01 Safety Regulations	10
	6.02 Site Working Rule	11
	6.03 Accident Prevention	11
	6.04 Safety Equipment	11
	6.05 Safety Measures and Medical Care	11
	6.06 Security Measures	11
7	CONTRACTOR'S PERSONNEL	11
	7.01 Quality of CONTRACTOR'S Personnel	11
	7.02 Remuneration of CONTRACTOR'S Personnel	12
	7.03 Restrictions as to Alcoholic Liquors and Drugs	12
	7.04 Labour Dispute	12
	7.05 Removal of CONTRACTOR'S Employees	12
8	COMMENCEMENT TIME AND SCHEDULE	12
	8.01 Contract Agreement	12
	8.02 Effective Date of CONTRACT	12
	8.03 Commencement of WORK	13
	8.04 Completion of WORK	13
	8.05 Schedule of Progress	13
9	TEST INSPECTION AND VARIATION	13
	9.01 Test and Inspection	13
	9.02 Setting-out	14
	9.03 Uncovering and marking Openings	14
	9.04 Test Record	14
	9.05 Inspection by IPSL	14
	9.06 Variations	15
10	CONSTRUCTION AID	15
11	DEFICIENT WORK	16
	11.01 Deficient Work	16
	11.05 Removal of CONTRACTOR	17
12	PAYMENT TERMS	18
13	INSURANCE REQUIREMENTS	18

13.01	Injury to Persons and Property and Employer's Indemnity	18
	(i) Damage to Persons and Property	
	(ii) Liability for Workmen's Compensation	
	(iii) Workmen's Compensation Insurance	
	(iv) Public Liability Insurance	
14	FORCE MAJEURE	21
15	SUSPENSION	21
16	TERMINATION	22
17	GIVING OF NOTICE	23
18	NON WAIVER	24
19	CORRUPT GIFTS AND PAYMENTS OF COMMISSION	24
20	ARBITRATION	25

GENERAL TERMS AND CONDITIONS

1 DEFINITIONS

1.01 Definitions

In the CONTRACT as hereinafter defined (where the context so admits) , the following words and expressions shall have the following meanings:

“**IPSL**” means **INDUSTRIAL PLANT SERVICES LIMITED**, its successors, permitted assigns.

“**CONTRACTOR**” means the person, firm, company, successors or permitted assigns whose tender has been accepted by IPSL.

“**SUBCONTRACTOR**” means any subcontractor appointed by the CONTRACTOR in accordance with the provisions in Clause 3 hereof.

“**CONTRACT**” means the Agreement and the Contract Documents consisting of the Invitation to Tender, Scope of Service, Instructions to Tenderer, General Terms and Conditions, Form of Tender, the Contractor Health, Safety and Environmental Requirements, and all other relevant documentation.

“**CONTRACT PRICE**” means the Sum agreed for the performance of the work as stated in the tender subject to such additions thereto or deductions therefrom as may be made under the provisions hereinafter contained and payable in Trinidad and Tobago currency.

“**RETENTION**” means monies to be retained by IPSL during and after completion of the Work. This retention shall be applied by IPSL in making good any defects or omissions in the Work.

“**PLANT**” means the on-site facilities comprising the processing units managed by IPSL and the off-site facilities comprising various utilities, auxiliaries and supporting facilities, as specific to the Contract.

“**WORK**” means the scope of the works as described in the Scope of Works Document

“**TEMPORARY FACILITIES**” means all facilities or things of whatsoever

GENERAL TERMS AND CONDITIONS

nature required in or for execution and maintenance of the WORK but do not include materials or other things forming part of the WORK and intended to be of a permanent nature.

“**CONSTRUCTION AID**” means all machines and tools of whatsoever nature required in or about the execution and maintenance of the WORK.

“**WORK SITE**” means the place or places where the WORK is to be carried out and/or immediate vicinity of such place or places, workshop of the CONTRACTOR or its SUBCONTRACTORS.

1.02 Interpretations

- (i) The headings in these General Conditions are for convenience of reference only and shall not be deemed to be part thereof or to be taken into consideration in the interpretation or construction thereof of the contract.
- (ii) Words importing the singular only also include plural and vice versa, where context so requires.
- (iii) The several documents forming the CONTRACT are to be taken as self-explanatory of one another and in case of ambiguities or discrepancies the same shall be referred to IPSL for clarification and decision. The CONTRACTOR shall abide by the decision of IPSL on such ambiguities and discrepancies and shall carry out the WORK in accordance with such decision.

2 SITE REPRESENTATIVES

2.01 Contractor's Representatives

The CONTRACTOR shall give or provide all necessary superintendence during the execution of the WORK and as long thereafter as IPSL may consider necessary for the proper fulfilling of the CONTRACTOR'S obligations under the CONTRACT.

The CONTRACTOR or his authorized representative approved by IPSL, which approval may at any time be withdrawn, shall be constantly on the WORK SITE during the execution of the WORK and he shall give his whole time to the superintendence of the same.

Such authorized representative shall have full power and authority to act on behalf of the CONTRACTOR, on directions and instructions from IPSL. The representatives shall carefully examine all drawings and specifications and notify

GENERAL TERMS AND CONDITIONS

IPSL of any discrepancy that may appear before proceeding with the WORK.

2.02 IPSL Representatives

IPSL shall appoint a representative who shall have full power and authority to act on behalf of IPSL and who shall be present at the WORK SITE during performance of this CONTRACT. The CONTRACTOR shall proceed with the WORK in accordance with the instructions of IPSL'S authorized Representative and shall ask him any questions, interpretations or clarifications that may arise during the execution of the WORK. The decisions of the IPSL authorized Representative on such questions, interpretations and clarifications shall be final.

3 ASSIGNMENT OR SUBLETTING

The CONTRACTOR shall not assign or sublet the CONTRACT or any part thereof or any benefit or interest therein or thereunder without the written approval of IPSL which approval shall not relieve the CONTRACTOR from any liability or obligation undertaken herein and unless otherwise agreed by IPSL he shall be responsible for the acts, defaults or neglects of any SUBCONTRACTOR or his agents, servants or workmen. The CONTRACTOR shall, at its expense, upon request from IPSL, furnish IPSL with two (2) copies of all its subcontracts and supply contracts. If any SUBCONTRACTOR engaged upon the WORK SITE shall employ or cause to be employed, any person who in the opinion of IPSL is unacceptable, IPSL may require the CONTRACTOR to terminate such subcontract and dismiss the SUBCONTRACTOR.

In such case, the CONTRACTOR shall cause the SUBCONTRACTOR to forthwith vacate the WORK SITE in receipt of such termination notice, and such event shall not give any right to the CONTRACTOR to claim compensation, extension of time or otherwise.

4 DRAWINGS AND TECHNICAL SPECIFICATIONS

4.01 Custody of Drawings and Technical Specifications

The CONTRACTOR shall safely keep at the WORK SITE all drawings, technical specifications, instructions and other data issued to him by IPSL for the execution of the WORK and upon completion of the WORK shall immediately return to IPSL all such documents and data. IPSL and its authorized agents, shall have the right to use and inspect these documents and data at any time during the execution of the WORK.

GENERAL TERMS AND CONDITIONS

4.02 Drawings

IPSL shall have full power and authority to supply to the CONTRACTOR from time to time during the progress of the WORK such drawings and instructions as shall be necessary for the purpose of the proper and adequate execution of the work, and the CONTRACTOR shall carry out the work in accordance with the documents and be bound by the same.

4.03 Notice of Discrepancy

The CONTRACTOR shall promptly study and compare the drawings, technical specifications, instructions and other information given to him by IPSL. Should there be any discrepancies, inconsistencies or omissions of statement regarding the materials and methods of construction, the CONTRACTOR shall report it to IPSL.

4.04 Decisions by IPSL

Decisions by IPSL shall be conclusive as to the true intent and meaning of the drawings and technical specification. Any discrepancy which may exist between the DRAWINGS and SPECIFICATION shall be referred to IPSL whose decision as to the true meaning shall be final. Records of such decision shall be kept by the CONTRACTOR at the WORK SITE.

4.05 WORKS shown on the Drawings and Technical Specifications

WORKS shown on the drawings but not mentioned in the technical specification and vice versa shall be executed by the CONTRACTOR as though they were specifically set forth in both.

The drawings and technical specification describe only final completed shape and minimum requirements for the WORK and materials to complete the WORK delineated or described in both the drawings and technical specification. The CONTRACTOR shall understand the need for such work and materials to be implied and shall perform all such work and furnish such materials fully.

5 MANNER AND EXECUTION OF THE WORK

The CONTRACTOR shall be an independent contractor in the performance of the WORK hereunder and shall have complete charge of its personnel engaged in the performance of the WORK. The CONTRACTOR shall perform the WORK in accordance with good accepted practices under applicable codes and industry standards and so far as consistent with the foregoing, with its own standards and methods, all, however in accordance with the CONTRACT. The CONTRACTOR shall perform the work in an orderly and workmanlike manner and ensure that the WORK is completed in an expeditious economical manner consistent with the best interests of IPSL, as well as in co-ordination with planning and procurement efforts so as not to cause delays as a result of the performance of the WORK hereunder.

5.01 Work

The CONTRACTOR shall with due care and diligence execute and maintain all the WORK enumerated in the CONTRACT, and provide all labour including the supervision thereof, TEMPORARY FACILITIES and all types of CONSTRUCTION AID in the amount and quality which in the opinion of IPSL shall be necessary to satisfactorily execute the WORK in accordance with the CONTRACT.

The CONTRACTOR shall also comply with and adhere strictly to the instructions and directions of IPSL or its authorized representative on any matters, so far as the necessity for providing the same shall be specified in or reasonably be inferred from the CONTRACT.

5.02 Materials and Equipment

The Contractor warrants all equipment and materials furnished by him to be free from defects in material and workmanship and agrees that IPSL shall be under no obligation to pay for the restoration of any such items that prove defective either in whole or part during or after the completion of the Work.

The CONTRACTOR further warrants that all of his equipment has, if necessary, been suitably inspected and passed by the Government Inspectorate and shall maintain said equipment in a good safe condition at all times during the Work. IPSL reserves the right to ensure compliance by requesting evidence of such inspection and certification.

5.03 Site Conditions

GENERAL TERMS AND CONDITIONS

The CONTRACTOR shall be deemed to have satisfied himself as to the nature and location of the WORK SITE, the applicable Contractor Health, Safety and Environmental Requirements, the general and local conditions, particularly those bearing upon access to site, safe work permits, smoking, uncertainty of weather conditions and other physical conditions at the WORK SITE the configuration and condition of the ground and sub-soil and all other matters which may in any way affect the WORK or the CONTRACT PRICE under the CONTRACT.

Any increased cost to the CONTRACTOR resulting from neglect or failure to obtain reliable information upon the foregoing shall not be paid by IPSL.

5.04 Contractor Health, Safety and Environmental Requirements

The CONTRACTOR working within the confines of the PLANT must be thoroughly familiar with the PLANT'S Contractor Health, Safety and Environmental Requirements specified in the technical specifications. These rules will govern the WORK performed within the PLANT at all times and the CONTRACTOR is deemed to have knowledge thereof.

5.05 Co-ordination

IPSL reserves the right to employ other contractors at the WORK SITE. The CONTRACTOR shall at all times in a reasonable manner and without extra cost to IPSL cooperate with and co-ordinate its work with that of the other contractors when the circumstances shall so require. IPSL reserves the right to direct the CONTRACTOR to so schedule and execute the WORK without extra cost to IPSL in such manner as not unreasonably to interfere with the performance of other work services by IPSL or other contractors.

If proper execution of any part of the WORK shall depend upon the work of any other CONTRACTOR, the CONTRACTOR shall inspect and promptly report to IPSL any defect in such other contractor's work as shall render unsuitable the conditions required for proper execution of the CONTRACTORS work.

In cases of differences of opinions of the contractor or interference between the operations of different contractors, IPSL shall determine the rights of each contractor and of the sequence of WORK necessary to expedite the completion of the entire project and in all cases IPSL'S representatives decision shall be accepted as final and no cause for claim.

The CONTRACTOR shall not store materials at the WORK SITE, which may cause inconvenience in the execution of the WORK of other contractors. The CONTRACTOR shall have to remove at its own cost the materials so stored at any time upon the direction of IPSL.

GENERAL TERMS AND CONDITIONS

5.06 Access

IPSL shall at all times have access to the WORK and to all workshops and places where the WORK under the CONTRACT shall be prepared and performed or from where materials, manufacture articles and machinery shall be obtained and the CONTRACTOR shall make its best endeavor to afford every facility for any assistance in obtaining the right to such access.

5.07 Site Cleaning

- (a) The CONTRACTOR shall keep the WORK SITE clean to the satisfaction of IPSL during execution of the WORK and shall promptly remove any packing materials, scraps and rubbish off the PLANT at the direction of IPSL.
- (b) On the completion of the WORK, the CONTRACTOR shall clear away and remove from the PLANT and WORK SITE all CONSTRUCTION AID, rubbish and TEMPORARY FACILITIES of every kind and leave the whole of the WORK SITE and the WORK clean and in a workmanlike condition to the satisfaction of IPSL.
- (c) The CONTRACTOR shall understand that all materials obtained in the WORK of dismantling or otherwise shall be deemed to be the property of IPSL and be disposed of to the best advantage of IPSL. The CONTRACTOR shall not be permitted to use such materials in anyway.

The CONTRACTOR shall collect all such materials obtained from dismantling after the completion of the WORK and deposit the same at the place/places as directed by IPSL.

5.08 Confidentiality

- (a) The drawings, specification, charts or any other information that may be supplied to the CONTRACTOR by IPSL for execution of the WORK shall remain the property of IPSL and the CONTRACTOR hereby agrees not to use the technical information, drawings or any other data furnished by IPSL for any other purpose.

The CONTRACTOR shall not give this information to any persons other than its own regular employees who are entrusted with the execution of the WORK. The CONTRACTOR shall make every effort to restrain its employees from making such disclosures to others. The CONTRACTOR shall keep secret information that shall be supplied by IPSL in the course of the execution of the WORK.

GENERAL TERMS AND CONDITIONS

- (b) The CONTRACTOR shall not disclose without IPSL prior written consent the technical details of the PLANT or process and know-how employed therein to any persons other than its own regular employees. The CONTRACTOR shall use its best efforts to ensure that its employees restrain from making such disclosures to others.

5.09 Taxes and Liens

The CONTRACTOR shall discharge at once all liens (whether before or after completion) in connection with the WORK or material for which the CONTRACTOR is responsible, or which the CONTRACTOR performs or supplies in connection with the CONTRACT, and the CONTRACTOR hereby agrees to indemnify, defend and save IPSL harmless against or from any claims, suit or action which might arise by reason of the Contractor's failure to discharge a valid lien.

IPSL shall not bear or pay any taxes, levies, duties, fees or any other liabilities assessed against CONTRACTOR or its personnel by the Government of Trinidad & Tobago, local authorities or any other agencies in connection with this Agreement.

The CONTRACTOR hereby authorizes IPSL to deduct from any amount payable to the CONTRACTOR (whether or not arising out of this Agreement) all amounts which may be payable by the CONTRACTOR to IPSL and also all for which IPSL may become liable to third parties by reason of the CONTRACTOR'S act in performing or failing to perform the CONTRACTOR'S obligations under this Agreement. In the event that any claim is made by a third party the amount or validity of which is disputed by the CONTRACTOR or any indebtedness which shall appear to be the basis for a claim or lien, IPSL may withhold from any payment due without liability for interest, because of such withholding an amount sufficient to cover such claim. The failure of IPSL to exercise such right to deduct or to withhold shall not however affect the obligation of the CONTRACTOR to indemnify IPSL as elsewhere provided herein.

IPSL'S liability with respect to the Agreement is expressly limited to the Contract Price hereof. The price is payable in the amount and at the times aforesaid only after the CONTRACTOR has performed all of the CONTRACTOR'S obligations and in accordance with the terms and conditions contained in this Agreement.

5.10 Order and Discipline

In the performance of the WORK at the WORK SITE the CONTRACTOR shall exercise every precaution to prevent injuries to persons and property; he shall enforce such rules and regulations as may be necessary, desirable or proper to

GENERAL TERMS AND CONDITIONS

safe-guard the PLANT, he shall maintain discipline during the conduct of the WORK.

Any employee, SUBCONTRACTOR or other person engaged directly or indirectly by the CONTRACTOR for the WORK who breaches any of the aforesaid rules and regulations or IPSL'S Contractor Health, Safety and Environmental Requirements shall be removed from the WORK SITE by the CONTRACTOR forthwith if deemed necessary by the CONTRACTOR or so requested by IPSL.

5.11 Damage to Persons and Property

The CONTRACTOR shall take every practical precaution not to injure any persons or damage the PLANT or other properties. The CONTRACTOR shall indemnify and keep indemnified the IPSL against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of, or in relation to injuries or damage to any person, or any adjoining or other properties whatsoever including but not limited to surface or other damage to land or crops thereon suffered by the tenants or occupiers which may arise during the execution of the WORK by CONTRACTOR and or SUBCONTRACTORS.

5.12 Claims against CONTRACTOR and/or IPSL

The CONTRACTOR shall use his best efforts to settle promptly all valid claims arising out of the execution of the WORK. If the CONTRACTOR shall fail to settle such claims, IPSL and the CONTRACTOR shall agree on appropriate arrangements with respect to the said claims and any future claims which may arise as aforesaid, such arrangements to include (but not limited to) if requested by IPSL a formal written instrument (to be approved by IPSL) indemnifying IPSL from all claims and demands of every kind and character arising out of (or which may arise out of) the execution of the WORK by the CONTRACTOR.

5.13 Urgent Repairs

If by reason of any accident or failure or urgent WORK or other event occurring in connection with the WORK or any part thereof during the execution of the WORK, any remedial or other work or repair which shall in the opinion of IPSL be urgently necessary for the safety of the WORK and the CONTRACTOR is unable or unwilling at once to do such WORK or repair, IPSL may employ such remedial action as IPSL may consider necessary.

If the WORK or repair so done by IPSL is work which in the opinion of IPSL the CONTRACTOR was liable to do at its own expense under the CONTRACT all expenses properly incurred by IPSL in so doing shall be recoverable from the CONTRACTOR by IPSL or may be deducted by IPSL from any monies due or which may become due to the CONTRACTOR. Provided always that IPSL shall as soon after the occurrence of any such emergency as may be reasonably practicable notify

GENERAL TERMS AND CONDITIONS

the CONTRACTOR thereof in writing.

6 SAFETY SANITATION AND SECURITY

The CONTRACTOR shall carry out the WORK in a safe manner, and in accordance with methods, procedures and practices accepted by world-wide industries as well as the IPSL'S Contractor Health, Safety and Environmental Requirements and any applicable Laws of the Republic of Trinidad and Tobago.

6.01 Safety Regulations

It shall be the CONTRACTOR'S responsibility to observe the Contractor Health, Safety and Environmental Requirements and to obtain all necessary safety permits and other certificates.

IPSL shall have the right to object to any unsafe practice followed by the CONTRACTOR and to direct the CONTRACTOR to carry out the WORK in a manner considered safe by IPSL. No claims for additional expenditures due to this or for any delay in completion of WORK caused by compliance with the above rules, regulations and safety measures shall be made against IPSL.

6.02 Site Working Rule

The CONTRACTOR shall observe all site working rules including the working time, safety and sanitary rules provided by IPSL.

6.03 Accident Prevention

The CONTRACTOR shall submit a written report of any accidents to IPSL. Such reports shall be submitted immediately after the accident.

6.04 Safety Equipment

The CONTRACTOR, at its own cost, shall provide all necessary and suitable safety gear, wear, equipment and clothing such as helmets, gloves and similar items to its employees.

6.05 Safety Measures and Medical Care

The CONTRACTOR shall comply in all respects with the Contractor Health, Safety and Environmental Requirements of the PLANT as regards sanitary requirements in connection with the WORK.

GENERAL TERMS AND CONDITIONS

The CONTRACTOR shall make provisions for the health and safety of his staff, including but not limited to provisions for dealing with injured personnel requiring hospitalization and post-hospitalization recuperative care.

6.06 Security Measures

The CONTRACTOR shall comply in all respects with the Security procedures of IPSL.

7 CONTRACTOR'S PERSONNEL

7.01 Quality of CONTRACTORS Personnel

The CONTRACTOR shall employ or cause to be employed in and about the execution of the WORKS and in the superintendence thereof only such persons as are carefully skilled and experienced in their several trades and callings. The CONTRACTOR shall provide to IPSL evidence of personnel qualifications via Certification upon request.

7.02 Remuneration of CONTRACTOR Personnel

The CONTRACTOR shall be solely responsible for payment of its personnel of all salaries, wages, compensation and all other payments to which they may be entitled.

7.03 Restrictions as to Alcoholic Beverages and Drugs

The CONTRACTOR shall not at any time bring onto the WORK SITE, sell, give or barter, any alcoholic liquors or drugs or permit any such sale, gift or barter to be made by any person or persons whomsoever.

The CONTRACTOR shall strictly enforce the smoking and dematching regulations of IPSL and immediately remove from the Work any of its personnel found in contravention of the said regulations.

7.04 Labour Dispute

The CONTRACTOR shall advise IPSL promptly, in writing of any labour dispute known to the CONTRACTOR which may affect the performance of the

GENERAL TERMS AND CONDITIONS

CONTRACTOR'S service.

7.05 Removal of CONTRACTOR'S Employees

IPSL shall be at liberty to object to and require the CONTRACTOR to remove from the WORKS any person employed by the CONTRACTOR in or about the execution of WORKS who in the opinion of IPSL misconducts himself or is incompetent or negligent in the performance of his duties or fails to conform with any particular provisions with regard to safety or persists in any conduct which is prejudicial to safety or health and such persons shall not be again employed upon the WORK without the permission of IPSL.

8 COMMENCEMENT TIME AND SCHEDULE

8.01 Contract Agreement

The CONTRACTOR shall, when called upon to do so, enter into and execute a Contract Agreement on the basis of the tender documents and incorporating other relevant provisions appropriate to the Agreement.

8.02 Effective Date of CONTRACT

This CONTRACT shall become effective on the date of its execution by both parties or on the date of award of the tender.

8.03 Commencement of WORK

The CONTRACTOR shall commence WORK immediately after the effective date of the CONTRACT or on the date of award of the tender and shall proceed with the same due expedition and without delay except as may be expressly sanctioned or ordered by IPSL in writing.

8.04 Completion of WORK

The CONTRACTOR shall complete the WORK within the time set out in the time schedule as specified in the Form of Bid submitted by the CONTRACTOR and as certified by the IPSL site representative, that the WORK under this CONTRACT has been completed.

8.05 Progress Schedule

GENERAL TERMS AND CONDITIONS

The CONTRACTOR shall furnish sufficient technical, supervisory and administrative personnel necessary to carry out the WORK in accordance with the time schedule. In addition, if in the opinion of IPSL, the CONTRACTOR shall fall behind in the current time schedule the CONTRACTOR shall take such steps as may be necessary to improve progress and with respect to the WORK, IPSL may direct the CONTRACTOR to increase working days or hours of labour per day without any increase in the CONTRACT PRICE. Failure to comply with such directions promptly shall be deemed sufficient cause for termination of this CONTRACT in accordance with provisions of Clause **16** hereof.

9 TEST INSPECTION AND VARIATION

9.01 Test and Inspection

All materials and workmanship shall be of the respective kinds and quality described in the technical specification and in accordance with IPSL'S instructions and shall be subjected from time to time to such tests as IPSL may direct at the place of fabrication or on the WORK SITE or at such other place/ places as may be specified in the technical specification or at all or any of such places.

The CONTRACTOR shall carry out such tests and inspections providing instruments, labour, materials as shall be normally required for examining, measuring and testing any work and the quality, weight or quantity of any material used.

The cost of making any test and inspection for materials and workmanship shall be borne by the CONTRACTOR if such test and inspection shall be intended by or provided for in the CONTRACT.

9.02 Setting-out

IPSL shall be responsible for giving to the CONTRACTOR the true and proper setting-out before commencement of the WORK inside battery limit of the WORK. However, during the progress of the WORK the CONTRACTOR shall carefully protect and preserve all benchmarks used in the WORK.

9.03 Uncovering and making Openings

No WORK shall be covered or put out of view without the prior approval of IPSL and the CONTRACTOR shall afford full opportunity for IPSL to examine any WORK before it shall be covered.

The CONTRACTOR shall uncover any part or parts of the WORK or make openings

GENERAL TERMS AND CONDITIONS

in or through the same as IPSL may direct and shall reinstate and make good such part or parts to the satisfaction of IPSL.

If any such part or parts shall have been covered up after prior notice to and approval by IPSL and shall be found to be executed in accordance with the CONTRACT the expenses of uncovering, making openings in or through reinstating and making good the same shall be borne by IPSL but any other case all such expenses shall be borne by the CONTRACTOR.

9.04 Test Record

The CONTRACTOR shall submit two (2) copies of all test and/or inspection records containing the details of the results and inspector's signature to IPSL within three (3) days after passing the representative tests and/or inspections. This shall hold true for inspection records required prior to the start of the WORK as well as those inspection records that certify completed WORK.

9.05 Inspection by IPSL

IPSL reserves the right to inspect the WORK in progress at the WORK SITE at all reasonable times but such inspection or failure to inspect by IPSL shall not relieve the CONTRACTOR of its responsibility for any test or inspection required to be carried out by the CONTRACTOR or for the proper performance of the WORK.

The CONTRACTOR shall arrange to provide safe and proper facilities at all times for such inspection of the WORK by IPSL. IPSL shall co-operate with the CONTRACTOR in conducting IPSL'S inspection so that there are no extra expenses or delays to the CONTRACTOR.

9.06 Variations

IPSL shall have the right, subject to the provisions hereinafter contained, from time to time during the execution of the WORK to instruct the CONTRACTOR by notice in writing to alter, amend, unite, add to, or otherwise vary any part of the WORK, and the CONTRACTOR shall carry out such variations. If the CONTRACTOR shall be of the opinion that to carry out any variations according to such instruction would prevent or prejudice the CONTRACTOR from fulfilling any of its obligations or guarantees under this CONTRACT, the CONTRACTOR shall notify IPSL thereof in writing within two (2) days after receiving IPSL instruction and IPSL shall decide forthwith whether or not the same shall be carried out. If IPSL nevertheless shall instruct the CONTRACTOR to undertake the variations, the CONTRACTOR'S obligations and guarantees thereupon shall be modified to such extent as may be justified and reasonable.

GENERAL TERMS AND CONDITIONS

No change shall be put into effect and no WORK shall be performed under any such changes until and unless equitable adjustments have been agreed upon between, the Parties and so stipulated in writing.

The cost, if any, occasioned by any such variation, shall be added to or deducted from the CONTRACT PRICE at the unit rates agreed to previously. Should an amount of extra or additional work be such as to entitle the CONTRACTOR to an extension of time for the completion of the WORK, IPSL shall determine the amount of such extension provided that IPSL is not bound to take into account any extra or additional work unless the CONTRACTOR has within two (2) days after such work has been commenced deliver to IPSL full detailed particulars of any claim to extension of time in order that such claim may be investigated at the time.

10 CONSTRUCTION AID

The CONTRACTOR shall provide and use on the WORK only such CONSTRUCTION AID as shall be capable of producing the quality and quantity of the WORK. Upon request of IPSL, the CONTRACTOR shall discontinue the use of unsatisfactory CONSTRUCTION AID and shall promptly remove same from the WORK SITE.

The CONTRACTOR shall be responsible for the CONSTRUCTION AID owned or rented by the CONTRACTOR which are used or intended for use in performing the WORK, and the CONTRACTOR shall bear all losses sustained by the contractor as a result of damage of or loss or destruction of the same from any cause.

11 DEFICIENT WORK

11.01 Deficient Work

If, prior to time of completion, IPSL finds that any part of the WORK by the CONTRACTOR or its SUBCONTRACTORS is defective or does not conform to drawings and technical specifications or that their performance is deficient in, but not limited to, the CONTRACTOR'S failure to:

- (i) supply a sufficient number of suitably qualified employees, skilled and unskilled labour or supervisors;
- (ii) supply satisfactory and sufficient equipment, materials or TEMPORARY FACILITIES and **CONSTRUCTION AID**, equipment or supplies;
- (iii) execute the WORK with diligence and dispatch;

GENERAL TERMS AND CONDITIONS

- (iv) comply with any other provisions of the CONTRACT;

then, IPSL may request the CONTRACTOR to remedy such deficient part of the WORK. If the CONTRACTOR does not promptly undertake and proceed with diligence to remedy said deficiency; then, IPSL may give the CONTRACTOR notice of said deficiency.

11.02 At IPSL'S option, the aforesaid notice may require the contractor either:

- (i) Promptly to remedy any said deficiency and re-test to the satisfaction of IPSL, or
- (ii) Not remedy the deficient part of the WORK. The CONTRACT PRICE shall then be reduced by an amount equal to the reasonable cost to IPSL for properly re-building or replacing the deficient part of the WORK.

11.03 If the CONTRACTOR does not, upon receipt of IPSL'S notice pursuant to paragraph **11.02** (I), above, promptly undertake and proceed with diligence to remedy the said deficiency then IPSL may give notice to the CONTRACTOR to stop the deficient part of the WORK or any other part of the WORK affected by the deficiency. The work shall not be started again until IPSL is satisfied that the CONTRACTOR is prepared to promptly correct the said deficiency and comply with the CONTRACT, and IPSL gives notice to the CONTRACTOR to proceed. The WORK stoppages, as aforesaid, shall not limit or waive the CONTRACTOR'S responsibility to execute the WORK in accordance with the CONTRACT.

11.04 With respect to remedying a deficiency and re-testing or stopping part of the WORK pursuant to paragraph 11.02 (i) above, any additional costs or additional man-hour to the CONTRACTOR resulting therefrom shall be solely for the CONTRACTOR'S account.

11.05 Removal of CONTRACTOR

If the CONTRACTOR does not, upon receipt of IPSL'S notice pursuant to Sub-Clause **11.02** (i) above, promptly undertake to correct deficiency, then IPSL may, as an alternative or in addition to stopping any part of the WORK pursuant to Sub-Clause **11.03** above, remove the CONTRACTOR from any part of the WORK or all remaining WORK and take possession of all equipment, materials, supplies and TEMPORARY FACILITIES and CONSTRUCTION AID in connection therewith.

IPSL may then complete the said part of the WORK from which the CONTRACTOR has been removed by whatever means IPSL deems most expedient. At the time of such removal, IPSL shall give the CONTRACTOR notice specifying the part of the

GENERAL TERMS AND CONDITIONS

WORK from which the CONTRACTOR has been removed and the effective date of such removal.

- 11.06** If IPSL removes the CONTRACTOR from part of the WORK, the CONTRACT PRICE shall be reduced by an amount equal to the actual cost to IPSL for completing the said part of the WORK.

If the unpaid balance of the CONTRACT PRICE is less than the amount by which the CONTRACT PRICE is reduced, the difference shall be promptly paid by the CONTRACTOR to IPSL.

- 11.07** If IPSL removes the CONTRACTOR from any part of the WORK, then with respect to the said part of the WORK, the CONTRACTOR shall execute and deliver to IPSL all documents required by IPSL and take all steps necessary to fully vest in IPSL the rights and benefits of the CONTRACTOR under existing agreements for sale or rental of TEMPORARY FACILITIES and CONSTRUCTION AIDS and others.

- 11.08** For the part of the WORK from which the CONTRACTOR has been removed, the applicable provisions of the CONTRACT shall have full force and effect in relation to all, work performed prior to the effective date of removal. For the remainder of the WORK, the CONTRACT shall remain in full force and effect.

- 11.09** In the event of removal of the CONTRACTOR hereunder, IPSL shall not be liable for any damages or loss of anticipated profits on account of such removal.

12 PAYMENT TERMS

Unless otherwise stated in the tender documents, IPSL shall make payment to the CONTRACTOR thirty (30) days after receipt of invoices and approved supporting documents from the CONTRACTOR.

13 INSURANCE REQUIREMENTS

13.01 Injury to Persons and Property and Employer's Indemnity

(i) **Damage to Persons and Property**

The CONTRACTOR shall be liable for and shall indemnify IPSL and MHTL against any loss, damage, cost, penalty, expense, liabilities, claims or proceedings whatsoever arising under any statute or at common law in respect of any damage to property or injury to or the death of any person whomsoever including the contractor's employees arising out of or in the course of carrying out the WORK, unless due to any act or neglect of IPSL or of any person for whom IPSL is responsible.

(ii) **Insurance**

The CONTRACTOR agrees at all times during the Term of this Agreement to maintain in full force and effect, at its own expense, insurance as follows: Workers' Compensation; Employer's Liability; General Liability; and Automobile Liability insurance. Before commencement of any of the Work hereunder, the CONTRACTOR agrees to furnish to IPSL certificates of insurance or other evidence satisfactory to IPSL to the effect that such insurance has been procured and is in force. The certificate shall accurately reflect the required insurance coverages, including any and all limitations, exclusions and restrictions, and shall provide that in the event of modification, expiration, cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice shall be given to the certificate holder. The Certificate of Insurance for General liability and Automobile liability shall name IPSL and MHTL as additional insured.

All of the insurance policies described above shall contain a waiver of subrogation providing that the insurance company shall have no right of recovery against IPSL and MHTL, its affiliated companies, and assigns, and their respective officers, directors, shareholders, agents and employees. All insurance required herein and provided by CONTRACTOR, shall be primary coverage to any coverage which may be carried by MHTL and IPSL.

None of the requirements contained herein as to types, limits or IPSL's approval of insurance coverage to be maintained by CONTRACTOR is intended to and shall not in any manner limit, qualify or quantify the liabilities and obligations assumed by CONTRACTOR under the Contract Documents or otherwise provided by law. In the event of any failure by CONTRACTOR to comply with the provisions of this Article 13, IPSL may, without in any way compromising or waiving any right or remedy at law or in

GENERAL TERMS AND CONDITIONS

equity, on notice to CONTRACTOR, purchase such insurance, at CONTRACTOR's expense, provided that IPSL and/or MHTL shall have no obligation to do so and if IPSL and/or MHTL shall do so, CONTRACTOR shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

(iii) **Workmen's Compensation and Employer's Liability Insurance**

The CONTRACTOR shall, at its sole expense, maintain in effect a Workmen's Compensation and Employer's Liability policy of insurance covering operations of the Contractor, its subcontractors of every tier performed in connection with the work at the project site and providing compensation payable under the Workmen's Compensation Act Chapter 88:05 of the Laws of The Republic of Trinidad and Tobago or at common law with a company and under policy forms to be approved by IPSL (which approval shall not be unreasonably withheld) Workmen's Compensation limits shall be as per Statutory limits. Employer's Liability shall be one million United States Dollars (US\$1,000,000.) bodily injury by accident, each accident; one million United States Dollars (US\$1,000,000.) bodily injury by disease policy limit; and one million United States Dollars (US\$1,000,000.) bodily injury by disease each employee or such other sums as agreed by IPSL / MHTL.

(iv) **General Liability Insurance**

The CONTRACTOR shall, at its sole expense maintain in effect at all times during the full term of its work under the contract documents and as otherwise required under the Contract Documents, an insurance policy with a company and under policy forms to be approved by IPSL (which approval shall not be unreasonably withheld). This policy shall be in an amount no less than one million United States Dollars (US \$1,000,000.) or such other sum as agreed by IPSL / MHTL each occurrence and shall be endorsed to include the IPSL and MHTL as additional insureds, waive subrogation in favor of IPSL and MHTL, and contain cross-liability and severability of interest endorsements.

(v) **Automobile Liability**

The CONTRACTOR shall, at its sole expense, maintain in effect at all times during the full term of its work under the Contract Documents and as otherwise required therein, an insurance policy with a company and under policy forms to be approved by IPSL (which approval shall not be unreasonably withheld) covering owned, non owned and hired vehicles with a combined single limit for bodily injury and property damage liability of no

GENERAL TERMS AND CONDITIONS

less than one million Trinidad and Tobago Dollars (TT\$1,000,000.) or such other sums as agreed by IPSL / MHTL for each occurrence. This policy shall be endorsed to include IPSL and MHTL as additional insureds, waive subrogation in favor of IPSL and MHTL, and contain cross-liability and severability of interest endorsements.

(vi) Subcontractor's Insurance

Insurance similar to that required of CONTRACTOR (unless otherwise approved in writing by IPSL) shall be provided by or on behalf of all Subcontractors to cover their operations performed under the Contract Documents, provided that various types of liability insurance need only be obtained by a Subcontractor if such Subcontractor is performing Work at the Project Site. CONTRACTOR shall be held responsible for any modification in these insurance requirements as they apply to Subcontractors. CONTRACTOR shall maintain Certificates of Insurance from all Subcontractors, enumerating, among other things, the waivers in favor of, and insured status of, IPSL and MHTL, as required herein, and make them available to IPSL upon request.

The term "Subcontractor(s)" for the purposes of this Article 13 shall include subcontractors and vendors of any tier.

(vii) Release and Waiver

CONTRACTOR HEREBY RELEASES, AND SHALL CAUSE ITS SUBCONTRACTORS TO RELEASE, IPSL AND MHTL FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION WHATSOEVER WHICH CONTRACTOR AND/OR ITS SUBCONTRACTORS MIGHT OTHERWISE POSSESS RESULTING IN OR FROM OR IN ANY WAY CONNECTED WITH ANY LOSS COVERED OR WHICH SHOULD HAVE BEEN COVERED BY INSURANCE, INCLUDING THE DEDUCTIBLE PORTION THEREOF, MAINTAINED AND/OR REQUIRED TO BE MAINTAINED BY CONTRACTOR AND/OR ITS SUBCONTRACTORS PURSUANT TO THE CONTRACT DOCUMENTS.

14 FORCE MAJEURE

- 14.01** Any delays in or failure of performance by either CONTRACTOR or IPSL shall not constitute default hereunder or give rise to any claims for damages to the extent such delays in or failures of performances are caused by events of Force Majeure as herein defined.

Force Majeure shall mean and include but not be limited to Acts of God, Order or request of any Governmental Authority, Acts of War, riots, rebellion, sabotage, fires, floods, earthquakes, or other physical disasters, and any other causes which are not within the control of either CONTRACTOR or IPSL and which, by exercise of reasonable diligence, the CONTRACTOR or IPSL is unable to foresee or prevent.

- 14.02** If either CONTRACTOR or IPSL is prevented from or delayed in performing any of its obligations under this CONTRACT by any event of Force Majeure as defined above, IPSL or the CONTRACTOR shall immediately notify the other in writing of the occurrence of the circumstances constituting Force Majeure.

In such an event, IPSL and the CONTRACTOR shall meet promptly to examine the consequences of the occurrence of the Force Majeure event and to agree on the measures to be taken accordingly.

15 SUSPENSION

- 15.01** In addition to IPSL'S right to stop any part of the WORK pursuant to Clause 11, the CONTRACTOR shall, upon notice from IPSL suspend, the progress of the WORK or any part thereof at such time or times and in such manner as IPSL may deem necessary.

- 15.02** The CONTRACTOR shall cease all WORK on the suspended part of the WORK on the effective date of suspension specified in IPSL'S notice. During the suspension, the CONTRACTOR shall properly protect and secure the suspended part of the WORK so far as shall be necessary in the unsuspended part of the WORK.

- 15.03** IPSL may at any time cancel the suspension notice for all or any part of the suspended WORK by giving notice to the CONTRACTOR specifying the part of the WORK to be resumed and the effective date of such resumption. The CONTRACTOR shall resume the suspended WORK on such notice as soon as practicable and without unreasonable delay.

GENERAL TERMS AND CONDITIONS

15.04 If fourteen (14) calendar days have elapsed from the effective date of suspension, the CONTRACTOR shall be entitled to give notice to IPSL requiring the withdrawal of such suspension notice. If seven (7) calendar days have elapsed after the receipt by IPSL of the CONTRACTOR'S notice and unless a mutual agreement has been reached within this period of time as to an extension of the suspension notice, the CONTRACTOR shall have the right to terminate the suspended part of the WORK in accordance with the provisions of Clause **16** hereof.

15.05 All additional costs and expenses incurred by the CONTRACTOR in respect of or associated with its WORK by reason or in consequence of such suspension shall be borne and paid by IPSL unless such suspension shall be:

- (i) Otherwise provided for in the CONTRACT or;
- (ii) Necessary because of climatic conditions at the WORK SITE, or;
- (iii) Necessary because of some default on part of the CONTRACTOR or;
- (iv) Necessary for the proper execution and safety of the WORK or any part thereof.

The additional costs and expenses shall be agreed between the parties within thirty (30) days of the CONTRACTOR notifying IPSL of such additional costs and expenses.

IPSL shall not be liable for any damages or loss of anticipated profits due to the suspension or for any work done during the suspension period.

16 TERMINATION

16.01 IPSL shall have the right forthwith to determine the CONTRACT, without prejudice to any claim or right of action or remedy which shall have accrued or accrue thereafter to IPSL, in the following circumstances:

- (i) For breach of the provisions of Clause **19** of the CONTRACT.
- (ii) If the CONTRACTOR shall make default in or commit a breach of any of the terms of the CONTRACT or any other of its obligations to the IPSL and shall have failed to remedy same to IPSL'S satisfaction after reasonable notice thereof by IPSL.
- (iii) If any distress or execution shall be levied upon the CONTRACTOR'S property or assets, or if a CONTRACTOR shall make or offer to make any arrangement or any compromise with creditors, or commit any act of

GENERAL TERMS AND CONDITIONS

bankruptcy; or

- (iv) If any resolution or petition to wind CONTRACTOR'S business (except for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of the CONTRACTOR'S undertaking, property or assets or any part thereof shall be appointed.
- (v) If the Parties are unable to agree on the measures to be undertaken pursuant to Clause **14** hereof.

16.02 The CONTRACTOR may terminate this CONTRACT by giving IPSL notice in writing thirty (30) calendar days prior to the proposed date of termination by the CONTRACTOR.

16.03 Upon termination all payments to the CONTRACTOR shall cease except for outstanding payment due for WORK already completed and accepted by IPSL and IPSL shall have the option and the power of taking the whole or any part of the WORK into its own hands and carrying out the Work necessary to complete the Agreement either by itself or by others.

16.04 On termination of the CONTRACT all documents and data and other things in the CONTRACTOR'S possession pertaining to the CONTRACT whether provided by IPSL or prepared or developed by the CONTRACTOR shall be handed over to IPSL to facilitate execution of the WORK by IPSL or another contractor.

17 GIVING OF NOTICE

17.01 Every notice, instruction, information, order or decision to be given under the CONTRACT shall be given in writing. However, any such notice, information, instruction, order or decision given orally by the IPSL'S Representative at the WORK SITE pursuant to Clause **2** hereof shall have effect as if it had been given in writing.

17.02 All certificates, notices and written orders to be given by IPSL to the CONTRACTOR under terms of the CONTRACT shall be served by hand delivering the same to the CONTRACTOR'S Representative. All notices to be given to IPSL under the terms of the CONTRACT shall be served by hand delivering the same to the IPSL representative.

17.03 All notices and communications between IPSL and the CONTRACTOR which are directly related to the execution of the WORK at the WORK SITE shall be addressed to their respective offices.

18 NON WAIVER

No waiver of any provisions of the CONTRACT in any instance shall constitute a waiver of any other provision of the CONTRACT or of the same provision in any other instance, and waiver of a breach of any provision of the CONTRACT shall not constitute a waiver of any such provisions or breach of any other provisions of the CONTRACT.

19 CORRUPT GIFTS AND PAYMENTS OF COMMISSION

19.01 The CONTRACTOR shall not

- (i) Offer or give or agree to give to any person any gift or consideration of any kind solicited or as an inducement or reward for forbearing to do or for having done or forbore to do any act in relation to obtaining or execution of this or any other CONTRACT with IPSL or for showing or forbearing to show favour or disfavour to any person in relation to this CONTRACT or any other CONTRACT with IPSL.
- (ii) Enter into this or any other CONTRACT with IPSL or any government Department with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless, before the CONTACT is made particulars of any such commission and of terms and conditions of any agreement for the payment thereof have been disclosed in writing to the IPSL.

19.02 Any breach of the above condition by the CONTRACTOR or any one employed by him or acting on his behalf (whether with or without the knowledge of the CONTRACTOR) or the commission of any offence by the CONTRACTOR or by anyone employed by him or acting on his behalf under the Prevention of Corruption Act Chapter 11:11 of the Laws of the Republic of Trinidad and Tobago or any statutory modification thereto in relation to this or any other CONTRACT with IPSL shall entitle IPSL to determine the CONTRACT and to recover from the CONTRACTOR the amount or value of any such gift, consideration or commission and the amount of any loss resulting from such determination.

19.03 Any dispute or difference of opinion arising out of respect of either the interpretation, effect or application of this condition or of the amount recoverable hereunder by IPSL from the CONTRACTOR shall be decided by IPSL, whose decision shall be final and conclusive.

20 ARBITRATION

All disputes or differences at any time arising between the parties as to the construction of this CONTRACT or as to any matter or thing in connection therewith which cannot be amicably settled between the parties shall be referred to the arbitration of a single Arbitrator in accordance with the provisions of the Arbitration Act Chapter 5:01 of the Laws of the Republic of Trinidad and Tobago or any statutory modification thereof for the time being in force.