

# **PART II**

**(Conditions of Contract)**

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## CONDITIONS OF CONTRACT

### 1. DEFINITIONS

- 1.1 In these Conditions unless the context otherwise requires:
- (a) "FAS" means Football Association of Singapore and includes any officer authorised by the Football Association of Singapore to act on its behalf.
  - (b) "Contract" means the contract between the FAS and the Contractor for the Services and includes the Contractor's tender, Instructions to Tenderers, these Conditions, the specifications and samples, Letter of Acceptance, addendums and any Works Orders issued by the FAS to the Contractor for the supply of the Services.
  - (c) "Services" means the work, which the Contractor is required to perform under the Contract.
  - (d) "Tenderer" means a person or his permitted assigns offering to supply the Services.
  - (e) "Contractor" means the successful Tenderer who has been awarded the Contract by the FAS.
  - (f) "Parties" refer to the FAS and the Contractor.
  - (g) "Person" includes a corporation, firm or incorporated association.
- 1.2 Words importing the singular include the plural and vice versa.
- 1.3 The headings are for convenience only and not for the purpose of interpretation.

### 2. SCOPE OF CONTRACT

- 2.1 The Contractor shall perform the Services in accordance with the Contract.

### 3. COMMENCEMENT DATE

- 3.1 The Contractor shall commence the Services on the award of the tender and on a date mutually agreed by the parties and as specified in the Letter of Acceptance.

### 4. PAYMENT TERMS

- 4.1 Upon delivery of the Services under the Contract, and upon presentation by the Contractor of his bills and the FAS' receipt of services, the FAS will make payment to the Contractor within 30 days to the value of such Services so performed, provided that no payment shall be considered as evidence of the quality of any Services to which such payments relate.
- 4.2 The payments under this clause shall not prejudice the FAS's right to subsequently reject deficient Services and/or require the Contractor to rectify and/or re-perform the deficient Services. Without limiting the FAS's right under the Contract, the amount of any payment or debt owed by the Contractor to the FAS under the Contract may be deducted by the FAS from any monies payable by the FAS to the Contractor pursuant to this Contract.

**5. RIGHTS OF THIRD PARTIES**

- 5.1 A person who is not a party to this Contract shall have no rights under the Contract (Rights of Third Parties) Act to enforce any of its terms.

**6. GIFTS, INDUCEMENTS OR REWARDS**

- 6.1 The FAS may terminate the Contract and recover from the Contractor the amount of any loss resulting from such termination if:
- a. The Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing to forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract with the FAS, or
  - b. For showing or forbearing to show favour to any person in relation to any contract with the FAS, or
  - c. If the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor), or
  - d. If in relation to any Contract with the FAS the Contractor or any person employed by him or acting on his behalf shall have committed any offence under Chapter IX of the Penal Code or the Prevention of Corruption Act or shall have abetted or attempted to commit such an offence, or
  - e. shall have given any fee or reward the receipt of which is an offence under Chapter IX of the Penal Code or the Prevention of Corruption Act.

**7. SUB-CONTRACTING AND ASSIGNING**

- 7.1 The Contractor shall not sub-contract or assign the Contract without the prior written consent of the FAS.

**8. APPLICABLE LAW**

- 8.1 The Contract and all its subsequent variations shall be subject to, governed by and interpreted in accordance with the domestic Laws of the Republic of Singapore for every purpose.

**9. SUSPENSION OR TERMINATION**

- 9.1 If there is delay in the performance of Service under the Contract due to any of the following circumstances, namely, acts of God, force majeure, riots and civil commotion, strikes, lock-outs or other causes or perils beyond the Contractor's control, then in any such case the Contractor shall for the duration of any such circumstance as aforesaid, be relieved of his obligation to perform such Services thereby affected but the provisions of the Contract shall remain in full force in regard to any Services not affected by such aforesaid circumstances.
- 9.2 The FAS may, after giving seven (7) days prior written notice to the Contractor, have the right to suspend or terminate the Contract if the events described in Clause 9.1 above persists for more than 10 days. Neither party shall be liable to the other because of such suspension or termination save that the FAS shall pay the Contractor the price of the Services performed and accepted by the FAS. The Contractor shall refund the balance of any payments or deposits from the FAS after deducting any outstanding sums owing by the FAS to the Contractor because of this Clause.

- 9.3 (a) The FAS may at any time, give to the Contractor a written notice of termination ninety (90) days in advance without furnishing any reason for the termination. This shall have the effect of terminating the employment of the Contractor under the Contract with effect from the expiry of the 90-day period ("the date of termination").
- (b) In the event of a notice of termination being served by the FAS under sub-clause (a) above:-
- (i) the FAS shall continue to make the monthly payments under the Contract to the Contractor up to the date of termination (less any monies that the FAS may be entitled to withhold or deduct under the Contract);
  - (ii) the Contractor shall not be entitled to the monthly or any other payment for the period after the date of termination; and
  - (iii) the Contractor shall thereafter have no further claim whatsoever against the FAS under the Contract.
  - (iv) any rights accruing or already accrued to the FAS shall not be affected.
- 9.4 The FAS may terminate this Contract with immediate effect by giving notice in writing to the Contractor on any one of the following grounds:
- (a) If the Contractor becomes bankrupt or insolvent or makes a composition with creditors or if, being a company, a winding-up order of any kind is made in respect of the Contractor, and/or if a receiver or manager (including judicial manager) is appointed over the Contractor's undertaking or assets or possession of or execution on any part of such undertaking or assets is taken or levied by creditors.
  - (b) If any of the Contractor's licence or permit related to the Contract is revoked or suspended.
  - (c) If the Contractor does not comply with or is in breach of any requirement under any applicable laws, regulations and rules.
  - (d) If any irregularity or fraud relating to the Contract is discovered to have been committed by the Contractor or if the Contractor breaches any of the applicable laws, regulations and rules governing procurement by the FAS, including but not limited to the Government Procurement Act (Cap. 120) and the subsidiary legislation under the Act.
  - (e) If the Contractor does not comply with or is in breach of any FAS guidelines for Term Contractors.
- 9.5 Upon termination under Sub-Clause 9.4
- (i) the FAS may engage other contractors to continue with the supply and delivery of Goods and/or Services and the Contractor shall be liable to the FAS for all damages and additional costs incurred thereby; and
  - (ii) the FAS may withhold payment of any monies payable to the Contractor until the damages and costs payable to the FAS arising from such termination are quantified and ascertained by the FAS (such quantification and ascertainment to be made within a reasonable time). The FAS shall be entitled to deduct such damages and costs from the monies payable to the Contractor.

- 9.6 The rights of the FAS specified under this Clause 10 shall be in addition to such other rights and remedies as the FAS may have or be entitled to against the Contractor under the other provisions of this Contract or under statute or the common law.

## **10. RIGHTS OF THE FAS IN THE EVENT OF DEFAULT BY THE CONTRACTOR**

- 10.1 If the Contractor defaults in his performance of this Contract, the FAS may issue a notice of default to the Contractor informing the Contractor of its default. The Contractor shall, within thirty (30) days of the date of the notice of default, remedy the default. If the Contractor fails to do so, the Contractor shall be taken to have repudiated the Contract and the FAS shall have the right to terminate the Contract or cancel any part thereof by way of a written notice to the Contractor without the FAS being liable therefore in damages or compensation. The said termination shall take effect from the date of the notice of termination.

The Contractor shall also be taken to have repudiated the Contract if the Contractor defaults in his performance of this Contract on more than 2 occasions notwithstanding that the Contractor may have remedied each default within thirty (30) days of the date of the notice of default. In such an event, the FAS shall similarly have the right to terminate the Contract or cancel any part thereof by way of a written notice to the Contractor.

The said termination under this Sub-Clause 10.1 shall take effect from the date of the notice of termination without the FAS being liable to the Contractor for any loss of profits, compensation or damages.

## **11. VARIATION OF CONTRACT**

- 11.1 No variation whether oral or otherwise to the terms of this Contract shall apply thereto unless such variation shall have first been expressly accepted in writing by the Contractor and the authorised contract signatory of the FAS.

## **12. TAXES, FEES AND DUTIES**

- 12.1 The Contractor shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments and other taxes payable under the laws of Singapore, by the Contractor or its employees, including the Contractor's resident engineers and inspectors (if applicable), in carrying out its obligation under the Contract.
- 12.2 If the FAS receives a request from the tax authorities to pay on behalf of the Contractor and/or the Contractor's employees, or to withhold payments from the Contractor in order that the FAS may subsequently so pay, any of the abovementioned taxes, fees, duties, fines, levies and assessments, the Contractor hereby authorizes the FAS to comply with the terms of the said request.
- 12.3 The FAS shall pay to the Contractor a sum equal to the Singapore Goods and Services Tax chargeable on the supply to the FAS of any services by the Contractor in accordance with the Contract. For clarification, "Goods and Services Tax" shall refer to tax under the (Singapore) Goods and Services Tax Act, Cap. 117A (2005 Rev Ed.).
- 12.4 Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person for the purpose of the Singapore Goods and Services Tax, be in the same form and contain the same information as if it were a tax invoice for the purposes of the Regulations made under the Goods and Services Tax Act, Cap. 117A (2005 Rev Ed.).

**13. COMPLIANCE WITH GOVERNMENT REGULATIONS**

- 13.1 The Contractor shall, at its own costs, obtain and maintain all licences and authorisations, including export licences and permits and other governmental authorisations or certification required without any restrictions or qualifications whatsoever so as to enable the Contractor to fulfill all its obligations under the Contract.

**14. INDEMNIFICATION OF FAS AGAINST CLAIMS BY CONTRACTOR'S EMPLOYEES**

- 14.1 In the event of the FAS (including for this purpose every officer and department thereof) being held liable for damages arising out of any claim by any workman or employee employed by the Contractor in and for the performance of the Contract, the Contractor shall indemnify the FAS, its officers or departments against such claim and any costs, charges and expenses in respect thereof,

PROVIDED the same is not caused by the gross negligence or willful default of the FAS, its officers or agents.

**15. MEDIATION CLAUSE**

- 15.1 Notwithstanding anything in this Contract, in the event of any dispute, controversy or claim arising out of or relating to this Contract, no Party shall proceed to any form of dispute resolution UNLESS the Parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation rules of the Singapore Mediation Centre.
- 15.2 A Party who receives a notice for mediation from the other Party shall consent and participate in the mediation process in accordance with Clause 16.1.
- 15.3 Failure to comply with Clause 16.1 or 16.2 shall be deemed to be a breach of contract.

**16. CONSORTIUM**

- 16.1 As used in this Contract, "Consortium" means an unincorporated joint venture through the medium of a consortium or a partnership.

*Joint and Several Responsibility*

- 16.2 Each member of the Consortium shall be jointly and severally responsible to the FAS for the due performance of the Contract.

*Addition of members to Consortium*

- 16.3 Any introduction of, or changes to, Consortium membership must be approved in writing by the FAS.

- 16.4 Should additional member(s) be added to the Consortium at any time with the approval of the FAS, he or they shall be deemed to be included in the expression 'the Contractor'.

*Withdrawal from Consortium*

- 16.5 If any member of the Consortium withdraws from the Consortium, goes into liquidation, is wound up or ceases to exist in accordance with the laws of the country of incorporation:

- (i) this Contract shall continue and not be dissolved, and

- (ii) the remaining member(s) of the Consortium shall be obliged to carry out and complete the Contract.

## **17. INSURANCE**

- 17.1 The Contractor shall be responsible for insuring its employees in respect of personal injuries or death arising out of or in the course of carrying out of the Services including any liability of the Contractor under the Work Injury Compensation Act (Cap. 354) or any subsequent modification or re-enactment thereof; and shall not hold FAS responsible for compensation arising out of any such claims by its employees.

## **COMPENDIUM OF ADDITIONAL CLAUSES (COAC)**

### **A.1 WORKS ORDERS**

- A.1.1 All orders for Services to be supplied under the Contract shall be given from time to time, in writing, by the FAS on the appropriate order form (hereinafter referred to as "the Works Order"). All such Works Orders shall clearly state the details and nature of the Services to be supplied and shall also state the amount, calculated at the rates in the Contract, that shall become due to the Contractor on the satisfactory completion of all the Services specified on such Works Order. On satisfactory completion of such supply the Contractor shall submit his bill to the FAS who shall certify the same for payment to the Contractor at the time and in the manner hereinafter provided.
- A.1.2 On receipt of any Works Order the Contractor shall commence performance of the Services referred to therein and complete the same as soon as promised in his tender or otherwise as expeditiously as possible.

### **A.2 SUPPLY OF SERVICES AS AND WHEN REQUIRED BY THE FAS**

- A.2.1 Where the FAS has entered into a Contract with the Contractor for the supply of Services as and when required by the FAS during the period of time specified in the Contract, the Contract shall be deemed to be a Period Contract for the duration of the period of time specified. Where the Contractor receives, during the period of time specified in the Contract, any Works Order for specific Services specified in the Contract, the Contractor shall proceed to perform the Services in accordance with the Contract.

### **A.3 ARBITRATION**

- A.3.1 Subject to Clause 16 of the "Conditions of Contract", any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force which rules are deemed to be incorporated by reference into this Clause.



**A.4 REPLACEMENT OF PERSONNEL**

- A.4.1 The Contractor shall replace its personnel within seven (7) days from the date of written notice from the FAS that the said personnel is either:
- (a) technically incompetent or negligent in carrying out the Services and all efforts by the Contractor have failed to resolve the issue within the said period; or
  - (b) the conduct of the said personnel deemed by the FAS, acting reasonably, to be undesirable or unacceptable.

**A.5 CONFIDENTIALITY AND SECURITY**

- A.5.1 Except with the prior written consent of the FAS, the Contractor shall not disclose the Contract or any purchases pursuant to this Contract or any provisions thereof or any information issued or furnished by or on behalf of the FAS in connection therewith, directly or indirectly, to any person.
- A.5.2 In addition to the foregoing, the Contractor shall not make use of any information obtained directly or indirectly from the FAS or compiled or generated by the Contractor in the course of this Contract which pertains to or is derived from such information, other than use for the purposes of this Contract, without the prior written consent of the FAS.
- A.5.3 The Contractor shall not publish or release, nor shall it allow or suffer the publication or release of, any news item, article, publication, advertisement, prepared speech or any other information or material pertaining to any part of the obligations to be performed under the Contract in any media without the prior written consent of the FAS.

**A.6 JOINT & SEVERAL LIABILITY**

- A.6.1 If the Contractor is a joint venture or partnership, the individual companies or partners comprising the Contractor shall be deemed jointly and severally liable to the FAS under this Contract.

**A.7 COMPLIANCE WITH THE FAS REGULATIONS**

- A.7.1 Where works are required to be carried out or goods are required to be delivered on the FAS sites, the Contractor shall abide by, and shall ensure that all his employees, consultants, sub-contractors, suppliers and agents abide by, all applicable regulations, rules, procedures, policies, directions, guidelines, and codes of conduct of the FAS relating to the management of FAS sites and premises, including (without limitation) site administration, safety and security, as may be amended from time to time.