



Contract No. 20__

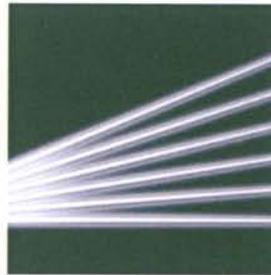
Execution Version

CONSTRUCTION WORKS AGREEMENT

KING ABDULLAH ECONOMIC CITY

EMAAR, THE ECONOMIC CITY
and
NEW JOB CONTRACTORS EST.

10 APRIL, 2013



مدينة الملك عبدالله الاقتصادية
King Abdullah Economic City





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THIS CONSTRUCTION WORKS AGREEMENT (this **Agreement**) is made on 10 April, 2013 G (corresponding to 30 Jumada Al-Awwal, 1434 H):

PARTICULARS

1. **EEC** **EMAAR, THE ECONOMIC CITY**

Registered Address: P.O. Box 8299, Jeddah 21482, Kingdom of Saudi Arabia.

Address for Physical Delivery: 7082 - BayLaSun - Juman Street, Unit No. 1, King Abdullah Economic City 23964 – 2522, Kingdom of Saudi Arabia.

Commercial Registry No.: 4030164269.

2. **Contractor** **NEW JOB CONTRACTORS EST.**

Registered Address: PO BOX 122957, Jeddah 21332, Kingdom of Saudi Arabia.

Commercial Registry No.: 4030145167.

IT IS HEREBY AGREED AS FOLLOWS:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

For the purposes of this Agreement, the terms defined in this Clause have the meanings specified below:

Applicable Laws means the laws enacted or to be enacted in the Kingdom of Saudi Arabia and any other relevant decrees, regulations and/or rules of *Shari'ah* as applied by the courts of Jeddah in the Kingdom of Saudi Arabia that relate to or govern any of the matters referred to in this Agreement whether enacted before or after the date of this Agreement including, for clarity, any decrees, regulations and/or rules enacted or to be enacted by any Authority.

Authority means the Economic Cities Authority created pursuant to the Economic Cities Authority Statute dated 10/03/1431H (corresponding to 24 February 2010G), the Government of the Kingdom of Saudi Arabia or any ministry, department or municipality and includes EEC and its affiliates in such capacity.

Consents means all permits, consents and approvals from any relevant Authority necessary for any construction at the Site, including the carrying out and complete the Works, as well as any occupancy or operation permits required by any relevant Authority in connection with the use of any works or structures within KAEC.

Contractor's Documents means calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under this Agreement.

Contractor's Equipment means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes apparatus, machinery and vehicles made available by EEC (if any), temporary works, Plant, Materials and any other things intended to form or forming part of the Works.

Contractor's Personnel means all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.





Defects Notification Period means the period for notifying defects in the Works under Clause 12, the length of which is specified in Schedule 5.

EEC's Personnel means the Engineer and all other staff, labour and other employees of the Engineer and of EEC; and any other personnel notified to the Contractor by EEC or the Engineer as EEC's Personnel.

Engineer means the person appointed by EEC (if any) to act as the Engineer under Clause 3.1 for the purposes of this Agreement.

Event of Default has the meaning given to it in Clause 18.1.

Final Taking-Over Certificate means the certificate issued under Clause 12.5.

Force Majeure Event means any act, event or circumstance (including an act of God, war, hostilities (whether or not war has been declared), terrorist acts, acts of any civil or military authority, governmental or regulatory direction or restriction or suspension or withdrawal of licences or Consents, disaster, fire, flood, extreme weather conditions, epidemic, explosion, any strike, lock-out or other industrial trade dispute (not involving solely the employees of that person), riot, civil commotion, public demonstration, structural shift or subsidence) that materially affects the ability of a Party to perform its obligations under this Agreement, the cause of which is beyond the reasonable control of the Party whose performance is affected.

Goods means Contractor's Equipment, Materials, and Plant, or any of them as appropriate.

KAEC means the King Abdullah Economic City and includes all areas of land (including the foreshore) which may from time to time form part of the King Abdullah Economic City.

Materials means things of all kinds (other than Plant) intended to form or forming part of the Works, including the supply-only materials (if any) to be supplied by the Contractor under this Agreement.

Notice means a notice in writing in accordance with the provisions of Clause 22.2 and **notify**, **notifies** and **notified** shall be construed accordingly.

Parties means EEC and the Contractor, and **Party** means either one of them.

Plant means the apparatus, machinery and vehicles intended to form or forming part of the Works.

Performance Bond means the performance bond pursuant to Clause 7.

Price means the price defined in Clause 14.1.

Saudi Riyal or **SAR** means the lawful currency of the Kingdom of Saudi Arabia.

Site means the place where the Works are to be executed and to which Materials are to be delivered as specified in Schedule 1 and any other places as may be specified in this Agreement as forming part of the Site.

Specifications means the specification of the Works contained or referenced in Schedule 1.

Standards of Works has the meaning given to it in Clause 2.1.

Subcontractor means any person appointed by the Contractor as a subcontractor in accordance with this Agreement for a part of the Works and the legal successors in title to this person.

Suspension Order means the order issued under Clause 17.1.

Taking-Over Certificate means the certificate issued under Clause 11.4.

Tests on Completion means the tests which are specified in Schedule 4 (if any) and which are carried out in accordance with the Specifications following the completion of Works.

Time for Completion means the time agreed by the Parties for the carrying-out of the Works from their commencement to their completion, specified in the Time Schedule.





Time Schedule means the time schedule for the carrying-out of the Works as specified in Schedule 2

Variation has the meaning given to it in Clause 13.1.

Works means the works to be executed by the Contractor under this Agreement as more particularly described in the Specifications of the Works in Schedule 1.

1.2 Interpretation

- (a) In case of any discrepancy between the provisions of the Clauses of this Agreement and the provisions of any Schedule hereto, the provisions of that Schedule shall take precedence over the provisions of the Clauses of this Agreement.
- (b) References to a Party to this Agreement include references to the successors or assigns (immediate or otherwise) of that Party.
- (c) The headings in this Agreement are for guidance only and shall not affect its interpretation.
- (d) Words expressed in the singular include the plural and vice versa.
- (e) All references to dates are to the Gregorian calendar.

2. WORKS

2.1 Obligation to Carry out Works and Standards of Works

In accordance with terms of this Agreement, the Contractor shall carry out with professional skill and care, the design, engineering, execution, and completion of the Works so that:

- (a) the Works fully comply with and meet all the requirements of this Agreement, Consents and Applicable Laws, provided always that the most onerous provision shall prevail;
- (b) new Plant and Materials only will be used in carrying out the Works, and all Goods used or included in the Works will be of satisfactory quality, and there will be used or included in the Works none of those Goods listed as prohibited, hazardous or toxic under, or not in conformity with, the Applicable Laws or relevant codes of practice, or widely known to works contractors to be deleterious to health, safety or durability of the works in the particular circumstances in which they are used;
- (c) all persons employed in connection with the performance of the Works will be skilled and experienced in their relevant professions or trades and adequately supervised; and
- (d) the Works are maintained in good order, kept in a safe condition and protected from damage, and working areas of the Site are secure against trespassers and clean and tidy so far as practicable having regard to the nature of the Works,

(collectively, the **Standards of Works**).

2.2 Ownership of Works

EEC shall have the ownership to the Works from the beginning of their carrying out. The ownership to the Plant and the Materials to be comprised in the Works shall pass to EEC upon delivery of such Plant or such Materials to the Site.

3. ENGINEER

- 3.1 EEC may, at any time and at its own discretion, appoint the Engineer who shall have rights and shall carry out duties assigned to him in this Agreement. In the event or during the time the Engineer is not appointed, all rights and duties assigned to the Engineer in this Agreement shall be carried out by EEC. If the Engineer is appointed, all rights and duties assigned to the Engineer in this Agreement may also be carried out by EEC. In the event of discrepancy between the exercise of any right or duty under this Agreement by the Engineer and EEC, the exercise of right or duty by EEC shall prevail.





or any amendment, modification or extension which may be made to the Contract or the work to be performed thereunder, or by any intermediate payment or other satisfaction made by us, or by any change in the constitution or organisation of the Contractor or by any other matter or thing which in the absence of this provision would or might have that effect except a discharge or amendment hereof expressly made or agreed to by you in writing.

This Bond and all the rights and benefits thereunder shall be freely assignable by you to any party to whom the Contract has been assigned, including by way of security, but may not otherwise be assigned by you without our prior consent in writing, which consent shall not be unreasonably withheld or delayed. This Bond shall be governed by and construed in accordance with the laws and regulations of, and from time to time applicable in the Kingdom of Saudi Arabia.

We hereby submit to the jurisdiction of the courts of the Kingdom of Saudi Arabia in connection with this Bond, which jurisdiction shall be exclusive save in respect of the enforcement of any judgment or order of such courts.

Yours faithfully,

.....

Duly authorised representative
for and on behalf of [INSERT Bank]





SIGNATORIES

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Agreement as of the day and year first written above.

EMAAR, THE ECONOMIC CITY

NEW JOB CONTRACTORS EST.

By: 

By: _____

Name: **Fahd A. Al-Rashed**

Name: **Mr. Ali Al Qahtani**

Title: **Chief Executive Officer and Managing Director**

Title: **General Manager**





SCHEDULE 3 PRICE AND PAYMENT TERMS

1. Fees:

The Contractor fee for the performance of the Works shall be **the lump sum SAR 19,000,000.00 (Saudi Riyals Nineteen Million only)**, which is a fixed lump sum fee.

Price Breakdown per Package:

- a. Area in Front of Buildings V1-02, 03 & 04 (Package 01): SAR 6,997,488.00
- b. Canal Promenade (Package 02): SAR 12,002,512.00

2. Payment Terms:

Advance payment	25% of the above Fees against Bank Guarantee (Advance Payment Bond)
Monthly payments	Based on works in place and submission of valid invoices accordingly
Retention	10% of each invoice (50% of the retention released upon completion of the Works and 50% of the retention released after the DLP/Warranty period)
Performance Bond	5% of the above Fees (50% to be released at Final TOC and 50% released at the end of DLP)

All payments will be made 30 days after the submission and approval of valid Payment Certificate. Contractor agrees to invoice separately for each Package.

3. Bills of Quantities:

The Bills of Quantities below state the price breakdown, the unit rates and the quantities of the deliverables as proposed by the Contractor. The unit rates will be fixed for the duration of the Agreement according to the Bills of Quantities.

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