

Addendum

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Agreement. *Paragraph 12 should read:*

The seat of any arbitration proceedings under Clause 48 shall be *[name]*

Cl.1 *Amend the following definitions to read:*

'Acceptance Certificate' has the meaning set out in Sub-clause 36.3 and **'Acceptance'**, **'Accept'** and **'Accepted'** shall be construed accordingly.

'Affiliate' means any company which is either directly or indirectly controlled by a party hereto or its ultimate parent,....'

'Documentation' means any relevant documents in paper or electronic form, including drawings, technical software, images, designs, manuals or records.

'Project Manager' means the individual.....'

'Site' means the area within which the **Plant** is to be constructed, together with all other areas as'

'Standard Software' means software which is proprietary to the **Contractor** or a third party.'

'Subcontractor'or the carrying out of any other part of the **Works** is subcontracted.'

Insert the following definition

'Variation Order' means an order by which a **Variation** is ordered or other notification made to the **Contractor** in accordance with the **Contract**.'

4.1 *delete comma after 'necessary' on line 3.*

5.1 *Line 4 should read:*

'...., it shall be effective from the time and date when it is confirmed in writing.'

6.3 *3^d paragraph, 5th line, 'Contrast Price' should read 'Contract Price'*

9.5 *Line 3, after 'Clause 42 (Termination of the Purchaser for convenience)' insert 'or Clause 43 (Termination for Contractor's Default)'*

11.3 *Replace 'a servant' with 'an employee'*

16.7 *Insert new paragraph as 16.7 (f)*

'involve the employment or use of resources beyond the current capacity of the **Contractor** where he can demonstrate that such resources are unavailable to him or cannot reasonably be obtained.'

Amend section beginning 3^d line in last paragraph to read:

'....the **Project Manager** shall notify the **Contractor** either that he withdraws the **Variation Order**, or that he does not accept the validity of the **Contractor's** objection, in which case any dispute may be referred....'

16.8 *Replace with following sub-clause*

'If a disagreement arises between the **Project Manager** and the **Contractor** about any cost incurred by the **Contractor** pursuant to this Clause or Clause 17 (Contractor's Variations) or any modification to the obligations of the **Contractor** necessary to incorporate any **Variation** into the **Works** or the **Approved Programme**, the dispute may be referred to an **Expert** in accordance with Clause 47 (Reference to an Expert).'

18.1 *Line 4, replace 'seven days' with 'fourteen days'*

20.2 *Replace 'servants' with 'employees'*

20.3 *Replace 'servants' with 'employees'*

- 21.4 *Line 4, replace 'does not approve' with 'rejects'. Line 7, replace 'Document' with 'Documentation'.*
- 23.5 *Replace 'servants' with 'employees'*
- 24.1 *Delete '(if any)'*
- 26.1 *Line 1 should read:
'The **Purchaser** and the **Contractor** shall comply with.....'*
- 28.3 *Line 3 should read:
'...to the rates of wages and allowances to be paid to and general working conditions for workmen employed at....'*
- 30.8 *Replace 'a servant' with 'an employee'*
- 31.4 *Line 1 should read:
'Before the **Contractor** starts work on the **Site** each party shall provide the other with'*
- 33.2 *Delete from line 1 'any part of'*
- 33.5 *Delete from line 1 'any part of'*
- 33.7 *Remove brackets from around 'subject to the provisions of Sub-clause 33.10'.*
- 33.8 *Line 2 should read:
'the **Contractor** shall complete to the satisfaction of the **Project Manager**'*
- 33.13 *Delete this Sub-clause. Sub-clause 33.14 becomes 33.13*
- 34.1 *Line 5, replace 'a tidy' with 'an orderly'*
- 35.9 *Paragraph 2, line 4 should read 'accept' rather than 'Accept'*
- 37.2(a) *Line 3 should read:
'...part thereof is defective or incomplete or does not...'*
- 37.13 *Replace current 37.13 with:
'Notwithstanding the provisions of Sub-clause 37.2, if any part of the **Plant** identified in Schedule 10 (Parts with limited working life) has a working life as stated therein of less than 365 days then the **Defects Liability Period** for such part shall be the working life so stated, and the provisions of this Clause shall be construed accordingly.'*
- 39.6 *Line 2, replace 'compound interest' with 'interest compounded daily'. Delete from the end of this sub-clause 'All such interest shall accrue from day to day.'*
- 43.4 *Replace current 43.4 with:
'If any item of **Contractor's Equipment** or of **Materials** which has not become the property of the **Purchaser** or any other thing is used for the completion of the **Works** in accordance with Sub-clause 43.3(a), then when that item or thing is no longer required for the purposes of the **Works**:*
- (a) *the **Purchaser** shall notify the **Contractor** in writing of the availability of such item or thing and thereupon make such item or thing available for the **Contractor** to collect and remove forthwith and the **Contractor** shall so collect and remove such item or thing within twenty-one days of the notice.*
- (b) *if the **Contractor** does not collect and remove the item or thing within a period of twenty-one days of its being made available in accordance with paragraph (a) hereof, the **Contractor** shall be deemed to have consented irrevocably to the disposal of the item or thing by the **Purchaser** and the **Purchaser** may thereafter dispose of that item or thing as he in his absolute discretion sees fit and any proceeds (less the cost of such disposal) shall be paid to the **Contractor**. The **Contractor** shall be liable to pay to the **Purchaser** those costs of disposal not recovered by the **Purchaser** from any proceeds. The **Project Manager** shall certify the amounts payable to or by the **Contractor** pursuant to this Sub-clause and the provisions of Clause 39 (Payment) shall apply thereto as appropriate save that the Final Date for Payment shall be fourteen days after the issue of the **Project Manager's Certificate**.'*
- 43.11 *Line 1 should begin:
'Termination of the employment of the **Contractor** in accordance with...'*

45.3 *Lines 6 and 7, 'decision' should be 'Decision'*

45.4 *Lines 4, 6 and 8, 'decision' should be 'Decision'*

46.1 *Line 1 should read:*

'This Clause shall only apply to disputes arising under a construction contract...'

46.4 *Line 1, 'Decision' should be 'decision'*

47.1 *2nd paragraph, line 1 should read:*

'... or, in the absence of such agreement within twenty-one days of the service of the notice under this Clause, shall be appointed by the President...'

3^d paragraph, line 3 should read:

'...fill the vacancy by agreement, then either party may apply to the President for the time being (or a Past President) of IChemE to appoint another.....'

47.2 *Line 2, 'Decision of the Expert' should be 'decision of the Expert'.*

Sch.1 *Insert the following paragraph between paragraph 2 and 3:*

'The site description should include:

- (a) a written description which covers location, map references, what the Site comprises;
- (b) plans of the Site including maps and layout, clearly indicating any hazardous, environmentally sensitive or 'no go' areas.

Where the Site is an existing plant, it is clearly important for Schedule 1 to provide comparatively detailed information concerning the topography and characteristics of the Site, including information on former uses, buildings and facilities located thereon.

All documentation necessary to complement the information contained in the Schedule should be listed and attached to the Schedule.'

Sch.2 *Paragraph 4, 'Clause 20 also' should read 'Sub-clause 21.6'*

*First line of paragraph headed **Final Documentation and Manuals**. Change 'Sub-clause 20.7' to 'Sub-clause 21.9'*

GN.H *Title should read 'Incentives for early completion or improved performance'*

GN.J *Last paragraph, line 3, 'substance's' should read 'Subcontractor's'*

GN.M *Paragraph 1, line 3, delete 'under English Law'*

GN.O *Insert the following paragraph between paragraph 2 and 3:*

'Clause 43 enables the Purchaser to terminate the employment of the Contractor in the event of the Contractor going into liquidation or the like, or is in default as described in Sub-clause 43.2.'

GN P *First paragraph line 3 should read 'consequential loss' are invariably a feature of contracts in the process plant sector. The primary reason is one of scale: the Purchaser's capital investment, production costs and frequently turnover in the industry....etc*

GN S *Under check list (a) to (y) on page 84 add 'At this stage a final safety review prior to start-up should be carried out.'*