



40 IMPROVEMENTS in the Conditions Of Particular Application to FIDIC SHORT FORM of Contract for Humanitarian Construction Works

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40 IMPROVEMENTS Conditions of Particular Application for Humanitarian Construction Works			
BETTER CONTRACT MANAGEMENT (19 improvements)	Employer friendly	Contractor friendly	Humanitarian Specific
Reinforcing the importance of attached document to the contract => Clause 1.3- «Priority of Documents»			x
Roles and liabilities in obtaining permissions are defined for both parties, the contractor is protected against lack of delivering permits by the Employer => Clause 2.2- «Permits and Licences»		x	
Facilitate Contractor's control on the project and Employer to consider contractor's input=> Clause 2.5 - (Additional) « Whistleblowing»		x	
Giving additional space for third party's during the period of the contract => Clause 3.2 - «Employer's Representative»			x
Subcontracting: forcing the subcontractors to have same obligations as the contractor to the Employer => Clause 4.3 - «Subcontracting»	x		x
Better monitoring of the project to increase tracking and visibility => Clause 4.1 - «General Obligations» & Clause 4.6 - (Additional) « Progress Report »	x	x	x
Improving the performance security mechanism => Clause 4.4 - «Performance Security»	x	x	
Controlling payment issues with subcontractor and third parties => Clause 4.8 - (Additional) « Payments to third parties»	x		x
Working hours are specified to avoid misunderstanding between parties and protect workers => Clause 4.12 - (Additional) «Working Hours for Staff and Labour»			x
Including OPTIONAL operation & maintenance clause => Definition 1.1.23 - (Additional) «Operation and Maintenance Manuals» => Clause 5.4 - (Optional) « Operation and Maintenance Manuals »	x	x	
Liabilities and conditions for the executions of the works to take place are specifically defined for each party to better understand the order which allows the works to start => Clause 7.1 - «Execution of the Works» & Clause 8.1 - «Completion»			x
Remedying Defect mechanism is better detailed and introduce a "Performance certificate" to address a humanitarian specific context when the project is at risk of not operating once funding period is finished => 1.1.31- (Additional) «Performance Certificate» & Clause 9.1 - «Remedying Defects» & Clause 9.2 - «Uncovering and Testing»			x
The Variation and claim procedure is updated to make it more efficient (value difference between variation and Amendment) and specification of managing a variation => Clause 10.2 - «Valuation of Variation» & Clause 10.5 - «Variation and Claim Procedure»	x		
Alternative payment mechanism to monthly payment are proposed via the valuation of the Works OPTIONS proposed in the ANNEX and update of clause 11.2 => Clause 11.2-« Monthly Statements »	x	x	x
An advance payment mechanism is proposed if needed => Clause 11.9 (Additional) «Advance payment ».	x	x	
Add termination options for the Employer => Clause 12.5 - (Additional) « Termination by Employer»	x		
FORCE MAJEURE: Define in more details what is FORCE MAJEURE in a humanitarian context => Definition 1.1.14 - «Force Majeure» & Clause 13.2 - «Force Majeure»			x
Include a mediation mechanism referred to as "dispute Avoidance" => Clause 15.4 - (Additional) « Dispute Avoidance»	x	x	x
Allows the donor (if applicable) to play a role as a mediator => Clause 15.4.1.5. under Clause 15.4 « Dispute Avoidance»			x



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IMPROVED RISK ALLOCATION (11 improvements)	Employer friendly	Contractor friendly	Humanitarian Specific
Include code of conduct to mitigate reputational risk in the priority of documents => Clause 1.3 – « Priority of Documents »	x		x
Managing the risk to access the site via “Site Access Clearance” => Definition 1.1.20 - (Additional) «Site Access Clearance» and => Clause 2.1 - «Provision of site »			x
In managing the Employer’s and the contractor’s risk for delays in accessing the site it is specified in Clause 4.5 - (Additional) « Access to site » that the Contractor should no commence any work and mobilization before the permission “ Site Access clearance” is provided by the Employer	x	x	x
Managing Environmental risks when accessing the site: => Clause 4.5 - (Additional) « Access to site »			x
Management of the reputational risk, include a reference to the right of Inspection and Audit by the Employer => Clause 4.7 - (Additional) « Inspection and audit by the Employer»	x		x
Allocate the geological risk during the works => Clause 4.10 - (Additional) «Unforeseeable Physical Conditions»		x	x
Give additional rights to the contractor in case of suspension of work which is more of an issue in the humanitarian context => Clause 7.5 - (Additional) «Suspension of Work»		x	x
Upon completion of works the contractor is guaranteed to be partially paid for the agreed parts even if a dispute exists on amount finally due => Clause 11.6 - «Final Payment»		x	x
Stopping the risk of the Retention not being available to fix defects after completion of the works => Clause 11.10 – (Additional) « Retention Money »	x		x
In order to limit the financial risks for the Employer, bank certified cheque are expected if the local banking system allows them to guarantee the availability of the retention money and of the advance payment in case the contractor does not honor is financial responsibility. => Clause 11.10 – (Additional) « Retention Money » and => Clause 11.9 - (Additional) « Advance payment ».	x		x
Financial liability of both parties are defined and limited for the contractor => Clause 13.5 - (Additional) «Limitation of Liability»		x	

IMPROVED PROCUREMENT (10 improvements)	Employer friendly	Contractor friendly	Humanitarian Specific
Include environmental clauses to manage environmental risks => Definition 1.1.24 - (Additional) «ESHS» & Clause 1.3 – «Priority of Documents»	x	x	x
Clearly define who owns the design in terms of Intellectual Property => Clause 1.7 - (Additional) «Employer’s Use of Contractor’s Documents» & Clause 1.8 - (Additional) «Contractor’s Use of Employer’s Documents»	x	x	
Blocking the possibility for the contractor to dilute responsibility through multiple level of subcontracting. Only one level of subcontracting is allowed => Clause 4.3 - «Subcontracting»	x		x
Including quality assurance entirely under the responsibility of the contractor => Clause 4.9 - (Additional) «Quality Assurance»	x		
Include humanitarian specific requirement regarding terrorism => Clause 4.11 - (Additional) «Terrorism and Prohibited Parties»			x
Address multiple currency issue => Clause 11.7 - «Currency»			x
Condition the ability of the Employer to terminate the contract once the funding period is overdue only if the original contract end date is prior to the donor’s funding end date => Clause 12.5 - (Additional) « Termination by Employer»		x	x
Manage the risk for the contractor of delayed project outside the donors funding period => Clause 12.6 - (Additional) «Termination by Contractor»		x	x
Addressing site safety specific to the humanitarian context => Clause 13.3 - (Additional) «Site Safety»			x
Addressing sexual harassment issues specific to the humanitarian context => Clause 13.4 - (Additional) «Do No Harm»			x