WITNESS:
RICHMON KILAT

ZET CONSTRUCTION
By:
JULIO J. TAGUNO
Owner/Manager

WITNESS:
BELTZASAR L. GELLA
Acting ESD Manager

Philippine Ports Authority:
By:
ENGR. ASTRICO C. GALLARDO, JR
Acting Port Manager

18.02 Should the PPA be constrained to resort to court action to enforce or safeguard its rights and interests under this Contract, the CONTRACTOR shall be liable to the PPA for attorney's fees in the amount equivalent to Twenty Percent (20%) of the total sum claimed in the complaint, exclusive of other damages and the expenses of litigation. Venue of all court actions in connection with or arising out of this contract shall be laid exclusively in the proper court of the City of Davao.

18.03 It is clearly understood that in the case a dispute or disagreement arises between the PPA and the CONTRATOR regarding the manner by which the latter is performing works, the CONTRACTOR shall follow the instruction of the PPA relative thereto, otherwise, it shall have no right to ask for arbitration or go to court for relief.

ARTICLE XIX

OTHER COVENANTS

19.01 It is expressly agreed and understood that in case of irreconcilable conflict between the provisions of this Contract and the provisions of any of the contract documents, the former shall be controlling.

19.02 It should also be clearly understood that any payment or failure of the PPA to demand compliance with any of the terms and conditions of this Contract or any act of liberality on the part of the PPA shall not be construed or considered as a waiver on the part of the PPA for the enforcement of this Contract. nor shall it relieve the CONTRACTOR of any of its obligations provided thereunder.

19.03 Under no circumstances shall the PPA be held liable for the payment of any extra work, or extra cost of work, change of work, or change order undertaken without the prior written approval of the PPA to perform said work.

19.04 Notwithstanding any provision to the contrary, the PPA has the right to terminate, cancel and/or rescind this contract **motu proprio,** in case of breach thereof by the CONTRACTOR, without need of judicial action by giving at least Ten (10) days written Notice to that effect to the CONTRACTOR, which notice shall be final and binding on all the parties. In such event, the PPA may take over and continue the project, and the contracts and agreements entered into by the CONTRACTOR with third parties, which the PPA in its discretion, may want to assume are hereby conclusively deemed assigned to PPA. For this purpose, the CONTRACTOR hereby agrees and obligates itself to incorporate or cause to be incorporated in any contract or agreement with third parties, as same is connected with or related to the

performance of any or all of the CONTRACTOR's obligations and undertakings hereunder, a stipulation providing for its assignability to and assumption by the PPA, at the option of the PPA. It is further agreed and understood that upon receipt of the Notice mentioned above, the CONTRACTOR cannot remove, withdraw or pull-out any of the equipment, machinery, tools, materials, and/or supplies brought to the project site without the written approval of the PPA.

Within thirty (30) days after termination, cancellation or rescission of this Contract, the parties shall settle their respective accountabilities as of the date of termination, cancellation or rescission, including the refund of any and all advances made plus legal interest from date of receipt of the amount or amounts advanced.

19.05 It is expressly agreed that whenever the CONTRACTOR is behind schedule in its contract work and incurs ten (10%) percent or more negative slippage based on its approved PERT/CPM, the PPA may undertake the whole or portion of the unfinished work by administration or by negotiation through another qualified CONTRACTOR.

Whenever a work activity in the project is not being done on schedule per approved PERT/CPM, the PPA shall notify and direct the CONTRACTOR to immediately undertake such work activity. If within fifteen (15) days from receipt of such notice, the CONTRACTOR fails to start work and to show a satisfaction performance, PPA may take over the whole or portion of such work and have such work done by administration or award the same to another qualified contractor through negotiated contract at the current valuation price.

19.06 The PPA has the right to require the CONTRACTOR to supply and provide the required tools, materials, supplies, equipment, facilities, and to increase the number of workers assigned to the work when exigencies of the service so require. Should the CONTRACTOR fail, refuse or neglect to comply with the same, PPA shall have the option to take over the project in whole or in part or award the same to another CONTRACTOR through negotiated contract at the current valuation price. Any increase in cost which the PPA may incur as a result of its take-over of the project pursuant to Sections 19.04, 19.05 and 19.06 shall be borne by and charged to the CONTRACTOR.

19.07 The CONTRACTOR shall provide and do everything necessary to perform its obligations under this Contract according to the true intent and meaning of all the Contract Documents taken together, whether the same may or may not be shown or described particularly in the drawings, plans and specifications provided that the same can be inferred therefrom. Should the CONTRACTOR find discrepancy in the drawings, plans and specifications, it shall immediately refer the same to the PPA, whose decision shall be followed.

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JULPIU J. TAONG
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