

by the Contractor by reason of any breach or failure to observe the provisions of the Sub-Contract by the Nominated Sub-Contractor.

PROVIDED ALWAYS THAT:

- (i) the amount of such loss and/or expense shall have been quantified in detail and with reasonable accuracy by the Contractor; and
- (ii) the Contractor shall have given to the Nominated Sub-Contractor notice in writing with a copy to the S.O. specifying the breach or failure and the amount quantified in clause 37(c)(i) hereof, not less than forty five (45) days before the issue by the S.O. of any Interim or the Final Certificate under the provisions of the Main Contract; and
- (d) If there is any dispute as regards to the payment to be made under this clause, it shall be settled in accordance with clause 39.
- (e) Any amount paid to the Contractor in accordance with this clause shall be deemed to be payment to the Nominated Sub-Contractor under this Sub-Contract.

38.0 NOMINATED SUB-CONTRACTOR'S CLAIM TO RIGHTS AND BENEFIT UNDER THE MAIN CONTRACT.

- (a) The Contractor will, in so far as he lawfully can at the request and cost of the Nominated Sub-Contractor, obtain for him any rights or benefits of the Main Contract so far as the same are applicable to the Sub-Contract Works but no further or otherwise.
- (b) Whenever the Contractor is required by the terms of the Main Contract to give any particulars or notices to the S.O. or the Government, the Nominated Sub-Contractor shall, in relation to this Sub-Contract, give such particulars or notices or such other information in writing as will enable the Contractor to comply with such terms of the Main Contract and shall do so in sufficient time to enable the Contractor to comply with such terms punctually.

39.0 ARBITRATION

- (a) If any dispute or difference shall arise between the Contractor and the Nominated Sub-Contractor out of or in connection with this Sub-Contract, then Parties shall refer such matter, dispute or difference to the S.O. for a decision.
- (b) The S.O.'s decision shall be in writing and shall subject to clause 39(d) hereof, be binding on the Parties until the completion of the Sub-Contract Works and shall forthwith be given effect to by the Nominated Sub-Contractor who shall proceed with the Sub-Contract Works with all due diligence whether or not notice of dissatisfaction is given by him.
- (c) If the Parties –
 - (i) fails to receive a decision from the S.O. within forty-five (45) days after being requested to do so; or
 - (ii) is dissatisfied with any decision of the S.O.,