


proceeding shall be without prejudice to the right of **PPA** to rescind or terminate this contract in accordance with Article XIX, Section 19.04 hereof.

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 an 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 Manila.

18.03 It is clearly understood that in case a dispute or disagreement arises between the **PPA** and the **CONTRACTOR** 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 the **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, machineries, 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 satisfactory 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.

