



Project :	Georgia E60F2
Subject:	Agreement No 1 – Extension of Time vs formal Notice of Determination (Compliance to MDB2010)
Reference:	Employer’s Draft – Agreement No 1 - > received per E-mail on 03 January 2022
Venue / Date:	Germany, 08 January 2022

- 1. PREFACE TO DRAFT “AGREEMENT NO 1” EOTFC 2**
 - 1.1. Extension of Time for Completion to 31 December 2022 2
 - 1.2. New Milestones introduced vs. original Contract for three sections 2
 - 1.3. The Contractor shall irrevocable waive rights and entitlements vs the rules of MDB2010. 2
- 2. COMMENTS TO PROCEDURAL RULES IN COMPLIANCE TO MDB2010 2**
 - 2.1. Fundamental Principles of FIDIC 2
 - 2.2. All Parties’ Rights, Obligations, Duties in context with “Determinations 3
 - 2.3. Contract Administration: Claims - Dispute – Amicable Settlement – Arbitration under SIAC 3
 - 2.3.1. Claim resolution – SC20.1 / Clause 3 3
 - 2.3.2. Consultations – SC03.5 with Evaluation SC12.3 3
 - 2.3.3. Agreement or Ascertainment –SC03.5 4
 - 2.3.4. Disagreement > Referral to Dispute Board SC20.1 / SC20.4 4
 - 2.3.5. Decision of the DB – SC20.4 4
 - 2.3.6. Notice of Dissatisfaction / Amicable settlement - SC20.1 / SC20.5 4
 - 2.3.7. Arbitration SIAC Rules - SC20.6..... 4
 - 2.4. One-sided changes in the contractual foundations are mostly violating the Law 4
- 3. COMMENTS TO “MATERIALIZED” ISSUES 4**
 - 3.1. Text analysis for the Agreements > issued as a formal Notice of Determination ! 5
 - 3.1.1. Preface “effective Date” 5
 - 3.1.2. Whereas a,b,c,d 5
 - 3.1.3. No 1 – 14 5
 - 3.2. Main Topics to consider 6
 - 3.2.1. Preface to sense of justice 6
 - 3.2.2. Proposal deprives the Contractor’s rights of the CoC MDB2010 7
 - 3.2.3. Additional Milestones > discern as an Instruction to Contractor > SC08.6 para4 7
 - 3.2.4. Right of Access and Possession of all parts of the Site 7
 - 3.2.5. Arraign the Agreement 7
- 4. RECOMMENDATIONS “COMPLY TO FORMAL MDB-PROCEDURES” 8**
 - 4.1. Notice of Determination 8
 - 4.2. Compliance to Construction 8
- 5. EXHIBITS TO ADDUCE PIECES OF EVIDENCES 8**
 - 5.1. Results of Consultation Minutes of Meeting for documentary evidences 8
 - 5.2. Claim List referring to the Negotiations + revised Program SC08.3 8
 - 5.3. Notice of Determination subject to SC03.5 9
 - 5.4. Employer’s > Engineer’s Instruction BRI2113 TA Pier 16 9
 - 5.5. DRAFT Employer “Agreement No1” : EoTfC, additional milestones, rescind rights 9
 - 5.5.1.1.End of document – HFG2404 – January 2022 13



Project : Georgia E60F2
Subject: **Agreement No 1 – Extension of Time vs formal Notice of Determination (Compliance to MDB2010)**
Reference: Employer's Draft – Agreement No 1 - > received per E-mail on 03 January 2022
Venue / Date: Germany, 06 January 2022

1. Preface to Draft “Agreement No 1” EoTfC

The Contract Expert has received the Draft “Agreement No 1” and provide his opinion, based on his available level of knowledge.

Initial position

A Works Contract had signed between the Road Department (Employer) and the HRBC Group (Contractor) on 20 November 2018. An Engineer has been appointed to supervise the implementation of the infrastructure project.

The Contractor shall build the dual carriageway of the E60 Highway Lot 2.

The General and Particular Conditions of Contract for CONSTRUCTION for Building and Engineering, designed by the Employer (MDB2010) is stipulated for the execution of the Works.

The initial Time for Completion has set on 06 July 2022.

The Contractor has submitted different Claim Notices (Epidemic + Site Possession) with Interim Claims and request for Extension of Time for Completion (EoTfC) up to May 2023 (Covid-Claim #20006).

Meanwhile consultations are said to be ongoing about the “Draft Agreement”.

The Contract Expert has no information about consultations (times, content, and preliminary outcome).

Request by Engineer to comment

The Employer has send a DRAFT Agreement for discussions to the Engineer.

The Contract Expert identifies three main issues:

- 1.1. Extension of Time for Completion to 31 December 2022
- 1.2. New Milestones introduced vs. original Contract for three sections
- 1.3. The Contractor shall irrevocable waive rights and entitlements vs the rules of MDB2010.

The Contract expert reviewed DRAFT letter (attached under item Exhibits) and provides his comments – based on the letter - in the next paragraphs.

The Contract Expert has no information about precedent consultations between the Parties.

2. Comments to procedural Rules in compliance to MDB2010

In the first step, the Contract Expert wants to point out about a smooth maintained Contract Administration to adapt to the FIDIC principle and Compliance rules according to the ADB's accountability mechanism. Hence I provide an short overall view about the FIDIC-Contract Administration.

2.1. Fundamental Principles of FIDIC

The FiDiC organization publish their five Golden Principles, and can be retrieved from the Internet:

(1) Rights, obligations an roles of Parties shall not significantly changed in the Particular Conditions of



Contract. (2) Amendments must be clear and unambiguous. (3) Risks/reward allocation shall be an equilibrium of the rights. (4) Time periods shall not be significantly changed / Time bars, and (5) formal disputes must be referred to DAAB for a provisionally binding decision as a condition precedent to Arbitration.

Contract Expert's interpretation of the Sub-Clause 01.4 Law and Language (for Communication):

The Art. 1.4 Law and Language does not mean that the Civil Law Regulations overrules the specific engineered and individual agreed Construction Contract.

The Law of the Country can only intervene, when the Construction Contract is silent or the Parties are violating public (environmental protection law) and administrative Law (e.g. to build structures without permission on non-expropriated land or without building licence).

2.2. All Parties' Rights, Obligations, Duties in context with "Determinations"

CoC stands for Conditions of Contract comprising the GCC and PCC of the FiDiC MDB2010 Contract.

The MDB2010-Construction Contract describes the rights and obligations of the Parties.

The Contract provides approx. 44 sub-clauses, which events and circumstances entitles the Contractor to claim prolongation of time and reimbursement of cost / profit.

A compiled list can be retrieved from the FiDiC Contracts Guide 1st version 2000 with all the causes / ground and entitlements for Contractor and Employer.

The Contract expert has published this 4 pages on his webserver : www.aid21.de/03.5+ClaimSC.pdf

However, he has to obey the procedural rules to submit Claim Notices and his Claim Request / detailed Particulars to substantiate his entitlements.

And the Engineer has to take action to proceeds in accordance with Sub-Clause 3.5 [Determinations].

However the Engineer shall obtain the specific approval of the Employer "before taking action" for agreeing or determining an extension of time and/or additional cost.

The Employer allows him to evaluate the Quantum, but a lot of Engineer just obey the "wishes" of the Employers, instead to ascertain a neutral assessment.

Anyway the Contractor has the chance to overturn Notice of Determinations by DB-referrals and additional remedies.

2.3. Contract Administration: Claims - Dispute – Amicable Settlement – Arbitration under SIAC

The General and Particular Conditions of Contract, FIDIC harmonized Red Book 1999 for Construction, designed by the Employer (MDB2010) were among others formed for the "CONTRACT".

The CONTRACT clearly describes the "formal / procedural" rules and the requirements to substantiate the entitlement for compensation of the aggrieved Party.

2.3.1. Claim resolution – SC20.1 / Clause 3

To apply the procedural rules for all types of defined Employer and Contractor's entitlements in the sub-clauses of the conditions of MDB-contract. Please refer to the FiDiC Contract Guide, 1st version 1999 under Sub-Clause 03.5 with all the 44 grounds/reasons of Claims with the Entitlement for Employer and Contractor to request Extension of Time, Cost + profit (page 90-page93). The four pages can be retrieved on the Contract Expert's website: www.aid21.de/03.5+ClaimSC.pdf ,
And Engineer's action is requested for almost all Sub-Clauses mentioned in the before
shall proceed in accordance with Sub-Clause 3.5 [Determinations].

2.3.2. Consultations – SC03.5 with Evaluation SC12.3

The Engineer will take over as a quasi-mediator the process of consultations to reach an agreement. If the Parties are not sure, they can request from the Dispute-Board member a non-binding opinion, pertinent to the DB-Agreement and procedural rules to visit the Site frequently between 70-140 days.



2.3.3. Agreement or Ascertainment –SC03.5

If no agreement can be reached, the Engineer has to issue a formal notice of determination subject to SC03.5 – for both cases.

2.3.4. Disagreement > Referral to Dispute Board SC20.1 / SC20.4

If the Contractor or Employer is not satisfied, the respective Party will refer the case by a “Statement of Case” to the Dispute Board in compliance with the FIDIC Contract. The timeline of the procedure and request for additional information will be set up by the DB-Member.

2.3.5. Decision of the DB – SC20.4

The Dispute Board has the power to apply his own jurisdiction. He will issue his decision pertinent to SC20.

2.3.6. Notice of Dissatisfaction / Amicable settlement - SC20.1 / SC20.5

After the obtained decision of the Dispute Board the Parties have their Party autonomy to reach an agreement by fulfilment of the DB-Decision. If not, Arbitration proceedings will be induced.

2.3.7. Arbitration SIAC Rules - SC20.6

The SIAC Arbitration will also apply his own Rules to issue intermediate reliefs and final tribunal awards. I am sure the Government of Georgia has also signed the New York Convention and hence the Arbitral Tribunal awards will be recognized by the Georgian Law and hence enforceable by the Party.

2.4. One-sided changes in the contractual foundations are mostly violating the Law

Foundations of the FIDIC Contract shall not be changed in the Particular Conditions of Contract (Procurement stage) and Change of the legal principles like

1. The role and authority of the Engineer (where applicable, otherwise the Employer’s Representative): Oversight and/or inspection of the Works, Issues of Certificates, Valuation of Variations, assessment, response to and determination of time/money claims, Monitoring of the Contractor’s programme

If the Engineer is unduly constrained so that he cannot exercise independent professional judgement, then problems with successful contract management, dispute avoidance and timely completion can be confidently anticipated!

2. Liability for errors in the Drawings/Technical Specifications or Employer’s Requirements

3. Liability for providing access to and on the Site.

4. Liability for obtaining permits and approvals.

5. Liability for unforeseeable physical conditions.

6. Labour conditions

7. Delays caused by authorities

8. Defects liability, including latent defects

9. Procedures for dispute settlement/resolution

10. MDB2010 / Red Book has designed the Employer, modifications are usual the duty of the Consultant (Service Contract) and the Contractor (Works contract) builds.

3. Comments to “materialized” issues

In reference to the Draft Letter I provide my thoughts.



3.1. Text analysis for the Agreements > issued as a formal Notice of Determination !

3.1.1. Preface “effective Date”

The preface with the effective date can be shortened – and should be shifted to the end of the agreement.

3.1.2. Whereas a,b,c,d

a _ formal information

b _ The Contactor has submitted claims with an Extension of Time for Completion begin of May 2023. Factual date / Information are missing. Contractor has submitted interim Claims about “Epidemic” and “site possession” with a request of Extension of Time for Completion begin May 2023.

Has the Contractor submitted a revised Work program with his intentions to complete the Works on 31.12.2022?

Note the Contractor has submitted Claims showing his achieved completion dates begin of May 2023 with the “outstanding” works only.

c _ Intensively discussed about Prolongation of time! The Parties shall show their positions, intermediate results and outcome of the negotiations. The Minutes of Meeting to the Agreement serves as a documentary evidence, why to Parties derives to the result of EoTfC on 31 DEC 2022 – 24.00 h.

d _ Agreement based on “proceedings according to Determination / Sub-Clause 03.5” is the contractual obligation of the Engineer. The Approach and Content of this Agreement is my concern and offends my sense of justice to abide to the Contract Law MDB2010.

NOTE : a formal notice of determination subject to SC03.5 deals with ONE Claim with a clear result : prolongation, Cost Yes or no, Cost amount, profit yes or no, Profit amount. Nothing else. No deviations of the rights and additional conditions and provision with non-captured milestones in the “adapted” MDB2010-Contract.

3.1.3. No 1 – 14

1 _ The adjusted Time for Completion to “31. Dec 2022” latest. The “Engineer” can do this as an interim decision, if the specific approval of the Employer “before taking action” has been obtained by the Engineer > agreeing or determining an extension of time and/or additional cost in reference to SC 03.1(a)

2 _ The “effective date” is defined at the end of the document Shall become effective upon signing by both Parties.

3 _ To withdraw and irrevocably waive all existing claims is in contradiction to the trust in good faith / bona fide of the Parties to obey the rule of contract law (MDB2010) and constitutional safeguarded laws / law of the country.

4 _ All previous claims shall be rescinded. This suggestion considered an immoral conduct. It is against the principle of bonos mores, where nobody is above the law.

5 _ The Parties agree to the milestones.to defining the section opening for traffic.
The Employer or Engineer are able to instruct such milestones, which are not foreseen in the original Conditions of Contract pertinent to harmonized FIDIC / MDB2010 (Construction, designed by Employer). The Contractor is entitled for reimbursement of all costs to implement acceleration measures (SC08.6 para6 MDB2010).

6 _ The Contractor shall be deprived from his contractual rights to claim for extension of time pursuant to the Conditions of Contract (MDB2010). The Contract defines, when the Contractor and



Employer are entitled for compensation, if they suffer delay and incur cost
(www.aid21.de/03.5+ClaimSC.pdf)

- 7 _ The Contractor shall pay the costs to extend the Performance Security and Advanced Payment Guarantee and all insurances will be under the auspices of the Contractor, because the Extension of Time is based on SC08.6 (epidemic – SC08.4/SC08.5).
The failure of possession of site (SC02.1) is currently not inducing the evaluation of Extension of Time, because the Contractor does not suffer delay due to the circumstances.
- 8 _ The Contractor shall waive all his rights for compensation whatsoever. This Employer's request is also identified as a violation of the principle of the Rule of Law and may be against the ADB-Compliance mechanism.
- 9 _ Except for the provision set out above, all other terms of the Conditions of Contract shall remain unchanged (nothing to say)
- 10 _ The Agreement shall be governed by the Georgian Law **based on the Conditions of Contract, MDB 2010**
- 11 _ This is a redundant paragraph. The obligations of the Parties are described in the MDB2010-Contract.
- 12 _ The Agreement shall be done in English in TWO. It is very strange not even to inform the Engineer. The Contract Administration is based on the procedural rules and substantive law of the MDB2010. It is the obligation of the Engineer to issue a Notice of Determination (Agreement or Ascertainment of the "single" case" and distribute to the Employer and Contractor.
Usually you
- 13 _ The Agreement forms an integral part ... and shall PREVAIL the MDB201 Conditions of Contract. The Contract Expert with his sense of justice is not able to accept the contravention, as he uses to abide to the constitutional legalities / rule of law of a free democratic basic order.

This Agreement has duly signed by both Parties and shall become effect upon signing of both parties
>>> **BETTER to define a prospective date** e.g. on 20 FEB 2022

All other terms and conditions of the original Contract subject to Conditions of Contract for Construction (MDB2010) shall continue unchanged and remain in full force and effect.

In witness whereof, the Parties hereto have caused this Agreement No 1 (Determination SC 03.5) to be executed by their duly authorized representatives

The Contractor

The Employer

3.2. Main Topics to consider

3.2.1. Preface to sense of justice

A Observed Situation.

The Contractor has not fully utilized his rights and has not fully complied pursuant to the Conditions of Contract.

He has not deployed a competent professional in construction law from the beginning onward, to substantiate all his entitlements:

disruption and delay times for plenty of reasons e.g. for UPC-variations, possession of site, design modification, increase of quantities, and other plenty of events and circumstances in line with the Conditions of Contract.



In addition the Contractor has not fulfilled his obligations to submit a revised program frequently to demonstrate his intentions to complete the works due to delays (on the critical path), to substantiate with claim notices, and the time impact due to variations proposals.

It seems the Contractor wants to save money, not deploying competent professionals in Time Scheduling, Cost Planning with proper tracking and Contract Administration, and has a different approach to deal with “issues”.

All this observed deficiencies in time, cost scheduling and contract administration is originated in the Contractor’s sphere of responsibility. The Contractor can nobody blame about these defaults.

B Violation

But the draft of the Agreement No 1 is in the Contract Expert’s opinion not in compliance to the contractual obligations of the Parties to analyse and evaluate the issue according with SC12.3 and consult and reach an agreement with SC03.5 > Notice of Agreement issued by the Engineer. The approach of the DRAFT Agreement No 1 violates the MDB2010 Construction Law and forfeit the Contractor’s right.

3.2.2. Proposal deprives the Contractor’s rights of the CoC MDB2010

Several paragraphs are violates the general principles of the Rule of Law (bona fide, contra bonos mores, constitutional rights). Please refer to comments in the above Text Analysis. This approach is not acceptable by the Contract Expert HFG.

3.2.3. Additional Milestones > discern as an Instruction to Contractor > SC08.6 para4

The newly introduce milestones can be interpreted as an Employer’s / Engineer’s instruction to re-organize the “Baseline Work program” SC08.6 para 4

Additional costs of revised methods including acceleration measures, instructed by the Engineer to reduce delays resulting from causes listed under Sub-Clause 8.4 [Extension of Time for Completion] shall be paid by the Employer, without generating, however, any other additional payment benefit to the Contractor.

Under these conditions, the Contractor is entitled to submit a claim for acceleration measures to adapt to the change of the legislation of the Construction Law MDB2010.

By the way, it would be better to use correct chainage e.g. km 12+197 (gap in the height length)

3.2.4. Right of Access and Possession of all parts of the Site

A Section km 0+000 – 0.500, BRI2101 AT + BRI2101 TA

Has the Contractor already received the right of access to and possession of all parts of the site to fulfill his “milestone agreement about sectional opening” till 15 April 2022 (sounds unrealistic).

B BRI2113, Pier 16

What is the status about the Pier No 16? Has the Contractor already received the full access to the Right of Way, in order to construct the Pier Cap with his proper steel scaffolding?

How can a Contractor agree to milestones with the promise to complete the works up to a certain deadline – otherwise he will in breach of contract? A very paradox approach?

3.2.5. Arraign the Agreement

I am sure the Contractor with his cultural background feels psychological pressure to sign the Contract, but the observed Contractor’s behavior is not fighting for his elementary rights.

Contract specialist opinion:

If the Contractor signs such a “Contract Agreement” he is sure, the Contractor is able to arraign such



an agreement with the foreseen dispute resolution procedures: DB – Amicable Settlement – Arbitration.

4. Recommendations “comply to formal MDB-procedures”

4.1. Notice of Determination

Why does the Engineer not abide to the procedure laid down in the Conditions of MDB2010-Contract with the analysis, evaluation of the different Claims (“epidemic” & “possession of site” & other bunch of claims), consultations with the Parties to reach an Agreement, and to issue a formal Notice of Determination subject to SC03.5 para2.

4.2. Compliance to Construction

It should avoided to abrogate the Conditions of the Construction Contract (MDB2010).

This procedure would comply according to the Construction Contract (MDB2010) and certainly with the ADB-compliance mechanism and would not violate the foundations of the Construction Contract, principles of bona fide, bonos mores and Rule of Law in general.

If the parties use their “private autonomy” in such a manner, it would open the doors for bypassing the Conditions and Terms of Contract in general and paths the way for embezzlement, fraud and corruption – with will infringe the Sub-Clause 15.6 MDB2010.

5. Exhibits to adduce pieces of evidences

5.1. Results of Consultation Minutes of Meeting for documentary evidences

Minutes of Meeting helps to provide facts to help to support the arguments of the Contractor and Employer to be able to trace back, how a decision / agreement has been reached – under which circumstances -

5.2. Claim List referring to the Negotiations + revised Program SC08.3

The Draft refers to the waiving of any Claim submitted up to now. The missing claim list does not enable the Parties to identify the specified matter of facts. It is advisable to indicate clearly the cause-impact nexus for the specific issue of Extension of Time for Completion.

The document should also illuminate the reasons, why the Employer considers the EoTfC up to 31 December 2022 as reasonable.

In addition, the position of the Engineer / Consultants staff - based on his detailed Site knowledge due to his permanent presence on Site – should record, how to derived to the agreement.

The Contractor has failed to provide revised Work programs regularly to present the cause-impact of his disruptions and delays in the primavera bar charts. Such programs are used to support and substantiate the Contractor’s Interim Claims – pursuant to SC 20.1 (a), (b) and (c) – . Revised Work Programs show the Contractor’s intentions, when he is planning to complete the Works - beyond the original Time for Completion (SC08.3 / SC08.6.) -



5.3. Notice of Determination subject to SC03.5

A formal notice of Determination subject to SC03.5 with the topic “Agreement No 1 for Extension of Time” should be attached to provide the Notice with the seasoned arguments.

5.4. Employer’s > Engineer’s Instruction BRI2113 TA Pier 16

The Employer issued an instruction not to implement any construction works on the private land plots.

The Contract Expert has to inquire the situation:

Do the two mentioned plots are partially located within the Right of Way?

Is the Contractor impeded to build the Piers and has the enough working space to construct the Piers Cap BRI2113TA – P16 with the Steel formwork?

The Foundation with bore piles for the Pier 16 has been built.

Legend: Bridge BRI No 2113 Lane TA = Tbilisi to Argveta and Pier Number of the Bridge

Attention to: Mr. Dai Xiangyang (Contractor’s Representative) Construction of Khevi-Ubisa Section (E60 Highway Route)-KURP/CW/OCB-01	
Subject: Citizen Nino Bliadze’s family-owned land plots included in LARP	
Our Reference: 1938/CKUSE60/UBM-GE	Date: 09.08.2021
References: (1) Employer’s letter N 2-06/11366 Dated: 14.07.2021	
Dear Mr. Xiangyang;	
With reference to the Employer’s Ref (1) letter, the Contractor is instructed to don’t implement any construction works on the private land plots (C/C 36.08.32.200 and C/C 36.08.32.201), included in the Land Acquisition and Resettlement Plan, prepared within the scope of the Khevi-Ubisa (F2) section, at the current time, till the Employer’s following instruction.	
With Our Kind Regards	

5.5. DRAFT Employer “Agreement No1” : EoTfC, additional milestones, rescind rights

Georgia





**Ministry of Regional Development and Infrastructure of Georgia
Roads Department of Georgia**

Agreement No. 1

Contract No. KURP/CW/OCB-01

Khevi-Ubisa Road Section Section (E-60 Highway Route)

Between

**Roads Department of Georgia
Ministry of Regional Development and Infrastructure of Georgia**

And

Hunan Road&Bridge Construction Group Co Ltd (China)

2021

Agreement No. 1

This Agreement No.1 (hereinafter referred to as “this Agreement”) is made **on .. December 2021** and is reached on the basis of the Contract KURP/CW/OCB-01 for the Construction of Khevi-Ubisa Road Section Section (E-60 Highway Route) between **Roads Department of the Ministry of Regional Development and Infrastructure of Georgia**, (hereinafter the “Employer”) and **Hunan Road&Bridge Construction Group Co Ltd (China)** (hereinafter the “Contractor”)

The Contractor and the Employer are hereinafter collectively referred to as “the Parties”.

This Agreement shall become effective upon the signing by both Parties.

This Agreement shall become effective when both Parties have signed the Agreement. References in this Agreement to the “Effective Date of this Agreement” are references to the



date when both parties have signed this Agreement. If one Party signs later than the other party, the later date is the “Effective Date of this Agreement”.

WHEREAS

(a) The Contract KURP/CW/OCB-01 for Construction of of Khevi-Ubisa Road Section Section (E-60 Highway Route) (hereinafter the “Contract”) was concluded between the Parties on 20 November 2018.

(b) The Time for Completion was 1 080 calendar days from the Commencement Date, 22 July 2019, and will expire on 7 July 2022. In connection with certain events and circumstances arising during the Contract period, it became obvious that the Contractor would not be able to complete the Works before the Completion Date. The Contractor notified the delay events and submitted a revised Programme. Based on the Engineer’s interim Determination, dated ... the Contractor was granted an interim extension of Time for Completion for ?? month up to and including?

(c) The Parties intensively discussed and continued mutual consultations over the reasonable additional time necessary for completion of the Works.

(d) The Parties reached the Agreement under Sub-Clause 3.5 [Determinations] of the General Conditions of the Contract in the frame of the Engineer’s Determination process and agreed on the extension of Time for Completion based on the terms indicated herein below.

Following the negotiations between the Parties, respecting the effort contributed by both Parties and having an intention to complete the project under the Contract, **now, therefore**, the Parties agree as follows:

1. The Employer hereby agrees to extend the original Time for Completion of 7 July, 2022 until and including 31 December 2022.
2. Any and all claims for the extension of the Time for Completion due to events and circumstances that have taken place until the Effective Date of this Agreement are hereby fully and finally settled.
3. The Contractor hereby agrees to:
 - i. withdraw and irrevocably waive all existing claims for additional payment or other relief, howsoever arising under any clause or otherwise in connection with the Contract;



- ii. irrevocably waive any right or entitlement to pursue any further claims that the Contractor has or hereafter can, shall or may have for extension of time and/or additional money or otherwise, howsoever arising, under any clause or otherwise in connection with the Contract in respect of any event or circumstances that occurs or has occurred on or before the Effective Date of this Agreement, whether or not the events or circumstances that may give rise to the claim or dispute have already arisen, and whether or not the Contractor is aware of them.
4. Nothing in the preceding **paragraph 3** shall limit or exclude any right of the Parties under the Contract Conditions to pursue any claim in respect of events occurring after the Effective Date of this Agreement. For the avoidance of doubt, if the Contractor has claims with causes that have arisen prior to the Effective Date of this Agreement and effects that take place or continue after the Effective Date of this Agreement, whether within the knowledge of the Contractor or not, the Contractor also irrevocably waives those claims.
5. Parties agree on the following milestones defining the sectional opening for traffic:

Milestones	Due dates for opening traffic
Km0+000-km6+000	15 April 2022
Km6+000-km9+000	31 December 2022
Km9+000-km12+000	7 July 2022

6. Subject to the conditions of this Agreement, if the Contractor fails to reach any milestone referred to in **paragraph 5** above, the Contractor will be deemed to be in breach with the requirements of Sub-Clause 8.3 (Programme) of the General Conditions of the Contract.
7. The Contractor shall at its own cost extend the validity of Performance Security and Advance Payment Guarantee and all insurances to take into account the extension of the Time for Completion. All the mentioned documentation shall be submitted in accordance with Sub-Clauses 4.2, 14.2 and Clause 18 of the General Conditions of the Contract.
8. Based on the conditions of this Agreement, the Contractor agrees to withdraw and irrevocably waives its right to seek any additional payment, cost, profit or other relief in relation to the extension of the Time for Completion referred to in paragraph 1 above.
9. Except for the provisions set out above, all other terms of the Conditions of the Contract shall remain unchanged.
10. This Agreement shall be governed by Georgian law.



11. The Parties represent and warrant that the execution, performance, and compliance with their respective obligations under this Agreement are fully authorized by each of them and that the persons executing this Agreement on behalf of each of the Parties have the necessary and appropriate authority to do so.

12. This Agreement is executed in the English language in 2 (two) counterparts of an equal legal force and forms an integral part of the Contract.

13. This Agreement forms an integral part of the Contract. In case of any inconsistencies, discrepancies or contradictions between provisions of this Agreement, the Contract and the, this Agreement shall prevail.

THIS AGREEMENT has been duly signed by both Parties the day and year written below

The Contractor

The Employer

Signature:

Signature:

Mr. Ma Jin

Ms. Salome Tsurtsunia

Authorized Representative Hunan Road&Bridge Construction Group Co Ltd (China)

Deputy Chairperson of the Roads Department of the Ministry of Regional Development and Infrastructure of Georgia

Date: -- December 2021

Date: -- December 2021

5.5.1.1.End of document – HFG2404 – January 2022