



(//) dlm.PPS 10/4/2 BUB Jld.9

24 Februari 2016

Semua Pengarah Bahagian
Semua Pengarah JPS Negeri
Semua Jurutera Projek

YBhg. Dato'/Tuan/Puan,

SURAT PEKELILING JPS Bil. 3 / 2016
PINDAAN-PINDAAN KEPADA SYARAT-SYARAT KONTRAK PWD 203/203A
(REV.1/2010) DAN PWD FORM DB (REV. 1/2010)

Dengan segala hormatnya perkara di atas adalah dirujuk.

2. Bersama-sama ini disertakan satu (1) salinan **Surat Pekeliling JPS Bil. 3/2016 PINDAAN-PINDAAN KEPADA SYARAT-SYARAT KONTRAK PWD 203/203A (REV.1/2010) DAN PWD FORM DB (REV.1/2010)** untuk rujukan dan perhatian YBhg. Dato'/Tuan/Puan.

Sekian, terima kasih.

'BERKHIDMAT UNTUK NEGARA'
'Warga Berintegriti Organisasi Berkualiti'

Saya yang menurut perintah,

(Sr RATNA BINTI MAHYUDDIN)
Pengarah Ukur Bahan dan Pengurusan Kontrak
b/p: Ketua Pengarah
Jabatan Pengairan dan Saliran, Malaysia

- s.k :
- Timbalan Ketua Pengarah (Sektor Bisnes), JPS Malaysia
 - Timbalan Ketua Pengarah (Sektor Pakar), JPS Malaysia
 - Pengarah Kanan (Sektor Pengurusan), JPS Malaysia
 - Juruukur Bahan Ibu Pejabat JPS Malaysia/ Projek Khas
 - Juruukur Bahan Negeri/Pembantu Juruukur Bahan Negeri





IBU PEJABAT JPS MALAYSIA



SURAT PEKELILING JPS BIL. 3/2016

**PINDAAN-PINDAAN KEPADA SYARAT-SYARAT KONTRAK
PWD 203/203A (Rev. 1/2010) DAN PWD FORM DB (Rev. 1/2010)**

1.0 TUJUAN

Surat Pekeliling ini bertujuan untuk meminda dan menggantikan beberapa klausa kepada syarat-syarat kontrak PWD 203/203A (Rev.1/2010) dan PWD Form DB (Rev. 1/2010) supaya selaras dengan peruntukan Akta – Akta berikut:

- i. *ADDENDUM* NO.1 - AKTA BAYARAN DAN ADJUDIKASI INDUSTRI PEMBINAAN 2012 (AKTA CIPA).
- ii. *ADDENDUM* NO.2 - PELAKSANAAN AKTA CUKAI BARANG DAN PERKHIDMATAN (GST) 2014.

2.0 LATAR BELAKANG - AKTA BAYARAN DAN ADJUDIKASI INDUSTRI PEMBINAAN 2012 (AKTA CIPA)

Pada 18 Jun 2012, satu Akta Bayaran dan Adjudikasi Industri Pembinaan 2012 (Akta CIPA) telah menerima perkenan Diraja dan telah diwartakan pada 22 Jun 2012. Akta tersebut telah digubal bagi memastikan kelancaran bayaran berhubung dengan kerja yang dilaksanakan oleh kontraktor dan rantaian subkontraktor dan sub-subkontraktor. Objektif Akta ini adalah untuk:

- (i) Memudahkan pembayaran yang tetap dan tepat pada masanya,
- (ii) Mengadakan peruntukan bagi suatu mekanisme pertikaian yang cepat melalui adjudikasi,

- (iii) Mengadakan peruntukan bagi remedi untuk mendapatkan bayaran dalam industri pembinaan, dan
- (iv) Mengadakan peruntukan bagi perkara-perkara yang berkaitan dan bersampingan dengannya.

3.0 TATACARA PELAKSANAAN - AKTA BAYARAN DAN ADJUDIKASI INDUSTRI PEMBINAAN 2012 (AKTA CIPA)

3.1 Menurut seksyen 5 kepada Akta CIPA, berikut adalah pindaan-pindaan yang telah dibuat kepada klausa-klausa iaitu:

3.1.1 **Fasal 28 kepada syarat-syarat kontrak PWD 203/203A (Rev. 1/2010) - Bayaran kepada Kontraktor dan Perakuan Interim**

Fasal ini, antara lain, menyatakan bahawa kontraktor dikehendaki mengemukakan kepada P.P. permohonan bertulis untuk Bayaran Interim.

3.1.2 **Fasal 31 kepada syarat-syarat kontrak PWD 203/203A (Rev. 1/2010) – Perakuan Muktamad dan Perakuan Bayaran**

Fasal ini, antara lain, menyatakan akan tanggungjawab kontraktor untuk mengemukakan penyata akaun muktamad kepada P.P.

3.1.3 **Fasal 40 kepada syarat-syarat kontrak PWD 203/203A (Rev. 1/2010) dan**
Fasal 45 kepada syarat-syarat kontrak PWD Form DB (Rev. 1/2010) – Gantirugi Disebabkan Tak Siap

Fasal-fasal ini, antara lain, menyatakan bahawa pengiraan Gantirugi Tertentu dan Gantirugi Ditetapkan (LAD) adalah dari tarikh kegagalan menyiapkan kerja hingga ke tarikh siap atau tarikh penamatan pengambilan Kontrak.

3.2 Lanjutan dari perkara di atas, tindakan yang perlu diambil adalah seperti berikut:

3.2.1 **Borang Syarat-Syarat Kontrak PWD FORM 203/203A (Rev. 1/2010)**
Sila masukkan Addendum No.1 seperti di **Lampiran A.**

3.2.2 **Borang Syarat-Syarat Kontrak PWD FORM DB (Rev. 1/2010)**
Sila masukkan Addendum No.1 seperti di **Lampiran B.**

4.0 LATAR BELAKANG - PELAKSANAAN AKTA CUKAI BARANG DAN PERKHIDMATAN (GST) 2014

- 4.1 Selaras dengan Akta GST 2014 yang berkuat kuasa pada 1 April 2015, Kementerian Kewangan telah menetapkan kaedah pelaksanaan GST yang perlu dipatuhi dalam pelaksanaan perolehan Kerajaan. Bagi memastikan bahawa pelaksanaan projek dan pentadbiran kontrak adalah selaras dengan hasrat Akta GST 2014 dan menepati kaedah yang digariskan oleh Kementerian Kewangan, pindaan kepada syarat-syarat kontrak sedia ada berkaitan dengan bayaran pendahuluan kepada kontraktor perlu dilaksanakan.
- 4.2 Ia bertujuan menjelaskan penentuan nilai wang pendahuluan yang layak dimohon oleh kontraktor memandangkan terdapat kemungkinan proses potongan penuh bayaran balik wang pendahuluan tidak dapat dicapai sepertimana kadar yang ditetapkan dalam tatacara pembayaran balik yang diperuntukkan dalam syarat-syarat kontrak sedia ada.
- 4.3 Oleh itu, pindaan perlu dibuat ke atas beberapa fasal kepada syarat-syarat Kontrak P.W.D. Form 203/203A (Rev. 1/2010) dan PWD Form DB (Rev.1/2010). Berdasarkan pindaan tersebut, kaedah pengiraan untuk menentukan nilai wang pendahuluan yang layak dimohon oleh kontraktor boleh dirujuk kepada Surat Pekeliling JPS Bil. 10/2015 - Garis Panduan Pelaksanaan Akta Cukai Barang Dan Perkhidmatan (GST) 2014 Bagi Perolehan Kerja Kerajaan.

5.0 TATACARA PELAKSANAAN - PELAKSANAAN AKTA CUKAI BARANG DAN PERKHIDMATAN (GST) 2014

- 5.1 Tambahan/pindaan yang telah dibuat ke atas beberapa fasal adalah seperti berikut:

- 5.1.1 **Fasal tambahan 1.1(ea)** kepada P.W.D. Form 203/203A (Rev. 1/2010) & **Fasal tambahan 1.1(fa)** kepada PWD Form DB (Rev.1/2010) – *Definitions And Interpretation*
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Fasal tambahan ini memberi takrifan *Tender Price*.

- 5.1.2 **Fasal 69.1** kepada P.W.D. Form 203/203A (Rev. 1/2010) & **Fasal 57.1** kepada PWD Form DB (Rev.1/2010) – *Advance Payment*
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Pindaan yang dibuat kepada fasal ini, antara lainnya, menjelaskan penentuan nilai wang pendahuluan dengan mengambilkira kenaikan GST.

5.2 Lanjutan dari perkara di atas, tindakan yang perlu diambil adalah seperti berikut:

5.2.1 Borang Syarat-Syarat Kontrak PWD 203/203A (Rev. 1/2010)

Sila masukkan Addendum NO.2 seperti di **Lampiran C**.

5.2.2 Borang Syarat-Syarat Kontrak PWD FORM DB (Rev. 1/2010)

Sila masukkan Addendum NO.2 seperti di **Lampiran D**.

6.0 KUATKUASA

Arahan ini berkuatkuasa serta merta bagi semua tender yang akan dipelawa.

"BERKHIDMAT UNTUK NEGARA"

"Warga Berintegriti, Organisasi Berkualiti"

Saya yang menurut perintah,



(DATO' Ir. MOHD ABDUL NASSIR BIN BIDIN)

Timbalan Ketua Pengarah I (Sektor Bisnes),
b/p: Ketua Pengarah
Jabatan Pengairan Dan Saliran Malaysia.

Tarikh: **19** Februari 2016

LAMPIRAN A

Lampiran A

This Addendum No.1 to the Conditions of Contract PWD 203/203A (Rev.1/2010) consisting of 4 pages (including this page) which are and shall be read and construed as part of the said Contract.

.....
Signature of Contractor

(Name in full)

I.C. No.

In the capacity of

Duly authorised to sign for and on behalf
of the Contractor

.....
Contractor's Chop or Seal

Witness

Name in full

I.C. No

Occupation

Address

.....

.....
Signature of Officer

(Name in full.....)

Designation

Duly authorised to sign for and on behalf
of the Government

.....
Official Chop

Witness

Name in full

Designation

Address

.....

**ADDENDUM NO.1 TO THE CONDITIONS OF CONTRACT
PWD 203/203A (Rev. 1/2010)**

NO.	AMENDMENTS
1.	<p data-bbox="255 443 474 472">Page 20, Clause 28</p> <p data-bbox="255 504 1024 533">Substitute the whole of Clause 28.0 with the new Clause 28.0 as follows:</p> <p data-bbox="255 564 1413 1780">28.1 Subject to compliance with the terms and conditions under this Contract, The Contractor shall be entitled for interim Payment certified by the S.O.'s monthly evaluation (or more often at the discretion of the 5.0.). Provided always that the Contractor shall submit to the S.O., at such times and in such form as the 5.0. may prescribe, written application for Interim Payments showing the amounts which in the Contractor's opinion are due under the Contract Payments. The submission shall include the following:</p> <ul data-bbox="351 792 1413 1176" style="list-style-type: none">(a) the value of Works done and properly executed and valued in accordance with these terms of Contract;(b) the amount of any valuation of variations or of the instructions by the 5.0. (clause 25);(c) the amount in regard to the expenditure of Provisional Sums and Prime Cost Sums executed or expended (clause 34);(d) the value of any goods or unfixed materials delivered to or adjacent to the Site intended for use or to be incorporated into the Works;(e) the value of fluctuation of price pursuant to clause 30: and(f) all relevant documents including site measurement, working diagrams, delivery orders, relevant invoices, as-built drawings, shop drawings relevant tests and environmental impact assessment of the Works or other relevant documents as the 5.0. may require, to substantiate the Contractor's written application for interim payments,. <p data-bbox="255 1209 1413 1366">28.2 The 5.0. shall within fourteen (14) days from the date of receipt of the application for Interim Payments, inspect and verify the Works, and make a valuation of the same and issue an Interim Payment Certificate stating the amount due to the Contractor from the Government PROVIDED THAT the total value in each monthly valuation shall not be less than the sum referred to in Appendix 1.</p> <p data-bbox="255 1400 1413 1653">28.3 The amount stated as due in an Interim Payment Certificate shall be the estimated total value of the Works done and properly executed and up to ninety (90) percent of the value of any goods or unfixed materials delivered to or adjacent to the Site intended for use or to be incorporated into the Works up to and including the date the valuation was made, less any payments (including Advance Payment) previously paid under this Contract. PROVIDED THAT such Certificate shall only include the value of the said goods or unfixed materials as and from such time as they are reasonably and properly and not prematurely delivered to or adjacent to the Site and adequately protected against weather, damage or deterioration.</p> <p data-bbox="255 1686 1413 1780">28.4 This clause shall not apply to any unfixed materials and goods which are supplied and delivered by Nominated Suppliers for which payment shall be made for the full value of the unfixed materials and goods.</p>

- 28.5 Within a number of days as stated in Appendix (or if none stated then within thirty (30) days of the issue of any such Interim Certificate), the Government shall make a payment to the Contractor as follows:
- (a) where the Performance Bond is in the form of a Banker's, Insurance or Finance Company Guarantee, payment shall be made on the amount certified as due to the Contractor in the said Interim Certificate; or
 - (b) where the Performance Bond is in the form of a Performance Guarantee Sum, payment of ninety percent (90%) on the amount certified as due to the Contractor shall be made with the remaining ten percent (10%) being retained by the Government as a Performance Guarantee Sum. PROVIDED THAT when the sum retained is equivalent to five percent (5%) of the Contract Sum then in any subsequent Certificate, payment shall be made on the full amount certified as due to the Contractor.
- 28.6 If the Contractor fails to submit full particulars of written application for Interim Payment as stipulated in clause 28.1, the S.O. shall make the valuation of works based on the available documents to him for the purpose of the Interim Payment Certificate. The Government shall be discharged from all liabilities in connection with the Interim Payments.

2. Page 21, Clause 31

Substitute the whole of Clause 31.0 with the new Clause 31.0 as follows:

- 31.1 As soon as is practicable but not later than three (3) months after the issuance of the Certificate of Practical Completion, the Contractor shall submit full particulars complete with receipts, vouchers records that would substantiate the Contractor's claim under clause 44 together with any documents, supporting vouchers and any explanation and calculations including documents relating to the accounts of Nominated Sub- Contractors or Nominated Suppliers; which may be necessary to enable the Final Account to be prepared by the S.O. PROVIDED ALWAYS the Contractor had given the notice of claim in writing within the stipulated time or times in the said provisions.
- 31.2 Within three (3) months after issuance of the Certificate of Completion of Making Good Defects, the Contractor shall submit to the S.O. a statement of the final account showing in detail the value in accordance with the Contract, of the Works carried out together with all further sums which the Contractor considers to be due to him after giving credit to the Government for all amounts previously paid by the Government and for all sums to which the Government is entitled under the Contract up to the date of the Certificate of Completion of Making Good Defects or the Certificate of Completion of Maintenance, as the case may be. The Final Account shall be supported by all documentation substantiating the value of the same.
- 31.3 If the Contractor fails to submit full particulars of all claims within the stipulated period, the S.O. shall forthwith make the assessment based on the available documents submitted by the Contractor for the purpose of the Final Account. The Government shall be discharged from all liabilities in connection with the claims.
- 31.4 Within three (3) months after the expiry of the Defects Liability Period for the whole of the Works or three (3) months after the issue of the Certificate of Completion of Making Good Defects under clause 48 hereof, whichever is the later, the S.O. shall issue the Final Certificate.

- 31.5 The Final Certificate shall be supported by documents, and full particulars complete with receipts, vouchers records showing the S.O.'s final valuation of Works and any amount determined in clause 31.1 in accordance with the terms of this Contract. After setting out or allowing for all payments or other expenditure of the Government or any permitted deductions made by the Government or the S.O. on its behalf, the Final Certificate shall state any final balance due from the Government to the Contractor or from the Contractor to the Government, as the case may be, which shall thereupon become the debt payable. Such certificate shall also take account of any outstanding permitted deductions not yet made by the Government under the terms of this Contract whether by way of liquidated damages or otherwise.
- 31.6 No final payment due to the Contractor under the Final Certificate, shall be made unless and until the Contractor shall have satisfied the S.O. by means of a Statutory Declaration made by or on behalf of the Contractor to the effect that the workmen who have been employed by the Contractor on the Works including workmen employed by subcontractors, whether nominated or otherwise (including "labour only" sub-contractors) have received all wages due to them in connection with such employment, and that all dues or contributions under the Employment Act 1955, the Employee's Social Security Act 1969, the Employee's Provident Fund Act 1965 and any other laws relevant to the employment of workmen, have been paid.

3. Page 27. Clause 40

- 3.1 Substitute clause 40.1 with the new clause 40.1 as follows:

40.1 If the Contractor fails to complete the Works by the Date for Completion or within any extended time granted pursuant to clause 43, the S.O. shall issue a Certificate of Non -Completion to the Contractor.

- 3.2 Substitute clause 40.2 with the new clause 40.2 as follows:

40.2 Without prejudice to the Government's right to terminate this Contract, when the S.O. issues the Certificate of Non-Completion, the Government shall be entitled to recover from the Contractor, Liquidated and Ascertained Damages calculated at the rate stated in Appendix 1 from the date of the failure to complete the work pursuant to clause 40.1 to the date of the Practical Completion or the date of termination of this Contract. The S.O. may deduct such Liquidated and Ascertained Damages from any money due or to become due to the Contractor, failing which such damages shall be recovered from the Performance Bond or as a debt due from the Contractor. The S.O. shall inform the Contractor in writing of such deduction.

LAMPIRAN B

Lampiran B

This Addendum No.1 to the Conditions of Contract PWD FORM DB (Rev. 1/2010) consisting of 2 pages (including this page) which are and shall be read and construed as part of the said Contract.

.....
Signature of Contractor

(Name in full)

I.C. No.

In the capacity of

Duly authorised to sign for and on behalf
of the Contractor

.....
Signature of Officer

(Name in full.....)

Designation

Duly authorised to sign for and on behalf
of the Government

.....
Contractor's Chop or Seal

Witness

Name in full

I.C. No

Occupation

Address

.....

.....
Official Chop

Witness

Name in full

Designation

Address

.....

**ADDENDUM NO.1 TO THE CONDITIONS OF CONTRACT
PWD FORM DB (Rev. 1/2010)**

NO.	AMENDMENTS
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1. Page 38, Clause 45.0

1.1 Substitute clause 45.1 with the new clause 45.1 as follows:

45.1 If the Contractor fails to complete the Works by the Date for Completion or within any extended time granted pursuant to clause 49, the P.D shall issue a Certificate of Non-Completion to the Contractor.

1.2 Substitute clause 45.2 with the new clause 45.2 as follows:

45.2 Without prejudice to the Government's right to terminate this Contract, when the P.D issues the Certificate of Non-Completion, the Government shall be entitled to recover from the Contractor, Liquidated and Ascertained Damages calculated at the rate stated in Appendix 1 from the date of the failure to complete the work pursuant to clause 45.1 to the date of the Practical Completion or the date of termination of this Contract. The P.D. may deduct such Liquidated and Ascertained Damages from any money due or to become due to the Contractor, failing which such damages shall be recovered from the Performance Bond or as a debt due from the Contractor. The P.D. shall inform the Contractor in writing of such deduction.

LAMPIRAN C

Lampiran C

This Addendum No. 2 to the Conditions of Contract PWD FORM 203/203A (Rev. 1/2010) consisting of 2 pages (including this page) which are and shall be read and construed as part of the said Contract.

.....
Signature of Contractor

(Name in full)

I.C. No.

In the capacity of

Duly authorised to sign for and on behalf
of the Contractor

.....
Contractor's Chop or Seal

Witness

Name in full

I.C. No

Occupation

Address

.....

.....
Signature of Officer

(Name in full.....)

Designation

Duly authorised to sign for and on behalf
of the Government

.....
Official Chop

Witness

Name in full

Designation

Address

.....

**ADDENDUM NO.2 TO THE CONDITIONS OF CONTRACT
P.W.D. FORM 203/203A (Rev. 1/2010)**

NO.	AMENDMENTS
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1. Page 2, Clause 1.1 (ea)

Insert Clause 1.1 (ea) after Clause 1.1 (e) "Contract Sum" as follows:

(ea) "Tender Price" means the price offered by the Contractor as stipulated in the Letter of Acceptance of Tender;

2. Page 45, Clause 69.1 (PWD203A) / Page 46, Clause 69.1 (PWD203)

Substitute Clause 69.1 with the new Clause 69.1 as follows:

69.1 The Contractor shall be entitled to an advance payment on the Contract amounting to 25% of the Tender Price less the aggregate amount of Prime Cost Sums and Provisional Sums including the value of tax imposed under the Goods and Services Tax 2014 (hereinafter referred to as the "Builder's Work") but subject to a maximum of RM10 million on compliance with the following conditions:

- (a) on return of the Letter of Acceptance duly signed by the Contractor together with the Performance Bond (if any), insurance policies, confirmation from SOCSO Authorities and the receipts for all premium paid;
- (b) production of a Banker's/Insurance/Finance Company Guarantee in the approved format equal in value to the advance proposed to be paid;
- (c) Submission of the Banker's Guarantee / Insurance Guarantee / Financial Company Guarantee not later than 3 months from the date of possession of Site.

LAMPIRAN D

Lampiran D

This Addendum No. 2 to the Conditions of Contract PWD FORM DB (Rev. 1/2010) consisting of 2 pages (including this page) which are and shall be read and construed as part of the said Contract.

.....
Signature of Contractor

(Name in full)

I.C. No.

In the capacity of

Duly authorised to sign for and on behalf
of the Contractor

.....
Contractor's Chop or Seal

Witness

Name in full

I.C. No

Occupation

Address

.....

.....
Signature of Officer

(Name in full)

Designation

Duly authorised to sign for and on behalf
of the Government

.....
Official Chop

Witness

Name in full

Designation

Address

.....

**ADDENDUM NO.2 TO THE CONDITIONS OF CONTRACT
P.W.D. FORM DB (Rev. 1/2010)**

NO.	AMENDMENTS
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1. Page 2, Clause 1.1 (fa)

Insert Clause 1.1 (fa) after Clause 1.1 (f) "Contract Sum" as follows:

- (fa) "Tender Price" means the price offered by the Contractor as stipulated in the Letter of Acceptance of Tender;

2. Page 46, Clause 57.1

Substitute Clause 57.1 with the new Clause 57.1 as follows:

- 57.1 The Contractor shall be entitled to an advance payment on the Contract amounting to 25% of the Tender Price less the aggregate amount of Prime Cost Sums and Provisional Sums including the value of tax imposed under the Goods and Services Tax 2014 (hereinafter referred to as the "Builder's Work") but subject to a maximum of RM10 million on compliance with the following conditions:
- (a) on return of the Letter of Acceptance duly signed by the Contractor together with the Performance Bond (if any), insurance policies, confirmation from SOCSO Authorities and the receipts for all premium paid;
 - (b) production of a Banker's /Insurance/Finance Company Guarantee in the approved format equal in value to the advance proposed to be paid;
 - (c) Submission of the Banker's Guarantee / Insurance Guarantee / Financial Company Guarantee not later than 3 months from the date of possession of Site.