S111 – Certificate that liquidated damages are due and payable

(Subclause 34.7)

DATE: [INSERT DATE OF NOTICE]

TO CONTRACTOR: [INSERT CONTRACTOR NAME]

TO PURCHASER: [INSERT PURCHASER NAME]

PROJECT NAME: [INSERT PROJECT/CONTRACT NAME]

CONTRACT No.: [INSERT CONTRACT NUMBER]

As the Contractor has failed to reach practical completion by the Date for Practical Completion (as duly extended) the Superintendent hereby certifies that liquidated damages amounting to the sum of $[INSERT LIQUIDATED DAMAGES AMOUNT] calculated from the Date for Practical Completion at the rate of $[INSERT LIQUIDATED DAMAGES RATE] per day to the [INSERT AS APPLICABLE: date hereof OR Date of Practical Completion] are due and payable to the Purchaser.

OPTION A - SUPERINTENDENT TO DELETE THIS PARAGRAPH IF NOT APPLICABLE] Such liquidated damages should be paid forthwith by the Contractor to the Purchaser.

OPTION B - SUPERINTENDENT TO DELETE THIS PARAGRAPH IF NOT APPLICABLE] The Superintendent will include the amount of such liquidated damages in the attached certificate under subclause 37.2.

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| Signed by the Superintendent: | |
|  |  |
| Signature |  |
|  |  |
| Name |  |
|  |  |
| Date |  |

|  |  |
| --- | --- |
| [REMOVE BEFORE SENDING] Notes: | |
| a) | Liquidated damages are prescribed in Item 24 of Annexure Part A. |
| b) | Liquidated damages are liable to be paid by the Contractor for every day the Contractor achieves practical completion after the date for practical completion. |
| c) | Such liquidated damages as certified are progressively due and payable on a daily basis by the Contractor. As they are so due and payable they may be recovered, after a demand for payment made by the Purchaser has not been satisfied by the Contractor, by the Purchaser having recourse, after due notice, to the Contractor’s security. See subclause 5.2. |
| d) | The Superintendent may and, if liquidated damages remain so unpaid, must include such liquidated damages in a subclause 37.2 certificate issued by the Superintendent when the Superintendent issues an appropriate Progress Certificate and if there is a shortfall, then have recourse (after due notice) to the Contractor’s security under subclause 5.2. |
| e) | As to service of this Form S111, refer to clause 7. |