

Section VIII. General Conditions of Contract

General Conditions of Contract

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1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Guidelines” means the Guidelines for the Employment of Consultants under Japanese ODA Loans, **specified in the Special Conditions of Contract (SCC)**.
- (b) “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be **specified in the SCC**, as they may be issued and in force from time to time.
- (c) “Base Date” means the date 28 days prior to the latest date for submission of the Financial Proposal.
- (d) “Borrower” means the Government, Government agency or other entity that signs the Loan Agreement with JICA.
- (e) “Client” means the entity, named as Client **in the SCC**.
- (f) “Consultant” means the firm or a JV, named as Consultant **in the SCC**.
- (g) “Contract” means the legally binding written agreement signed between the Client and the Consultant and includes all the attached documents listed in paragraph 1 of the Form of Contract (Minutes of Contract Negotiation, the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (h) “Contract Price” means the amount **stated in Clause SCC 6.1(a)**.
- (i) “day” means calendar day unless indicated otherwise.
- (j) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 2.1.
- (k) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other professional personnel of the Consultant or Subconsultant assigned by the Consultant to perform the Services or any part thereof under the Contract.

- (l) “Foreign Currency” means any currency other than the currency of the Client’s country.
- (m) “GCC” means these General Conditions of Contract.
- (n) “Government” means the Government of the Client’s country.
- (o) “JICA” means the Japan International Cooperation Agency.
- (p) “Joint Venture” or “JV” means any combination of two or more firms in the form of a joint venture, consortium, association or other unincorporated grouping. A Joint Venture may or may not have the legal personality distinct from its members.
- (q) “Key Expert(s)” means an individual professional assigned by the Consultant to perform the Services or any part thereof under the Contract, whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was/were evaluated during the selection process of the Consultant.
- (r) “Local Currency” means the currency of the Client’s country.
- (s) “Non-Key Expert(s)” means an individual professional assigned by the Consultant or its Subconsultant to perform the Services or any part thereof under the Contract, whose Curricula Vitae (CV) was/ were not evaluated individually, during the selection of the Consultant.
- (t) “Party” means the Client or the Consultant, as the case may be, and “Parties” means both of them.
- (u) “Provisional Sum” means an amount of money allocated in the Contract to allow for the cost of any future service or expense, which may be needed during the course of the assignment. Provisional Sums may be allocated or designated under the Specified Provisional Sum and/or Provisional Sum for Contingency Allowance, as appropriate.
- (v) “Provisional Sum for Contingency Allowance” means the amount is allocated in the contract to cover future additional costs which may arise due to (i) increased quantity (such as a requirement for additional man-months or expenditures beyond the quantities already allocated in the Contract) and/or (ii) price adjustments (if provided under the Contract), and/or

- (iii) any other event which entitles the Consultant to additional payment.
- (w) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (x) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A.
- (y) “Specified Provisional Sum” means the estimated cost of any such service or expense which shall be designated usually as a sum, in the summary of the total cost, with a brief description of such service or expense, as the case may be.
- (z) “Subconsultant(s)” means a firm or an individual to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- (aa) “Third Party” means any person or entity other than the Client, the Consultant or a Subconsultant.

1.2 Relationship between the Parties

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Experts and Subconsultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

This Contract shall be executed in the language **specified in the SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Communications

1.6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 1.4. Any such communication shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address **specified in the SCC**.

1.6.2 A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address **specified in the SCC**.

1.7 Location

The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Client's country or elsewhere, as the Client may approve.

1.8 Authority of Lead Member

If the Consultant is a JV:

- (a) the members of the JV are jointly and severally liable to the Client for the performance of the Contract.
- (b) the members shall hereby authorize the lead member **specified in the SCC** to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including, but not limited to, the receiving of instructions and payments from the Client.

1.9 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the representatives **specified in the SCC**.

1.10 Corrupt and Fraudulent Practices

If the Client determines, based on reasonable evidence, that the Consultant has engaged in corrupt or fraudulent practices, in competing for or in executing the Contract, then the Client may, after giving 14 days' notice to the Consultant, terminate the Contract and expel the Consultant from the Project site, and the provisions of Clause GCC 2.9 shall apply as if such termination had been made under Clause GCC 2.9.1.

Should any Expert or Subconsultant of the Consultant be determined, based on reasonable evidence, to have engaged in corrupt or fraudulent practice during the execution of the work then that Expert or Subconsultant shall be immediately removed and replaced by a suitable Expert or Subconsultant in accordance with Clauses GCC 4.4 and 4.5.

The Consultant is required to comply with JICA's policy in regard to corrupt and fraudulent practices as declared in Appendix H.

1.11 Monitoring by JICA

Without assuming the responsibilities of the Client or the Consultant, JICA may monitor the Services as necessary in order to satisfy itself that it is being carried out in accordance with appropriate standards and is based on acceptable data. As appropriate, JICA may take part in discussions between the Client

and the Consultant. However, JICA shall not be liable in any way for the performance of the Services by reason of such monitoring or participation in discussions. Neither the Client nor the Consultant shall be released from any responsibility of this Contract by reason of JICA's monitoring or participation in discussion.

1.12 Difference of Opinion

In the case of a difference of opinion between the Client and the Consultant on any important matters involving professional judgment that might affect the proper evaluation or execution of the Project, the Client shall allow the Consultant to submit promptly to the Client a written report and, simultaneously, to submit a copy to JICA. The Client shall forward the report to JICA with its comments in time to allow JICA to study it and communicate with the Client before any irreversible steps are taken in the matter. In cases of urgency, the Consultant has the right to request the Client and/or JICA that the matter be discussed immediately between the Client and JICA.

1.13 Eligibility of Consultant

The Consultant shall meet the requirements as to eligibility of the Consultants as specified in Appendix I.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

With respect to the effectiveness of the Contract, the following shall apply:

- (a) **Unless otherwise specified in the SCC**, this Contract shall come into force and effect on the date (the "Effective Date") when:
 - (i) this Contract has been signed by the Parties; and
 - (ii) this Contract has been reviewed and concurred by JICA.
- (b) Upon fulfillment of the conditions indicated above, the Client shall issue a written notice to the Consultant which confirms the Effective Date and instructs the Consultant to deliver an advance payment security and an invoice for advance payment to the Client.
- (c) The Consultant shall submit the required advance payment security and the invoice for the advance payment, pursuant to Clause GCC 6.5(a), within fourteen (14) days or within such other period **specified in the SCC** following the receipt of the notice specified in this Clause GCC 2.1.

2.2 Termination of Contract for Failure to

Unless a different period of time is **otherwise specified in the SCC**, if this Contract has not become effective within four (4) months after the date of the Contract signed by the Parties, the Consultant or the

- Become Effective** Client may, by not less than twenty-one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 2.3 Commencement of Services** With respect to the commencement of the Services, the following shall apply:
- (a) Subject to Clause GCC 6.5(a), the Consultant shall commence carrying out the Services not later than fourteen (14) days from the receipt of the advance payment.
 - (b) The Consultant shall confirm in writing the date of commencement of the Services and availability of Key Experts before starting to deliver the Services.
 - (c) In the absence of such confirmation, the Consultant is deemed to have commenced the services on the last day of the above period of fourteen (14) days.
- 2.4 Expiration of Contract** Unless terminated earlier pursuant to Clause GCC 2.9, this Contract shall expire at the end of such time period, **as specified in the SCC**, after the commencement of the Services specified in Clause GCC 2.3.
- 2.5 Entire Agreement** This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 2.6 Modifications**
- 2.6.1 Modifications or Variations**
- (a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
 - (b) In case of important modifications or variations, the prior written concurrence of JICA is required.
- 2.6.2 Extension** If the Consultant has been delayed or impeded in the performance of any of its obligations under this Contract by any of the reasons specified in paragraphs (a) through (f) of this Clause GCC 2.6.2, the contract term as set forth in Clause GCC 2.4 shall be extended by

such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Consultant, and an appropriate adjustment in the Contract Price (which includes remuneration and/or reimbursable expenses, as applicable) shall be made accordingly.

- (a) Any modifications or variations pursuant to Clause GCC 2.6.1;
- (b) Any occurrence of Force Majeure pursuant to Clause GCC 2.7;
- (c) Any suspension by the Client pursuant to Clause GCC 2.8.1 (c), suspension or reduction in the rate of performance of the Services pursuant to Clause GCC 2.8.2;
- (d) Any unreasonable delay by the Client in giving his decision, approval or consent (where required) to the documents (e.g. designs, plans, etc.) prepared and submitted by the Consultant;
- (e) Any act or omission of or any default or breach of this Contract by the Client or any act or omission of any other consultants and/or contractors employed by the Client; or
- (f) Any other matter mentioned in this Contract as giving rise to an entitlement to an extension of the contract term.

2.6.3 Consultant's Claims

- (a) Except where otherwise provided elsewhere in this Contract, the Consultant shall submit to the Client a notice of a claim for an extension of the contract term and/or adjustment in the Contract Price, together with particulars of the event or circumstance justifying such extension and adjustment, as soon as reasonably practicable after the occurrence of such event or circumstance. As soon as reasonably practicable after the receipt of such notice and supporting particulars of the claim, the Client and the Consultant shall agree upon the extended period and/or the adjusted Contract Price.
- (b) The Consultant shall at all times use all commercially reasonable endeavors to minimize any delay in the performance of its obligations under this Contract.
- (c) Disagreement between the Parties as to any modification or variation, and extension shall be settled according to Clause GCC 8.

2.6.4 Provisional Sum

- (a) Each Provisional Sum shall only be used, in whole or in part, in accordance with the instructions of the Client which may involve or relate to the services to be provided or expenditures to be incurred in the course of the assignment.
- (b) The total sum paid to the Consultant shall include only such

amounts for services or expenditures to which the Provisional Sum relates, as the Client shall have instructed. Each Provisional Sum shall be used under Clause GCC 2.6.1 as a modification or variation of the scope of Services, except for the use of Provisional Sum for Contingency Allowance in accordance with GCC 6.8.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, terrorism, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action, confiscation or any other action by Government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Subconsultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken

- (a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of

such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

- (c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- (d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:
 - (i) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or
 - (ii) continue the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GCC 8.

2.8 Suspension

2.8.1 Suspension by Client

- (a) The Client may, by written notice of suspension to the Consultant, suspend, in whole or part, the Services and such suspension continues until the Client gives a written permission or instruction to proceed.
- (b) The Client may suspend, in whole or part, the Services if an event shall have happened and be continuing, in which the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension shall:
 - (i) specify the nature of the failure, and
 - (ii) request the Consultant to remedy such failure within a period not exceeding twenty-eight (28) days after receipt by the Consultant of such notice of suspension.
- (c) If the Project or the Services are suspended by the Client for any reason other than those provided in Clause GCC 2.8.1 (b)

more than twenty-eight (28) days, over the term of this Contract, the Consultant shall be paid for all services performed and reimbursable expenses incurred prior to the receipt of a notice of suspension.

- (d) During any suspension of the Services under Clause GCC 2.8.1 (c), the Consultant shall be compensated for any costs of maintaining fixed assets, the costs of leases or other items acquired for the Project, as well as all expenses reasonably incurred by, including but not limited to, temporary demobilization, reassignment of the Experts. In addition, upon resumption of the Services, the Client shall compensate the Consultant for expenses incurred as a result of the resumption of its services, and the Consultant's schedules (Expert and other relevant schedules) shall be appropriately adjusted.

2.8.2 Suspension by Consultants

Without prejudice to entitlement to financing charges on late payments under Clause GCC 6.7, the Consultant may suspend the Services or reduce the rate of performance of the Services after twenty-eight (28) days prior notice to the Client, if the Client fails to pay the Consultant the amount due, pursuant to Clause GCC 6.5 (c). In no event shall the suspension of the Services or reduction of the rate of performance of the Services pursuant to this Clause GCC 2.8.2 be subject to termination of this Contract by the Client pursuant to Clause GCC 2.9.1.

2.9 Termination

This Contract may be terminated by either Party as per provisions set up below:

2.9.1 Termination by Client

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GCC 2.9.1. In such an occurrence the Client shall give at least twenty-eight (28) days' written notice of termination to the Consultant in case of the events referred to in (a) through (e); and at least fifty-six (56) days' written notice in case of the event referred to in (f):

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 2.8.1 (b);
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 8;
- (d) If, as the result of Force Majeure, either Party is unable to fulfill its contractual obligations for a period of not less than fifty-six (56) days;
- (e) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 2.3(b); and
- (f) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 Termination by Consultant

The Consultant may terminate this Contract, by not less than twenty-eight (28) days' written notice to the Client, such notice to be given if any of the events specified in paragraphs (a) through (f) of this Clause GCC 2.9.2 occurs:

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC 8 within forty-two (42) days after receiving written notice from the Consultant that such payment is overdue;
- (b) If, as the result of Force Majeure, either Party is unable to fulfill its contractual obligations for a period of not less than fifty-six (56) days;
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8;
- (d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-two (42) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach;
- (e) If the Services are suspended pursuant to Clause GCC 2.8.1 (c) for more than eighty-four (84) days; and
- (f) If the Client becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver trustee or manager for the benefit of

his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.

2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GCC 2.2 or GCC 2.9, or upon expiration of this Contract pursuant to Clause GCC 2.4, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 3.3, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 3.6, and (iv) any right which a Party may have under the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 2.9.1 or GCC 2.9.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenses for this purpose to a minimum. With respect to equipment, vehicles and materials provided by the Client, the Consultant shall proceed as provided by Clause GCC 3.9.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GCC 2.9.1 or GCC 2.9.2, the Client shall make the following payments to the Consultant:

- (a) remuneration pursuant to Clause GCC 6.2 for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenses pursuant to Clause GCC 6.2 for expenses actually incurred prior to the effective date of termination; and
- (b) in the case of termination pursuant to paragraphs (d) and (f) of Clause GCC 2.9.1 and to GCC 2.9.2, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract including demobilization, associated overhead cost, the cost of the return travel of the Experts and their eligible dependents, and all other expenses, damages and losses resulting from the termination.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause GCC 2.9.1 or in Clause GCC 2.9.2 has occurred, such Party may, within forty-two (42) days after receipt of notice of termination from the other Party, refer the matter for dispute settlement in accordance with the procedures stated in Clause

GCC 8, and this Contract shall not be terminated on account of such event unless otherwise settled in accordance with GCC 8.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standard of Performance

- (a) The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties.
- (b) The Consultant shall employ and provide such qualified and experienced Experts and Subconsultants as are required to carry out the Services.
- (c) The Consultant may subcontract part of the Services to an extent and with such Key Experts and Subconsultants as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

3.1.2 Law Applicable to Services

The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Subconsultants, comply with the Applicable Law. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

3.2 Conflict of Interest

The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

3.2.1 Consultant Not to Benefit from Commissions, Discounts, etc.

- (a) The payment to the Consultant pursuant to Clause GCC 6 shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 3.2.2, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to

ensure that any Subconsultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

- (b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the Applicable Guidelines and JICA's Guidelines for Procurement under Japanese ODA Loans and shall at all times exercise such responsibility in the best interest of the Client.

3.2.2 Consultant, and Affiliates Not to Engage in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant as well as any Subconsultants and any entity affiliated with such Subconsultants, shall be disqualified from providing goods, works or services or non-consulting services resulting from or directly related to the Services for the preparation or implementation of the Project.

3.2.3 Prohibition of Conflicting Activities

The Consultant shall not engage, and shall cause its Experts as well as its Subconsultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

3.2.4 Strict Duty to Disclose Conflicting Activities

The Consultant has an obligation and shall ensure that its Experts and Subconsultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the termination of the Contract.

3.3 Confidentiality

Except with the prior written consent of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.

3.4 Liability of the Consultant

- (a) The Consultant shall be responsible for and shall indemnify the Client in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.
- (b) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Experts and for the dependents of any such Expert.

- (c) The Consultant shall indemnify the Client from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection with the Services by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or (ii) plagiarism or alleged plagiarism by the Consultant.
- (d) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any Third Party.
- (e) The Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GCC 3.1.1 provided, however:
 - (i) that the Consultant is notified of such actions, claims, losses or damages not later than twelve (12) months after the expiration of the Contract pursuant to the Clause GCC 2.4 or termination of the Contract pursuant to the Clause GCC 2.9, unless a different period of time is **otherwise specified in the SCC**;
 - (ii) that the ceiling on Consultant's liability shall be limited to the amount **indicated in the SCC**, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct;
 - (iii) that Consultant's liability under Clause GCC 3.1.1 shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.
- (f) Upon request of the Client, the Consultant shall, at its own cost and expense, re-perform the Services in the event of Consultant's failure to exercise the skill and care required under

Clause GCC 3.1.1.

- (g) Notwithstanding the provisions of paragraph (a) of this Clause GCC 3.4, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by (i) the Client's overriding a decision or recommendation of the Consultant or requiring the Consultant to implement a decision or recommendation with which the Consultant does not agree; or (ii) the improper execution of the Consultant's instructions by agents, employees or independent contractors of the Client.

3.5 Insurance to be Taken Out by the Consultant

The Consultant (i) shall take out and maintain, and shall cause any Subconsultants to take out and maintain, at its (or the Subconsultants', as the case may be) own cost, insurance against the risks, and for the coverage **specified in the SCC**, and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 2.3.

3.6 Accounting, Inspection and Auditing

The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the Client or its designated representative, and up to five years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client, if so required by the Client as the case may be.

3.7 Reporting**3.7.1 Reporting Obligations**

The Consultant shall submit to the Client the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

3.7.2 Serious Hindrances

The Consultant shall report to the Client and JICA promptly the occurrence of any event or condition which might delay or prevent completion of any significant part of the Project in accordance with the schedules and to indicate what steps shall be taken to meet the situation. When the Client receives such a report from the Consultant, the Client shall immediately forward a copy of it to JICA, together with its comments.

3.7.3 Accident

Should any accident in relation to construction safety occur during

- Reports** the implementation of the Project, the Consultant shall assist the Client in preparing and submitting a report on such an accident in a form reasonably requested by JICA.
- 3.8 Property of the Reports and Records** The Consultant retains the design rights and other intellectual property rights and copyrights of all documents prepared by the Consultant under this Contract. **Unless otherwise stated in the SCC**, the Client shall be entitled to use them or copy them only for the Project and the purpose for which they are intended, and need not obtain the Consultant's permission to copy for such use.
- 3.9 Equipment, Vehicles and Materials Furnished by the Client** Any equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.
- 3.10 Equipment and Materials Provided by the Consultant** Any equipment or materials brought into the Client's country by the Consultant or its Experts and used either for the Project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

4. CONSULTANT'S EXPERTS AND SUBCONSULTANTS

- 4.1 Description of Experts**
- (a) The title, agreed job description, qualification and time-input estimates to carry out the Services of each of the Consultant's Experts are described in Appendix B. Subject to Clause GC 4.4, all experts included in that Appendix shall be deemed to be accepted by the Client when awarding the Contract to the Consultant.
 - (b) Adjustments with respect to the time-input of Key Experts set forth in Appendix B may be made by the Consultant by a written notice to the Client, provided that:
 - (i) such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and
 - (ii) the aggregate of such adjustments shall not result in an

increase of the Contract Price.

- (c) If additional work is required beyond the scope of the Services specified in Appendix A:
 - (i) the time-input for the Key Experts may be increased by agreement in writing between the Client and the Consultant in accordance with Clause GCC 2.6;
 - (ii) the Contract Price as set forth in Clause GCC 6.1 shall accordingly be adjusted; and
 - (iii) the Parties shall sign a Contract amendment.

4.2 Replacement of Key Experts

- (a) Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.
- (b) Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration and such replacement shall be subject to the Client's approval and the procedure set forth in GCC Clause 4.3(a) shall apply for such approval process.

4.3 Approval of Additional Key Expert

- (a) If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client for review and approval a copy of their Curriculum Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Client.
- (b) The rate of remuneration payable to such new additional Key Experts shall be based on the rates for other Key Experts position which require similar qualifications and experience.

4.4 Removal of Experts or Subconsultants

- (a) If the Client finds that any of the Experts or Subconsultants has committed serious misconduct or has been charged with having committed a criminal action, the Consultant shall, at the Client's written request specifying the grounds, provide a suitable replacement.
- (b) In the event that any of the Experts or Subconsultants is found by the Client to be incompetent or incapable in discharging assigned duties, the Consultant shall, at the Client's written request

specifying the grounds, provide a suitable replacement.

- (c) Any replacement of the removed Experts or Subconsultants shall possess equivalent or better qualifications and experience and shall be acceptable to the Client.

**4.5 Replacement/
Removal of
Experts – Impact
on Payments**

Except as the Client may otherwise agree:

- (a) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement; and
- (b) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

**4.6 Working Hours,
Overtime, Leave,
etc.**

**4.6.1 Working
Hours**

Working hours and holidays for Experts are **stated in the SCC** and Appendix B.

4.6.2 Overtime

The Experts shall be entitled to be paid for overtime or to take paid leaves (whether sick or vacation), if so specifically provided in the Contract.

4.6.3 Leave

Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and/or impact adequate supervision of the Services.

5. OBLIGATIONS OF THE CLIENT

**5.1 Assistance and
Exemptions**

Unless otherwise specified in the SCC, the Client shall use its best efforts to:

- (a) assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
- (b) assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client's country while carrying out the Services under the Contract.
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the

Experts and their eligible dependents.

- (d) issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) assist the Consultant and the Experts and any Subconsultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client's country according to the applicable law in the Client's country.
- (f) assist the Consultant, any Subconsultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in the Client's country, of bringing into the Client's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.

5.2 Access to Project Site

The Client warrants that the Consultant shall have, free of charge, unimpeded access to the Project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the Project site or any property thereon resulting from such access and will indemnify the Consultant and each of the Experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Subconsultants or the Experts of either of them.

5.3 Change in the Applicable Law

If, after the Base Date, there is any change in the Applicable Law in the Client's country, including the law with respect to taxes and duties, which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract Price specified in Clause GCC 6.1(a). If the Consultant has been delayed or impeded in the performance of any of its obligations under the Contract because of any change in the Applicable Law in the Client's country, the contract term shall be extended in accordance with the Clause GCC 2.6.2.

5.4 Services, Facilities and

- (a) The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any

- Property of the Client** charge, the services, facilities and property described in Appendix A at the times and in the manner specified in said Appendix A.
- (b) In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 6.1 (b).
- 5.5 Counterpart Personnel**
- (a) The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in Appendix A.
- (b) If counterpart personnel are not provided by the Client to the Consultant as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) how the affected part of the Services shall be carried out, and (iii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 6.1(b).
- (c) Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
- 5.6 Payment Obligation** In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant and in such manner as is provided by Clause GCC 6 below.
- 6. PAYMENTS TO THE CONSULTANT**
- 6.1 Contract Price**
- (a) The Contract Price shall be as **set forth in the SCC**. The Contract Price breakdown shall be as provided in Appendix C.
- (b) The amounts payable to the Consultant shall be subject to

adjustments in accordance with the Contract and any such adjustment other than the price adjustment stipulated in GCC6.8 can be made only by an amendment to the Contract agreed and signed by both Parties.

6.2 Remuneration and Reimbursable Expenses

- (a) The Client shall pay to the Consultant
 - (i) remuneration that shall be determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing the Services or such other date as the Parties shall agree in writing; and
 - (ii) reimbursable expenses on the basis of Unit Rate Reimbursement (URR) or Actual Cost Reimbursement (ACR) described below.
- (b) All payments shall be based on Appendix D and Appendix E.
- (c) The remuneration rates shall cover:
 - (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads),
 - (ii) the cost of backstopping by home office staff not included in the Experts' list in Appendix B; and
 - (iii) the Consultant's fee.

Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable remuneration rates and allowances are known.
- (d) The reimbursable expenses consist of:
 - (i) Unit Rate Reimbursement (URR) which means the expenses which are reimbursed by the Client based on the Contract unit rates as adjusted in accordance with the Clause GCC 6.8, upon incurring of such expense by the Consultant or elapse of the relevant interval or period indicated in the Contract (such as months). For such reimbursements, submission of any evidence of expenses incurred (such as receipt, delivery records, tickets) is not required.
 - (ii) Actual Cost Reimbursement (ACR) which means the expenses which are reimbursed by the Client based on the actual cost incurred by the Consultant upon incurring of such expense. For such reimbursements, submission of evidence of expenses incurred (such as receipt, delivery records, tickets) is required, and price adjustments

stipulated in the Clause GCC 6.8 shall not apply.

6.3 Duties, Taxes and Levies

- (a) The Consultant, Subconsultants and Experts are responsible for meeting all liabilities with respect of duties, taxes and levies arising out of the Contract, both in the Client's country and abroad, except **as otherwise provided in the SCC**.
- (b) If so **specified in the SCC**, any local duty, tax or levy is exempted or paid by the Client on behalf of the Consultant, and the following shall apply to each such exception or payment as the case may be.
- (i) If any duty, tax or levy is exempted as a "no pay" exemption, then, the Client shall obtain from the relevant authority and provide to the Consultant, a tax exemption certificate evidencing that such exemption has been provided.
- (ii) If any duty, tax or levy is exempted as a "pay and reimburse" exemption, the relevant authority will reimburse to the Consultant, any amount paid or to be paid by the Consultant for the purpose of meeting with such tax liabilities upon submission of all relevant documentation.
- (iii) If any duty, tax or levy is paid by the Client on behalf of the Consultant, the Client shall obtain from the relevant authority upon such tax payment and provide to the Consultant, a tax payment certificate evidencing that such payment has been made.

6.4 Currency of Payment

Any payment under this Contract shall be made in the currency(ies) **specified in the SCC**.

6.5 Terms and Conditions of Payment

Billings and payments in respect of the Services shall be made as follows:

- (a) Within twenty-eight (28) days after the receipt of the advance payment security and the invoice for advance payment, the Client shall pay to the Consultant an advance payment, as an interest-free loan for mobilization and cash flow support, **as specified in the SCC**.

The advance payment security shall be in the amount (or amounts) and in the currency (or currencies) of the advance payment **specified in the SCC**. Such security

- (i) is to remain effective until the advance payment has been

- fully set off, and
- (ii) is to be in the form set forth in Appendix G, or in such other form as the Client shall have approved in writing.

The advance payment shall be repaid through percentage deductions from the invoices at the amortization rate stated **in the SCC**, commencing from the invoice in which the total of all payments (cumulative total amount excluding the advance payment amount) exceeds 30 percent (30%) of the Contract Price less Provisional Sums. The advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Contract Price less Provisional Sums is due for payment.

- (b) As soon as practicable and not later than fourteen (14) days after the end of each calendar month during the period of the Services, or after the end of each time intervals **otherwise indicated in the SCC**, the Consultant shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 6.4 and GCC 6.5 for such interval, or any other period **indicated in the SCC**. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.
- (c) The Client shall pay the Consultant's invoices within fifty-six (56) days after the receipt by the Client of such itemized invoices with supporting documents. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments.
- (d) The Client shall pay the Consultant's final invoices within fifty-six (56) days after the approval by the Client to the final report and the final invoice submitted by the Consultant. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory eighty-four (84) days after receipt of the final report and final invoice by the Client unless the Client, within such eighty-four (84) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process

shall be repeated. Any amount that the Client has paid or caused to be paid in accordance with this Clause GCC 6.5 (d) in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Client within twenty-eight (28) days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after the approval by the Client to the final report and the final invoice in accordance with the above.

- (e) All payments under this Contract shall be made to the accounts of the Consultant **specified in the SCC**.
- (f) Payments in respect of remuneration or reimbursable expenses, which exceed the amount for these items as set forth in Appendices D and E, may be charged to the Provisional Sum for Contingency Allowance, provided for foreign and local currencies only if such expenses were approved by the Client prior to being incurred.
- (g) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

**6.6 JICA
Disbursement
Procedure**

- (a) Any payments payable from the proceeds of the Loan shall be made through the disbursement procedure as **stated in the SCC**.

Any charges or fees associated with or incidental to remittance of funds from JICA/ Client to the Consultant's account including but not limited to those for opening and amendment commissions of the Letter of Credit shall be solely borne by the Client.

- (b) Any Payment payable from any source of finance other than the Loan Agreement shall be made directly by the Client.

**6.7 Interest on
Delayed
Payments**

If the Consultant does not receive payment in accordance with Clause GCC 6.5 (c), the Consultant shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall commence on the date for payment as specified in Clause GCC 6.5 (c).

These financing charges shall be calculated at the annual rate of three (3) percentage points above the discount rate of the central bank in the country of the currency of payment, or if not available,

the interbank offered rate, and shall be paid in such currency.

The Consultant shall be entitled to this payment without formal notice or statement, and without prejudice to any other right or remedy provided by the Applicable Law or this Contract.

6.8 Adjustment for Changes in Cost

Unless otherwise stated in the SCC, the amounts payable to the Consultant under Clause GCC 6.2 shall be adjusted for rises or falls in the cost of Remuneration and Reimbursable Expenses, by the addition or deduction of the amounts determined by the formulae prescribed in this Clause.

For the purposes of this Clause, “table of adjustment data” means the completed table of adjustment data for local and foreign currencies included in Appendix F. If there is no such table of adjustment data, this Clause shall not apply.

The adjustment to be applied to the amount payable to the Consultant, shall be determined from formulae for each of the currencies of payment **stated in Clause SCC 6.4**. No adjustment is to be applied to any remuneration or reimbursable expense, valued on the basis of cost or current prices.

Subject to the above paragraphs any remuneration and/or reimbursable expense payable under the Contract shall be adjusted **as stated in the SCC**, using the formula below.

$$R_n = R_0 \times \left[a + b \frac{Ln}{L_0} \right]$$

“R_n” is the adjusted value of:

- (a) remuneration payable for the period “n”, this period being a period of 12 months, and the first time being in the 13th calendar month after the Contract signing date, **unless otherwise indicated in the SCC**; or
- (b) reimbursable expenses incurred during the period “n”, this period being a period of 3 months, and the first time being in the 4th calendar month after the Contract signing date, **unless otherwise indicated in the SCC**.

“R₀” is the remuneration or reimbursable expense payable on the basis of the rates set forth in Appendices D and E;

“a” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in each payment component;

“b” is a fixed coefficient, stated in the relevant table of adjustment data, representing the adjustable portion in each payment component;

“Ln” is the current cost indices or references for period “n”, expressed in each of the relevant currencies of payment, each of which is applicable to the relevant tabulated cost element on the first day of the period “n”.

“Lo” is the base cost indices, stated in the relevant table of adjustment data, expressed in each of the relevant currencies of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

7. FAIRNESS AND GOOD FAITH

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other’s rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

8. SETTLEMENT OF DISPUTES

8.1 Amicable Settlement

The Parties shall seek to resolve any dispute amicably by mutual consultation.

If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 8.2 shall apply.

8.2 Dispute Resolution

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably according to Clause GCC 8.1 shall be submitted by either Party for settlement proceedings in accordance with the following provisions:

(a) Contract with foreign Consultants (or, in case of a Joint Venture, where the Lead Member is a foreign Consultant)

(i) Mediation

The Parties may agree to submit any dispute or disagreement that has not been settled amicably according to Clause GCC

8.1 to settlement proceedings under the “ICC ADR Rules” (Rules of Amicable Dispute Resolution of the International Chamber of Commerce).

(ii) Arbitration

If the dispute or disagreement cannot be settled amicably pursuant to Clause GCC 8.1, or if, where the settlement proceedings under Clause GCC 8.2(a)(i) are agreed, the dispute or disagreement has not been settled pursuant to the ICC ADR Rules within forty-two (42) days following the filing of a Request for ADR or within such other period as the Parties may agree in writing, such dispute or disagreement shall be finally settled under international arbitration (1) with proceedings administered by the arbitration institution designated in the **SCC**, and conducted under the rules of arbitration of such institution; or, if so specified in the **SCC**, (2) with proceedings administered by Japan Commercial Arbitration Association (JCAA) and conducted under the arbitration rules of JCAA; or (3) if neither an arbitration institution nor arbitration rules are specified in the **SCC**, with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with the said arbitration rules

(b) Contract with local Consultants (or, in case of a Joint Venture, where the Lead Member is a local Consultant)

The Parties agree to submit any dispute or disagreement that has not been settled amicably according to Clause GCC 8.1 to settlement proceedings under the laws of the Client's country.