



Government of Jamaica

Standard Contract for the Procurement of Consulting Services (Time-Based Contract)

[CONTRACT NO. _____]

[NAME AND ADDRESS OF PROCURING ENTITY]

[date]

I. FORM OF CONTRACT

TIME-BASED ASSIGNMENTS

This CONTRACT (hereinafter called the "Contract") is made the _____ day of the month of _____, 20____, between, on the one hand, _____ (hereinafter called the "Client") and, on the other hand, _____(hereinafter called the "Consultants")...

*[*Note: If the Consultants consist of more than one entity, the above should be partially amended to read as follows]:*

.....(hereinafter called the "Client") and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Client for all the Consultants' obligations under this Contract, namely, _____ and _____ (hereinafter called the "Consultants").]

WHEREAS

- (a) the Client has requested the Consultants to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- (b) the Consultants, having represented to the Client that they have the required professional skills, personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;
- (c) The Client has committed funding for the cost of the Services and intends to apply these proceeds to eligible payments under this Contract, it being understood (i) that such payments will be subject in all respects to acceptable levels of performance by the Consultant, as dictated by the Terms of Reference; (ii) that such payments shall be subject in all respects to the terms and conditions of the agreement for payment as included herein; (iii) that no party other than the Client shall derive any rights from the agreement providing for payment to the Consultants.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:

- Appendix A: Description of the Services _____
- Appendix B: Reporting Requirements _____
- Appendix C: Key Personnel and Subconsultants _____
- Appendix D: Medical Certificate _____
- Appendix E: Hours of work for Key Personnel _____
- Appendix F: Duties of the Client _____
- Appendix G: Cost Estimates in Foreign Currency _____
- Appendix H: Cost estimates in Local Currency _____
- Appendix I: Form of Guarantee for Advance Payments _____

*[*Note: The procuring entity shall prepare each applicable Appendix for attachment hereto, pursuant to the*

particular procurement. Additionally, the procuring entity shall include any Appendix applicable to the particular procurement that has not been included in the above listing]

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract, in particular:
 - (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Client shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF
Government of Jamaica/[procuring entity]

By _____
Accounting Officer/Head of Procuring Entity

WITNESS: _____

FOR AND ON BEHALF OF
[CONSULTANTS]

By _____
Authorized Representative

WITNESS: _____

GENERAL CONDITIONS OF CONTRACT

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 Law” means the laws and any other instruments having the force of law in Jamaica, as they may be issued and in force from time to time;
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Effective Date” means the date on which this Contract comes into force and effect pursuant to GC 2.1;
- (d) “Foreign currency” means any currency other than the currency of the Government of Jamaica;
- (e) “GC” means these General Conditions of Contract;
- (f) “Government” means the Government of Jamaica;
- (g) “Local currency” means the currency of the Government;
- (h) “Member”, in case the Consultants consist of a joint venture of more than one entity, means any of these entities, and “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultants’ rights and obligations towards the Client under this Contract;
- (i) “Party” means the Client or the Consultants, as the case maybe, and “Parties” means both of them;
- (j) “Personnel” means persons hired by the Consultants or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof; and “Key Personnel” means the personnel referred to in Clause GC 4.2(a);
- (k) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (l) “Services” means the work to be performed by the Consultants pursuant to this Contract, as described in Appendix ___ hereto;
- (m) “Subconsultant” means any person or entity to whom/which the Consultants subcontract any part of the Services in accordance with the provisions of Clauses 3.7; and
- (n) “Third Party” means any person or entity other than the Government, the Client the Consultants or a subconsultant.

1.2 Relation Between the Parties

Nothing contained herein shall be construed as establishing a relationship of principal and agent as between the Client and the Consultants. The Consultants, subject to this contract, have complete charge of personnel and Subconsultants, if any, performing services and shall be fully responsible for the services performed by them or on their behalf hereunder.

1.3 Law Governing the 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 has been executed in the English language as specified in the SC, 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 Notices

1.6.1 Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SC.

1.6.2 Notice will be deemed to be effective as specified in the SC.

1.6.3 A party may change its address for notice hereunder by giving the other party notice of such change pursuant to the provisions listed in the SC with respect to Clause GC 1.6.2.

1.7 Location

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

1.8 Authority of Member in Charge

In case the Consultants consist of a joint venture of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultants' rights and obligations towards the Client under this Contract, including without limitations 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 Consultants may be taken or executed by the officials specified in the SC.

1.10 Taxes and Duties

Unless otherwise specified in the SC, the Consultants, Subconsultants, and Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law.

2. COMMENCEMENT, COMPLETION, MODIFICATION, AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s notice to the Consultants instructing the Consultants to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

2.2 Commencement of Services

The Consultants shall begin carrying out the Services at the end of such time period after the Effective Date as shall be specified in the SC.

2.3 Expiration of Contract

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall terminate at the end of such time period after the Effective Date as shall be specified in the SC.

2.4 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.

2.5 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party. Modification in contract price which results in a total value of Fifteen Million Jamaican dollars (J\$15,000,000) or more, shall not become effective until the consent of the Cabinet has been obtained.

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, 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 includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), 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 Subconsultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Contract and (B) 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 take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (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 event 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 notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of Time

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.

2.7.5 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to continue to be paid under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than thirty (30) days after the Consultants, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension

The Client may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension.

2.9 Termination

2.9.1 By the Client

The Client may, by not less than thirty (30) days' written notice of termination to the Consultants (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GC 2.9.1, terminate this Contract:

- (a) if the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- (b) if the Consultants become (or, if the Consultants consist of more than one entity, if any of their 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 Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof;
- (d) if the Consultants submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultants know to be false;
- (e) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 By the Consultants

The Consultants may, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2, terminate this Contract:

- (a) if the Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 within forty-five (45) days after receiving written notice from the Consultants that such payment is overdue;
- (b) if the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by the Client of the Consultants' notice

specifying such breach;

- (c) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, 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 GC 3.3. hereof, (iii), 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 GC 2.9.1 or GC 2.9.2 hereof, the Consultants 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 expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1. or GC 2.9.2 hereof, the Client shall make the following payments to the Consultants:

- (a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) except in the case of termination pursuant to paragraphs (a) through (d) of Clause 2.9.1, hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Personnel and their eligible dependents.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause GC 2.9.1. or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANTS

3.1. General

3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisors to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Subconsultants or Third parties.

3.1.2 Law Governing Services

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

3.2 Conflict of Interests

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

The remuneration of the Consultants pursuant to Clause GC 6 hereof shall constitute the Consultants' sole remuneration in connection with this Contract or the Services and, subject to Clause GC 3.2.2 hereof, the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any Subconsultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2. Consultants and Affiliates not to be Otherwise Interested in Project

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any Subconsultant and any entity affiliated with such Subconsultant, shall be disqualified from providing goods, works, or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

The Consultants shall not engage, and shall cause their Personnel as well as their Subconsultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality

The Consultants, their Subconsultants and the Personnel of either of them shall not, either during the term or

within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 Liability of the Consultants

Subject to additional provisions, if any, set forth in the SC, the Consultants' liability under this Contract shall be as provided by the Applicable Law.

3.5 Insurance to be taken out by the Consultants

The Consultants (i) shall take out and maintain, and shall cause any Subconsultants to take out and maintain, at their (or the Subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverages, as shall be specified in the SC; 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 therefor have been paid.

3.6 Accounting, Inspection and Auditing

The Consultants (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 charges and cost, and the bases thereof (including such bases as may be specifically referred to in the SC), and (ii) shall permit the Client or its designated representative periodically, and up to one year 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.

3.7 Consultants' Actions Requiring Client's prior Approval

The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in Appendix ___ merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Subconsultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the Subconsultant and its Personnel pursuant to this Contract;
- (c) any other action that may be specified in the SC.

3.8 Reporting Obligations

The Consultants shall submit to the Client the reports and documents specified in Appendix ___ hereto, in the form, in the numbers and within the periods set forth in the said Appendix.

3.9 Documents prepared by the Consultants to be the Property of the Client

All plans, drawings, specifications, designs, reports, and other documents and software prepared by the Consultants for the Client under this Contract shall become and remain the property of the Client, and the

Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SC.

3.10 Equipment and Materials furnished by the Client

Equipment and materials made available to the Consultants by the Client, or purchased by the Consultants 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 Consultants shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions.

4. CONSULTANTS' PERSONNEL AND SUBCONSULTANTS

4.1 General

The Consultants shall employ and provide such qualified and experienced Personnel and Subconsultants as are required to carry out the Services.

4.2 Description of Personnel

- (a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultants' Key Personnel are described in Appendix _____. If the Client has already approved any of the Key Personnel, his/her name is listed as well.
- (b) If required to comply with the provisions of Clause GC 3.1.1. hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix _____ may be made by the Consultants by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Client's written approval.
- (c) If additional work is required beyond the scope of the Services specified in Appendix _____, the estimated periods of engagement of Key Personnel set forth in Appendix _____ may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed in writing, cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract.

4.3 Approval of Personnel

The Key Personnel and Subconsultants listed by title as well as by name in Appendix _____ are hereby approved by the Client. In respect of other Key Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the Client for review and approval a copy of their biographical data and (in the case of Key Personnel to be used within Jamaica) a copy of a satisfactory medical certificate in the form attached hereto as Appendix _____. If the Client does not object in writing (stating the reasons for the objection) within fourteen (14) calendar days from the date of receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Client.

4.4. Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Personnel are set forth in Appendix ___ hereto. *(Note, these allowances shall be in accordance with Ministry of Finance and Planning Circular No. 11.)* To account for travel time, foreign Personnel carrying out Services in Jamaica shall be deemed to have commenced (or finished) work in respect of the Services such number of days before their arrival in (or after their departure from) Jamaica as is specified in Appendix ____ hereto.
- (b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix ___ hereto, and except as specified in such Appendix, the Consultants' remuneration shall be deemed to cover these items. Any taking of leave by Personnel shall be subject to the prior approval by the Consultants who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and/or Replacement of Personnel

- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds thereof, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Client. Except as the Client may otherwise agree, (i) the Consultants shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

4.6 Resident Project Manager

If required by the SC, the Consultants shall ensure that at all times during the Consultants' performance of the Services in Jamaica a resident project manager, acceptable to the Client, shall take charge of the performance of such Services.

5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultants, Subconsultants and Personnel with work permits and such other documents as

shall be necessary to enable the Consultants, Subconsultants or Personnel to perform the Services;

- (b) arrange for the Personnel to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Jamaica;
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (d) exempt the Consultants and the Personnel and any Subconsultants employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;
- (e) grant to any foreign Consultants, any Subconsultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Jamaica reasonable amounts of foreign currency for the purposes and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services; and
- (f) provide to the Consultants, Subconsultants and Personnel any such other assistance as may be specified in the SC.

5.2 Access to Property

The Client warrants that the Consultants shall have, free of charge, unimpeded access to all property in Jamaica in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultants and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultants or any Subconsultant or the Personnel of either of them.

5.3 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultants in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

Adjustments to the ceiling amounts which result in a ceiling that is equal to Fifteen Million (Jamaican) dollars (J\$15,000,000) or more, shall not become until the consent of the Cabinet has been obtained.

5.4 Services, Facilities and Property of the Client

The Client shall make available to the Consultants and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix ___ at the times and in the manner specified in said Appendix F, provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultants for the performance of the Services, (ii) the manner in which the Consultants shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultants as a result thereof pursuant to Clause GC 6.1(c) hereinafter.

5.5 Payment

In consideration of the Services performed by the Consultants under this Contract, the Client shall make to the Consultants such payments and in such manner as is provided by Clause GC 6 of this Contract.

6. PAYMENTS TO THE CONSULTANTS

6.1 Cost Estimates; Ceiling Amount

- (a) An estimate of the cost of the Services payable in foreign currency is set forth in Appendix _____. An estimate of the cost of the Services payable in local currency is set forth in Appendix _____.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SC. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 5.3, 5.4. or 5.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultants in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Client shall pay to the Consultants (i) remuneration as set forth in Clause GC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GC 6.2(c). If specified in the SC, said remuneration shall be subject to price adjustment as specified in the SC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and Clause SC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to, and subject to such additional provisions as are set forth, in the SC 6.3(b)
- (c) Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services, as specified in Clause SC 6.3(b)

6.3 Currency of Payment

- (a) Foreign currency payments shall be made in the currency specified as foreign currency in the SC, and local currency payments shall be made in Jamaican currency.
- (b) The SC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency.

6.4 Mode of Billing and Payment

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

- (a) If specified in the SC, the Client shall cause to be paid to the Consultants an advance payment as specified in the SC, and as otherwise set forth below. The advance payment will be due after provision by the Consultants to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SC, such bank guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SC, and (ii) to be in the form set forth in Appendix ___ hereto or in such other form as the Client shall have approved in writing.
- (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultants shall submit to the Client, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and 6.4 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Client shall cause the payment of the Consultants' monthly statements within sixty (60) days after the receipt by the Client of such statements with supporting documents. Only such portion of a monthly statement 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 Consultants, the Client may add or subtract the difference from any subsequent payments. Interest at the annual rate specified in the SC shall become payable as from the above due date on any amount due by, but not paid on, such due date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90) day period, gives written notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and final statement approved by the Client in accordance with the above.

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.

7.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best-efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. SETTLEMENT OF DISPUTES

8.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with the Contract or the interpretation thereof.

8.2 Dispute Settlement

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

SPECIAL CONDITIONS OF CONTRACT

*[*Note: The procuring entity shall include or delete any of the following Special Condition of Contract as applicable or not applicable to the particular procurement. Additionally the procuring entity shall include any special conditions applicable to the particular procurement that have been excluded herein.]*

Number of GC Clause

1.4 The language is English.

1.6.1 The addresses are:

For the Client: _____

Attention: _____

Cable address: _____

Telex: _____

Facsimile: _____

For the Consultants: _____

Attention: _____
Cable address: _____
Telex: _____
Facsimile: _____

1.6.2 Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of telexes, _____ () hours following confirmed transmission;
- (c) in the case of telegrams, _____ () hours following confirmed transmission; and
- (d) in the case of facsimiles, _____ () hours following confirmed transmission.

1.8 The Member in Charge is: _____

1.9 The Authorized Representatives are:

For the Client: _____

For the Consultants: _____

2.1 The effectiveness conditions are the following:

2.2 The time period shall be _____ or such other time period as the parties may agree in writing.

2.3 The time period shall be _____ or such other time period as the parties may agree in writing.

2.4 The time period shall be _____ or such other time period as the parties may agree in writing.

3.2.4(b)

For a period of two years after the expiration of this Contract, the Consultants shall not engage, and shall cause their Personnel as well as their Subconsultants and their Personnel not to engage, in the activity of a purchaser (directly or indirectly) or the assets on which they advised the Client under this Contract nor in the activity of an adviser (directly or indirectly) or potential purchasers of such assets. The Consultants also agree that their affiliates shall be disqualified for the same period of time from engaging in the said activities.

3.4. Limitation of the Consultants' Liability towards the Client

- (a) Except in the case of gross negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Client's property, shall not be liable to the Client:

- (i) for any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds (A) the total payments for professional fees and reimbursable expenditures made or expected to be made to the Consultants hereunder, or (B) the proceeds the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.

(b) This limitation of liability shall not affect the Consultants' liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services.

3.5 The risks and the coverages shall be as follows:

- (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in Jamaica by the Consultants or their Personnel or any Subconsultants or their Personnel, with a minimum coverage of _____;
- (b) Third Party liability insurance, with a minimum coverage of _____;
- (c) professional liability insurance, with a minimum coverage of _____;
- (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of any Subconsultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
- (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultants' property used in the performance of the Services, and (iii) any documents prepared by the Consultants in the performance of the Services.

3.6 The bases for time changes and cost referred to in Clause GC 3.6 shall include the bases of the Consultants' representations referred to in Clause SC 6.2(b)

- 3.9 - The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.
- The Client shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Consultants.
- Neither Party shall use their documents for purposes unrelated to this Contract without the prior written approval of the other Party.

4.6 The person designated as resident project manager in Appendix ___ shall serve in that capacity, as specified in Clause GC 4.6.

6.1(b) The ceiling in foreign currency is: _____
The ceiling in local currency is: _____

6.2(b)(i) (1) It is understood (i) that the remuneration rates shall cover (A) such salaries and allowances as the Consultants shall have agreed to pay to the Personnel as well as factors for social charges and overhead based on the Consultants' average costs, as represented by the financial statements of the Consultants'

latest three fiscal years, (B) the cost of backstopping by home office staff not included in the Personnel listed in Appendix ____, and (C) the Consultants' fee, (ii) that bonuses or other means of profit-sharing shall not be allowed as an element of overhead, and (iii) that any rates specified for persons not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable salaries and allowances are known.

(2) Remuneration for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Consultants' home office and directly attributable to the Services (one hour being equivalent to 1/24th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).

(3) The remuneration rates have been agreed upon based on the representations made by the Consultants during the negotiation of this Contract with respect to the Consultants' costs and charges referred to in subparagraph (1) of this Clause SC 6.2(b) (i), as such representations are evidenced (i) by the form "Consultants' Representations regarding Costs and Charges, dated _____, which was submitted by the Consultants to the Client during such negotiation, and (ii) by the form "Breakdown of Agreed Fixed Rates in Consultants' Contract, " dated _____, which was executed by the Consultants at the conclusion of such negotiation. Should these representations be found by the Client (either through inspections of audits pursuant to Clause GC 3.6 hereof or through other means) to be materially incomplete or inaccurate, the Client shall be entitled to introduce appropriate modifications in the remuneration rates affected by such materially incomplete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Client before any such modification, (i) the Client shall be entitled to offset any excess payment against the next monthly payment of the Consultants, or (ii) if there are no further payments to be made by the Client to the Consultants, the Consultants shall reimburse to the Client any excess payment within thirty (30) days of receipt of a written claim of the Client. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with Clause GC 6.4(d) of this Contract.

6.2(b)(ii) The rates for Personnel are set forth in Appendix ____.

6.3(a) The foreign currency shall be the following: _____

6.3(b)(i) Remuneration for foreign Personnel shall be paid in _____ currency and remuneration for local Personnel shall be paid in _____ currency.

6.3(b)(ii) The reimbursable expenditures in foreign currency shall be the following:

(1) a per diem allowance for each of the foreign or local Personnel for every day in which such Personnel shall be absent from his home office and shall be outside of Jamaica for the purposes of the Services at the daily rate specified in Appendix ____;

(2) the following transportation costs:

(i) the cost of international transportation of the foreign Personnel, by the most appropriate means of transport and the most direct practicable route to and from the Consultants' home office; in the case of air travel, this shall be by less than first class;

(ii) miscellaneous travel expenses such as the cost of transportation to and from airports, airport taxes, travel permits, vaccinations, etc., at a fixed unit price per round trip as specified in Appendix

___;

- (3) the cost of communications (other than those arising in Jamaica) reasonably required by the Consultants for the purposes of the Services;
- (4) the cost of printing, reproducing and shipping of the documents, reports, drawings, etc. specified in Appendices A and B hereof;
- (5) the cost of acquisition, shipment and handling of the following equipment, instruments, materials and supplies required for the Services: _____;
- (6) the cost of programming and use of, and communication between, the computers for the purposes of the Services at the rate set forth in Appendix ___;
- (7) the cost of laboratory tests on materials, model tests and other technical services authorized or requested by the Client, as specified in Appendix ___;
- (8) the cost of any subcontract required for the Services and approved in writing by the Client;
- (9) the cost of items not covered in the foregoing but which may be required by the Consultants for completion of the Services, subject to the prior authorization in writing by the Client; and
- (10) any such additional payments for properly procured items as the Parties may have agreed upon pursuant to the provisions of Clause GC 6.1(c).

6.3(b)(iii) The reimbursable expenditures in local currency shall be the following:

- (1) a per diem allowance at a rate in local currency equivalent to _____ per day, for each of short-term foreign Personnel (i.e., with less than twelve (12) months consecutive stay in Jamaica) for the first ninety (90) days during which such Personnel shall be in Jamaica;
- (2) a per diem allowance at a rate in local currency equivalent to _____ per day, for each of the short-term foreign Personnel for each day in excess of ninety (90) days during which such Personnel shall be in Jamaica;
- (3) a living allowance for each of the long-term foreign Personnel (twelve (12) months or longer consecutive stay in Jamaica) at the rates specified in Appendix ___;
- (4) the cost of the following locally procured items: local transportation, office accommodations, camp facilities, camp services, subcontracted services, soil testing, equipment rentals, supplies, utilities and communication charges arising in Jamaica, all if and to the extent required for the purpose of the Services, at rates specified in Appendix ___;
- (5) the cost of equipment, materials and supplies to be procured in Jamaica as specified in Appendix ___;
- (6) the local currency cost of any subcontract required for the Services and approved in writing by the Client;
- (7) any such additional payments in local currency for properly procured items as the Parties may have

agreed upon pursuant to the provisions of Clause GC 6.1(c); and

(8) the cost of such further items as may be required by the Consultants for the purpose of the Services, as agreed in writing by the Client.

6.4(a) The following provisions shall apply to the advance payment and the advance payment guarantee:

(1) An advance payment of _____ in *[[foreign or local]]* currency shall be made within _____ days after the Effective Date. The advance payment will be set off by the Client in equal installments against the statements for the first _____ months of the Services until the advance payment has been fully set off.

(2) The bank guarantee shall be in the amount and in the currency of the advance payment.

6.4(c) The interest rate is: _____

8.2 Disputes shall be settled by arbitration in accordance with the following provisions:

1. Selection of Arbitrators

Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:

(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to within thirty (30) days appoint a sole arbitrator for the matter in dispute.

(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultants shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has not been appointed, the third arbitrator shall, at the request of either Party, be appointed by the Chairman of the National Contracts Commission.

(c) If, in a dispute subject to Clause SC 8.2.1(b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Chairman of the National Contracts Commission to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

2. Rules of Procedure

Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules or procedure for arbitration, pursuant to the Laws of Jamaica as in force on the date of this Contract.

3. Substitute Arbitrators

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

4. Miscellaneous

In any arbitration proceeding hereunder:

- (a) proceedings shall, unless otherwise agreed by the Parties, be held in Jamaica;
- (b) the English language shall be the official language for all purposes; and
- (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.