

GENERAL CONDITIONS

GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions

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

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Government's country (or in such other country as may be specified in the Special Conditions of Contract (SC), 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 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 Clause GC 2.1;
- (d) "Foreign currency" means any currency other than the currency of the Government;
- (e) "GC" means these General Conditions of Contract;
- (f) "Government" means the Government of Client's Country;
- (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 of these entities;
- (i) "Party" means the Client or the Consultants, as the case may be, and Parties means both of them;
- (j) "Personnel" means persons hired by the Consultants or by any Sub-consultant as employees and assigned to the performance of the Services or any part thereof; "Local Personnel" means such persons who at the time of being so hired had their domicile inside the Government's Country; and "Key Personnel" means the personnel referred to in Clause GC 4.2 (a).
- (K) "SC" means the Special Conditions of Contract by which these General Conditions of Contract may be amended or supplemented;
- (i) "Services" means the work to be performed by the Consultants pursuant to this Contract, as described;
- (m) "Sub-consultant" means any entity to which the Consultants subcontract any part of the Services in accordance with the provisions of Clause GC 3.7; and
- (n) "Third Party", means any person or entity other than the Government, the Client, the Consultants or a Sub-Consultant.

1.2 Relation between the Parties

Nothing contained herein shall be constructed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultants, subject to this Contract, have complete charge of Personnel and Sub- consultants; 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 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 language 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 given or 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 A (statement) hereto and, where the location of a particular task is not so specified, at such locations, whether in Government's Country 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 limitation 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 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 shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

2.2 Termination of Contract for Failure to Become Effective

If this contract has not become effective within such time period after the date of the Contract signed by the Parties as shall be specified in the SC, either Party may, by not less than four (4) weeks' 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

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.

2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire when services have been completed and all payments have been made at the end of such time period after the Effective Date as shall be specified in the SC.

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 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 and shall not be effective until the consent of the Government of Gujarat has been obtained. Pursuant to Clause GC 7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

- (a)** For the purpose 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 international action of a Party or such Party's Sub-consultants 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 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 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 (g) 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 GC 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.
 - (g)** If the consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- For the purpose of this clause:

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.

“ fraudulent practice” mans a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of a and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the of the benefits of free and open competition.

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 terminates 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 8 hereof 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) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 (ii) hereof; 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 of 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 (after offsetting against these payments any amount that may be due from the Consultant to the Client):

- (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 GC 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 Consultant's personnel and their eligible dependants.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (g) 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 reasonable 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 advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-consultants 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 Sub-consultants, as well as the Personnel of the Consultants and any Sub-consultants, comply with the Applicable Law. The Client shall advise the Consultants in writing of relevant local customs and the Consultants shall, after such notifications, 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 Consultant's 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 Sub-consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2 Procurement Rules of Funding Agencies

3.2.3 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 Sub-consultant and any entity affiliated with such Sub-consultant, 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.

3.2.4 Prohibition of Conflicting Activities

The Consultants shall not engage, and shall cause their Personnel as well as their Sub-consultants 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 in the Government's country which would conflict with the activities assigned to them under this Contract; or
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality

The Consultants, their Sub-consultants 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 Project, 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 Consultant's 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 Sub-consultants to take out and maintain, at their (or the Sub-consultant's as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, 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 thereof 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 details 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); (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, and (iii) shall permit the Govt. to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors appointed by the Govt. if so required by the Govt.

3.7 Consultant's 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) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant 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 Sub-consultant and its Personnel pursuant to this Contract; and
- (b) 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 the form in the numbers and within the time 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 in performing the Services 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. Restrictions about the future use of these documents and software, if any, shall be as 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. While in possession of such equipment and materials, the Consultants, 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.

4. CONSULTANTS AND SUB-CONSULTANTS

4.1 General

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

4.2 Working Hours, Overtime, Leave, etc.

(a) Working hours and holidays for Key Professional are set forth. To account for travel time, foreign Personnel carrying out Services inside the Government's country 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) the Government's country as is specified in hereto.

(b) The Key Professional shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified, and except as specified in such Appendix, the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set. 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.

4.3 Resident Project Manager

Deleted

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, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-consultants or Personnel to perform the Services.
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all supporting papers for necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Government's country.
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (d) 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;
- (e) assist the Consultants and the Personnel and any Sub-consultants employed by the Consultants for the Services for 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;
- (f) grant to the Consultants, any Sub-consultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Government's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services; and
- (g) provide to the Consultants, Sub-consultants and Personnel any such other assistance as may be specified in the SC.

5.2 Access to Land

The Client warrants that the Consultants shall have, free of charge, unimpeded access to all land in the Government's country 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 Sub-consultant 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 of reimbursable expenses 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).

5.4 Services, facilities and Property of the Client.

The Client shall make available to the Consultants and the Personnel, for the purpose of the Services and free of any charge, the services, facilities and property at the times and 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.

5.6 Counterpart Personnel

- (a) if so provided in hereto, the Client shall make available to the Consultants, as and when provided in such, and free of charge, such counterpart personnel to be selected by the Client, with the Consultant's advice, as shall be specified. Counterpart personnel shall work under the exclusive direction of the Consultants. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultants, which is consistent with the position occupied by such member, the Consultants may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
- (b) If counterpart personnel are not provided by the Client to the Consultants as and when specified the Client and the Consultants shall agree on (i) how the affected part of the Services shall be carried out and (ii) the additional payments, if any, to be made by the Client to the Consultants as result thereof pursuant to Clause GC 6.1 (c) hereof.

6. PAYMENTS TO THE CONSULTANTS

6.1 Cost Estimate ; Ceiling Amount

- (a) 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 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.
- (b) Notwithstanding Clause 6.1 (b) hereof, if pursuant to Clauses GC 5.3, 5.4 or 5.6 hereof, the Parties shall agree that additional payments in local 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, the 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 ceiling specified in Clause GC 6.1 (b) hereof, the Client shall pay to the Consultant's (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 in respect of expatriate personnel) at the rates referred to, and subject to such additional provisions as are set forth, in the SC.
- (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) Local currency payments shall be made in the currency of the Government.
- (b) The SC shall specify which terms of remuneration and reimbursable expenditures shall be paid respectively in local currency.

6.4 Mode of Billing and Payment

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

- (a) The Client shall cause to be paid to the Consultants as 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 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 periodically as given in schedule of payment above within sixty, (60) days after the receipt by the client of bills with supporting Original 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 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 a final statement approved by the Client in accordance with the above.
- (e) All payments under this Contract shall be made to the account of the Consultants specified in the SC.
- (f) **Payment shall be made on pro-rate basis as per the original work progress, limited to the tender amount of this work.**
Amount of original work done
R.A. bill = $\frac{\text{Amount of original work done}}{\text{Total remaining tender value of original work}} \times \text{Tender amount of this work.}$

7. FAIRNESS AND GOOD FAITH.

7. 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.

7.1 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 Dispute relating to this contract shall be referred to the arbitration tribunal Gujarat State.