The Federal Democratic Republic of Ethiopia

Note to Public Bodies:

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Standard Bidding Document (SBD)

For Procurement of Works

For National Competitive Biddings (NCB)

Subject of Procurement

Procurement Reference Number

Project Name

Date of Issue of Bidding Documents

Addis Ababa, August 2011

The Federal Democratic Republic of Ethiopia

Bidding Document

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Section 7 General Conditions of Contract

A. General Provisions

1. Definitions

1.1 The headings and titles of these General Conditions of Contract shall not limit, alter or affect the meaning of the Contract

1.2 The following words and expressions shall have the meanings hereby assigned to them:

(a) "Bill of Quantities"	means the document forming part of the Bid and containing an itemized breakdown of the works to be carried out in a unit price contract, indicating a quantity for each item and the corresponding unit price;
(b) "Completion"	means the fulfillment of the Contract by the Contractor in accordance with the terms and conditions set forth in the in the GCC Clause 87;
(c) "Contract Documents"	means the documents listed in the GCC, including all attachments, appendices, and all documents incorporated by reference therein, and shall include any amendments thereto;
(d) "Contract Manager"	means a person designated as such by the Contractor from time to time as notified in writing to the Public Body to act as the duly authorized representative of the Contractor for all purposes connected with the Contract, including any authorized representative of such person;
(e) "Contract Price"	means the accepted contract amount stated in the Public Body's Letter of Acceptance. The amount represents the initial estimate payable for the execution of the works or such other sum as ascertained by the final statement of account as due to the Contractor under the contract;
(f) "Contract"	means the binding Contract Agreement entered into between the Public Body and the Contractor, comprising Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein,
(g) "Contractor"	means a natural or juridical person under contract with a Public Body to supply works;
(h) "Day"	means calendar day;
(i) "Dayworks"	mean varied work inputs subject to payment on an hourly basis for the Contractor's employees and equipment, in addition to payment for associated materials and plants;
(j) "Defect"	Defect is any part of the Works not completed in

	accordance with the Contract;
(k) "Defects Liability Period"	is the period stated in the Special Conditions of Contract immediately following the date of provisional acceptance, during which the Contractor is required to complete the works and to remedy defects or faults as instructed by the Engineer;
(l) "Drawings"	mean the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Public Body in accordance with the Contract, include calculations and other information provided or approved by the Engineer for the carrying out of the works.
(m) "Eligible Countries"	means the countries and territories eligible as listed in Section 5 of the Bidding Documents;
(n) "Engineer"	means a person named in the Special Conditions of Contract or appointed as such by the Public Body and notified in writing to the Contractor to act as the representative of the Public Body to supervise and inspect works and to test and examine the materials employed and the quality of workmanship, including any authorized representative of such person;
(o) "Equipment"	is the Contractor's machinery, vehicles, apparatus, components and any other articles brought temporarily to the Site to construct the Works;
(p) "Final Acceptance Certificate"	Certificate(s) issued by the Engineer to the Contractor at the end of the Defects Liability Period stating that the Contractor has completed its obligations to construct, complete, and maintain the Works concerned;
(q) "General Conditions of Contract"	hereinafter referred to as “GCC”, means the general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of the Contract, except where amended by the SCC or Contract Agreement;
(r) "Good Industry Practice"	means the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced Contractor engaged in the provision of works similar to the works under the same or similar circumstances as those applicable to the Contract and which are in accordance with any codes of practice published by relevant trade associations;
(s) "Government"	means the Government of the Federal Democratic Republic of Ethiopia;
(t) "In writing"	shall be interpreted to include any document which is recorded in manuscript or typescript;
(u) "Intended Completion Date"	is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion

	Date is specified in the Special Conditions of Contract. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time or an acceleration order;
(v) "Liquidated damages"	means the compensation stated in the contract as being payable by Contractor to the Public Body for failure to perform the contract or part thereof within the periods under the contract, or as payable by Contractor to the Public Body for any specific breach identified in the contract;
(w) "Materials"	are all supplies, including consumables, used by the Contractor for incorporation in the Works;
(x) "Member"	means any of the entities that make up the joint venture / consortium / association; and “Members” means all these entities;
(y) "Month"	means calendar month;
(z) "Party"	means the Public Body or the Contractor and includes their permitted successors and “Parties” means both of them;
(aa) "Plant"	means appliances and other machinery, and, where applicable under the law and/or practice of the Federal Democratic Republic of Ethiopia, the temporary structures on the site required to carry out the works but excluding equipment or other items required to form part of the permanent works;
(bb) "Price Schedule"	means the completed schedule of prices, including the breakdown of the overall price, submitted by the Contractor with his Bid, modified as necessary and forming a part of the unit price contract;
(cc) "Provisional Sum"	means a sum included in the contract and so designated for the implementation of works or the supply of goods, materials, plant or services, or for contingencies, which sum may be used in whole or in part, or not at all, as instructed by the Engineer;
(dd) "Public Body"	means public body, which is partly or wholly financed by the Federal Government Budget, higher education institutions, and public institutions of like nature which has the powers and duties to conclude a Contract for the supply of Works, as specified in the SCC;
(ee) "Site"	means the places provided by the Public Body where the works are to be carried out, and other places stated in the Contract as forming part of the site;
(ff) "Special Conditions of Contract"	hereinafter referred to as “SCC”, means the conditions attached to the Contract Agreement, which shall govern the Contract and shall prevail over these General Conditions of Contract;

(gg) "Specification"	means the Specification of the Works included in the Contract drawn up by the Public Body setting out its requirements and/or objectives in respect of the provision of works, specifying, where relevant, the methods and resources to be used and/or results to be achieved;
(hh) "Start Date"	is given in the Special Conditions of Contract. It is the latest date when the Contractor shall commence execution of the Works;
(ii) "Sub-Contractor"	means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns who has a Contract with the Contractor to carry out a part of the Work in the Contract, which includes work on the Site;
(jj) "Third Party"	means any person or entity other than the Public Body, the Contractor or a Sub-Contractor;
(kk) "Works"	mean all work associated with the construction, reconstruction, upgrading, demolition, repair, renovation of a building, road, or structure, as well as services incidental to works, if the value of those services does not exceed that of works themselves;

2. Appointment

2.1 The Public Body appoints the Contractor to carry out the Works:

(ll) Promptly (and in any event within any time targets as may be set out in the Section 6, Schedule of Requirements) and in a professional and courteous manner so as to reflect and promote the image of the Public Body;

(mm) Strictly in accordance with the Schedule of Requirements and all provisions of the Contract; and

(nn) In accordance with all applicable laws and regulations of the Federal Democratic Republic of Ethiopia and Good Industry Practice; and

(oo) In accordance with the policies, rules, and procedures of the appropriate Authority as amended from time to time.

(pp) In accordance with the quality standards set by the Ministry of Urban Development and Construction, Quality and Standards Authority of Ethiopia (QSAE), and applicable international standards;

(qq) In accordance with the terms and conditions of appointment as provided in this Clause in consideration of the Contract Price.

3. Relationship Between the Parties

3.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Public Body and the Contractor. The Contractor, subject to this Contract, has complete charge of Personnel and Sub-Contractors, if any, carrying out the Works and

shall be fully responsible for the Works carried out by them or on their behalf hereunder. The Contractor shall not incur any liabilities on behalf of the Public Body or enter into any contract or obligation on behalf of the Public Body.

4. Due Diligence

4.1 The Contractor acknowledges that it:

(rr) Has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Public Body;

(ss) Has raised all relevant due diligence questions with the Public Body before the Effective Date; and

(tt) Has entered into this Contract in reliance on its own due diligence alone.

4.2 The Contractor acknowledges that it has inspected the Site Environment and has advised the Public Body of any aspect of the Site Environment that is not suitable for carrying out the Works and that the specified actions to remedy the unsuitable aspects of the Site Environment, together with a timetable for and the costs of those actions, have been specified in the relevant parts of the Contract for the Pre-Operational Phase.

4.3 If the Contractor has either failed to inspect the Site Environment or failed to notify the Public Body of any required remedial actions in accordance with Clause 4.2 then the Contractor shall not be entitled to recover any additional costs or charges from the Public Body relating to any unsuitable aspects of the Site Environment nor shall the Contractor be entitled to seek relief in respect of any Default arising from such failure.

4.4 Any disputes relating to due diligence shall be resolved in accordance with the Ethiopian Law.

5. Fraud and Corruption

5.1 It is the Government of the Federal Democratic Republic of Ethiopia’s policy to require that Public Body, as well as bidders/suppliers, to observe the highest standards of ethics during the procurement and the execution of contracts. In pursuance of this policy, the Government of the Federal Democratic Republic of Ethiopia represented by the Public Procurement and Property Administration Agency (herein referred to as the Agency) requires that Public Bodies shall include in bidding documents, provisions against corrupt practices.

5.2 If the Public Body determines that the Contractor and/or its Personnel, sub-contractors, services providers and suppliers has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices, in competing for or in executing the Contract, then the Public Body may, after giving 14 days notice to the Contractor, terminate the Contractor's employment under the

Contract, and the provisions of GCC Clause 21 shall apply as if such expulsion had been made under GCC Sub-Clause 21.2(i).

5.3 The Agency defines, for the purposes of these provisions, the terms set forth below as follows:

(uu) “Corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the procurement process or in contract execution, and

(vv) “Fraudulent practice” is any act or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation.

(ww) “Collusive practices" is a scheme or arrangement between two or more Contractors, with or without the knowledge of the Public Body, designed to establish prices at artificial, non competitive levels, and

(xx) “Coercive practices” is harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

(yy) "Obstructive practice" is

(i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Federal Ethics and Anticorruption Commission, the Federal Auditor General and the Public Procurement and Property Administration Agency or their auditors' investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent their from disclosing their knowledge of matters relevant to the investigation or from pursuing the investigation, or

(zz) acts intended to materially impede the exercise of inspection and audit rights provided for under GCC Sub-clause 56.2.

5.4 The Agency will debar a Contractor from participation in public procurement for a specified period of time if it at any time determines that the Contractor has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract.

5.5 The Agency reserves the right, where a Contractor has been found by a national or international entity to have engaged in corrupt or fraudulent practice, to declare that such a Contractor is ineligible, for a stated period of time, to be awarded a Government funded contract.

5.6 The Agency will have the right to require that, in contracts funded by the Government of Ethiopia, a provision be included requiring Contractors to permit the Agency to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Agency, if the Contractor engages in any corrupt practice.

5.7 Any communications between the Contractor and the Public Body or the

Agency related to matters of alleged fraud or corruption must be made in writing.

6. Interpretation

6.1 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer shall provide instructions clarifying queries about these GCC.

6.2 If sectional completion is specified in the Special Conditions of Contract, references in the General Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works)..

6.3 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.

6.4 Amendment

No amendment, modification or other variation of the Contract shall be valid unless an Amendment to Contract is made in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

6.5 Nonwaiver

(aaa) Subject to GCC Sub-Clause 6.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

(bbb) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

6.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

B. The Contract

7. Contract Documents

7.1 The documents forming the Contract shall be interpreted in the following order of precedence in the event of any conflict between the documents comprising this Contract:

(ccc) Agreement, including all appendices;

(ddd) Letter of Acceptance by the Public Body to the Contractor;

(eee) The Special Conditions of Contract;

(fff) The General Conditions of Contract;

(ggg) Bid Submission Sheet with Annexes;

(hhh) Technical Proposal with technical specifications;

(iii) The design documentation (drawings);

(jjj) For Unit-price contracts: The Bill of Quantities and Price Schedule (after correction of arithmetical errors);

For Lump-sum contracts: The Breakdown of the Lump-sum Price (after correction of arithmetical errors);

(kkk) Any other document listed in the SCC as forming part of the Contract.

7.2 All documents forming the Contract are intended to be correlative, complementary, and mutually explanatory.

7.3 Any action required or permitted to be taken, and any document required or permitted to be provided, under the Contract by the Public Body or the Contractor may be taken or provided by the authorized representatives specified in the SCC.

7.4 The Contract constitutes the entire agreement between the Public Body and the Contractor and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract. 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.

8. Governing Law

8.1 The Contract, its meaning and interpretation, and relation between the Parties shall be governed by and interpreted in accordance with the laws of the Federal Democratic Republic of Ethiopia, unless otherwise stated in SCC.

9. Language

9.1 The Contract as well as all written and oral communication and documents relating to the Contract exchanged by the Contractor and the Public Body, shall be in language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language, but any

documents provided in another language must be accompanied by an accurate translation into language specified in the SCC. For purposes of interpretation of the Contract, this translation shall govern.

9.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

10. Notices and written communications

10.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. The term “in writing” means communicated in written form with proof of receipt.

10.2 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 to such Party at the address specified in the SCC.

10.3 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SCC.

11. Authority of Member in Charge

11.1 In case the Contractor consists of a joint venture/consortium/ association of two or more entities, all such entities shall be jointly and severally bound to fulfill the terms of the contract according to the law of the Federal Democratic Republic of Ethiopia. The Members hereby authorize the entity specified in the SCC to act on their behalf as leader with authority to bind the joint venture or consortium in exercising all the Contractor’s rights and obligations towards the Public Body under this Contract. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the Public Body.

12. Engineer and Engineer's Representative

12.1 Except where otherwise specifically stated and subject to any restriction in the SCC, any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Public Body or the Contractor may be taken or executed by the Engineers named in the SCC. Except as expressly stated in the SCC, the Engineer shall not have authority to relieve the Contractor of any of his obligations under the Contract.

12.2 Any notice, information or communication given to or made by an Engineer shall be deemed to have been given or made by the Public Body.

12.3 The Engineer may delegate any of his duties and responsibilities to Engineer's representative after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

12.4 The role of the Engineer’s representative shall be to supervise and inspect

works and to test and examine the materials employed and the quality of workmanship. Under no circumstances will the Engineer's representative be empowered to relieve the Contractor of his obligations under the contract or – except where express instructions to that effect are given in the SCC – order works resulting in an extension of the period of performance or additional costs to be paid by the Public Body or introduce variants in the nature or scale of the works.

12.5 Any communication given by the Engineer's representative to the Contractor in accordance with the terms of such delegation shall have the same effect as though it had been given by the Engineer, provided that:

(lll) Any failure on the part of the Engineer's representative to disapprove any work, materials or plant shall not prejudice the authority of the Engineer to disapprove such work, materials or plant and to give the instructions necessary for the rectification thereof;

(mmm) The Engineer shall be at liberty to reverse or vary the contents of such communication.

12.6 Instructions and/or orders issued by the Engineer shall be by way of administrative orders. Such orders shall be dated, numbered and entered by the Engineer in a register, and copies thereof delivered by hand, where appropriate, to the Contractor's representative.

13. Assignment

13.1 An assignment is a written agreement by which the Contractor transfers its contract or part thereof to a third party.

13.2 The Contractor shall not, without the prior written consent of the Public Body, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases:

(nnn) A charge, in favor of the Contractor's bankers, of any monies due or to become due under the Contract; or

(ooo) Assignment to the Contractor's insurers of the Contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the Contractor's loss or liability.

13.3 For the purpose of GCC Clause 13.2 the approval of an assignment by the Public Body shall not relieve the Contractor of his obligations for the part of the Contract already performed or the part not assigned.

13.4 If the Contractor has assigned his Contract without authorization, the Public Body may, without giving formal notice thereof, apply as of right the sanctions for breach of Contract provided for in GCC Clauses 19 and 21.

13.5 Assignees must satisfy the eligibility criteria applicable for the award of the Contract and they can not be in any of the situations excluding them from participating in Contract.

13.6 Every assignment shall be subject to the provisions of this Contract and shall

incorporate the terms and conditions of this Contract.

14. Subcontracting

14.1 A sub-contract shall be valid only if it is a written agreement by which the Contractor entrusts performance of a part of the Contract to a third party.

14.2 In the event the Contractor requires sub-contracting of the works to Sub-Contractors that are not included in the Contract, the Contractor shall obtain the prior written approval and clearance of Public Body for all Sub-Contractors. The work to be sub-contracted and the identity of the subcontractors shall be notified to the Public Body. The Public Body shall with due regard to the provisions of GCC Clause 10 within 15 days of receipt of the notification, notify the Contractor of its decision, stating reasons should he withhold such authorization.

14.3 The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

14.4 Sub-Contractors must satisfy the eligibility criteria applicable to the award of the contract and they can not be in any of the situations excluding them from participating in contract.

14.5 Subject to GCC Clause 66, the Public Body shall have no contractual relations with the Sub-Contractors.

14.6 The Contractor shall be responsible for the acts, defaults and negligence of his Sub-Contractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, his agents or employees. The approval by the Public Body of the sub-contracting of any part of the contract or of the Sub-Contractor to perform any part of the works shall not relieve the Contractor of any of his obligations under the contract.

14.7 If a Sub-Contractor has undertaken any continuing obligation for a period exceeding that of the Defects Liability Period under the contract towards the Contractor in respect of the work executed or the goods, materials, plant or services supplied by the Sub-Contractor, the Contractor shall, at any time after the expiration of the Defects Liability Period, transfer immediately to the Public Body, at the Public Body's request and cost, the benefit of such obligation for the unexpired duration thereof.

14.8 If the Contractor enters into a subcontract without approval, the Public Body may apply, as of right without giving formal notice thereof, the sanctions for breach of contract provided for in GCC Clauses 19 and 21.

14.9 If a Sub-Contractor is found by the Public Body or the Engineer to be incompetent in discharging its duties, the Public Body or the Engineer may request the Contractor forthwith, either to provide a Sub-Contractor with qualifications and experience acceptable to the Public Body as a replacement, or to resume the implementation of the tasks itself.

15. Modifications by Change Orders

15.1 The Engineer shall have power to order any modification to any part of the works necessary for the proper completion and /or functioning of the works. Such modifications may include additions, omissions, substitutions, changes in quality, quantity, form, character, kind, position, dimension, level or line and changes in the specified sequence, method or timing of execution of the works. No order for a modification shall have the effect of invalidating the contract, but the financial effect, if any, of all such modifications shall be valued in accordance with GCC Clauses 15.5 and 15.7.

15.2 All change orders shall be issued in writing, it being understood that:

(ppp) if for any reason, the Engineer shall find it necessary to give an order orally, he shall as soon as possible thereafter confirm the order by an change order;

(qqq) if the Contractor shall confirm in writing an oral order given for the purpose of GCC Clause 15.2 (a) and the confirmation shall not be contradicted in writing forthwith by the Engineer, an change order shall be deemed to have been issued for the modification.

A change order for modification shall not be required for increase or decrease in the quantity of any work where such increase or decrease is the result of the quantity exceeding or being less than that stated in the bill of quantities or price schedule, as the result of valuation of works laid down in GCC Clause 63.

15.3 Except as provided by GCC Clause 15.2 prior to any change order for modification, the Engineer shall notify the Contractor of the nature and form of such modification. As soon as possible, after receiving such notice, the Contractor shall submit to the Engineer a proposal containing:

(rrr) a description of the tasks, if any, to be implemented or the measures to be taken and a program for execution; and

(sss) any necessary modifications to the program of implementation of tasks or to any of the Contractor's obligations under the contract; and

(ttt) any adjustment to the contract price in accordance with the rules as set out in this Clause.

15.4 Following the receipt of the Contractor's submission referred to in GCC Clause 15.3, the Engineer shall, after due consultation with the Public Body and, where appropriate, the Contractor, decide as soon as possible whether or not the modification shall be carried out. If the Engineer decides that the modification shall be carried out he shall issue the change order stating that the modification shall be carried out at the prices and under the conditions given in the Contractor's submission referred to in GCC Clause 15.3 or as modified by the Engineer in accordance with GCC Clause 15.5.

15.5 The prices for all modifications ordered by the Engineer in accordance with GCC Clause 15.2 and 15.4 shall be ascertained by the Engineer in accordance with the following principles:

(uuu) where work is of similar character and executed under similar conditions to work priced in the bill of quantities or price schedule it shall be valued at such rates and prices contained therein;

(vvv) where work is not of a similar character or is not executed under similar conditions, the rates and prices in the contract to be agreed through negotiation between the Engineer and the Contractor shall conform to the prevailing market price;

(www) if the nature or amount of any modification relative to the nature or amount of the whole of the contract or to any part thereof shall be such that in the opinion of the Engineer any rate or price contained in the contract for any item of work is by reason of such modification rendered unreasonable, then the Engineer shall fix such rate or price as in the circumstances he shall think reasonable and proper;

(xxx) where a modification is necessitated by default or breach of contract by the Contractor, any additional cost attributable to such modification shall be borne by the Contractor.

15.6 On receipt of the change order requesting the modification, the Contractor shall proceed to carry out the modification and be bound by these GCC in so doing as if such modification were stated in the contract. The works shall not be delayed pending the granting of any extension of time for completion or adjustment to the contract price. Where the order for a modification precedes the adjustment to the contract price, the Contractor shall keep records of the costs of undertaking the modification and of time expended thereon. Such records shall be open to inspection by the Engineer at all reasonable times.

15.7 Where on provisional acceptance an increase or reduction in the total value of the works resulting from a change order, or from some other circumstance which is not caused by the Contractor's default, exceeds 25% of the initial contract price (or as modified by addendum), the Engineer shall, after consultation with the Public Body and the Contractor determine any reduction from the contract price as a consequence of the application of GCC Clause 15.5. The sum so determined shall be based on the amount by which the increase or decrease in value of the works exceeds 25%. The sum shall be notified by the Engineer to the Public Body and the Contractor and the contract price adjusted accordingly.

15.8 The total value of the works resulting from a change order shall not exceed 30% of the total value of the initial contract price.

15.9 Any change to the terms of the Contract must be recorded in writing and executed by authorized signatory of the Contractor and the Engineer. Such record of the change in question must address all consequential amendments required to be made to the Contract as a result of such change.

15.10 Changes will take effect as from the date specified in the signed record of change and shall not have retrospective effect unless expressly provided for in such record.

15.11 Each record of change must be dated and sequentially numbered. Each of

the Public Body and the Contractor will be entitled to an original executed counterpart of the record of variation.

15.12 Except as provided in any such record of variation, the Contract will continue in full force and effect.

16. Change in Laws and Regulations

16.1 Unless otherwise expressly agreed in the SCC, if, after the deadline for submission of the Bid, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the Federal Democratic Republic of Ethiopia where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract Price, then such Contract Price shall not be correspondingly increased or decreased and/or the Completion Date shall not be adjusted to the extent that Contractor has thereby been affected in the performance of any of its obligations under the Contract.

17. Taxes and Duties

17.1 Unless otherwise specified in the SCC, the Contractor shall bear and pay all taxes, duties, and levies imposed on the Contractor, by all municipal, state or national government authorities, both within and outside the Federal Democratic Republic of Ethiopia, in connection with the Works to be carried out under the Contract,.

18. Force Majeure

18.1 For the purposes of the Contract, “Force Majeure” shall mean an event or events which are beyond the reasonable control of a Contractor, and which makes a Contractor’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes:

(yyy) An official prohibition preventing the performance of a contract,

(zzz) A natural catastrophe such as an earthquake, fire, explosion, storm, floods, or other adverse weather conditions, or

(aaaa) International or civil war, or

(bbbb) Other instances of Force Majeure identified as such by the civil code.

18.2 The following occurrences shall not be deemed to be cases of Force Majeure:

(cccc) A strike or lock-out taking of a party or affecting the branch of business in which he carries out his activities where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent, or

(dddd) An increase or reduction in the price of raw materials necessary for the performance of the contract, or

(eeee) The enactment of new legislation where by the obligations of the debtor becomes more onerous, or

(ffff) Any event which is caused by the negligence or intentional action of a Contractor or such Contractor's Sub-Contractors or agents or employees; or

(gggg) Any event which a diligent Party could reasonably have been expected to both:

(i) Take into account from the effective date of the Contract; and

(ii) Avoid or overcome in the carrying out of its obligations; or

(hhhh) Insufficiency of funds or failure to make any payment required hereunder.

18.3 The failure of a Contractor to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, the Contract insofar as such inability arises from an event of Force Majeure, provided that the Contractor 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 the Contract.

18.4 A Party affected by an event of Force Majeure shall take all reasonable measures to

(iiii) Remove such Party's inability to fulfill its obligations hereunder with a minimum of delay; and

(jjjj) Minimize the consequences of any event of Force Majeure.

18.5 A Contractor affected by an event of Force Majeure shall notify the Public Body 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.

18.6 Any period within which a Contractor 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.

18.7 During the period of their inability to carry out the Works as a result of an event of Force Majeure, the Contractor, upon instructions by the Public Body, shall either:

(kkkk) Demobilize, in which case the Contractor shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Public Body, in reactivating the Works; or

(llll) Continue to perform his obligations under the Contract to the extent possible, in which case the Contractor shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

18.8 Not later than thirty (30) days after the Contractor, as the result of an event of Force Majeure, has become unable to carry out the Works, the Parties

shall consult with each other in good faith and use all reasonable endeavors to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the Contract.

18.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to GCC Clause 26.

19. Breach of Contract

19.1 Either party commits a breach of contract where it fails to discharge any of its obligations under the specific contract.

19.2 Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

(mmmm) Compensation / Claim for liquidated damages as specified in GCC Clause 27; and/or

(nnnn) Termination of the contract.

19.3 In any case where the Public Body is entitled to damages, it may deduct such Suspension damages from any sums due to the Contractor or call on the appropriate guarantee.

20. Suspension

20.1 The Contractor shall, on the order of the Engineer, suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer may consider necessary.

20.2 During the period of suspension, the Contractor shall take such protective measures as may be necessary to safeguard the works, plant, equipment and site against any deterioration, loss or damage. Additional expenses incurred in connection with such protective measures shall be added to the contract price, unless such suspension is:

(oooo) otherwise provided for in the contract; or

(pppp) necessary by reason of some default of the Contractor; or

(qqqq) necessary by reason of normal climatic conditions on site; or

(rrrr) necessary for the safety or the proper execution of the works or any part thereof insofar as such necessity does not arise from any act or default by the Engineer or the Public Body or from any of the exceptional risks referred to in GCC Clause 44.

20.3 The Contractor shall not be entitled to such additions to the contract price unless he notifies the Engineer, within 30 days after receipt of the order to suspend the works, of his intention to make a claim for them.

20.4 The Engineer, after consultation with the Public Body and the Contractor, shall determine such extra payment and/or extension of the period of performance to be made to the Contractor in respect of such claim as shall, in the opinion of the Engineer, be fair and reasonable.

20.5 If the period of suspension exceeds 120 days and the suspension is not due to the Contractor's default, the Contractor may, by notice to the Engineer, request permission to proceed within thirty (30) days or terminate the contract.

20.6 Where the award procedure or implementation of the contract is vitiated by substantial errors or irregularities or by suspected or proven fraud, the payments and/or implementation of the contract shall be suspended. Where such errors, irregularities or fraud are attributable to the Contractor, the Public Body may also refuse to make payments or may recover monies already paid, in proportion to the seriousness of the errors, irregularities or fraud. The payments may also be suspended in cases where there are suspected or established errors, irregularities or fraud committed by the Contractor in the performance of another contract funded by the Federal Government of Ethiopia, which are likely to affect the performance of the present contract

21. Termination

Termination by the Public Body

21.1 Termination shall be without prejudice to any other rights or powers under the contract of the Public Body and the Contractor.

21.2 In addition to the grounds for termination defined in these General Conditions, the Public Body may, by not less than thirty days written notice of termination to the Contractor stating the reason for termination of the contract and the date on which such termination becomes effective. (except in the event listed in paragraph (o) below, for which there shall be a written notice of not less than sixty days), such notice to be given after the occurrence of any of the events specified in this GCC Sub-Clause 21.2 (a) to (p), terminate the Contract if:

(ssss) The Contractor fails to carry out any or all of the Works within the period specified in the Contract, or within any extension thereof granted by the Public Body pursuant to GCC Clause 73;

(tttt) The Contractor fails to remedy a failure in the performance of their obligations as specified in a notice of suspension pursuant to GCC Clause 20 within thirty days of receipt of such notice of suspension of assignment or within such further period as the Public Body may has subsequently approved in writing;

(uuuu) The Contractor becomes (or, if the Contractor consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enters 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, other than for a reconstruction or amalgamation;

(vvvv) The Contractor fails to comply with any final decision reached as a result of direct informal negotiation pursuant to GCC Sub-Clause 26.2 hereof;

(wwww) The Contractor is unable, as the result of Force Majeure, to carry out the Works for a period of not less than sixty (60) days;

(xxxx) The Contractor assigns the contract or sub-contracts without the authorization of the Public Body;

(yyyy) The Contractor has been guilty of grave professional misconduct proven by any means which the Public Body can justify;

(zzzz) The Contractor has been declared to be in serious breach of contract financed by the Federal Democratic Republic of Ethiopia's budget for failure to comply with its contractual obligations.

(aaaaa) The Contractor has been engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

(bbbbb) Any organizational modification occurs involving a change in the legal personality, nature or control of the Contractor, unless such modification is recorded in an addendum to the Contract;

(ccccc) Any other legal disability hindering performance of the Contract occurs;

(ddddd) The Contractor fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

(eeeee) Where the procurement requirement of the Public Body changes for any apparent or obvious reason;

(fffff) Where it emerges that the gap between the value of the Contract and the prevailing market price is so wide that allowing the implementation of the contract to proceed places the Public Body concerned at a disadvantage;

(ggggg) The Public Body, in its sole discretion and for any reason whatsoever, decides to terminate the Contract.

(hhhhh) The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the GCC Clause 27.1(b).

Termination by the Contractor

21.3 The Contractor may, by not less than thirty (30) days' written notice to the Public Body, of such notice to be given after the occurrence of any of the events specified in GCC Sub-Clause 21.3 (a) to (d) terminate the Contract if:

(iiiii) The Public Body fails to pay any money due to the Contractor pursuant to the Contract and not subject to dispute pursuant to Clause 25, within forty-five (45) days after receiving written notice from the Contractor that such payment is overdue;

(jjjjj) The Public Body is in material breach of its obligations pursuant to the Contract and has not remedied the same within forty-five (45) days (or such longer period as the Contractor may have subsequently approved in writing) following the receipt by the Public Body of the Contractor’s notice specifying such breach;

(kkkkk) The Public Body suspends the progress of the works or any

part thereof for more than 180 days, for reasons not specified in the Contract, or not due to the Contractor's default.

(lllll) The Contractor is unable as the result of Force Majeure, to perform a material portion of the Works for a period of not less than sixty (60) days; or

(mmmmm) The Public Body fails to comply with any final decision reached as a result of settlement of disputes pursuant to GCC Clause 26 hereof.

Disputes About Events of Termination

21.4 If either Party disputes whether an event specified GCC Sub-Clauses 21.2 (a) to (n) or GCC Sub-Clause 21.3 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 settlement of disputes pursuant to GCC Clause 26 and this Contract shall not be terminated on account of such event except in accordance with the terms of any resolution award.

21.5 In the event the Public Body terminates the Contract pursuant to the GCC Sub-Clause 21.2 (a) to (n) the Public Body may complete the works himself or conclude any other contract with a third party at the Contractor's own expense. However, the Contractor shall continue performance of the Contract to the extent not terminated.

21.6 If the Public Body terminates the Contract in the event specified in GCC Sub-Clause 21.2 (o) the notice of termination shall specify that termination is for the Public Body's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.

22. Payment upon Termination

22.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Public Body exceeds any payment due to the Contractor, the difference shall be a debt payable to the Public Body.

22.2 If the Public Body terminates the Contract in the event specified in GCC Sub-Clause 21.2 (o) or because of a fundamental breach of Contract by the Public Body, the Engineer shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

22.3 In the event the Public Body terminates the Contract pursuant to the GCC Sub-Clause 21.2 (c) termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any

right of action or remedy that has accrued or will accrue thereafter to the Public Body.

23. Arrangements on Termination

23.1 The Public Body and the Contractor agree that termination or expiry of the Contract shall not affect either Party's obligations which the Contract provides shall survive the expiration or termination of the Contract.

23.2 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Public Body if the Contract is terminated because of the Contractor's default.

23.3 After termination or expiry all data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the provided Works shall be delivered by the Contractor to the Public Body provided that the Contractor shall be entitled to keep copies thereof to the extent that the information contained therein does not relate solely to the Works or to the extent that the Contractor is required by law to maintain copies thereof or to the extent that the Contractor was possessed of such data documents and records prior to the date of the Contract. In addition, the Contractor shall co-operate fully with the Public Body during the handover leading to the termination of the Contract. This co-operation shall extend to full access to all documents, reports, summaries and any other information required to achieve an effective transition without disruption to routine operational requirements.

24. Cessation of Rights and Obligations

24.1 Upon termination of the Contract pursuant to GCC Clauses 21, or upon the issue of the Final Acceptance Certificate pursuant to GCC Clause 89 hereof, all rights and obligations of the Parties hereunder shall cease, except

(nnnnn) Such rights and obligations as may have accrued on the date of termination or expiration;

(ooooo) The obligation of confidentiality set forth in GCC Clause 28 hereof;

(ppppp) The Contractor's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Clause 56 hereof; and

(qqqqq) Any right which a Party may have under the Governing Law.

25. Cessation of Works

25.1 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clause 21 the Contractor shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Works to a close in a prompt and orderly manner, make the Site safe and secure, leave the Site as soon as reasonably possible, and make every reasonable effort to

reduce expenditures for this purpose to a minimum.

25.2 The Engineer shall, as soon as is possible after termination, certify the value of the works and all sums due to the Contractor as at the date of termination.

25.3 In the event of termination a report of work performed by the Contractor shall be drawn up by the Engineer as soon as possible after inspection of the works, and inventory taken of temporary structures, materials, plant and equipment. The Contractor shall be summoned to be present during the inspection and the taking of the inventory. The Engineer shall also draw up statements of emoluments still owed by the Contractor to workers employed by him in relation to the contract and of sums owed by the Contractor to the Public Body.

26. Settlement of Disputes

26.1 During any dispute, including a dispute as to the validity of the Contract, it is mutually agreed that the Contractor shall continue its performance of the Contract (unless the Public Body requests in writing that the Contractor does not do so).

26.2 The Public Body and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement, controversy or dispute arising between them under or in connection with the Contract or interpretation thereof.

26.3 If a dispute arises between the Public Body and the Contractor in relation to any matter which cannot be resolved by the Engineer and the Contractor's Contract Manager either of them may refer such dispute to the procedure described in GCC Sub-Clause 26.4.

26.4 In the second instance each of the Public Body and the Contractor shall appoint more senior representatives than those referred to in Sub-Clause 26.3 to meet solely in order to resolve the matter in dispute. Such meeting(s) shall be minuted and shall be chaired by the Public Body (but the chairman shall not have a casting vote). Such meeting(s) shall be conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question at the discretion of the chairman.

26.5 If the Parties fail to resolve such a dispute or difference amicably within twenty-eight (28) days from the commencement of such procedure, either party may require that the dispute be referred for resolution through the courts in accordance with Ethiopian Law.

26.6 Only those Public Bodies that are allowed by law to proceed to arbitration can do so.

27. Liquidated Damages

27.1 Except as provided under GCC Clause 18, if the Contractor fails to carry out any or all of the Works within the period specified in the Contract, the Public

Body may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages the following:

(rrrrr) A penalty of 0.1% or 1/1000 of the value of undelivered Service for each day of delay until actual delivery or performance,

(sssss) The cumulative penalty to be paid by the Contractor shall not exceed 10% of the contract price.

27.2 If the delay in performing the contract affects its activities, the Public Body may terminate the contract by giving advance notice to the Contractor pursuant to GCC Clause 21 without any obligation to wait until the penalty reaches 10% of the value of the Contract.

27.3 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

28. Confidentiality

28.1 The Public Body and the Contractor shall keep confidential and shall not disclose to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract if their disclosure would be contrary to law, would impede law enforcement, would not be in public interest, would prejudice legitimate commercial interest of the parties or would inhibit fair competition.. Notwithstanding the above, the Contractor may furnish to its sub-contractors such documents, data, and other information it receives from the Public Body to the extent required for the sub-contractor to perform its work under the Contract, in which event the Contractor shall obtain from such sub-contractor an undertaking of confidentiality similar to that imposed on the Contractor under this Clause.

28.2 The Public Body shall not use such documents, data, and other information received from the Contractor for any purposes unrelated to the Contract. Similarly, the Contractor shall not use such documents, data, and other information received from the Public Body for any purpose other than carrying out the Works in accordance with the Contract.

28.3 The obligation of a party under this Clause, however, shall not apply to any Confidential Information that:

(ttttt) The Public Body or Contractor need to share with any other institutions participating in the financing of the Contract;

(uuuuu) Now or hereafter enters the public domain other than by breach of the Contract or other act or omissions of that Party;

(vvvvv) Is obtained by a third party who is lawfully authorized to disclose such information;

(wwwww) Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or

indirectly, from the other party; or

(xxxxx) Is authorized for release by the prior written consent of the other party.

28.4 The Parties shall not be prevented from using any general knowledge, experience or skills which were in their possession prior to the commencement of the Contract;

28.5 The Contractor authorizes the Public Body to disclose the Confidential Information to such person(s) as may be notified to the Contractor in writing by the Public Body from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain a realistic market price for the Works carried out in accordance with the Contract, such exercise being commonly referred to as "benchmarking". The Public Body shall use all reasonable endeavors to ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made. The Public Body shall not without good reason claim that the lowest price available in the market is the realistic market price.

28.6 The Contractor agrees that:

(yyyyy) Subject to GCC Sub-Clause 28.6 (b), the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Public Body;

(zzzzz) Where the Public Body is managing a request as referred to in GCC Sub-Clause 28.6 (a), the Contractor shall co-operate with the Public Body making the request and shall respond within five (5) working days of any request by it for assistance in determining how to respond to a request for disclosure.

28.7 The Contractor shall procure that its sub-contractors shall provide the Public Body with a copy of all information in its possession or power in the form that the Public Body requires within five (5) working days (or such other period as the Public Body may specify) of the Public Body requesting that Information.

28.8 The Public Body may consult the Contractor in relation to any request for disclosure of the Contractor's Confidential Information in accordance with all applicable guidance.

28.9 The above provisions of this Clause shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract.

28.10 This GCC Clause 28 shall remain in force without limit in time in respect of Confidential Information which comprises Personal Data. Except as aforesaid and unless otherwise expressly set out in the Contract, this GCC Clause 28 shall remain in force for a period of 3 years after the termination or expiry of this Contract.

28.11 In the event that the Contractor fails to comply with this GCC Clause 28, the Public Body reserves the right to terminate the Contract by notice in

writing with immediate effect.

29. Miscellaneous

29.1 Any decision, act or thing that the Public Body is required or authorized to take or do under the Contract may be taken or done by any person authorized, either generally or specifically, by the Public Body to take or do that decision, act or thing, provided that upon receipt of a written request the Public Body shall inform the Contractor of the name of any person so authorized.

29.2 The Contractor may from time to time upon the request of the Public Body, execute any additional documents and do any other acts or things which may reasonably be required to implement the provisions of the Contract.

29.3 Any provision of the Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

29.4 The failure by the Public Body and Contractor to insist upon the strict performance of any provision, term or condition of the Contract or to exercise any right or remedy consequent upon the breach thereof shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.

29.5 Each Party shall bear its own expenses in relation to the preparation, execution and implementation of the Contract including all costs legal fees and other expenses so incurred.

29.6 The Contractor warrants represents and undertakes to the Public Body that there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Contractor and that there are no material contracts existing to which the Contractor is a party which prevent it from entering into the Contract; and that the Contractor has satisfied itself as to the nature and extent of the risks assumed by it under the Contract and gathered all information necessary to perform its obligations under the Contract and all other obligations assumed by it.

29.7 The rights and remedies provided in the Contract are cumulative and not exclusive of any rights or remedies provided by any other contract or document. In this provision "right" includes any power, privilege, remedy, or proprietary or security interest.

C. Obligations of the Public Body

30. Assistance and Supply of Documents

30.1 The Contractor may request the assistance of the Public Body in obtaining

copies of laws, regulations and information on local customs, orders or by-laws of the Federal Democratic Republic of Ethiopia, which may affect the Contractor in the performance of his obligations under the Contract. The Public Body may provide the assistance requested to the Contractor at the Contractor's cost.

30.2 Unless otherwise specified in the SCC, the Public Body may make all efforts necessary to facilitate the procurement by the Contractor of:

(aaaaaa) all required visas and permits, including work and residence permits, and such other documents as shall be necessary to enable the Contractor, Sub-Contractors or Personnel to carry out the Works;

(bbbbbb) any such other assistance as may be specified in the SCC.

30.3 Except where otherwise provided in the SCC, within 30 days of the signing of the Contract, the Engineer shall provide to the Contractor, free of charge, a copy of the drawings prepared for the implementation of tasks as well as two copies of the specifications and other contract documents. The Contractor may purchase additional copies of these drawings, specifications and other documents, insofar as they are available. Upon the final acceptance, the Contractor shall return to the Engineer all drawings, specifications and other contract documents.

30.4 Unless it is necessary for the purposes of the Contract, the drawings, specifications and other documents provided by the Public Body shall not be used or communicated to a third party by the Contractor without the prior consent of the Engineer.

30.5 The Engineer shall have authority to issue to the Contractor administrative orders incorporating such supplementary documents and instructions as shall be necessary for the proper and adequate execution of the works and the remedying of any defects therein.

31. Access to the Site

31.1 The Public Body shall, in due time and in conformity with the progress of the works, place the site and access thereto at the disposal of the Contractor in accordance with the program of implementation of tasks referred to in these GCC. If possession of a part is not given by the date stated in the approved work program, the Public Body will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

31.2 The Contractor shall allow the Engineer and any person authorized by the Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

31.3 Any land procured for the Contractor by the Public Body shall not be used by the Contractor for purposes other than the implementation of tasks.

31.4 The Contractor shall preserve any premises placed at his disposal in a good state while he is in occupation and shall, if so required by the Public Body or the Engineer, restore them to their original state on completion of the

contract, taking into account normal wear and tear.

31.5 The Contractor shall not be entitled to any payment for improvements resulting from work carried out on his own initiative.

32. Payment

32.1 In consideration of the Works performed by the Contractor under this Contract, the Public Body shall make to the Contractor such payments and in such manner as is provided by GCC Paragraph E of this Contract.

33. Delayed Payments to the Contractor's Staff

33.1 Where there is a delay in the payment to the Contractor's employees of wages and salaries owing and of the allowances and contributions laid down by the law of the Federal Democratic Republic of Ethiopia, the Public Body may give notice to the Contractor that within 15 days of the notice the Contractor has to pay such wages, salaries, allowances and contributions.

D. Obligations of the Contractor

34. General Obligations

34.1 The Contractor shall, with due care and diligence, and in accordance with the provisions of the Contract, design the works to the extent stated in the Contract, and execute, complete and remedy any defects in the works. The Contractor shall provide all control and supervision of the works, personnel, materials, plant, equipment and all other items, whether of a temporary or permanent nature required in and for such design, execution, completion and remedying of any defects, insofar as specified in, or can be reasonably inferred from, the Contract.

34.2 The Contractor shall take full responsibility for the adequacy, stability and safety of all operations and methods of construction under the Contract.

34.3 The Contractor shall respect and abide by all laws and regulations in force in the Federal Democratic Republic of Ethiopia and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Public Body against any claims and proceedings arising from any infringement by the Contractor, its Sub-Contractors or their employees of such laws and regulations.

34.4 The Contractor shall ensure that Works conform to applicable environmental and quality standards, that no chemical or other product/equipment is used in such a way as to cause negative impact on the environment in general and occupational health hazards and shall employ the most recent technology, safe and effective equipment, machinery, materials and methods, as necessary.

34.5 The Contractor shall obtain the Public Body's prior approval in writing

before taking any of the following actions:

(cccccc) Entering into a subcontract for carrying out any part of the Works, it being understood that the Contractor shall remain fully liable for carrying out the Works by the Sub-Contractor;

(dddddd) Any other action that may be specified in the SCC.

34.6 The Contractor shall comply with any administrative orders given by the Engineer. Where the Contractor considers that the requirements of an administrative order go beyond the authority of the specific Engineer or of the scope of the Contract, it shall, on pain of being time-barred, notify the specific contract manager, explaining its opinion, within 30 days after receipt thereof. Execution of the administrative order shall not be suspended because of this notice.

34.7 The Contractor shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Public Body or the specific contract manager after consultation with the Public Body. If any disagreement arises as to the necessity for any publication or disclosure for the purpose of the contract, the decision of the Public Body shall be final.

35. Eligibility

35.1 The Contractor and its Sub-Contractors shall have the nationality of an eligible country pursuant to Section 5 of the Bidding Documents. A Contractor or Sub-Contractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

35.2 The Contractor and its Sub-Contractors shall provide Personnel who shall be citizens of eligible countries and use goods with their origin from an eligible country.

36. Code of Conduct

36.1 The Contractor shall, at all times, act loyally and impartially in respect of any matter relating to this Contract and as a faithful adviser to the Public Body in accordance with the rules and/or code of conduct of its profession as well as with appropriate discretion. The Contractor shall, in particular, at all times refrain from making any public statements concerning the Works without the prior approval of the Public Body, and from engaging in any activity which conflicts with its obligations towards the Public Body under the contract. It shall not commit the Public Body without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

36.2 If the Contractor or any of its Sub-Contractors, personnel, agents or servants offers to give or agrees to offer or to give or gives to any person, any bribe, gift, gratuity or commission as an inducement or reward for doing or

forbearing to do any act in relation to the contract or any other contract with the Public Body, or for showing favor or disfavor to any person in relation to the contract or any other contract with the Public Body, then the Public Body may terminate the contract, without prejudice to any accrued rights of the Contractor under the contract.

36.3 The payments to the Contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

36.4 The Contractor shall not have the benefit, whether directly or indirectly, of any royalty, gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the contract or the project, without the prior written approval of the Public Body.

36.5 The Contractor and its staff shall maintain professional secrecy, for the duration of the contract and after completion thereof. In this connection, except with the prior written consent of the Public Body, neither the Contractor nor the personnel employed or engaged by it shall at any time communicate to any person or entity any confidential information disclosed to them or discovered by them, or make public any information as to the recommendations formulated in the course of or as a result of the Works. Furthermore, they shall not make any use prejudicial to the Public Body, of information supplied to them and of the results of studies, tests and research carried out in the course and for the purpose of performing the contract.

36.6 The execution of the contract shall not give rise to unusual commercial expenses. If such unusual commercial expenses emerge, the contract will be terminated. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

36.7 The Contractor shall supply to the Public Body on request supporting evidence regarding the conditions in which the contract is being executed. The Public Body may carry out whatever documentary or on-the spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

37. Control and Supervision of the Works

37.1 The Contractor shall himself control and supervise the works or shall appoint a Contract Manager to do so. Such appointment shall be submitted to the Engineer for approval.

37.2 The Contract Manager shall be suitably qualified in accordance with the Schedule of Requirements. In addition a work history/biography will be

submitted to the Engineer for approval.

37.3 The Contractor shall forthwith give notice in writing to the Engineer of the identity of the person appointed as Contract Manager for approval. The approval may at any time be withdrawn. Should the Engineer refuse to approve, or withdraw approval of the appointment, he shall set out the grounds on which his decision is based, and the Contractor shall submit an alternative appointment without delay. The address of the Contractor's representative shall be deemed to be the address for service given by the Contractor.

37.4 If the Engineer withdraws his approval of the Contractor's Contract Manager, the Contractor shall, as soon as is practicable, after receiving notice of such withdrawal, remove the Contract Manager from the works and replace him with another Contract Manager approved by the Engineer.

37.5 The Contractor's Contract Manager shall have full authority to make any decision necessary for the execution of the works, to receive and carry out administrative orders and to countersign the work register referred to in GCC Clause 79 or attachment, where appropriate. In any event, the Contractor shall be responsible for ensuring that the works are carried out satisfactorily including ensuring that the specifications and administrative orders are adhered to by his own employees and by his sub-Contractors and their employees.

37.6 Any notice, information, instruction or other communication given or made to the Contract Manager shall be deemed to have been given or made to the Contractor.

37.7 The Contractor shall inform the Engineer of the identity of any person authorized to act for any period as deputy for the Contract Manager before the start of that period.

37.8 The Contractor shall provide a sufficient complement of supervisory staff in addition to the Contract Manager, to ensure that the Contractor’s staff engaged in and about the provision of the Works at the Site are adequately supervised and properly perform their duties at all times.

37.9 All persons appointed to managerial and supervisory positions in accordance with the Schedule of Requirements must be to the acceptance of the Engineer who will have the right to veto the appointment of any candidate who is deemed to be unsuitable.

38. Personnel

38.1 The persons employed by the Contractor must be sufficient in number, and permit the optimum use of the human resources. Such employees must have the skills and experience necessary to ensure due progress and satisfactory execution of the works.

38.2 The Contractor shall make his own arrangements for the engagement of all staff and labor. The rates of remuneration and the general working conditions, as laid down by the law of the Federal democratic Republic of

Ethiopia, shall apply as a minimum to employees on the Site.

38.3 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the functions stated in the Schedule of Requirements or other personnel approved by the Engineer. The Engineer will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule of Requirements.

38.4 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Works to the Public Body. The Contractor shall ensure that the role of any Key Personnel is not vacant for any longer than [10] Working Days and that any replacement shall be as or more qualified and experienced as the previous incumbent of such role and is fully competent to carry out the tasks assigned to the role of the member of Key Personnel whom he or she has replaced.

38.5 The Contractor shall immediately replace all employees indicated by the Engineer, in a letter stating reasons, as likely to jeopardize the satisfactory execution of the works

38.6 If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

38.7 The Public Body shall not be liable for the cost of replacing any member of the Contractor's staff and the Contractor shall indemnify the Public Body against all Employee Liabilities that may arise in this respect.

39. Indemnification and Limitation of Liability

39.1 At its own expense, the Contractor shall indemnify, protect and defend, the Public Body, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Contractor in the performance of the Works, including any violation of any legal provisions, or rights of third parties, in respect of patents, trade marks and other forms of intellectual property such as copyrights.

39.2 At its own expense, the Contractor shall indemnify, protect and defend the Public Body, its agents and employees, from and against all actions, claims, losses or damages arising out of the Contractor's failure to perform its obligations provided that:

(eeeeee) The Contractor is notified of such actions, claims, losses or damages not later than 30 days after the Public Body becomes aware of them;

(ffffff) The ceiling on the Contractor's liability shall be limited to an amount equal to total Contract Price as stated in the SCC, but such ceiling shall not apply to actions, claims, losses or damages caused by the Contractor's willful misconduct;

(gggggg) The Contractor's liability shall be limited to actions, claims,

losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.

39.3 The aggregate liability of the Contractor to the Public Body shall not exceed the total contract value.

39.4 The Contractor shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

(hhhhhh) The Public Body omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Contractor, or requiring the Contractor to implement a decision or recommendation with which the Contractor disagrees or on which it expresses a serious reservation; or

(iiiiii) The improper execution of the Contractor's instructions by agents, employees or independent Contractors of the Public Body.

39.5 The Contractor shall remain responsible for any breach of its obligations under the contract for such period after the Works have been performed as may be determined by the law governing the contract.

40. Insurance to be Taken Out by the Contractor

40.1 The Contractor shall provide, in the joint names of the Public Body and the Contractor, insurance cover against loss or damage for which he is liable under the contract in the amounts and deductibles stated in the SCC. Such insurance shall, unless the SCC provide otherwise, cover:

(jjjjjj) the Works, together with Materials and Plant for incorporation therein, to the full replacement cost against all loss or damage from whatever cause arising other than from Force Majeure or risks attributable under the contract to the Public Body;

(kkkkkk) an additional sum of 15% of such replacement cost, or as may be specified in the SCC, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the works and of removing debris of whatever nature;

(llllll) the Contractor's Equipment and other things brought onto the Site by the Contractor, for a sum sufficient to provide their replacement at the Site.

40.2 The Contractor shall take out insurance covering his liability with regard to industrial accidents and civil liabilities to any person employed by him on the works, to the Public Body and any employee of that authority, arising from the execution of the works. Such liability shall be unlimited in the case of personal injuries.

40.3 The Contractor shall take out insurance covering liability with regard to risks and civil liability resulting from an act or omission attributed to him, to his legal successors or agents. Such insurance shall be for at least the amount

stated in the SCC. Furthermore, he shall ensure that all his sub-contractors have taken out a similar insurance.

40.4 By requiring such insurance, Public Body shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and if deemed to be appropriate and/or prudent, should maintain adequate limits and/or broader insurance coverage than that stipulated above. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

40.5 Insurance shall be provided at the Contractor's expense and shall not be charged directly to the Public Body.

40.6 All the insurance referred to in this Clause shall be taken out within 30 days of the notification of the award of the Contract, and shall be subject to approval by the Public Body. Such insurance shall take effect from the commencement of the Works and remain in force until final acceptance of the Works.

40.7 The Public Body shall be notified by the Contractor or its Insurance Carrier at least 30 days prior to any material change to or cancellation of any of insurance coverage.

40.8 Prior to the commencement of the Works under this Contract, the Contractor or its Insurance Carrier shall provide a Certificate(s) of Insurance (COI) evidencing compliance with all requirements for insurance coverage. The COI shall be submitted to the Public Body for review and approval. For the duration of the Contract, the Contractor or its Insurance Carrier shall provide updated COI's to evidence renewals or other changes to insurance policies or coverage, and payment of the current premiums whenever they are required to do so by the Public Body or the Engineer.

40.9 Notwithstanding the obligations of the Contractor to insure in accordance with this Clause, the Contractor shall be solely liable and shall indemnify the Public Body and the Engineer against any claims for damage to property or personal injuries arising from the execution of the works by the Contractor, his sub-contractors and employees in connection with the Works

41. Program of Implementation of Tasks

41.1 Completing the work program given as part of the Bid, the Contractor shall within the time stated in the SCC provide the Engineer with a program of implementation of the tasks, broken down by activity and by month and include the following information:

(mmmmmm) the order in which the Contractor proposes to carry out the works;

(nnnnnn) the time limits within which submission and approval of the drawings are required;

(oooooo) an organization chart containing the names, qualifications and

curricula vitae of the staff responsible for the Site,

(pppppp) a general description of the method including the sequence, by month and by nature which the Contractor proposes to carry out the works;

(qqqqqq) a plan for the setting out and organization of the Site, and

(rrrrrr) such further details and information as the Engineer may reasonably require.

41.2 The Engineer shall return these documents to the Contractor with his approval or any relevant remarks within ten days of receipt, except where the Engineer, within those ten days, notifies the Contractor of his wish for a meeting.

41.3 An update of the program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

41.4 The Contractor shall submit to the Engineer for approval an updated program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.

41.5 The approval of the program by the Engineer shall not relieve the Contractor from any of his obligations under the contract. The Contractor may revise the program and submit it to the Engineer again at any time. A revised program shall show the effect of modifications and Compensation Events.

41.6 No material alteration to the program shall be made without the approval of the Engineer. If, however, the progress of the works does not conform to the program, the Engineer may instruct the Contractor to revise the program and submit the revised program to him for approval.

42. Contractor's Drawings

42.1 The Contractor shall submit to the Engineer for approval:

(ssssss) Such drawings, documents, samples and /or models as may be specified in the contract within the time limits laid down therein or in the program of implementation of tasks;

(tttttt) Such drawings as the Engineer may reasonably require for the implementation of tasks.

(uuuuuu) In the case of bridges and other reinforced concrete structures, the Contractor shall carry out the requisite soil surveys before commencing work on the foundations. The Contractor must submit the results of these surveys and the calculations for the foundations, in triplicate, to the Engineer at least one month before commencing construction of the works in question.

(vvvvvv) The Contractor shall prepare, at its own expense, all design and construction drawings and other documents and objects necessary for the proper execution of the Contract, and in particular drawings and design calculations and the reinforcement drawings for reinforced concrete structures. The Contractor shall submit, in triplicate, construction, design and reinforcement drawings, design calculations and any other documents or objects it is to provide for the Engineer's approval at least one month before commencing construction of the works in question.

Within 15 days of receiving the drawings, design calculations, objects and other documents required under (c) and (d), the Engineer shall return them to the Contractor with either his endorsement or his remarks.

42.2 If the Engineer fails to notify his decision of approval referred to in GCC Clause 41.1 within the time limits referred to in the contract or the approved program of implementation of tasks, such drawings, documents, samples or models shall be deemed to be approved at the end of the time limits specified. If no time limit is specified, they shall be deemed to be approved 30 days after receipt.

42.3 Approved drawings, documents, samples and models shall be signed or otherwise identified by the Engineer and shall not be departed from except as otherwise instructed by the Engineer. Any Contractor's drawings, documents, samples or models which the Engineer fails to approve, shall be forthwith modified to meet the requirements of the Engineer and resubmitted by the Contractor for approval. Within 15 days of being notified of the Engineer's remarks, the Contractor shall make the requisite corrections, adjustments etc. to the documents, drawings, design calculations etc. The corrected or adjusted documents, drawings, design calculations etc. shall be resubmitted for the Engineer's approval under the same procedure.

42.4 The Contractor shall supply additional copies of approved drawings in the form and number stated in the contract or in subsequent administrative orders.

42.5 The approval of the drawings, documents, samples or models by the Engineer shall not relieve the Contractor from any of his obligations under the contract.

42.6 The Engineer shall have the right at all reasonable times to inspect all contract drawings, documents, samples or models at the Contractor's premises.

42.7 Before provisional acceptance of the works, the Contractor shall supply operation and maintenance manuals together with drawings, which shall be in such detail as will enable the Public Body to operate, maintain, adjust and repair all parts of the works. Unless otherwise stated in the Special Conditions, the manuals and drawings shall be in the language of the Contract. The works shall not be considered to be completed for the purpose of provisional acceptance until such manuals and drawings have been

supplied to the Public Body.

43. Sufficiency of Bid Prices

43.1 The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied himself before submitting his Bid, as to the nature of the ground and sub-soil, and to have taken into account the form and nature of the Site, the extent and nature of the work and materials necessary for the completion of the works, the means of communication with and access to the site, the accommodation he may require and in general to have obtained for himself all necessary information as to risks, contingencies and all other circumstances influencing or affecting his tender.

43.2 The Contractor shall be deemed to have satisfied himself before submitting his tender as to the correctness and sufficiency of the tender and of the rates and prices stated in the bill of quantities or price schedule which shall, except in so far as it is otherwise provided in the Contract, cover all his obligations under the contract.

43.3 Since the Contractor is deemed to have determined his prices on the basis of his own calculations, operations and estimates, he shall carry out without additional charge any work which is the subject of any item whatsoever in his tender for which he neither indicates a unit price nor a firm sum.

44. Exceptional Risks

44.1 If during the execution of the works the Contractor encounters artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor, and if the Contractor is of the opinion that additional costs will be incurred and/or an extension of the period of implementation of the tasks will be necessary as a result of this, he shall give notice to the Engineer in accordance with GCC Clauses 69 and/or 73. The Contractor shall specify in such notice the artificial obstructions and/or physical conditions, giving details of the anticipated effects thereof, the measures he is taking or intends to take and the extent of the anticipated delay in or interference with the execution of the works.

44.2 Following receipt of the notice, the Engineer may inter alia:

(wwwwww) Require the Contractor to provide an estimate of the cost of the measures he is taking or intends to take;

(xxxxxx) Approve measures referred to in GCC Sub-Clause 44.2 (a) with or without modification;

(yyyyyy) Give written instructions as to how the artificial obstructions or physical conditions are to be dealt with;

(zzzzzz) Order a modification, a suspension, or termination of the contract.

44.3 To the extent that the Engineer shall decide that the whole or part of the said artificial obstructions or physical conditions could not reasonably have

been foreseen by an experienced Contractor, the Engineer shall:

(aaaaaaa) take into account any delay suffered by the Contractor as a result of such obstructions or conditions in determining any extension of the period of implementation of tasks to which the Contractor is entitled under GCC Clause 73; and/or

(bbbbbbb) in case of artificial obstructions or physical conditions other than weather conditions, determine additional payments due to the Contractor in accordance with GCC Clause 69.

44.4 Weather conditions shall not entitle the Contractor to claims under GCC Clause 69.

44.5 If the Engineer decides that the artificial obstructions or physical conditions could, in whole or in part, have been reasonably foreseen by an experienced Contractor, he shall so inform the Contractor as soon as practicable.

45. Health and Safety on Sites

45.1 The Contractor shall have the right to forbid access to the Site to any person not involved in the performance of the contract, with the exception of persons authorized by the Engineer or the Public Body.

45.2 The Contractor shall ensure the safety on sites during the whole period of execution and shall be responsible for taking the necessary steps, in the interests of his employees, agents of the Public Body and third parties, to prevent any loss or accident which may result from carrying out the works.

45.3 The Contractor shall take all essential steps, on his own responsibility and at his expense, to ensure that existing structures and installations are protected, preserved and maintained. He shall be responsible for providing and maintaining at his expense all lighting, protection, fencing and security equipment which proves necessary for the proper implementation of the tasks or which may reasonably be required by the Engineer.

45.4 If, during the implementation of the tasks, urgent measures are necessary to obviate any risk of accident or damage or to ensure security following any accident or damage, the Engineer shall give formal notice to the Contractor to do what is necessary. If the Contractor is unwilling or unable to undertake the necessary measures, the Engineer may carry out the work at the expense of the Contractor to the extent that the Contractor is liable.

45.5 While carrying out the Works, the Contractor shall comply, and shall ensure that its employees comply with, the requirements of relevant Health and Safety and other relevant legislation,

45.6 The Contractor shall nominate a Health and Safety Representative to liaise with the Engineer on all Health and Safety matters.

45.7 The Contractor’s staff shall follow a system of accident recording in accordance with the Contractor’s own accident reporting procedures.

45.8 All notifiable accidents shall immediately be brought to the attention of the

Engineer.

45.9 The Contractor shall ensure the co-operation of its personnel in all prevention measures designed against fire, or any other hazards, and shall notify the Public Body of any change in the Contractor's working practices or other occurrences likely to increase such risks or to cause new hazards.

45.10 The Contractor shall provide such first aid facilities and ensure that his staffs abide by such first aid procedures as shall be required by the Public Body.

46. Safeguarding Adjacent Properties

46.1 On his own responsibility and at his expense, the Contractor shall take all the precautions required by good construction practice and by the prevailing circumstances to safeguard adjacent properties and avoid causing any abnormal disturbance therein.

46.2 The Contractor shall indemnify the Public Body against the financial consequences of all claims by neighboring landowners or residents to the extent that the Contractor is liable and to the extent that the damage to adjacent properties is not the result of a hazard created through the design or method of construction imposed by the Public Body or the Engineer upon the Contractor

47. Interference with Traffic

47.1 The Contractor shall ensure that the works and installations do not cause damage to, or obstruct traffic on, communication links such as roads, railways, waterways and airports, except as permitted under the SCC. He shall, in particular, take account of weight restrictions when selecting routes and vehicles.

47.2 Any special measures which the Contractor considers necessary or which are specified in the SCC or which are required by the Public Body in order to protect or strengthen sections of roads, tracks or bridges, shall be at the expense of the Contractor, whether or not they are carried out by the Contractor. The Contractor shall inform the Engineer of any special measures he intends to take before carrying them out. The repair of any damage caused to roads, tracks or bridges by the transport of materials, plant or equipment shall be at the expense of the Contractor.

48. Cables and Conduits

48.1 Where, in the course of carrying out the works, the Contractor encounters bench-marks indicating the course of underground cables, conduits and installations, he shall keep such bench-marks in position or replace them, should execution of the works have necessitated their temporary removal. Such related operations require the authorization of the Engineer.

48.2 The Contractor shall be responsible for the preservation, removal and

replacement, as the case may be, of the cables, conduits and installations specified by the Public Body in the contract and for the cost thereof.

48.3 Where the presence of cables, conduits and installations has not been specified in the contract but is revealed by bench-marks and references, the Contractor shall be under a general duty of care and similar obligations regarding preservation, removal and replacement to those set out above. In this case, the Public Body shall compensate him for expenditure, to the extent that such work is necessary for the execution of the contract.

48.4 However, the obligations to remove and replace cables, conduits and installations and the expenditure resulting therefrom shall not be the responsibility of the Contractor if the Public Body decides to accept that responsibility. The same shall apply where this obligation and the expenditure resulting therefrom devolve upon another specialist administration or an agent.

48.5 When any work on the site is likely to cause disturbances in or damage to a public utility service, the Contractor shall immediately inform the Engineer in writing, giving a reasonable period of notice so that suitable measures can be taken in time to allow work to continue normally.

49. Setting-out of the Works

49.1 The Contractor shall be responsible for:

(ccccccc) the accurate setting-out of the Works in relation to original marks, lines and levels of reference given by the Engineer;

(ddddddd) the correctness, of the position, levels, dimensions and alignment of all parts of the Works; and

(eeeeeee) the provision of all necessary instruments, appliances and labor in connection with the foregoing responsibilities.

49.2 If, at any time during the execution of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, shall, if the Engineer so requires, at the Contractor's cost, rectify such error to the satisfaction of the Engineer, unless such error is based on incorrect data supplied by the Engineer, in which case the Public Body shall be responsible for the cost of rectification.

49.3 The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other items used in setting-out the Works.

50. Demolished Materials

50.1 Where the contract includes demolition work, materials and articles obtained therefrom shall, unless the SCC and /or the law of the Federal Democratic Republic of Ethiopia otherwise provide and subject to the provisions of GCC Clause 51, be the property of the Contractor.

50.2 If the SCC reserve to the Public Body the right of ownership of materials or all or part of the articles obtained from the demolition work, the Contractor shall take all the necessary precautions to ensure that these are preserved. He shall be liable for any destruction of, or damage to, such materials or articles caused by him or his agents.

50.3 Irrespective of the use to which the Public Body intends to put the materials or articles, in respect of which he reserves the right of ownership, all costs incurred in transporting and storing them and all warehouse charges at the place indicated by the Engineer shall be borne by the Contractor for any carriage not exceeding 100 meters.

50.4 Except where the SCC provide otherwise, the Contractor shall, at his expense, progressively remove rubble and other demolition materials, rubbish and debris from the Site.

51. Discoveries

51.1 Discoveries of any interest whatsoever made during excavation or demolition work shall be brought immediately to the attention of the Engineer. The Engineer shall decide how such discoveries are to be dealt with, taking due account of the law of the Federal Democratic Republic of Ethiopia.

51.2 The Public Body reserves the right of ownership of materials found during the excavation and demolition work carried out on land belonging to him, subject to compensating the Contractor for any special efforts.

51.3 Artifacts, antiquities and natural, numismatic, or other objects which are of scientific interest, and also rare objects or objects made of precious metals found during excavation or demolition work shall be the property of the Public Body.

51.4 In the event of disagreements, the Public Body shall have sole authority to decide as to the qualifications set out in GCC Clauses 51.1 and 51.3.

52. Temporary Works

52.1 The Contractor shall carry out at his expense all the temporary works to enable the Works to be carried out. He shall submit specification and drawings showing the proposed temporary work to the Engineer, who is to approve them if they comply with the specification and drawings. The Contractor shall take into account any observations made to him by the Engineer while assuming responsibility for these drawings.

52.2 The Contractor shall be responsible for design of Temporary Works.

52.3 The Engineer’s approval shall not alter the Contractor’s responsibility for design of the temporary works.

52.4 The Contractor shall obtain approval of third parties to the design of the temporary works, where required.

52.5 Where the design of particular temporary works is specified in the SCC to be

the responsibility of the Public Body, the Engineer shall provide the Contractor with all drawings necessary in reasonable time to enable the Contractor to undertake the temporary works in accordance with his program. In such cases, the Public Body shall be solely responsible for the safety and adequacy of the design. However, the Contractor shall be responsible for the proper construction.

53. Soil Studies

53.1 Subject to the SCC and to the technical specifications, the Contractor shall make available to the Engineer, the personnel and equipment necessary for carrying out any soil survey which the Engineer considers reasonably necessary. The Contractor shall be compensated for the actual cost of the manpower and equipment used or made available in such work, if not already provided for in the contract.

54. Overlapping Contracts

54.1 The Contractor shall, in accordance with the requirements of the Engineer, afford all reasonable opportunities for carrying out their work to any other Contractors employed by the Public Body or any other public authorities who may be employed on or near the Site in the execution of any work not included in the contract, or of any contract which the Public Body may enter into in connection with, or ancillary to, the works.

54.2 If, however, the Contractor, on the written request of the Engineer, makes available to any such Contractor, or public authority, or to the Public Body, any roads or ways for the maintenance of which the Contractor is responsible, or permits the use by any such other persons of the Contractor's temporary works, scaffolding or other equipment on the site, or provides any other service of whatsoever nature, which was not provided for in the contract, the Public Body shall pay to the Contractor in respect of such use or service, such sums and/or grant such extension of time, as shall, in the opinion of the Engineer, be reasonable.

54.3 The Contractor shall not by reason of this Clause be relieved of any of his obligations under the Contract nor shall he be entitled to any claims other than those provided for in GCC Clause 54.2.

54.4 In no circumstances may difficulties arising with regard to one contract entitle the Contractor to modify or delay implementation of other contracts. Similarly, the Public Body may not take advantage of such difficulties to suspend payments due under another contract.

55. Patents and Licenses

55.1 Except where otherwise provided in the SCC, the Contractor shall indemnify the Public Body and the Engineer against any claim resulting from the use as specified in the contract of patents, licenses, drawings, designs, models, or brand or trade marks, except where such infringement results from

compliance with the design or specification provided by the Public Body and /or the Engineer.

56. Accounting, Inspection and Auditing

56.1 The Contractor shall keep, and shall cause its Sub-Contractors to keep, accurate and systemic accounts and records in respect of the Contract, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs.

56.2 For the purpose of the examination and certification of the Public Body's accounts; or any examination of the economy, efficiency and effectiveness with which the Public Body has used its resources, the Federal Auditor General and the Public Procurement and Property Administration Agency or its auditors may inspect all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Works which are owned, held or otherwise within the control of the Contractor and may require the Contractor to produce such oral or written explanation as he considers necessary. The Contractor acknowledges that it will fully cooperate with any counter fraud policy or investigation carried out by authorized body at any time.

57. Data Protection

57.1 The Contractor shall comply with all applicable data protection legislation. In particular the Contractor agrees:

(fffffff) To maintain appropriate technical and organizational security measures;

(ggggggg) To only process Personal Data for and on behalf of the Public Body, in accordance with the instructions of the Public Body and for the purpose of performing its obligations under the Contract;

(hhhhhhh) To allow the Public Body to audit the Contractor's compliance with the requirements of this Clause on reasonable notice and/or to provide the Public Body with evidence of its compliance with the obligations set out in this Clause.

57.2 The Contractor agrees to indemnify and keep indemnified the Public Body against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by the Public Body as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of the Contractor's unauthorized processing, unlawful processing, destruction of and/or damage to any Personal Data processed by the Contractor, its employees or agents in the Contractor's performance of the Contract or as otherwise agreed between the Parties.

58. Performance Security

58.1 The Contractor shall, within fifteen (15) days from signing the contract, provide a Performance Security for the due performance of the Contract in the amount specified in the SCC.

58.2 Notwithstanding the provision of Sub-clause above a conditional insurance bond shall be accepted as Performance Security.

58.3 The proceeds of the Performance Security shall be payable to the Public Body as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.

58.4 The Performance Security shall be denominated in currency specified in the SCC, and shall be in the form of cash, cheque certified by a reputable bank, letter of credit, or Bank Guarantee in the format specified in the SCC.

58.5 No payments shall be made in favor of the Contractor prior to the provision of the Performance Security. The Performance Security shall continue to remain valid until the contract has been fully and properly implemented.

58.6 During the performance of the contract, if the natural or legal person providing the Performance Security is not able to abide by his commitments, the Performance Security shall cease to be valid. The Public Body shall give formal notice to the Contractor to provide a new Performance Security on the same terms as the previous one. Should the Contractor fail to provide a new Performance Security the Public Body may terminate the Contract.

58.7 The Public Body shall demand payment from the Performance Security of all sums for which the guarantor is liable under the Performance Security due to the Contractor's default under the Contract, in accordance with the terms of the Performance Security and up to the value thereof. The guarantor shall, without delay, pay those sums upon demand from the Public Body and may not raise any objection for any reason whatsoever. Prior to making any claim under the Performance Security, the Public Body shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.

58.8 The Performance Security shall be discharged by the Public Body and returned to the Contractor not later than twenty-eight (28) days following the date of issuing of the signed Final Statement of Account referred to in GCC Clause 65, for its total amount except for amounts which are the subject of amicable settlement of disputes, unless specified otherwise in the SCC.

58.9 Notwithstanding the provision of GCC Sub-Clause 58.2 above, the Performance Security may be returned to the Contractor where the Procurement Endorsing Committee ascertains that the noncompliance of the Contractor does not affect the interest of, or entail additional cost on the Public Body and is not due to the fault of the Contractor.

58.10 The Public Body shall be required to submit any document in its possession in relation to a procurement in which it authorizes the return of the Performance Security to the Contractor and account for its action under the preceding GCC Sub-Clause 58.9 of this GCC to the Public Procurement and

Property Administration Agency or other competent body if and when required to do so.

E. Payments to the Contractor

59. General Principles

59.1 Payments shall be made in currency as specified in the SCC. The SCC shall lay down the administrative or technical conditions governing advance payments, interim and/or final payments made in accordance with the GCC.

59.2 Payments due by the Public Body shall be made to the bank account mentioned on the Bidder Certification of Compliance form completed by the Contractor.

59.3 Payments to the Contractor of the amounts due under each of the interim payment certificates and the final statement of account issued by the Engineer shall be made by the Public Body within 90 days of such certificate of statement being delivered to the Public Body. The date of payment shall be the date on which the paying institution's account is debited. The payment certificate shall not be admissible if one or more essential requirements are not met.

59.4 Interim payment certificates or final statement of account must be accompanied with copies of invoices and other appropriate supporting materials of the amounts payable.

59.5 The Contractor's invoice shall be correctly rendered if:

(iiiiiii) The invoice is addressed to the Public Body's officer specified in the Contract to receive invoices and identifies the number of relevant Contract;

(jjjjjjj) The invoice includes date of issuance and its serial number;

(kkkkkkk) The amount claimed in the invoice is due for payment;

(lllllll) The amount specified in the invoice is correctly calculated in accordance with the Contract;

(mmmmmmm) The invoice includes the name and address of Contractor to whom payment is to be sent;

(nnnnnnn) The invoice includes the name, title, and phone number of person to notify in the event of defective invoice;

(ooooooo) The invoice includes Contractor's bank account information, and

(ppppppp) The invoice is, where appropriate, certified as sales tax exempt.

Failure to provide such information will entitle the Public Body's to delay payment until such information is provided.

59.6 The period referred to in GCC Clause 59.3 may be suspended by notifying the Contractor that the payment certificate or the final statement of accounts cannot be fulfilled because the sum is not due, because appropriate

substantiating documents have not been provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Contractor shall provide clarifications, modifications or further information within 30 days of being asked to do so. Within 30 days of receipt of the clarification, the Engineer shall decide and issue if need be a revised payment certificate or a final statement of account and the payment period shall continue to run from this date.

59.7 The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Public Body before the deadline indicated in the debit note which is 45 days from the issuing of that note.

59.8 Should the Contractor fail to make repayment within the deadline set by the Public Body, the Public Body may (unless the Contractor is a government-owned enterprise) increase the amounts due by adding interest at the rediscount rate applied by the National bank of Ethiopia on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the Public Body and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.

59.9 Amounts to be repaid to the Public Body may be offset against amounts of any kind due to the Contractor. This shall not affect the parties' right to agree on payment in installments. Bank charges involved in the repayment of amounts due to the Public Body shall be borne entirely by the Contractor.

60. Advance Payment

60.1 If the SCC so provide, advance payment shall be granted to the Contractor, at his request, for operations connected with the implementation of the tasks, in the cases listed hereinafter:

(qqqqqqq) as a lump-sum advance enabling Contractor to meet expenditure resulting from the commencement of the contract;

(rrrrrrr) if Contractor affords proof of the conclusion of a contract for the purchase or order of materials, plant, equipment, machines and tools, necessary for the execution of the contract, and of any other substantial prior expenses such as the acquisition of patents or study costs.

60.2 The SCC shall state the amount of the advance payment which shall not exceed 30% of the total contract price.

60.3 No advance payment shall be granted until:

(sssssss) The conclusion of the Contract;

(ttttttt) Provision to the Public Body by the procedure of the Performance Security in accordance with GCC Clause 58; and by

(uuuuuuu) Provision to the Public Body by the Contractor of an advance

payment security in an amount equal to the advance payment they receive in the form of a certified cheque or unconditional bank guarantee at their option from a reputable bank or letter of guarantee written by a competent body organizing and overseeing small and micro enterprises established under the relevant law.

60.4 Advance payment security shall remain effective until the advance payment has been completely repaid by the Contractor out of interim payments under the contract.

60.5 The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Engineer. Should the Contractor misuse any portion of the advance payment, it shall become due and repayable immediately and no further advance payments will be made to him.

60.6 Should the advance payment security cease to be valid and the Contractor fail to re-validate it, either a deduction equal to the amount of the advance payment may be made by the Public Body from future payments due to the Contractor under the contract, or the Public Body may apply the provisions of GCC Clause 58.6.

60.7 If the contract is terminated for any reason whatsoever, the guarantees securing the advance payment may be invoked forthwith in order to repay the balance of the advance payment still owed by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.

60.8 The advance payment security provided for in this GCC Clause shall be released as and when advance payment is repaid.

60.9 Further conditions and procedures for granting and repaying advance payment shall be as laid down in the SCC.

61. Retention Monies

61.1 The sum which shall be retained from interim payments by way of guarantee to meet the Contractor's obligations during the Defects Liability Period, and the detailed rules governing that guarantee, shall be stipulated in the SCC, provided that it shall, in no case, exceed 10% of the contract price.

61.2 Subject to the approval of the Public Body, the Contractor may, if he so wishes, substitute, not later than the date fixed for the commencement of the works, these retention sums by a retention guarantee issued in accordance with GCC Clause 58.

61.3 The sum retained or the retention guarantee shall be released within 45 days of the issuing of the signed final statement of account referred to in GCC Clause 65.

62. Price Adjustments

62.1 Adjustments of contract prices shall be allowed after twelve (12) months from the effective date of the Contract where it is verified that the performance of the contract requires more than 18 months.

62.2 Request for price adjustment in relation to a particular work items under this Contract may be filed by the Contractor after twelve (12) months from the effective date of the Contract where it is verified that the performance of the contract requires more than 18 months, which adjusted price takes effect as the new Contract Price in relation to that work item on the expiration of 30 days from the date on which the Public Body receives notification of that adjusted price from the Contractor, unless another date is agreed in writing between the Parties.

62.3 All prices shall be firm unless the Contractor has provided claim for price adjustment. The Contractor may invoke this provision at any time during the Contract by notice in writing to the Engineer.

62.4 The Public Body can increase or decrease the Contract Price amount as described by this Clause.

62.5 Price Adjustment shall be applicable as payable in full for the original scheduled completion period.

62.6 In the event the completion of contract exceeds the original scheduled period:

(vvvvvvv) In case of default on the part of the Contractor causing delay in original scheduled completion, the rate of Price Adjustment will be frozen at the original scheduled date of completion; however Price Adjustment will be applicable till actual completion. While computing Price Adjustment beyond the scheduled completion period, in the event the rate is reduced, then that reduced rate will be applied.

(wwwwwww) The Price Adjustment will be payable in full for the extended period if the Contractor has been granted an extension of time for no fault on the part of the Contractor, duly approved by the Public Body.

62.7 Unless specifically stated otherwise in the Contract, the basis for compensation will be only those categories of inputs, which are specifically listed as specified items in the SCC.

62.8 An adjustment of the Contract Price, depending of selected categories of contract price, shall be limited to an amount which takes account of price indexes or price indicators issued by Ethiopian Central Statistical Agency or Public Procurement and Property Administration Agency.

62.9 Notwithstanding the provision of GCC Sub-Clause above, price information available from a renowned local producer or competent foreign institution may be used in case the Ethiopian Central Statistical Agency or Public Procurement and Property Administration Agency are not in a position to issue current price indexes,

62.10 Contractor shall submit to the Public Body for review and approval all calculations and supporting information necessary to determine the price adjustment.

62.11 Adjustments in compensation may be either plus or minus depending on the differences between the Benchmark Price Index and the Monthly Price Index.

62.12 To determine the adjustment on each item any such price variation shall be calculated in accordance with the following formula by applying the combination of above said criteria:

$$PA = \left[NV + A\frac{(MLI - BLI)}{BLI} + B\frac{(MMI - BMI)}{BMI} + C\frac{(MEI - BEI)}{BEI} + D\frac{(MFI - BFI)}{BFI} \right](BC)Q$$

Where:

PA = The amount of the Price adjustment to be paid to, or recovered from, the Contractor, in currency specified in SCC;

NV= The fraction which represents Non Variable element of the Contract Price that is free of contract price adjustment, as specified in the Contractor's Bid;

A = The fraction of the Contract Price subject to adjustment in accordance with movements of the selected Average Labor Category Earnings Index;

MLI = The most recently available selected Average Labor Category Earnings Index on the date on which the Public Body received notification of the proposed increased price from the Contractor;

BLI = Benchmark Average Labor Category Earnings Index applicable to the Works either:

(a) at the bid closing date, or

(b) if the Contract Price has been adjusted previously, the date on which the Public Body received notification from the Contractor in respect of the last adjustment to effect the current Contract Price;

B = The fraction of the Contract Price subject to adjustment in accordance with movements of the selected Material Price Index

MMI = The most recently available selected Material Price Index on the date on which the Public Body received notification of the proposed increased price from the Contractor;

BMI = Benchmark selected Material Price Index applicable to the Works either:

(a) at the bid closing date, or

(b) if the Contract Price has been adjusted previously, the date on which the Public Body received notification from the Contractor

in respect of the last adjustment to effect the current Contract Price;

C = The fraction of the Contract Price subject to adjustment in accordance with movements of the selected Equipment Price Index

MEI = The most recently available selected Equipment Price Index on the date on which the Public Body received notification of the proposed increased price from the Contractor;

BEI = Benchmark selected Equipment Price Index applicable to the Works either:

(a) at the bid closing date, or

(b) if the Contract Price has been adjusted previously, the date on which the Public Body received notification from the Contractor in respect of the last adjustment to effect the current Contract Price;

D = The fraction of the Contract Price subject to adjustment in accordance with movements of the Average Fuel Price Index

MFI = The most recently available Average Fuel Price Index on the date on which the Public Body received notification of the proposed increased price from the Contractor;

BFI = Benchmark Average Fuel Price Index applicable to the Works either:

(a) at the bid closing date, or

(b) if the Contract Price has been adjusted previously, the date on which the Public Body received notification from the Contractor in respect of the last adjustment to effect the current Contract Price;

BC = Current Contract Price applicable to the Works

Q = Quantity;

And where:

(a) NV+A+B+C+D are equal to 1.00

62.13 The fraction for each specified element and exact combination of elements that will be applied in the formula for price adjustment shall be determined in the SCC.

62.14 An increase in the Contract Price takes effect as the new Contract Price in relation to the selected category on the first day of the next Payment Period following receipt of an application for increase provided the application is received no later than 14 days prior to the commencement of that Payment Period.

62.15 An increase in the Contract Price takes effect as the new Contract Price in relation to the selected categories of inputs on the expiration of 30 days from the date on which the Public Body receives notification of the increased price from the Contractor, unless another date is agreed in writing between the Parties;

62.16 When the Contractor varies the Contract Price of a Product or Service it

must supply a copy of a revised Pricing Schedule which incorporates the proposed changes in price and specifies the date on which the proposed variation in price is to take effect in accordance with GCC Sub-Clauses 62.14 and 62.15.

62.17 The Contractor shall, when it notifies or requests a price adjustment under GCC Sub-Clause 62.12, provide to the Public Body such Document or other information as the Contractor considers appropriate for the purpose of substantiating the requested price adjustment.

62.18 Where the Public Body questions a price increase notified or requested under GCC Sub-Clause 62.12, and the Contractor is not able, on the basis of the information it provided to the Public Body, to substantiate to the Public Body any, or a part of, the notified or requested price adjustment, the Contract Price shall be increased by only so much as the Contractor is able to substantiate and:

(a) the substantiated increased Contract Price shall take effect as the new Contract Price in relation to the Works as the case may be, on the date referred to in GCC Sub-Clause 62.14 or 62.15 unless another date is agreed in writing between the Parties; and

(b) the Contractor shall, if it has not already done so, supply a suitably revised Pricing Schedule in accordance with the requirements of GCC Sub-Clause 62.16.

62.19 Any discount offered by the Contractor under this Agreement cannot be reduced during the Term of this Contract without the agreement in writing of the Public Body.

63. Valuation of Works

63.1 The following methods shall apply to the valuation of works:

(c) For unit-price (admeasurement) contracts:

(i) The amount due under the contract shall be calculated by applying the unit rates to the quantities actually executed for the respective items, in accordance with the Contract;

(ii) The quantities set out in the bill of quantities shall be the estimated quantities of the works, which shall not be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfillment of his obligations under the Contract;

(iii) The Engineer shall determine by measurement the actual quantities of the works executed by the Contractor, and these shall be paid for in accordance with GCC Clause 64. Unless otherwise provided in the SCC no additions shall be made to the items in the bill of quantities except as a result of a modification in accordance with GCC Clause 15 or another provision of the Contract entitling the Contractor to additional payment;

(iv) The Engineer shall, when he requires any parts of the works to be measured, give reasonable notice to the Contractor to attend, or to

send a qualified agent to represent him. The Contractor or his agent shall assist the Engineer in making such measurements and shall furnish all particulars required by the Engineer. Should the Contractor not attend, or omit to send such agent, the measurement made by the Engineer or approved by him shall be binding on the Contractor;

(d) For lump-sum contracts, the amount due under the Contract shall be determined on the basis of the breakdown of the overall contract price, or on the basis of a breakdown expressed as a percentage of the contract price corresponding to completed stages of the works. Where items are accompanied by quantities, these shall be firm quantities for which the Contractor has submitted his all-in price, and shall be paid for irrespective of the quantities of work actually carried out.

64. Interim Payment

64.1 Unless otherwise specified in the SCC, the Contractor shall submit monthly statement for interim payment to the Engineer at the end of each period referred to in GCC Clause 64.7 in a form approved by the Engineer. The monthly statement shall include the following items, as applicable:

(e) The estimated contract value of the permanent works implemented up to the end of the period in question;

(f) An amount reflecting any price adjustment pursuant to GCC Clause 62;

(g) An amount to be withheld as retention sum under GCC Clause 61;

(h) Any credit and/or debit for the period in question in respect of plant and materials on Site intended for, but not yet incorporated in, the permanent works in the amount and under the conditions set out in GCC Clause 64.2;

(i) An amount to be deducted on account of the advance payment repayment under the provisions of GCC Clause 60; and

(j) Any other sum to which the Contractor may be entitled under the Contract.

64.2 The Contractor shall be entitled to such sums as the Engineer may consider proper in respect of plant and materials intended for, but not yet incorporated in, the permanent works provided that:

(k) The plant and materials conform with the specifications for the permanent works and are set out in batches in a way that they may be recognized by the Engineer;

(l) Such plant and materials have been delivered to the Site, and are properly stored and protected against loss or damage or deterioration to the satisfaction of the Engineer;

(m) The Contractor's record of requirements, orders, receipts and use of plant and materials under the contract are kept in a form approved by the Engineer and such records are available for inspection by the Engineer;

(n) The Contractor submits with his statement, the estimated value of the plant and materials on Site together with such documents as may be required by the Engineer for the purpose of valuation of the plant and materials and providing evidence of ownership and payment therefore; and

(o) Where the SCC so provide, ownership of the plant and materials referred to in GCC Clause 83 shall be deemed to be vested in the Public Body.

64.3 Approval by the Engineer of any interim payment certified by him in respect of plant and materials pursuant to this GCC Clause shall be without prejudice to the exercise of any power of the Engineer under the Contract to reject any plant or materials which are not in accordance with the provisions of the Contract.

64.4 The Contractor shall be responsible for any loss or damage to, and for the cost of storing and handling of, such plant and materials on site and shall effect such additional insurance as may be necessary to cover the risk of such loss or damage from any cause.

64.5 Within 30 days of receipt of the said statement for interim payment, it shall be approved or amended in such manner that, in the Engineer's opinion, the application reflects the amount due to the Contractor in accordance with the Contract. In cases where there is a difference of opinion as to the value of an item, the Engineer's view shall prevail. On determination of the amount due to the Contractor, the Engineer shall, within the same 30 days deadline, issue and transmit to the Public Body for payment and to the Contractor for information, an Interim Payment Certificate for the amount due to the Contractor and shall inform the Contractor of the works for which payment is being made.

64.6 The Engineer may, by an Interim Payment Certificate, make any corrections or modifications to any previous certificate issued by him and shall have power to modify the valuation in or withhold the issue of, any Interim Payment Certificate if the works or any part thereof is not being carried out to his satisfaction.

64.7 Unless the SCC provide otherwise, the frequency shall be one interim payment per month.

65. Final Statement of Account

65.1 Unless otherwise agreed in the SCC, the Contractor shall not later than 90 days after the issue of the Final Acceptance Certificate referred to in GCC Clause 89, submit to the Engineer a draft final statement of account with supporting documents showing in detail the value of the work done in accordance with the Contract, together with all further sums which the Contractor considers to be due to him under the Contract in order to enable the Engineer to prepare the final statement of account.

65.2 Within 60 days after receipt of the draft final statement of account and of all

information reasonably required for its verification, the Engineer shall prepare the final statement of account, which determines:

(p) the amount which in his opinion is finally due under the Contract; and

(q) after establishing the amounts previously paid by the Public Body and all sums to which the Public Body is entitled under the Contract, the balance, if any, due from the Public Body to the Contractor, or from the Contractor to the Public Body, as the case may be.

65.3 The Engineer shall issue to the Public Body or to its duly authorized representative, and to the Contractor, the final statement of account showing the final amount to which the Contractor is entitled under the Contract. The Public Body or its duly authorized representative and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work implemented under the Contract and shall promptly submit a signed copy to the Engineer. However, the final statement of account shall not include amounts in dispute which are the subject of negotiations or amicable settlement.

65.4 The final statement of account signed by the Contractor shall constitute a written discharge of the Public Body confirming that the total in the final statement of account represents full and final settlement of all monies due to the Contractor under the Contract, other than those amounts which are the subject of amicable settlement. However, such discharge shall become effective only after any payment due in accordance with the final statement of account has been made and the performance security referred to in GCC Clause 58 has been returned to the Contractor.

65.5 The Public Body shall not be liable to the Contractor for any matter or thing whatsoever arising out of, or in accordance with, the Contract or execution of the works, unless the Contractor shall have included a claim in respect thereof in his draft final statement of account.

66. Direct Payments to Sub-Contractors

66.1 When the Engineer receives a claim from a Sub-Contractor duly approved under GCC Clause 14 to the effect that the Contractor has not met his financial obligations so far as the Sub-Contractor is concerned, the Engineer shall give notice to the Contractor either to pay the Sub-Contractor or to inform him of the reasons why payment should not be made. Should such payment not be made, or reasons not be given within the period of notice, the Engineer may, after satisfying himself that the work has been carried out, certify, and the Public Body shall meet the debt claimed by the Sub-Contractor out of the sums remaining due to the Contractor. The Contractor shall remain entirely responsible for the work in respect of which direct payment has been made.

66.2 If the Contractor gives adequate reasons for refusing to meet all or part of the debt claimed by the Sub-Contractor, the Public Body shall only pay to the Sub-Contractor such sums as are not in dispute. Sums claimed by the Sub-Contractor in respect of which the Contractor has given adequate reasons

for his refusal to pay shall be paid by the Public Body only after the parties have come to an amicable settlement or after a judgment of a court has been duly notified to the Engineer.

66.3 Direct payments to Sub-Contractors shall not exceed the value at contract prices of the services performed by the Sub-Contractors for which they request payment; the value at contract prices shall be calculated or assessed on the basis of the bill of quantities, the price schedule or the breakdown of the lump sum price.

66.4 Direct payments to Sub-Contractors shall be made entirely in the currency specified in SCC Clause 59.1.

66.5 The provisions of this GCC Clause shall apply subject to the requirements of the law applicable by virtue of GCC Clause 68 concerning the right to payment of creditors who are beneficiaries of an assignment of credit or of a collateral security.

67. Delayed Payments

67.1 Once the time-limit referred to in GCC Clause 59.3 has expired, the Contractor – unless the Contractor is a public body which is partly or wholly financed by the Federal Government Budget – shall upon demand, submitted within two months of receiving late payment, be entitled to late-payment interest at the rediscount rate applied by the National bank of Ethiopia on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the Public Body's account is debited. .

67.2 Any default in payment of more than 120 days from the expiry of the period laid down in GCC Clause 67.1 shall entitle the Contractor either not to perform the Contract or to terminate it.

68. Payments to Third Parties

68.1 All orders for payments to third parties may be carried out only after an assignment made in accordance with GCC Clause 13. The assignment shall be notified to the Public Body.

68.2 Notification of beneficiaries of the assignment shall be the sole responsibility of the Contractor.

68.3 In the event of a legally binding attachment of the property of the Contractor affecting payments due to him under the contract, without prejudice to the time limit laid down in GCC Clause 67, the Public Body shall have 30 days, starting from the day when it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the Contractor.

69. Claims for Additional Payment

69.1 If under the Contract there are circumstances which the Contractor

considers entitle him to additional payment, the Contractor shall:

(r) if he intends to make any claim for additional payment, give to the Engineer notice of his intention or make such claim within 15 days after the said circumstances become known to the Contractor, stating the reason for his claim; and

(s) submit full and detailed particulars of his claim as soon as it is reasonably practicable, but no later than 60 days after the date of such notice, unless otherwise agreed by the Engineer. In case the Engineer agrees to another deadline than the said 60 days, the agreed upon deadline will in any event, require that such particulars shall be submitted no later than the date of submission of the draft final statement of account. The Contractor shall thereafter promptly submit such further particulars as the Engineer may reasonably require assessing the validity of the claim.

69.2 When the Engineer has received the full and detailed particulars of the Contractor's claim that he requires, he shall, without prejudice to GCC Clause 44.4, after due consultation with the Public Body and, where appropriate, the Contractor, determine whether the Contractor is entitled to additional payment and notify the parties accordingly.

69.3 The Engineer may reject any claim for additional payment which does not comply with the requirements of this GCC Clause.

F. Performance of the Contract

70. Scope of Works

70.1 Subject to the SCC, the Works to be carried out shall be as specified in the Section 6, Schedule of Requirements.

70.2 The Contractor shall construct and install the Works at sites and locations as are specified in the SCC in accordance with the Specifications and Drawings or as agreed by the Parties in writing.

71. Commencement of Works

71.1 The Public Body shall fix the Start Date on which execution of the Works is to commence in the SCC or by administrative order issued by the Engineer.

71.2 The Start Date for commencing execution of the Works shall be not later than 120 days following notification of award of contract unless agreed otherwise by the parties.

72. Period of Execution of Works

72.1 The period of execution of Works shall commence on the Start Date fixed in accordance with GCC Clause 71.1 and shall be as laid down in the SCC, without prejudice to extensions of the period which may be granted under GCC Clause 73.

72.2 The Contractor shall carry out the Works in accordance with the Program of implementation of tasks submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.

72.3 If provision is made for distinct periods of implementation for separate lots, in cases where one Contractor is awarded more than one lot per contract, the periods of implementation for the separate lots will not be accumulated.

73. Extension of Intended Completion Date

73.1 The Contractor may request an extension of the Intended Completion Date if he is or will be delayed in completing the contract by any of the following causes:

(t) Exceptional weather conditions in the Federal Democratic Republic of Ethiopia;

(u) Artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor;

(v) Compensation Event occurs or a change order for modification is issued which makes it impossible for completion to be achieved by the Intended Completion Date;

(w) Administrative orders affecting the date of completion other than those arising from the Contractor's default;

(x) Failure of the Public Body to fulfill his obligations under the Contract;

(y) Any suspension of the works which is not due to the Contractor's default;

(z) Force majeure;

(aa) Any other causes referred to in these GCC which are not due to the Contractor's default.

73.2 The Contractor shall, within 15 days of becoming aware that delay may occur, notify the Engineer of his intention to make a request for extension of the Intended Completion Date to which he may consider himself entitled, and shall, unless otherwise agreed between the Contractor and the Engineer, within 21 days from the notification deliver to the Engineer full and detailed particulars of the request, in order that such request may be investigated at the time.

73.3 Within 21 days from receipt of the Contractor's detailed particulars of the request, the Engineer shall, by written notice to the Contractor after due consultation with the Public Body and, where appropriate, the Contractor, grant such extension of the Intended Completion Date as may be justified, either prospectively or retrospectively, or inform the Contractor that he is not entitled to an extension.

73.4 If the Contractor has failed to give early notification of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

74. Compensation Events for Allowing Time Extension

74.1 The following shall be Compensation Events allowing for time extension:

(bb) The Public Body does not give access to a part of the Site by the Site Possession Date stated in the Contractor's approved work program;

(cc) The Public Body modifies the Schedule of other Contractors in a way that affects the work of the Contractor under the Contract;

(dd) The Engineer orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time;

(ee) The Engineer instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects;

(ff) The Engineer unreasonably does not approve a subcontract to be let;

(gg) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Public Body, or additional work required for safety or other reasons.

(hh) Other Contractors, public authorities, utilities, or the Public Body do not work within the dates and other constraints stated in the Contract, and they cause delay;

(ii) The advance payment is delayed;

(jj) The Engineer unreasonably delays issuing Interim Payment Certificates;

(kk) Other Compensation Events described in the SCC or determined by the Public Body and force majeure.

74.2 If a Compensation Event would prevent the work being completed before the Intended Completion Date, the Intended Completion Date shall be extended. The Engineer shall decide whether and by how much the Intended Completion Date shall be extended.

74.3 The Contractor shall not be entitled to compensation to the extent that the Public Body's interests are adversely affected by the Contractor not having given early warning.

75. Acceleration

75.1 When the Public Body wants the Contractor to finish before the Intended Completion Date, the Engineer will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Public Body accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Public Body and the Contractor.

75.2 If the Contractor's priced proposals for acceleration are accepted by the Public Body, they are incorporated in the Contract Price and treated as a modification.

76. Management Meetings

76.1 Either the Engineer or the Contractor may require the other to attend a

formal management meeting, to discuss the Public Body's levels of satisfaction in respect of the Works carried out under the Contract, to review the plans for remaining work, and to agree any necessary action to address areas of dissatisfaction. The Contractor will not obstruct or withhold its agreement to any such necessary action. Such meetings shall be attended by duly authorized and sufficiently senior employees of both the Public Body and the Contractor together with any other relevant attendees. The Parties shall agree a standing agenda for such Reviews.

76.2 The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Public Body. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

77. Early Warning

77.1 The Contractor shall warn the Engineer at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work increase the Contract Price or delay the execution of the Works. The Engineer may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

77.2 The Contractor shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Engineer.

78. Delays in Implementation of Tasks

78.1 If the Contractor fails to complete the works within the time period(s) specified in the Contract the Public Body shall, without formal notice and without prejudice to his other remedies under the contract be entitled to liquidated damages for every day or part thereof which shall elapse between the end of the period specified for implementation of tasks or extended Intended Completion Date under GCC Clause 72 and the actual date of completion, at the rate and up to the maximum amount specified in the GCC Clause 27. If the works have been the subject of partial acceptance in accordance with GCC Clause 86, the liquidated damages specified in the GCC Clause 27 may be reduced in the proportion which the value of the accepted part bears to the value of the whole of the works.

78.2 If the Public Body has become entitled to the maximum claim under GCC Clause 78.1 he may, after giving notice to the Contractor:

(ll) Seize the performance guarantee; and /or

(mm) Terminate the contract; and

(nn) Enter into a contract with a third party at the Contractor's cost for the

provision of the balance of the works.

79. Work Register

79.1 A work register shall, unless otherwise provided by the SCC, be kept on the site by the Engineer, who shall enter in it at least the following information:

(oo) the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workmen employed on the site, materials supplied, equipment in use, equipment not in working order, tests carried out, samples dispatched, unforeseen circumstances, as well as orders given to the Contractor;

(pp) detailed statements of all the quantitative and qualitative elements of the work done and the supplies delivered and used, capable of being checked on the Site and relevant in calculating payments to be made to the Contractor.

79.2 The statements shall form an integral part of the work register but may, where appropriate, be recorded in separate documents. The technical rules for drawing up the statements shall be as set out in the SCC.

79.3 The Contractor shall ensure that statements are drawn up, in good time and in accordance with the SCC, in respect of work, services and supplies which cannot be measured or verified subsequently; failing this, he shall accept the decisions of the Engineer, unless, at his own expense, he provides evidence to the contrary.

79.4 Entries made in the work register as work progresses shall be signed by the Engineer and countersigned by the Contractor or his representative. If the Contractor objects, he shall communicate his views to the Engineer within 15 days following the date on which the entry or the statements objected to be recorded. Should Contractor fail to countersign or to submit his views within the period allowed, the Contractor shall be deemed to agree with the notes shown in the register. The Contractor may examine the work register at any time and may, without removing the document, make or receive a copy of entries which he considers necessary for his own information.

79.5 The Contractor shall, on request, provide the Engineer with the information needed to keep the work register in good order.

80. Origin and Quality of Works and Materials

80.1 All goods purchased under the contract shall have their origin in any eligible source country as defined in the Section 5 of the Bidding Documents.

80.2 The works, components and materials shall conform to the specifications, drawings, surveys, models, samples, patterns and other requirements in the SCC which shall be held at the disposal of the Public Body or the Engineer for the purposes of identification throughout the period of performance.

80.3 Any preliminary technical acceptance stipulated in the SCC shall be the subject of a request sent by the Contractor to the Engineer. The request

shall indicate the reference to the contract, the lot number and the place where such acceptance is to take place, as appropriate. The components and materials specified in the request must be certified by the Engineer as meeting the requirements for such acceptance prior to their incorporation in the works.

80.4 Even if materials or items to be incorporated in the works or in the manufacture of components have been technically accepted in this way, they may still be rejected and must be replaced immediately by the Contractor if a further examination reveals defects or faults. The Contractor may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the works only if they have been repaired and made good to the satisfaction of the Engineer.

81. Inspection and Testing

81.1 The Contractor shall ensure that the components and materials are delivered to the site in time to allow the Engineer to proceed with acceptance of the components and materials. The Contractor is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay in fulfilling his obligations.

81.2 The Engineer shall be entitled, either by himself or his agent, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or on the site or at such other places as may be specified in the contract.

81.3 For the purposes of such tests and inspections, the Contractor shall:

(qq) provide to the Engineer, temporarily and free of charge, such assistance, test samples, parts, machines, equipment, tools or materials and labor as are normally required for inspection and testing;

(rr) agree, with the Engineer, on the time and place for tests;

(ss) provide access for the Engineer at all reasonable times to the place where the tests are to be carried out.

81.4 If the Engineer is not present on the date agreed for tests, the Contractor may, unless otherwise instructed by the Engineer, proceed with the tests, which shall be deemed to have been made in the Engineer's presence. The Contractor shall forthwith forward duly certified copies of the test results to the Engineer, who shall, if he has not attended the test, be bound by the test results.

81.5 When components and materials have passed the tests referred to in this GCC Clause, the Engineer shall notify the Contractor or endorse the

procedure's certificate to that effect.

81.6 If the Engineer and the Contractor disagree on the test results, each shall give a statement of his views to the other within 15 days after such disagreement arises. The Engineer or the Contractor may require such tests to be repeated on the same terms and conditions or, if either party so requests, by an expert to be selected by common consent. All test reports shall be submitted to the Engineer who shall communicate the results of these tests without delay to the Contractor. The results of the re-testing shall be conclusive. The cost of the re-testing shall be borne by the party whose views are proved wrong by the re-testing.

81.7 In the performance of his duties, the Engineer and all persons authorized by him shall disclose only to those persons who are entitled to know of it information which he has obtained by reason of his inspection and testing of the methods of manufacture and operation of the undertaking.

82. Rejection

82.1 Components and materials which are not of the specified quality shall be rejected. A special mark may be applied to the rejected components or materials. This shall not be such as to alter them or affect their commercial value. Rejected components and materials shall be removed by the Contractor from the site within a period which the Engineer shall specify, failing which they shall be removed by the Engineer as of right at the expense and risk of the Contractor. Any work incorporating rejected components or materials shall be rejected.

82.2 The Engineer shall, during the progress of the works and before the works are taken over, have the power to order or decide:

(tt) the removal from the Site, within such time limits as may be specified in the order, of any components or materials which, in the opinion of the Engineer, are not in accordance with the contract;

(uu) the substitution of proper and suitable components or materials; or

(vv) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefore, of any work which, in respect of components, materials, workmanship or design by the Contractor for which he is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

82.3 The Engineer shall, as soon as reasonably practicable, give to the Contractor notice in writing of his decision specifying particulars of the alleged defects.

82.4 The Contractor shall with all speed and at his expense make good the defects so specified. If the Contractor does not comply with such order, the Public Body shall be entitled to employ other persons to carry out the same and all expenses consequent thereon or incidental thereto may be deducted by the Public Body from any monies due or which may become due to the Contractor.

82.5 The provisions of this GCC Clause shall not affect the right of the Public

Body to claim under GCC Clauses 19 and 78.

83. Ownership of Plant and Materials

83.1 All equipment, temporary works, plant and materials provided by the Contractor shall, when brought on the Site, be deemed to be exclusively intended for the execution of the works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the site to another, without the consent of the Engineer. Such consent shall, however, not be required for vehicles engaged in transporting any staff, labor, equipment, temporary works, plant or materials to or from the Site.

83.2 The SCC may provide that all equipment, temporary works, plant and materials on Site owned by the Contractor or by any company in which the Contractor has a controlling interest shall, for the duration of the execution of the works, be:

(ww) vested in the Public Body; or

(xx) made subject to a lien in favor of the Public Body; or

(yy) made subject to any other arrangement regarding priority interest or security.

83.3 In the event of termination of the contract in accordance with GCC Clause 21 due to the Contractor's breach of Contract, the Public Body shall be entitled to use the equipment, temporary works, plant and materials on Site in order to complete the works.

83.4 Any agreement for the hire by the Contractor of equipment, temporary works, plant and materials brought onto the Site, shall contain a provision that on request in writing made by the Public Body within 7 days after the date on which the termination under GCC Clause 21 becomes effective, and on the Public Body undertaking to pay all hire charges in respect thereof from such date, the owner thereof will hire such equipment, temporary works, plant or materials to the Public Body on the same terms as they were hired by the Contractor, except that the Public Body shall be entitled to permit the use thereof by any other Contractor employed by him for completing the works under the provisions of GCC Clause 21.5.

83.5 Upon termination of the contract before completion of the works, the Contractor shall deliver to the Public Body any plant, temporary works, equipment or materials the property in which has vested in the Public Body or been made subject to a lien by virtue of GCC Clause 83.2. If he fails to do so, the Public Body may take such appropriate action as it deems fit in order to obtain possession of such plant, temporary works, equipment and materials and recover the cost of so doing from the Contractor.

G. Acceptance and Defects Liability

84. General Principles

84.1 Verification of the works by the Engineer with a view to provisional or final acceptance shall take place in the presence of the Contractor. The absence of the Contractor shall not be a bar to verification on condition that the Contractor has been summoned in due form at least 30 days prior to the date of verification.

84.2 Should exceptional circumstances make it impossible to ascertain the state of the works or otherwise proceed with their acceptance during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the Engineer after consultation, where possible, with the Contractor. The verification shall take place and a statement of acceptance or rejection shall be drawn up by the Engineer within 30 days following the date on which such impossibility ceases to exist. The Contractor shall not invoke these circumstances in order to avoid his obligation to present the works in a state suitable for acceptance.

85. Tests on Completion

85.1 The works shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Contractor. The Contractor shall notify the Engineer of the date on which such verification and tests may commence.

85.2 Works which do not satisfy the terms and conditions of the Contract, or in the absence of such terms and conditions, which are not carried out in accordance with trade practices in the Federal Democratic Republic of Ethiopia, shall, if required, be demolished and rebuilt by the Contractor or repaired to the satisfaction of the Engineer, otherwise this shall be done as of right after due notice at the expense of the Contractor, by order of the Engineer. The Engineer may also require the demolition and reconstruction by the Contractor, or repair to the satisfaction of the Engineer, under the same conditions of work, in which unacceptable materials have been used, or carried out in the periods of suspension provided for in GCC Clause 20.

86. Partial Acceptance

86.1 The Public Body may make use of the various structures, parts of structures or sections of the works forming part of the contract as and when they are completed. Any taking over of the structures, parts of structures or sections of the works by the Public Body shall be preceded by their partial provisional acceptance. However, works may in cases of urgency be taken over prior to acceptance provided an inventory of outstanding work is drawn up by the Engineer and agreed to by the Contractor and the Engineer beforehand. Once the Public Body has taken possession of a structure, a part thereof or section of the works, the Contractor shall no longer be required to make good any damage resulting otherwise than from faulty construction or workmanship.

86.2 The Engineer may, at the request of the Contractor and if the nature of the works so permits proceeds with partial provisional acceptance, provided that the structures, parts of structures or sections of the works are completed and suited to the use as described in the Contract.

86.3 In the cases of partial provisional acceptance referred to in GCC Sub-Clauses 86.1 and 86.2 the Defects Liability Period provided for in GCC Clause 88 shall, unless the SCC provide otherwise, run as from the date of such partial provisional acceptance.

87. Provisional Acceptance

87.1 The works shall be taken over by the Public Body when they have satisfactorily passed the tests on completion and a certificate of provisional acceptance has been issued or is deemed to have been issued.

87.2 The Contractor may apply, by notice to the Engineer, for a certificate of provisional acceptance not earlier than 15 days before the works, in the Contractor's opinion, are complete and ready for provisional acceptance. The Engineer shall within 30 days after the receipt of the Contractor's application either:

(zz) issue the certificate of provisional acceptance to the Contractor with a copy to the Public Body stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the works were completed in accordance with the Contract and ready for provisional acceptance; or

(aaa) reject the application giving his reasons and specifying the action which, in his opinion, is required of the Contractor for the certificate to be issued.

87.3 If the Engineer fails either to issue the certificate of provisional acceptance or to reject the Contractor's application within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period. The certificate of provisional acceptance shall not be deemed to be an admission that the works have been completed in every respect. If the works are divided by the contract into sections, the Contractor shall be entitled to apply for separate certificates for each of the sections.

87.4 Upon provisional acceptance of the works, the Contractor shall dismantle and remove temporary structures as well as materials no longer required for use in connection with the performance of the contract. He shall also remove any litter or obstruction and redress any change in the condition of the Site as required by the contract.

87.5 Immediately after provisional acceptance, the Public Body may make use of all the works as completed.

88. Defects Liability

88.1 The Contractor shall be responsible for making good any defect in, or

damage to, any part of the works which may appear or occur during the Defects Liability Period and which arises either from:

(bbb) the use of defective plant or materials or faulty workmanship or design of the Contractor; and/or

(ccc) any act or omission of the Contractor during the Defects Liability Period.

88.2 The Contractor shall at his own cost make good the defect or damage as soon as practicable. The Defects Liability Period for all items replaced or renewed shall recommence from the date when the replacement or renewal was made to the satisfaction of the Engineer. If the contract provides for partial acceptance, the Defects Liability Period shall be extended only for the part of the works affected by the replacement or renewal.

88.3 If any such defect appears or such damage occurs, during the period referred to in GCC Clause 88.1, the Public Body or the Engineer shall notify the Contractor. If the Contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the Public Body may:

(ddd) carry out the works himself, or employ someone else to carry out the works, at the Contractor's risk and cost, in which case the costs incurred by the Public Body shall be deducted from monies due to or from securities held against the Contractor or from both; or

(eee) terminate the Contract.

88.4 If the defect or damage is such that the Public Body has been deprived substantially of the whole or a part of the benefit of the works, the Public Body shall, without prejudice to any other remedy, be entitled to recover all sums paid in respect of the parts of the works concerned together with the cost of dismantling such parts and clearing the Site.

88.5 In case of emergency, where the Contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the Public Body or the Engineer may have the work carried out at the expense of the Contractor. The Public Body or the Engineer shall as soon as practicable inform the Contractor of the action taken.

88.6 Where the SCC stipulates that the maintenance work, necessitated by normal wear and tear, shall be carried out by the Contractor, such work shall be paid for from a provisional sum. Deterioration resulting from the circumstances provided for in GCC Clause 44 or from abnormal use shall be excluded from this obligation unless it reveals a fault or defect justifying the request for repair or replacement under GCC Clause 88.

88.7 The defects liability shall be stipulated in the SCC. If the duration of the Defects Liability Period is not specified, it shall be 365 days. The Defects Liability Period shall commence on the date of provisional acceptance.

88.8 After provisional acceptance and without prejudice to the defects liability referred to in this GCC Clause, the Contractor shall no longer be responsible for risks which may affect the works and which result from causes not attributable to him. However, the Contractor shall be responsible as from the

date of provisional acceptance for the soundness of the construction, as laid down in the in the Ethiopian law.

89. Final Acceptance

89.1 Upon the expiry of the Defects Liability Period, or where there is more than one such period, upon the expiry of the latest period, and when all defects or damage have been rectified, the Engineer shall issue to the Contractor a Final Acceptance Certificate and a copy thereof to the Public Body stating the date on which the Contractor completed his obligations under the Contract to the Engineer's satisfaction. The Final Acceptance Certificate shall be given by the Engineer within 30 days after the expiration of the above stated period, or as soon as any works ordered under GCC Clause 88 have been completed to the satisfaction of the Engineer.

89.2 The works shall not be considered as completed until the Final Acceptance Certificate has been signed by the Engineer and delivered to the Public Body, with a copy to the Contractor.

89.3 Notwithstanding the issue of the Final Acceptance Certificate, the Contractor and the Public Body shall remain liable for the fulfillment of any obligation incurred under the contract prior to the issue of the Final Acceptance Certificate, which remains unperformed at the time such Final Acceptance Certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

Section 8. Special Conditions of Contract

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F.	**Performance of the Contract**	**7**
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8

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<table>
<tr><th>GCC Clause Reference</th><th>Section 8. Special Conditions of Contract</th></tr>
<tr><td></td><td>A. General Provisions</td></tr>
<tr><td></td><td>Procurement Reference Number is:</td></tr>
<tr><td>GCC 1.2(dd)</td><td>The Public Body is:</td></tr>
<tr><td>GCC 1.2 (g)</td><td>The Contractor is:</td></tr>
<tr><td></td><td>B. The Contract</td></tr>
<tr><td>GCC 7.1 (i)</td><td>In addition to documents listed in GCC Clause 7.1 the following documents shall form the Contract:</td></tr>
<tr><td>GCC 8.1</td><td>The governing law shall be</td></tr>
<tr><td>GCC 9.1</td><td>Language of the Contract shall be .</td></tr>
<tr><td>GCC 10.2</td><td>For <u>notices</u>, the Public Body’s address shall be:
<table>
<tr><td>Public Body:</td><td></td></tr>
<tr><td>Attention:</td><td></td></tr>
<tr><td>Floor/Room number:</td><td></td></tr>
<tr><td>P.O. Box:</td><td></td></tr>
<tr><td>Street Address:</td><td></td></tr>
<tr><td>Town/City:</td><td></td></tr>
<tr><td>Post Code:</td><td></td></tr>
<tr><td>Country:</td><td>Ethiopia</td></tr>
<tr><td>Telephone:</td><td></td></tr>
<tr><td>Facsimile:</td><td></td></tr>
<tr><td>E-mail address</td><td></td></tr>
</table>
For <u>notices</u>, the Contractor’s address shall be:
<table>
<tr><td>Contractor:</td><td></td></tr>
<tr><td>Attention:</td><td></td></tr>
<tr><td>Floor/Room number:</td><td></td></tr>
<tr><td>P.O. Box:</td><td></td></tr>
<tr><td>Street Address:</td><td></td></tr>
<tr><td>Town/City:</td><td></td></tr>
<tr><td>Post Code:</td><td></td></tr>
</table></td></tr>
</table>

<table>
<tr><th>GCC Clause Reference</th><th>Section 8. Special Conditions of Contract</th></tr>
<tr><td></td><td>
<table>
<tr><td>Country:</td><td>Ethiopia</td></tr>
<tr><td>Telephone:</td><td></td></tr>
<tr><td>Facsimile:</td><td></td></tr>
<tr><td>E-mail address</td><td></td></tr>
</table>
</td></tr>
<tr><td>GCC 11.1</td><td>The Member in Charge is [insert name of member]}</td></tr>
<tr><td>GCC 12.1</td><td>The Public Body’s Engineer shall be:
<table>
<tr><td>Engineer:</td><td>authorized representative</td></tr>
<tr><td>P.O. Box:</td><td></td></tr>
<tr><td>Street Address:</td><td></td></tr>
<tr><td>Town/City:</td><td></td></tr>
<tr><td>Post Code:</td><td></td></tr>
<tr><td>Country:</td><td>Ethiopia</td></tr>
<tr><td>Telephone:</td><td></td></tr>
<tr><td>Facsimile:</td><td></td></tr>
<tr><td>E-mail address</td><td></td></tr>
</table>
The Contractor’s authorized officer shall be:
<table>
<tr><td>Authorized Officer:</td><td>authorized representative</td></tr>
<tr><td>P.O. Box:</td><td></td></tr>
<tr><td>Street Address:</td><td></td></tr>
<tr><td>Town/City:</td><td></td></tr>
<tr><td>Post Code:</td><td></td></tr>
<tr><td>Country:</td><td>Ethiopia</td></tr>
<tr><td>Telephone:</td><td></td></tr>
<tr><td>Facsimile:</td><td></td></tr>
<tr><td>E-mail address</td><td></td></tr>
</table>
</td></tr>
<tr><td>GCC 16.1</td><td>In case of change of laws and regulation after the deadline for submission of the Bid Contract Price be correspondingly increased or decreased and/or the Delivery Date be reasonably adjusted to the extent that Contractor has thereby been affected in the performance of any of its obligations under the Contract.</td></tr>
<tr><td>GCC 17.1</td><td>The Contractor, Sub-Contractors, and their Personnel :
(i) ☐ Shall not be exempted from duties and indirect taxes levied by the Federal Democratic Republic of Ethiopia, or
(ii) ☐ Shall be exempted from duties and indirect taxes levied by the Federal Democratic Republic of Ethiopia, or
(iii) ☐ Shall be reimbursed by the Public Body for any such</td></tr>
</table>

GCC Clause Reference	Section 8. Special Conditions of Contract
	duties and indirect taxes levied by the Federal Democratic Republic of Ethiopia they might have to pay (or that the Public Body would pay such levies on behalf of the Contractor and the Personnel). The Public Body warrants that the Contractor, the Sub-Contractors and the Personnel shall be exempt from (or that the Public Body shall pay on behalf of the Contractor, the Sub-Contractors and the Personnel, or shall reimburse the Contractor, the Sub-Contractors and the Personnel for) any indirect taxes, duties, fees, levies and other impositions imposed, under the Applicable Law, on the Contractor, the Sub-Contractors and the Personnel in respect of: (a). any payments whatsoever made to the Contractor, Sub-Contractors and the Personnel (other than nationals or permanent residents of the Federal Democratic Republic of Ethiopia), in connection with the carrying out of the Works; (b). any equipment, materials and supplies brought into the Federal Democratic Republic of Ethiopia by the Contractor or Sub-Contractors for the purpose of carrying out the Works and which, after having been brought into such territories, will be subsequently withdrawn there from by them; (c). any equipment imported for the purpose of carrying out the Works and paid for out of funds provided by the Public Body and which is treated as property of the Public Body; (d). any property brought into the Federal Democratic Republic of Ethiopia by the Contractor, any Sub-Contractors or the Personnel (other than nationals or permanent residents of the Federal Democratic Republic of Ethiopia), or the eligible dependents of such Personnel for their personal use and which will subsequently be withdrawn there from by them upon their respective departure from the Federal Democratic Republic of Ethiopia, provided that: (i) the Contractor, Sub-Contractors and Personnel, and their eligible dependents, shall follow the usual customs procedures of the Federal Democratic Republic of Ethiopia in importing property into the Federal Democratic Republic of Ethiopia; and (ii) if the Contractor, Sub-Contractors or Personnel, or their eligible dependents, do not withdraw but dispose of any property in the Federal Democratic Republic of Ethiopia upon which customs duties and taxes have been exempted, the Contractor, Sub-Contractors or Personnel, as the case may be, (i) shall bear such

GCC Clause Reference	Section 8. Special Conditions of Contract
	customs duties and taxes in conformity with the regulations of the Federal Democratic Republic of Ethiopia, or (ii) shall reimburse them to the Public Body if they were paid by the Public Body at the time the property in question was brought into the Federal Democratic Republic of Ethiopia
GCC 22.1	The percentage to apply to the value of the work not completed, representing the public Body's additional cost for completing the Works, is .
	C. Obligations of the Public Body
GCC 30.2	The Public Body shall provide the following further assistance to the Contractor:
GCC 30.3	The documents to be provided by the Public Body and the Engineer are the following:
	D. Obligations of the Contractor
GCC 34.5(b)	The Public Body's prior approval is also required for:
GCC 38.3	The Schedule of Key Personnel to carry out the functions stated in the Schedule of Requirements is the following:
GCC 39.2 (b)	The amount of aggregate liability shall be:
GCC 40.1	The minimum insurance cover and deductibles shall be: (fff) The minimum cover for insurance of the Works, Plant and Materials is (ggg) The maximum deductible for insurance of the Works, Plant and Materials is (hhh) The minimum cover for insurance of Equipment is (iii) The maximum deductible for insurance of Equipment is . (jjj) The minimum cover for insurance of property is (f) (kkk) The maximum deductible for insurance of property is (lll) The minimum cover for personal injury or death insurance is with no deductible
GCC 40.3	The amount of insurance covering liability with regard to risks and civil liability insurance shall be: (i) ☐ Unlimited ; or (ii) ☐ Limited .

GCC Clause Reference	Section 8. Special Conditions of Contract
GCC 41.1	The Contractor shall submit a Program of implementation of the tasks within days of delivery of the Notice of Acceptance. The specific requirements of the Program of implementation of tasks are the following:
GCC 41.4	The period between Program updates is days. The amount to be withheld for late submission of an updated Program is .
GCC 47.1	
GCC 47.2	
GCC 50.1	
GCC 50.4	
GCC 52.5	
GCC 53.1	
GCC 55.1	
GCC 58.1	The amount of the Performance Security shall be:
GCC 58.4	The types of acceptable Performance Securities are: Public Body. The currency shall be: .
GCC 58.8	Discharge of the Performance Security shall take place:
	E. Payments to the Contractor
GCC 59.1	All payment to the Contractor under this Contract shall be made in .
GCC 60.1	Advance payment granted to the Contractor, at his request.
GCC 60.2	The amount of the advance payment shall be: [
GCC 60.9	The following provisions shall apply to the advance payment and the advance payment security: (mmm) An Advance Payment Security shall be required. (nnn) An advance payment shall be made within days after the Effective Date. The advance payment will be set off by the

GCC Clause Reference	Section 8. Special Conditions of Contract
	Public Body in equal installments against the statements for the first months of the Works until the advance payment has been fully set off. (ooo) The Advance Payment Security shall be in the amount and in the currency of the currency portion of the advance payment. (ppp) The repayment of the advance payments shall take the form of deductions based on the monthly claims (i) The advance payment (maximum of 30%) shall be repaid by means of deductions from the installments and, if necessary, the balance due to the Contractor. This repayment shall begin with the first installment and be completed, at the very latest; by the time 80% of the amount of the contract has been paid. Repayment shall be made in the same currency as the advance payment. The amount to be deducted from each installment shall be calculated using the following formula: $R = \frac{Va \times D}{Vt \times 0.8}$ where: R = the amount to be repaid Va = the total amount of the advance payment Vt = the initial contract amount D = the amount of the installment. The result is rounded up to two decimal places.
GCC 61.1	
GCC 62.7, 62.13	The fraction for each specified element and exact combination of elements that will be applied in the formula for price adjustment shall be. as follows:
GCC 63.1	The following methods shall apply to the valuation of works: (i) ☐ The amounts due in case of unit-price contract shall be determined' as follows: (ii) ☐ The amounts due in case of lump sum contract shall be determined' as follows:
GCC 64.1	Arrangements for interim payments shall be the following:
GCC 64.2(e)	Ownership of the plant and materials referred to in GCC Clause 83 be deemed to be vested in the Public Body.
GCC 64.7	The frequency of interim payment shall be:

GCC Clause Reference	Section 8. Special Conditions of Contract
GCC 65.1	The draft Final Statement of Account shall be submitted at the latest at the moment of the Contractor's application for the provisional acceptance certificate.
GCC 65.2	The Engineer shall prepare and sign the Final Statement of Account within 30 days from the issue of the certificate of final acceptance referred to in GCC Clause 89.

	F. Performance of the Contract
GCC 70.1	The Scope of Works shall be defined in:
GCC 70.2	The Contractor shall carry out the Works at following Sites: . Sites are located at and are defined in Drawings No. .
GCC 71.1	The Start Date shall be
GCC 72.1	The Intended Completion Date for the whole of the Works shall be .
GCC 74.1(j)	The following events shall also be Compensation Events:
GCC 79.1	The work register shall be: (ii) ☐ Required ; or (iii) ☐ Not required.
GCC 79.2	The technical rules for drawing up the statements shall be:
GCC 80.2	The works, components, equipment and materials used in their construction must comply with: (a) The following specifications ; (b) The requirements of
GCC 80.3	
GCC 81	
GCC 83.2	
	G. Acceptance and Defects Liability
GCC 86.3	
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GCC 88.6	
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Section 9. Contract Forms

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A. Contract Agreement

for the Procurement of Temporary Toilet

Supplementary Agreement

Procurement Reference No:

This Contract Agreement is made on the day **24th October 23, 2013** ,

BETWEEN Dire Dawa University and having its principal place of business Dire Dawa (hereinafter called the "Public Body"), **And Assefa Sema Building Contractor** a corporation incorporated under the laws of and having its principal place of business at Addis Ababa (hereinafter called the "Contractor"), of the other part

WHEREAS

(a) The Public Body invited **Construction of temporary Toilet** (hereinafter called the "Works"), and has accepted a **Supplementary work to the main contract of Work shop building construction** by the Contractor for the provision of those Works in the sum of **391,167.90 (Three Hundred ninty one thousand one hundred sixty seven birr and 90/100)** including 15% vat (hereinafter called "the Contract Price") in the manner and on the terms described herein

(b) The Contractor having represented to the Public Body that it has the required skills, personnel and technical resources, has agreed to carry out the Works on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The Agreement

1.1 In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.

1.2 All documents for the **Workshop building (main contract)** shall constitute the Contract between the Public Body and the Contractor, and each shall be read and construed as an integral part of the Contract:

1.3 This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.

1.4 In consideration of the payments to be made by the Public Body to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Public Body to carry out the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

1.5 The Public Body hereby covenants to pay the Contractor in consideration of the provision of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

1.6 This Contract is **Lump sum contact** and the payment for the specified work will be paid as the order of the Engineer.

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.

SIGNED for and on behalf of **Dire Dawa University**	**WITNESS** to signature on behalf of **Dire DAwa University**
Signature: : _____	**Signature: :** _____
Name: : _____	**Name:** _____
Position: : _____	**Position: Engineering Unit head**
Date: 24th oct, 2013	**Date: 24th oct, 2013**
SIGNED for and on behalf of **of Assefa Sema Building Contractor**	**WITNESS** to signature on behalf **of Assefa Sema Building Contractor**
Signature: : _____	**Signature: :** _____
Name: : _____	**Name: :** _____
Position: Project Manager	**Position: :** _____
Date: 24th oct, 2013	**Date: 24th oct, 2013**

B. Performance Security (Bank Guarantee)

Date:
Procurement Reference No:

To:

WHEREAS (hereinafter "the Contractor") has undertaken, pursuant to Contract No. dated , to supply (hereinafter "the Contract").

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Contractor shall furnish you with a security issued by a reputable guarantor for the sum specified therein as security for compliance with the Contractor's performance obligations in accordance with the Contract.

AND WHEREAS the undersigned , legally domiciled in [insert complete address of Guarantor], (hereinafter the" Guarantor"), have agreed to give the Contractor a security:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums within the limits of as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This security is valid until the day of , .

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No 458.

Name:
In the capacity of

Signed:

Duly authorized to sign the Security for and on behalf of:
Dated on _____ day of _____, _____

C. Advance Payment Security (Bank Guarantee)

Date:
Procurement Reference No:

To:

In accordance with the payment provision included in the Contract, in relation to advance payments, (hereinafter called "the Contractor") shall deposit with the Public Body a security consisting of , to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of .

We, the undersigned , legally domiciled in (hereinafter "the Guarantor"), as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Public Body on its first demand without whatsoever right of objection on our part and without its first claim to the Contractor, in the amount not exceeding .

This security shall remain valid and in full effect from the date of the advance payment received by the Contractor under the Contract until , [insert year].

Name:
In the capacity of

Signed:

Duly authorized to sign the Security for and on behalf of:

Dated on _____ day of _____, _____