

**Form of  
Consultant Agreement  
under  
JICA's Grants**

January 2016

JAPAN INTERNATIONAL COOPERATION AGENCY  
(JICA)

## Notes

The Form of Consultant Agreement prepared by JICA consists of four parts: the Form of Consulting Service Agreement to be signed by the Client and the Consultant, the General Conditions of Agreement (GCA), the Special Conditions of Agreement (SCA), and Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grants (Type I). Parties using this Form of Agreement financed by JICA should note that the General Conditions **must not be modified**.

If the GCA in this Consultant Agreement signed by the Client and the Consultant contain modifications from the Form of GCA, JICA will not consider them valid and the Standard GCA, as defined above, shall apply.

Any adjustment to meet project features should be made only through the SCA. Clauses in the SCA should be dealt with as specified in the notes in *italic* provided for the individual clauses.

**AGREEMENT**

**BETWEEN**

**[NAME OF THE EXECUTING AGENCY]**

**[NAME OF THE RECIPIENT COUNTRY]**

**AND**

**[NAME OF THE CONSULTANT]**

**JAPAN**

**REGARDING  
CONSULTING SERVICES  
FOR**

**[NAME OF THE PROJECT]**

## CONSULTING SERVICE AGREEMENT

*[All notes should be deleted in final text. Each name shall be formal and correspond to the Grant Agreement.]*

THIS AGREEMENT, made and entered into this [*\*\*th*] day of [*\*\*\*\*\**], [*20\*\**] by and between [*name of the executing agency*], [*formal name of the client's country*] (hereinafter referred to as the "Client") and [*name of the consultant*], duly organized and existing under the laws of Japan (hereinafter referred to as the "Consultant") (the Client and the Consultant hereinafter collectively referred to as the "Parties"),

*[For Joint Venture 共同企業体 (JV) の場合 ]*

THIS AGREEMENT, made and entered into this [*\*\*th*] day of [*\*\*\*\*\**], [*20\*\**] by and between [*name of the executing agency*], [*name of the client's country*] (hereinafter referred to as the "Client") and [*name of the Joint Venture/Consortium*] (hereinafter referred to as the "Consultant") (the Client and the Consultant hereinafter collectively referred to as the "Parties"), consisting of the following entities, namely, [*name of Lead Member*] (hereinafter referred to as the "Lead Member") and [*name of members*], each of which has been duly organized and existing under the laws of Japan,

### WITNESSETH:

WHEREAS, the Japan International Cooperation Agency (hereinafter referred to as "JICA") extends a grant to the Government of [*name of the recipient country*] on the basis of the Grant Agreement [(hereinafter referred to as the "G/A")] signed on the [*\*\*th*] day of [*\*\*\*\*\**], [*20\*\**] between the Government of [*name of the recipient country*] (hereinafter referred to as the "Recipient Country") and JICA concerning [*name of the project on the G/A*](hereinafter referred to as the "Project");

WHEREAS, the Client, as a competent authority for the Project, is desirous of receiving consulting services of the Consultant for the Project; and

WHEREAS, the Consultant is willing to furnish such services to the Client under the terms and conditions as set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the

Parties agree as follows:

1. The rights and obligations of each Party shall be as set forth in this Agreement, including:
  - (a) the Consultant shall carry out its services in accordance with the provisions of this Agreement and the Contract (defined in the General Conditions of Agreement);
  - (b) the Client shall make payments to the Consultant in accordance with the provisions of this Agreement.
  
2. The following documents shall be deemed to form and to be read and construed as part of this Agreement. This Agreement shall prevail over all other following documents. The words and expressions shall have the same meanings as those which are provided in this Agreement and the General Conditions of Agreement.
  - (i) Special Conditions of Agreement,
  - (ii) General Conditions of Agreement (including Exhibits), and
  - (iii) Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grants (Type I).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed, as of the date first above written, in their respective names in duplicate, each Party retaining one (1) copy thereof.

The Client

The Consultant

**[Signature]** \_\_\_\_\_

**[Signature]** \_\_\_\_\_

[Name of the signer]

[Name of the signer]

[Title of the signer]

[Title of the signer]

[Name of the executing agency]

[Name of the Consultant]

[Name of the client country]

# **General Conditions of Agreement for Consulting Service**

**Jan, 2016**

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## **Clause 1. General Provisions**

### **1.1 Definitions**

In interpreting or construing this Agreement, the expressions defined in Exhibit 1.1 shall have the meanings provided therein except where the context otherwise requires.

### **1.2 Interpretation**

- (1) In this Agreement, except where the context requires otherwise:
  - (a) words indicating one gender include all genders;
  - (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
  - (c) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing;
  - (d) "written" or "in writing" means hand-written, type-written, printed or electronically made (including a PDF file or facsimile, but excluding mere exchange of emails or other electronic messages), and resulting in a permanent record; and
  - (e) the word "tender" is synonymous with "bid", and "tenderer" with "bidder" and the words "tender documents" with "bidding documents".
- (2) The marginal words and other headings shall not be taken into consideration in the interpretation of this Agreement.

### **1.3 Communications**

- (1) Any communication required or permitted to be given or made in accordance with this Agreement shall be in writing in the language stipulated in Sub-Clause 1.4(2). Any such communication shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address stipulated in the SCA.
- (2) A Party may change its address for notice under this Agreement by giving the other Party any communication of such change to the address stipulated in the SCA.

### **1.4 Law, Language and Measurement System**

- (1) This Agreement shall be governed by and interpreted in accordance with the laws of the country or other jurisdiction stipulated in the SCA, which both Parties have approved as appropriate for the purpose of this Agreement.
- (2) All correspondence between the Parties including notices, requests, consents, offers, and demands shall be made in the language stipulated in the SCA. All drawings,

specifications, reports, and other documents shall also be prepared in the language stipulated in the SCA.

- (3) All documents made under this Agreement shall adopt the metric system and the Gregorian calendar day.

#### 1.5 Priority of Documents

- (1) For the purposes of interpretation, the priority of the documents concerning this Agreement shall be in accordance with the following sequence:
  - (a) the Consulting Service Agreement,
  - (b) SCA (including the payment schedule),
  - (c) the General Conditions of Agreement (including Exhibits), and
  - (d) Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grant (Type I).
- (2) The Parties understand the sequence of the priority on the documents concerning the Contract for the Project to be provided in the Contract.

#### 1.6 Assignment

Neither of the Parties to this Agreement shall assign this Agreement or any part thereof or any benefit or interest in or under this Agreement, to any Third Party without prior written consent of the other Party. A Party who intends to conduct such assignment with prior written consent of the other Party shall notify JICA of any such assignment in advance.

#### 1.7 Intellectual Property

- (1) Subject to Sub-Clause 1.7(2) below, the Consultant retains the copyright and other intellectual property rights of all documents prepared by the Consultant under this Agreement.
- (2) Unless otherwise agreed in writing, the Client may use or copy the documents referred to in Sub-Clause 1.7(1) above only for the Project and the purpose for which they are intended without the Consultant's permission. The Consultant grants hereby the Client a perpetual, irrevocable, royalty-free, worldwide license for such use.
- (3) The Parties acknowledge that JICA retains its copyright and other intellectual property rights owned by JICA in documents or other products, including a report of an outline design which is a basis of a detailed design.
- (4) Notwithstanding the provisions of Sub-Clause 1.7, if the Consultant is a JV, the Lead Member shall obtain in advance from all of the other Consultant Members the right to grant the Client the right to use the intellectual property rights under Sub-Clause 1.7(2) at any

time. Even if such Consultant is dissolved, the right to grant to use the intellectual property rights shall remain effectively.

#### 1.8 Good Faith

The Client and the Consultant shall perform their obligations and other functions covered by this Agreement with sincere cooperation and in good faith.

#### 1.9 Corrupt and Fraudulent Practices

The Consultant shall comply with JICA's policy in regard to corrupt and fraudulent practices as declared in the Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grants (Type I).

#### 1.10 Monitoring by JICA

The Client and the Consultant understand and agree to the following matters stipulated in this Sub-Clause 1.10.

- (a) Without assuming the responsibilities of the Client or the Consultant, JICA may monitor the Consultant's performance of the Service as necessary in order to confirm whether the Consultant is performing the Service in accordance with appropriate standards based on acceptable data.
- (b) As appropriate, JICA may take part in discussions between the Client and the Consultant.
- (c) JICA shall not be liable in any way for the performance of the Service by reason of JICA's monitoring or participation in discussions.
- (d) Neither the Client nor the Consultant shall be released from any of their responsibility under this Agreement by reason of JICA's monitoring or participation in discussion.

#### 1.11 Difference of Opinion

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

#### 1.12 Relationship between the Parties

Nothing contained in this Agreement shall be construed as establishing a relationship of employment or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Agreement, has complete charge of the Consultant Member, if any, performing the Service and shall be fully responsible for the Service performed by them or on their behalf under this Agreement.

#### 1.13 Authority of Lead Member in a JV and Liabilities of Each Member of the JV

- (1) If the Consultant is a JV, the members of the JV shall authorize the Lead Member to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Agreement, including without limitation, the receiving of instructions and payments from the Client.
- (2) The Client's instruction, notice, request, payment and/or any other action and information to the Lead Member is deemed to be made to the JV and other Consultant consisting of the JV.
- (3) Each member of a JV shall be jointly and severally liable to the Client for all the Consultant's obligations under this Agreement.

#### 1.14 Entire Agreement

This Agreement sets forth the entire agreement between the Parties in respect of the subject matter of this Agreement and supersedes and prevails over any and all previous agreements, negotiations, commitments, and writings in respect of the subject matter of this Agreement.

#### 1.15 Amendments

Subject to Sub-Clause 3.2, any amendments to this Agreement, if necessary, may be negotiated between the Parties to this Agreement and shall be agreed by a written document signed by the Parties.

### **Clause 2. Scope of Service of Consultant**

#### 2.1 Scope of Service

- (1) The Consultant shall render his professional consulting services as stipulated in the SCA (hereinafter referred to as the "Service") on the basis of the report stipulated in the SCA prepared and submitted by JICA to the Government of the Recipient Country.
- (2) The Consultant shall report to the Client regularly the progress of the activities.

## 2.2 Effectiveness of Agreement

Unless additional requirements for the effectiveness of this Agreement are stipulated in the SCA, this Agreement shall come into force and effect on the date when this Agreement has been signed by the Parties.

## 2.3 Commencement of Service

Within seven (7) days after the effective date of this Agreement subject to Sub-Clause 2.2, the Consultant shall submit, for the Client's consent, to the Client, documents describing the composition, assignment and schedule of allotment of the Consultant Member and confirming the availability of Key Consultant Member. The Client shall not withhold its consent unreasonably. Upon such Client's consent, the Consultant shall commence its Service in accordance with such document.

## 2.4 Expiration of Agreement

Subject to Sub-Clause 7.1.2 and unless terminated earlier in accordance with Sub-Clause 7.4, this Agreement shall expire upon the satisfactory completion of the Service to be provided under this Agreement.

## 2.5 Completion of Service

Subject to Sub-Clauses 7.1.2 and 7.2.3(3), the Consultant shall complete the Service on or before the end of the Service Completion Period.

# **Clause 3. Japanese Grant Scheme**

## 3.1 Eligible Conditions for the Grant

- (1) The Parties understand that the Grant will be extended in accordance with the relevant laws and regulations of Japan and the Grant shall be disbursed within the limit of the budgetary appropriations of Japan. In connection with the disbursement of the Grant, for the implementation of the Project, the Client shall comply, in all respects, with the terms and conditions of the G/A and the Applicable Guidelines, and the Consultant shall understand the Client's obligations under the G/A and the Applicable Guidelines and shall conform to the Client's obligations and to the procedures practiced in the scheme for the Grant. JICA does not finance expenditures for services which, in the opinion of JICA, have not been employed in accordance with the G/A and the Applicable Guidelines.

- (2) The Parties understand that the Grant shall be available during the period defined in the G/A unless the period is extended by mutual consents between the authorities concerned of the Government of the Recipient Country and JICA within the available period of the E/N.
- (3) In accordance with the G/A and the Applicable Guidelines, the Client shall conclude a banking arrangement (B/A) with the Bank to authorize the Bank to pay the Agreement Price from the Grant to the Consultant under this Agreement. The payment to the Consultant under this Agreement from the Grant shall be made in Japanese Yen through the Bank under an irrevocable authorization to pay (A/P), which shall be issued by the Client to the Bank.

### 3.2 Concurrence of Agreement

- (1) Promptly after signing this Agreement, the Client shall submit the original of this Agreement to JICA for review and concurrence in order for this Agreement to be verified as eligible for the Grant in accordance with the G/A and Applicable Guidelines.
- (2) The Client shall also notify termination or any major amendment of this Agreement stipulated in the Applicable Guidelines promptly after occurrence of such event and then submit the original of the amendment of this Agreement and other necessary documentation to JICA in order for such major amendment to be verified as eligible for the Grant in accordance with the G/A and Applicable Guidelines.
- (3) Notwithstanding the provision of Sub-Clauses 3.2(1) and 3.2(2), the Client shall notify to JICA any extension of the Service Completion Period and then submit documents stating the reason to justify the extension for review and concurrence before this Agreement is amended, if;
  - (i) the period to be extended in accordance with Sub-Clauses 7.1.2 and 7.2.3(3) is more than three (3) months, or
  - (ii) the period between the later of (a) the end of the Service Completion Period, or (b) the end of contract period of all contract(s) under the Project and the deadline of availability of the Grant becomes less than six (6) months in accordance with the G/A.

### 3.3 Modification of the Service or the Design

In the case of major modification to the Service or the design as stipulated in the Applicable Guidelines, the Client shall obtain the prior concurrence from JICA in accordance with the G/A and the Applicable Guidelines before the implementation of any work related to the modified service or the design.

### 3.4 Allocation of the Remaining Balance or the Contingency of the Grant

In case of using the remaining balance or the contingency of the Grant, the Client shall obtain prior concurrence from JICA before any action is taken in relation to the use of the remaining balance or the contingency in accordance with the G/A and the Applicable Guidelines.

### 3.5 Reference to the Grant

No party other than the Recipient Country shall derive any rights from the G/A or have any claim in connection with the Grant. The Parties understand that the Grant may cover only a part of the Cost for the Project. As for the remaining portion, the Client will take appropriate measures for finance.

## **Clause 4. Client's Responsibilities**

### 4.1 Client's Responsibilities under the E/N and the G/A

- (1) The Client shall perform its obligations as stipulated in the E/N, and shall use its best efforts to cause the relevant organization to perform the obligations of the Recipient Country under the E/N.
- (2) The Client shall perform the obligations as stipulated in the SCA, including those described in the G/A for smooth implementation of the Project, and shall use its best efforts to cause the relevant organization to perform the obligation of the Recipient Country in accordance with the G/A.

### 4.2 Provision of Information

So as not to delay the Service, the Client shall, within a reasonable period of time, provide the Consultant with all information in his power to obtain which may pertain to the Service free of cost.

### 4.3 Information relating to Laws

The Client shall inform the Consultant, prior to the commencement of the Service and during the Service Completion Period, of the nature and content of the Law, including the amendment thereof, relating to the execution of the Project of which the Client is aware and of which the Consultant could not reasonably be expected to be aware.

#### 4.4 Client's Personnel

The Client shall, at its own expense, furnish liaison personnel and counterpart personnel who will coordinate matters relating to the Project with the Chief Consultant, the Resident Supervisor, or other Consultant Member during the period of the Service.

#### 4.5 Examination of Documents

The Client shall examine the documents submitted by the Consultant and shall render decisions, approval or consent pertaining thereto promptly in order to avoid unreasonable delay in the progress of the Service.

#### 4.6 Assistance to the Consultant

The Client shall accord the Consultant all the necessary permissions, approvals, licenses, admissions, sanctions or any other authorizations required in the Client Country in connection with the Service, or shall extend assistance to the Consultant in obtaining such necessary authorization.

#### 4.7 Payment Certificates

As soon as reasonably practicable after receipt of the notice stipulated in Sub-Clause 5.12, the Client shall issue a necessary certificate (hereinafter referred to as the "Payment Certificate") for each payment upon compliance with the conditions as stipulated in the Sub-Clause 6.2(2).

#### 4.8 Default by the Client

- (1) If the Consultant suffers loss or damage as a result of a default by the Client in the performance of its obligations under this Agreement, the Consultant shall give written notice to the Client and the dispute relating to such loss or damage shall be resolved in accordance with Clause 8.
- (2) The Client shall only be liable to the Consultant for direct loss or damage caused by a default of the Client and shall not be liable for any indirect or consequential result therefrom, except for Client's gross negligence or reckless or willful misconduct.

#### 4.9 Payment Obligation

The Client shall pay the Consultant for the Service in accordance with Clause 6.

## **Clause 5. Obligations of the Consultant**

### 5.1 General

#### 5.1.1 Standard of Performance

- (1) The Consultant shall perform the Service with due diligence and efficiency and economy, in conformity with generally accepted professional techniques, standard and practices, and observe sound management practice and employ appropriate technology and safe and effective equipment, machinery, materials and methods, so that the Project may be brought to a successful completion.
- (2) The Consultant shall always act, in respect of any matter relating to this Agreement or to the Service, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties.
- (3) The Consultant shall employ and provide such qualified and experienced Consultant Member and Sub-consultant as are required to carry out the Service.
- (4) The Consultant may subcontract part of the Service to Sub-consultants with prior written approval by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Service.

#### 5.1.2 Laws Applicable to Service

The Consultant shall perform the Service in accordance with this Agreement and the applicable Law and shall take all practicable steps to ensure that all of the Consultant Member comply with the applicable Law. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

### 5.2 Conflict of Interest

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

#### 5.2.1 Consultant Not to Benefit from Commissions, Discounts, etc.

- (1) The payment to the Consultant in accordance with Clause 6 shall constitute the Consultant's only remuneration in connection with this Agreement and, subject to Sub-Clause 5.2.2, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities in accordance with this Agreement or in the discharge of its obligations under this Agreement, and the Consultant shall use its best efforts to ensure that any of the Consultant Member and agents of either of them, similarly shall not receive any such payment.

- (2) Furthermore, if the Consultant, as part of the Service, has the responsibility of advising the Client on the procurement of products, works or services, the Consultant shall comply with the Applicable Guidelines and JICA's guidelines concerning the Japanese Grant under as amended from time to time, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

#### 5.2.2 Consultant and Related Person Not to Engage in Certain Activities

The Consultant shall comply with, and shall cause the Related Person to comply with, the Applicable Guidelines in regard to conflict of interest. The cases where the conflict of interest has been resolved in a manner acceptable to JICA under the Applicable Guidelines, if any, shall be stipulated in the SCA.

#### 5.2.3 Prohibition of Conflicting Activities

The Consultant shall not engage, and shall cause the Related Person and the Consultant Member not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Agreement.

#### 5.2.4 Strict Duty to Disclose Conflicting Activities

The Consultant shall disclose, and cause the Consultant Member to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. The Consultant understands that failure to disclose said situations may lead to the termination of its Agreement in accordance with Sub-Clause 7.4.1.

#### 5.3 Confidentiality

Except with the prior written consent of the Client, the Consultant shall not, and shall ensure that none of the Consultant Member, at any time, and whether its personnel are presently employed by the Consultant or not, use for purposes other than performing obligations under this Agreement, disclose or communicate to any person or entity any confidential information relating to the Project, the Service, the Contract, or the Client's business or operation. Except with the prior written consent of the Client, the Consultant shall not, and shall ensure that none of the Consultant Member, make public the recommendations formulated in the course of, or as a result of, the Service.

#### 5.4 Liability of the Consultant

- (1) The Consultant shall be responsible for, and shall indemnify the Client, in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.
- (2) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Consultant Member and for the dependents of any such Consultant Member.
- (3) The Consultant shall indemnify the Client against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection in the Service by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or (ii) plagiarism or alleged plagiarism by the Consultant.
- (4) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in performing the Service do not violate or infringe any industrial property or intellectual property right or claim of any Third Party.
- (5) The Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of the Consultant's failure to exercise the skill and care required under this Agreement; provided, however:
  - (a) that the Consultant shall be notified of such actions, claims, losses or damages until the latest of (i) the end of the Service Completion Period, (ii) the date not later than twelve (12) month after the issuance of all related certificate of completion including the Certificate of Completion under the Contract or (iii) the date not later than twelve (12) month after the completion of final works under the Contract, unless a different period of time is otherwise specified in the SCA:
  - (b) that the Consultant's liability shall be limited to the total of the Agreement Price, except that such limitation shall not apply to actions, claims, losses or damages caused by the Consultant's gross negligence or reckless or willful misconduct; and
  - (c) that the Consultant's liability for failure to perform the Service in accordance with this Agreement shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.

- (6) Upon request of the Client, the Consultant shall, at its own cost and expense, re-perform the Service in the event of the Consultant's failure to exercise the skill and care required under this Agreement.
- (7) Notwithstanding the provision of Sub-Clause 5.4(1), the Consultant shall have no liability for actions, claims, losses or damages caused by (i) the Client's instructions or requests to which the Consultant does not agree; or (ii) the improper execution of the Consultant's instructions by the Client.
- (8) The Consultant shall indemnify, protect and defend the Client against any and all actions, claims, losses or damages mentioned above regardless of whether the insurance stipulated in Sub-Clause 5.6 covers these actions, claims, losses or damages.

#### 5.5 Default by the Consultant

If the Client suffers damage as a result of a default by the Consultant in the execution of its obligations under this Agreement, the Client shall give a written notice to the Consultant and seek to resolve with the Client the dispute relating to such damage in accordance with the process under Clause 8.

#### 5.6 Insurance

If the Consultant has insurance in accordance with this Agreement, the Consultant shall at the Client's request provide evidence to the Client showing that such insurance has been maintained and that the current premiums have been paid. The Consultant shall ensure that such insurance is in place prior to/upon commencing the Service.

#### 5.7 Accounting, Inspection and Auditing

The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Service under this Agreement, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant charges and costs, and the bases thereof, and (ii) shall periodically permit the Client or its designated representative, and up to five (5) years from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client, if so required by the Client as the case may be.

#### 5.8 Serious Hindrances

The Consultant shall report to the Client and JICA promptly the occurrence of any event or condition which might delay or prevent completion of any significant part of the Project in accordance with the schedules and indicate what steps shall be taken to meet the situation.

When the Client receives such report from the Consultant, the Client shall immediately forward a copy of it to JICA, together with its comments.

#### 5.9 Equipment, Vehicles and Materials Furnished by the Client

Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, including payment from the Grant, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

#### 5.10 Equipment and Materials Provided by the Consultant

Any equipment or materials brought into the Client Country by the Consultant or the Consultant Member and used either for the Project or personal use shall remain the property of the Consultant or the Consultant Member concerned, or any other original owner, as applicable.

#### 5.11 Personnel of the Consultant

The Consultant shall also perform its obligations concerning Consultant's personnel as stipulated in Exhibit 5.11 attached to this Agreement.

#### 5.12 Notice of Payment Certificate

The Consultant shall give written notice to the Client to issue the Payment Certificate under Sub-Clause 4.7 when, in the opinion of the Consultant, the conditions for issuing the Payment Certificate have been met.

### **Clause 6. Agreement Price and Payment**

#### 6.1 Agreement Price

- (1) The Client shall pay the Agreement Price in consideration for the Service in accordance with this Agreement.

- (2) The Agreement Price shall be a firm lump sum, covering all cost and expenses necessary to perform the Service. The Agreement Price may be adjusted only in accordance with Sub-Clauses 7.1.3 and 7.2.3(5).

## 6.2 Payment

- (1) The Payment of the Agreement Price from the Grant shall be made within the limit of the Japanese Government's annual budgetary appropriations for JICA.
- (2) The breakdown of the Agreement Price and the payment schedule, to be paid from the Grant, shall be stipulated in the SCA.

## **Clause 7. Modifications, Force Majeure, Suspension and Termination**

### 7.1 Modifications, Extension and Agreement Price Adjustment

#### 7.1.1 Modifications

- (1) The Client and the Consultant may make any request in writing for modification of the scope of the Service by submitting proposal. In the case of such request by the Consultant, the reason for modification shall be limited to the following:
  - (a) modification of the scope of the Service arising out of the modification of the design due to conditions not reasonably foreseeable by an experienced consultant; or
  - (b) conducting the re-bid meeting of the Contract(s) (adjustment of Agreement Price is excepted for the first re-bid) occurred for reason not attributable to the Consultant.The Client may request modification only if the modification meets the requirements stipulated in the Applicable Guidelines.
- (2) The Party making the request under Sub Clause 7.1.1(1) shall, and the receiving Party may, submit its proposal, if any, to the other Party. Each Party shall give due consideration to any proposals for modification made by the other Party.
- (3) After the due consideration under Sub Clause 7.1.1(2), the Client and the Consultant may make any modification of the scope of the Service only by written agreement between the Parties.

#### 7.1.2 Extension of the Service Completion Period

- (1) If the Consultant has been delayed or impeded in the performance of any of its obligations under this Agreement by any of the following reasons, the Service Completion Period shall be extended by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Consultant:
  - (a) Any modification in accordance with Sub-Clause 7.1.1;

- (b) Any occurrence of Force Majeure in accordance with Sub-Clause 7.2;
  - (c) Any suspension by the Client in accordance with Sub-Clause 7.3.1;
  - (d) Any suspension or reduction in the rate of performance of the Service in accordance with Sub-Clause 7.3.2;
  - (e) Any unreasonable delay by the Client in rendering its decision, approval or consent (where required) on the documents (e.g. designs, plans, etc.) prepared and submitted by the Consultant;
  - (f) Any act or omission of or any default or breach of this Agreement by the Client or any delay caused by any other consultants (except for the Consultant) and/or contractors employed by the Client; or
  - (g) Any other matter, including a delay or an extension of period under the Contract(s), which inevitably affects the Service Completion Period.
- (2) If the Consultant requests the extension of the Service Completion Period in accordance with Sub-Clause 7.1.2(1), the Consultant shall give to the Client written notice of claim for an extension of the Service Completion Period, together with particulars of the event or circumstance justifying such extension, as soon as reasonably practicable after the occurrence of such event or circumstance. As soon as reasonably practicable after the receipt of such notice and supporting particulars of the claim, the Client and the Consultant shall agree upon the extended period, or in the case of disagreement, the matter shall be settled in accordance with Clause 8.
- (3) Without prejudice to the Consultant's obligations to perform the Service within the Service Completion Period, the Consultant shall at all times use all commercially reasonable endeavors to minimize any delay in the performance of its obligations under this Agreement.

#### 7.1.3 Adjustment of Agreement Price

- (1) The Consultant may request adjustment of the Agreement Price only if the Consultant incurs additional Cost or suffers any loss or damage by any of the following causes, except where such Cost, loss or damage are caused by or attributable to the Consultant:
- (a) Any reason stipulated in paragraphs (a) through (c) of Sub-Clause 7.1.2(1);
  - (b) Any suspension or reduction in the rate of performance of the Service in accordance with Sub-Clause 7.3.2 only if the failure of the Client to pay the amount due is caused by or attributable to the Client; or
  - (c) Any modification of the supervising works due to the following reasons:
    - (i) Any unreasonable delay by the Client in rendering its decision, approval or consent (where required) on the documents (e.g. designs, plans, etc.) prepared and submitted by the Consultant;

- (ii) Any act or omission of or any default or breach of this Agreement by the Client or delayed caused by any other consultants (except for the Consultant) and/or contractors employed by the Client; or
  - (iii) Any other matter, including a delay or an extension of period under the Contract(s), which inevitably affects the Service Completion Period.
- (2) If the Consultant requests the adjustment of the Agreement Price in accordance with Sub-Clause 7.1.3(1), the Consultant shall submit to the Client written notice of a claim for an adjustment in the Agreement Price, together with particulars of the event or circumstance justifying such adjustment, as soon as reasonably practicable after the occurrence of such event or circumstance. As soon as reasonably practicable after the receipt of such notice and supporting particulars of the claim, the Client and the Consultant shall agree upon the adjusted Agreement Price, or in the case of disagreement, the matter shall be settled in accordance with Clause 8.
- (3) The Consultant shall at all times use all commercially reasonable endeavors to minimize additional cost, loss or damage stated in Sub-Clause 7.1.3(1).

## 7.2 Force Majeure

### 7.2.1 Definitions

- (1) Neither Party shall be deemed to be in default or in breach of this Agreement if it is unable to perform its obligations under this Agreement owing to Force Majeure. In this Sub-Clause 7.2, "Force Majeure" means an exceptional event or circumstance:
  - (a) which is beyond a Party's control,
  - (b) which such Party could not reasonably have provided against before entering into this Agreement,
  - (c) which, having arisen, such Party could not reasonably have avoided or overcome, and
  - (d) which is not substantially attributable to the other Party.
- (2) Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions stipulated in Sub-Clause 7.2.1 are satisfied:
  - (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
  - (b) rebellion, terrorism, sabotage by persons other than the Consultant Member, revolution, insurrection, military or usurped power, or civil war,
  - (c) riot, commotion, disorder, strike or lockout by persons other than the Consultant Member,
  - (d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Consultant's use of such munitions, explosives, radiation or radio-activity,

- (e) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity, and
- (f) evacuation decision by the Ministry of Foreign Affairs of Japan or JICA.

#### 7.2.2 No Breach of Agreement

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

#### 7.2.3 Measures to be taken

- (1) A Party affected by an event of Force Majeure shall continue to perform its obligations under this Agreement as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- (2) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- (3) Any period within which a Party shall, in accordance with this Agreement, complete any action or task, including the Service Completion Period, shall be extended by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Party as a result of Force Majeure subject to Sub-Clause 7.1.2 .
- (4) During the period of their inability to perform the Service as a result of an event of Force Majeure, the Consultant, upon notification to the Client, shall either:
  - (a) Leave all the sites and/or office for the Project located in the place of the Client Country, giving notice to a staff member of the Client responsible for the management of the Project as soon as possible in the event that Force Majeure is likely to endanger the safety of any staff members of the Consultant; or
  - (b) Continue the Service to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Agreement.
- (5) If the event or circumstance is of the kind described in Sub-Clause 7.2.1(2) and, in the case of paragraphs (b) through (f) of Sub-Clause 7.2.1(2) occurs in the Client Country, the Consultant may request a discussion with the Client on the burden of any cost to solve the situation.
- (6) In the case of disagreement between the Parties on the existence or extent of Force Majeure, the matter shall be settled in accordance with Clause 8.

## 7.3 Suspension

### 7.3.1 Suspension by the Client

- (1) The Client may, by written notice of suspension to the Consultant, suspend to receive, in whole or part, the Service if an event has happened and be continuing, in which the Consultant fails to perform any of its obligations under this Agreement, including the performance of the Service, provided that such notice of suspension shall:
  - (i) specify the nature of the failure, and
  - (ii) request the Consultant to remedy such failure within a period not exceeding twenty-eight (28) days after receipt by the Consultant of such notice of suspension.
- (2) If the Project or the Service is suspended by the Client for any reason other than those provided in Sub-Clause 7.3.1(1) more than twenty-eight (28) consecutive days, the Client shall pay the Consultant for all services performed and reimbursable expenses incurred prior to the receipt by the Consultant of a written notice of suspension.
- (3) During any suspension of the Service under Sub-Clause 7.3.1(2), the Client shall compensate the Consultant for any costs of maintaining fixed assets, the costs of leases or other items acquired for the Project, as well as all expenses reasonably incurred by, including but not limited to, temporary demobilization, reassignment of the Consultant Member. In addition, upon resumption of the Service, the Client shall compensate the Consultant for expenses incurred as a result of the resumption of the Service, and the Consultant's schedules (Consultant Member and other relevant schedules) shall be appropriately adjusted.

### 7.3.2 Suspension by the Consultants

- (1) The Consultant may suspend the Service or reduce the rate of performance of the Service after twenty-one (21) days after giving prior written notice to the Client, if the Client fails to:
  - (a) issue the Payment Certificate under Sub-Clause 4.7 within fourteen (14) days after receiving written notice from the Consultant in accordance with Sub-Clause 5.12 and the conditions for issuing the Payment Certificate had already been complied with; or
  - (b) pay the Consultant any amount due in accordance with Clause 6 and which is not subject to dispute in accordance with Clause 8.
- (2) In no event shall the suspension of the Service or reduction of the rate of performance of the Service in accordance with this Sub-Clause 7.3.2 be subject to termination of this Agreement by the Client in accordance with Sub-Clause 7.4.1.

#### 7.4 Termination

This Agreement may be terminated by either Party as per provisions set out in Sub-Clauses 7.4.1 or 7.4.2.

##### 7.4.1 Termination by the Client

Subject to immediate notification to JICA, the Client may terminate this Agreement by written notice (except for paragraph (f) of this Sub-Clause 7.4.1, at least twenty-eight (28) days' written notice) to the Consultant in case of the occurrence of any of the following events stipulated in this Sub-Clause 7.4.1:

- (a) If the Consultant fails to remedy a failure in the performance of its obligations under this Agreement after suspension under the Sub-Clause 7.3.1 (1);
- (b) If any of the Consultant (i) becomes insolvent or bankrupt, (ii) enters into any agreements with their creditors for relief of debt, (iii) takes advantage of any Law for the benefit of debtors, or (iv) goes into liquidation or receivership whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings in accordance with Clause 8;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Service for a period of not less than eighty-four (84) consecutive days;
- (e) If the Consultant fails to confirm availability of Key Consultant Member as required in Sub-Clause 2.3; or
- (f) If the Client determines that the any of the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing this Agreement.

##### 7.4.2 Termination by the Consultant

Subject to immediate notification to JICA, the Consultant may terminate this Agreement, by written notice to require the Client to remedy these events or circumstances within twenty eight (28) days, in case of the occurrence of any one of the following events.

- (a) If the Client fails to issue the Payment Certificate under Sub-Clause 4.7 within forty-two (42) days after receiving written notice from the Consultant in accordance with Sub-Clause 5.12 and the conditions for issuing the Payment Certificate had already been complied with.
- (b) If (i) the Client fails to pay any money due to the Consultant in accordance with this Agreement, (ii) the failure of the Client to pay the amount due is caused by or attributable to the Client, and (iii) the failure is not subject to dispute in accordance with Clause 8 within forty-two (42) days after receiving written notice from the Consultant that such payment is overdue.

- (c) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Service for a continuous period of eighty-four (84) days or for multiple period which total more than one-hundred-forty (140) days due to the same notified Force Majeure .
- (d) If the Client fails to comply with any final decision reached as a result of arbitration in accordance with Clause 8 within twenty-eight (28) days after receiving written notice from the Consultant to do so.
- (e) If the Client is in material breach of its obligations in accordance with this Agreement and has not remedied the same within forty-two (42) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's written notice specifying such breach.
- (f) If the Service is suspended in accordance with Sub-Clause 7.3.1(2) for more than eighty-four (84) consecutive days.

#### 7.4.3 Cessation of Rights and Obligations

Upon cancellation of this Agreement in accordance with the SCA or termination of this Agreement in accordance with Sub-Clause 7.4, or upon expiration of this Agreement in accordance with Sub-Clause 2.4, all rights and obligations of the Parties under this Agreement shall cease, except (i) the obligation of confidentiality set forth in Sub-Clause 5.3, (ii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Sub-Clause 5.7, (iii) the obligations set out in Sub-Clauses 7.4.4 through 7.4.6, (iv) any other rights, or obligations and their conditions of this Agreement which may have accrued on the date of, or by their nature are intended to survive, such cancellation, termination or expiry, and (v) any right which a Party may have under the applicable Law.

#### 7.4.4 Cessation of Service

Upon termination of this Agreement by notice of either Party to the other in accordance with Sub-Clauses 7.4.1 or 7.4.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Service to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenses for this purpose to a minimum. With respect to equipment, vehicles and materials provided by the Client, the Consultant shall proceed as provided by Sub-Clause 5.9.

#### 7.4.5 Payment upon Termination

Upon termination of this Agreement in accordance with Sub-Clauses 7.4.1 (except for Sub-Clause 7.4.1(d)) or 7.4.2 (except for Sub-Clause 7.4.2(c)), the Client shall make the following payments to the Consultant:

- (a) payment in accordance with Clause 6 for Service satisfactorily performed prior to the effective date of termination; and
- (b) in the case of termination in accordance with Sub-Clause 7.4.2, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Agreement including demobilization, associated overhead cost, the cost of the return travel of Consultant Member and their eligible dependents, and all other expenses, damages and losses resulting from the termination.

#### 7.4.6 Disputes concerning Occurrence of Events of Termination

If either Party disputes whether or not an event stipulated in Sub-Clause 7.4.1 or in Sub-Clause 7.4.2 has occurred, such Party may, within forty-two (42) days after receipt of notice of termination from the other Party, refer the matter for dispute settlement in accordance with the procedures stipulated in Clause 8, and this Agreement shall not be terminated on account of such event unless otherwise settled in accordance with Clause 8.

### **Clause 8. Settlement of Disputes**

#### 8.1 Amicable Settlement

- (1) The Parties shall seek to resolve any dispute or disagreement amicably by mutual consultation.
- (2) If either Party objects to any action or inaction of the other Party, the objecting Party (“Objecting Party”) may file a written notice of dispute to the other Party (“Receiving Party”) providing in detail the basis of the dispute. The Receiving Party shall respond to the Objecting Party in writing within fourteen (14) days after the receipt of the notice of dispute. If the Receiving Party fails to respond within such period, or the dispute cannot be amicably settled within fourteen (14) days following the response of the Receiving Party, JICA will offer its suggestion for the settlement of the dispute upon request from any Party.

#### 8.2 Dispute Resolution

If the dispute or disagreement cannot be settled amicably in accordance with Sub-Clause 8.1 such dispute or disagreement shall be finally settled by either party’s

referring it to arbitration under the Rules of Arbitration of the International Chamber of Commerce ("the ICC Rules of Arbitration"). The award in such arbitration proceedings shall be final and binding upon the Parties and judgment thereon may be entered in any court of competent jurisdiction on application of either Party. Unless stipulated otherwise in the SCA, the arbitration shall be conducted in English.

## **Exhibit 1.1 (Definitions)**

“**Agreement Price**” means the price defined in the SCA, and includes adjustments in accordance with this Agreement.

“**Applicable Guidelines**” means the Procurement Guidelines for the Japanese Grants, stipulated in the SCA.

“**Bank**” means a bank in Japan which will conclude the banking arrangement with the Recipient Country subject to the Sub-Clause 3.1(3).

“**Certificate of Completion under the Contract**” means the certificate issued by the Consultant, and approved by the Client, confirming the completion for the construction work or installation work subject to the Contract.

“**Chief Consultant**” means the individual engineer who is assigned and listed his name as the project manager for the Project in the SCA.

“**Client**” has the meaning defined in the Recitals of the Consulting Service Agreement. The Client shall include any person or persons authorized by the Client.

“**Client Country**” means a country where the Client specified in the Recitals of the Consulting Service Agreement is located.

“**Consultant**” has the meaning defined in the Recitals of the Consulting Service Agreement.

“**Consultant Member**” means, collectively, Key Consultant Member, non-Key Consultant Member, or any other personnel of the Consultant, Sub-consultant or members of the JV assigned by the Consultant to perform the Service or any part thereof under this Agreement.

“**Contract(s)**” mean(s) the construction, procurement, service or any other contract concluded between the Client and the Contractor, a supplier or a service provider for the Project and for which the Consultant renders the Service to the Client.

“**Contractor**” means the person or persons (physical persons), firm or company (juridical persons) who has (have) concluded the construction, procurement, service or any other contract for the Project with the Client and includes the Contractor’s successors and permitted assigns.

“**Cost**” means all expenditure reasonably incurred (or to be incurred) in the performance of its obligations under this Agreement by the Consultant, whether on or off the site for the Project.

“**Drawings**” means the drawings of the construction work or installation work, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Client in accordance with the Contract.

“**Equipment**” means the equipment and materials to be procured for the Project, except for construction materials.

“**E/N**” means the notes stipulated in SCA, which were exchanged between the Government of the Recipient Country and the Government of Japan, in connection with the Grant from the Government of Japan concerning the Project.

“**Grant**” means the amount for the implementation of the Project, which is stipulated in the G/A.

“**G/A**” has the meaning defined in the Recitals of the Consulting Service Agreement.

“**Japanese Grant**” means a scheme of Japanese official development assistance.

“**JICA**” means the agency which was established based on the Japanese Act on Incorporated Administrative Agency - Japan International Cooperation Agency promulgated in 2002 and makes the Grant available for the Project based on the E/N and the G/A.

“**JV**” means unincorporated grouping of two or more persons, including joint venture, consortium and any other similar group.

“**Key Consultant Member**” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Service under this Agreement and includes the Chief Consultant and the Resident Supervisor.

“**Law**” means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

“**Lead Member**” means, if the Consultant is a JV, the lead member of such JV stipulated in the Recitals of the Consulting Service Agreement.

“**Materials**” means things of all kinds (other than Plant) intended to form or forming part of the Work, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

“**Party**” means the Client or the Consultant, as the case may be, and “the Parties” means both of them.

“**Payment Certificate**” has the meaning defined in Sub-Clause 4.7 of this Agreement.

“**Plant**” means the apparatus, machinery and vehicles intended to form or forming part of the Work, including vehicles purchased for the Client and relating to the construction or operation of the Work.

“**Project**” means the project specified in the Recitals of the Consulting Service Agreement in conformity with the G/A and to be implemented by the Government of the Recipient Country.

“**Recipient Country**” has the meaning stipulated in the Recitals of the Consulting Service Agreement.

“**Related Person**” has the meaning defined in the Applicable Guidelines.

“**Resident Supervisor**” means the engineer who is assigned as the resident supervisor for the Project and named stipulated in the SCA (if any).

“**SCA**” means the Special Conditions of Agreement, which are signed by the Parties separately and contain specific items supplementing this Agreement.

“**Section**” means a part of the construction work stipulated in the Contract Data defined in the Contract as a Section (if any).

“**Service**” has the meaning defined in Sub-Clause 2.1 of this Agreement.

“**Service Completion Period**” means the time period stipulated in the SCA for completion of the Service.

“**Specification**” means the document entitled “specification”, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Work.

“**Sub-consultant**” means an entity or an individual to whom/which the Consultant subcontracts any part of the Service while remaining solely liable for the execution of this Agreement.

“**Test on Completion**” means a test to confirm an appropriate completion of the construction works or installation works in accordance with the Drawings and Specifications, to be conducted under the Contract.

“**Third Party**” means any person or entity other than the Client or the Consultant.

“**Work**” means the construction, procurement, installation and operation training works for the Project to be rendered by the Contractor.

## **Exhibit 5.11 (Personnel of the Consultant)**

### 5.11.1 Authority of Chief Consultant

- (1) The Consultant shall appoint the Chief Consultant and shall give him/her all authority necessary to act on the Consultant's behalf under this Agreement.
- (2) The Chief Consultant shall not delegate any authority to take action required or permitted and execute any document required or permitted of which the Consultant is required to obtain the approval from the Client or the concurrence from JICA under this Agreement.
- (3) Except for the authority stipulated in Sub-Clause 5.11.1(2), the Chief Consultant may from time to time assign duties and delegate authority to other Consultant Member, and may also revoke such assignment or delegation. The Consultant Member may include the Resident Supervisor, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and will not take effect until copies have been received by both Parties.

### 5.11.2 Delegation by the Consultant

- (1) Except for the authority stipulated in Sub-Clause 5.11.1, the Consultant shall not delegate the authority to determine any matter in accordance with the Contract or any matters required to be approved by the Client under the Contract.
- (2) Each Consultant Member shall be a suitably qualified person, who is competent to perform assigned duties and exercise authority, and who is fluent in the language for communications defined in Sub-Clause 1.4.
- (3) Each Consultant Member, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by a Consultant Member, in accordance with the delegation, will have the same effect as though the act were an act of the Consultant.  
However:
  - (i) any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Consultant to reject the Work, Plant or Materials;
  - (ii) if the Contractor questions any determination or instruction of a Consultant Member, the Contractor may refer the matter to the Consultant, who shall promptly confirm, reverse or vary the determination or instruction.

#### 5.11.3 Replacement of Key Consultant Member

- (1) No changes shall be made in the Key Consultant Member.
- (2) Notwithstanding the provision of Sub-Clause 5.11.3(1), the Consultant may replace the Key Consultant Member during the term of this Agreement with the Client's prior written approval only if circumstances beyond the reasonable control of the Consultant, including but not limited to death or medical incapacity, have occurred. In such case, prior to the Client's prior written approval, the Consultant shall assure JICA that the replaced member be at least as appropriate as the original member and then shall obtain the Client's prior written approval.
- (3) If the Consultant intends to replace the Resident Supervisor stipulated in this Agreement, the Consultant shall, not less than twenty-one (21) days before the intended date of replacement, give notice to both the Contractor and JICA of the name, address and relevant experience of the intended replacement Resident Supervisor. If the Contractor considers the intended replacement Resident Supervisor to be unsuitable and likely to adversely affect the execution of the Work, then, in accordance with Sub-Clause 5.4 in the Contract, the Contractor will have the right to raise objection against the intended replacement Resident Supervisor by notice to the Consultant, with supporting particulars and the Consultant shall give full and fair consideration to this objection.

#### 5.11.4 Removal of Consultant Member

- (1) If the Client finds that any of the Consultant Member has committed serious misconduct or has been charged with having committed a criminal action, or the Client determines that any of the Consultant Member has engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Service, then the Consultant shall, at the Client's written request, provide a replacement for such Consultant Member.
- (2) If the Client finds any of the Consultant Member to be incompetent or incapable in performing assigned duties, then the Client, specifying the grounds therefore, may request the Consultant to provide a replacement for such Consultant Member.
- (3) The Consultant shall remove the Consultant Member requested by the Client in accordance with Sub-Clause 5.11.4(2), and shall select a replacement for such Consultant Member within fourteen (14) days from the Client's request under Sub-Clause 5.11.4(2).
- (4) The Consultant shall ensure that the Consultant Member selected by the Consultant under Sub-Clause 5.11.4(3) possesses equivalent or better qualifications and experience than the original Consultant Member and is acceptable to the Client.

#### 5.11.5 Replacement/ Removal of Consultant Member – Impact on Payments

The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Consultant Member.

## **Special Conditions of Agreement**

### **Notes on Special Conditions of Agreement**

The Special Conditions of Agreement (SCA) complement the General Conditions of Agreement (GCA) to specify data and contractual requirements linked to special circumstances of the country where the Project will be executed, the Client and the assignment specific to each Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the GCA.

Clauses in brackets { } are optional; all notes should be deleted in the final text except for the note on the the required documents for shipment and delivery in Appendix 3: Payment Schedule.

Clause numbers in the SCA correspond to those in the GCA.

## Special Conditions of Agreement

|  |  |
|--|--|
| <b>Number of GCA Clause</b>                    | <b>Amendments of, and Supplements to, Clauses in GCA</b>   |
| <b>1.1(Definition) (including Exhibit 1.1)</b> |  |
| <b>Applicable Guidelines</b>                   | <p>The Applicable Guidelines are those published in _____.</p> <p><i>Note: Insert the date of issuance of the Guidelines applicable to this Agreement.</i></p>   |
| <b>Chief Consultant</b>                        | <p>The Chief Consultant is [<i>insert name of Chief Consultant</i>].</p> <p><i>Note: If the Consultant consists of a Joint Venture of more than one entity, the name of the entity whose address is specified in Clause SCA 1.3 should be inserted here.</i></p>   |
| <b>E/N</b>                                     | <p>The E/N means the notes exchanged between the Government of the Recipient Country and the Government of Japan on the **th day of *****, 20** [<i>insert signed date of E/N</i>] in connection with the Grant from the Government of Japan concerning the Project.</p>   |
| <b>Resident Supervisor</b>                     | <p>The Resident Supervisor is [<i>insert name of Resident Supervisor</i>].</p> <p><i>Note: If the Resident Supervisor is not assigned, delete this Clause. If the Consultant consists of a Joint Venture of more than one entity, the name of the entity whose address is specified in Clause SCA 1.3 should be inserted here.</i></p> |
| <b>Service Completion Period</b>               | <p>The start date and end date of the Service Completion Period shall be [<i>insert the start date and end date of the Service</i>].</p>   |
| <b>1.3 (Communications)</b>                    | <p>The addresses are:</p> <p>Client: _____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p> <p>Consultant: _____</p> <p>Attention: _____</p>   |

|  |  |
|--|--|
|  | Facsimile: _____<br>E-mail: _____  |
| <b>1.4 (Law, Language and Measurement System)</b>                                | (1) The Agreement shall be governed by and interpreted in accordance with the law of <i>[insert country name.]</i><br>(2) The ruling language of the Agreement shall be <i>[insert one of the following English, French, or Spanish].</i>  |
| <b>2.1 (Scope of Service)</b>  | The name of the report is <i>[insert name of the preparatory survey report or implementation review study report].</i><br>Refer to Appendix 1: Scope of Service  |
| <b>{2.2}(Effectiveness of Agreement)</b>   | The other effectiveness conditions are: <i>[insert conditions].</i><br>If this Agreement has not become effective within four (4) months after the date of this Agreement by not fulfilling the conditions specified above, either Party may, by written notice to the other Party, declare this Agreement to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect to this Agreement.<br><br><i>Note: If there are no other effectiveness conditions, delete this Clause SCA 2.2.</i> |
| <b>4.1 (Client's Responsibilities under the E/N and the G/A) (2)</b>             | Refer to Appendix 2: Schedule 4 [Obligations of the Recipient] of the G/A<br><br><i>Note: If there are any updates or supplementary information on the undertaking by the Client, describe in this SCA 4.1(2).</i>   |
| <b>5.2.2 (Consultant and Related Person Not to Engage in Certain Activities)</b> | The cases are : <i>[insert specific cases]</i><br><br><i>Note: Describe the conditions for not disqualifying or excluding the Consultant. Otherwise delete this Clause.</i>  |

|  |  |
|--|--|
| <p><b>6.2 (Payment) (2)</b></p>        | <p>The Agreement price to be paid from the Grant is:[ *****<br/> million ***** thousand ***** Japanese Yen<br/> (JPY***,***,***) insert amount of the Agreement Price]</p> <p>Refer to Appendix 3: Payment Schedule</p> <p><i>{For the project whose budget of the Grant is appropriated in multiple Japanese fiscal years- 国庫債務負担行為案件（国の予算において複数年度で予算計上されている案件） }</i></p> <p><i>{If the budget of the Grant is appropriated in multiple Japanese fiscal years, refer to Appendix 3: limitation of availability of the Grant.}</i></p> |
| <p><b>8.2 (Dispute Resolution)</b></p> | <p>The arbitration shall be conducted in [insert one of the following French, or Spanish].</p>   |

Attention : JICA will not review the Agreement Price not to be paid from the Grant, its breakdown of this Agreement Price and the payment schedule of this Agreement Price.

**Appendix 1: SCA-2.1 Scope of the Service [Example: the project including construction and procurement]**

*Note: The scope of service shall be specified in accordance with the contents of the Project and discussion on the terms of reference during the preparatory study. 各案件の内容及び協力準備調査(事業化調査)段階での業務内容に関する議論に基づき定めること。*

1. Scope of the Service

The Service shall consist of the following services:

(1) All stages

1) Concurrence of and reporting to JICA

The Consultant shall assist the Client in obtaining the concurrence from and furnishing the progress and final report with JICA in accordance with the G/A and Applicable Guidelines. The assistance shall include the followings:

- (a) Preparing or reviewing the required documents and the progress reports in accordance with the G/A and Applicable Guidelines,
- (b) Submitting to JICA the required documents for review and concurrence or the progress reports,
- (c) Responding to the inquiry or clarification requested by JICA, and
- (d) The Consultant on behalf of the Client may coordinate with JICA.

2) Undertaking by the Client

The Consultant shall monitor the progress of the undertaking by the Client stipulated in the G/A and the Government of the Recipient Country and should take appropriate action to expedite progress if necessary for smooth implementation of the Project.

3) Reporting of event

Reporting to the Client and JICA promptly the occurrence of any accident in connection with the Project

4) Liaising with JICA

Liaising all the time with JICA on any issue which JICA may require under the relevant guidelines.

(2) Design stage

1) The Consultant shall:

- (a) Conduct the detailed research and design survey,
- (b) Carry out detailed design including design calculation and quantification of work volume of the works,
- (c) On behalf of the Client prepare bid documents including instruction to bidders, form of bid, conditions of contract, specifications, drawings, appendices and other relevant document (if any), and

(d) Ensure that all the design is in accordance with the agreed standards or appropriate international standards.

- 2) The Consultant shall ensure that the bidding document shall clearly state the safety requirements in compliance with applicable Laws and relevant international standards, and in accordance with “the Guidance for the Management of Safety for Construction Works in Japanese ODA Projects of JICA”.

### (3) Bidding Stage

The Consultant shall :

- 1) Assist the Client in carrying out the pre-qualification of applicants for the bidding (if applicable),
- 2) Assist the Client in tendering procedures and in evaluation of the bids,
- 3) Assist the Client in awarding the Contract to the successful bidder and in negotiating on the Contract with the bidder, including further elaboration on the construction schedule and personnel dispatch schedule,
- 4) On behalf of the Client prepare the contract documents to be signed by the Client and the Contractor, and
- 5) Have the custody of the advance payment security and/or performance security submitted by the Contractor

### (4) Construction, Procurement, Installation, and Operation training by the Contractor Stage

The Consultant shall provide supervisory services for the Project to ensure that the works executed by the Contractor under the Project are in accordance with the contract between the Client and the Contractor. The supervisory services shall include the followings:

- (a) Organizing a supervisory team and elaborating the supervision plan for the Project,
- (b) Carrying out of inspections and testing of the works, materials and equipment on and off the site including manufacturer’s inspections,
- (c) Reviewing and giving approval, consent or comment as appropriate to the following documents;
  - construction schedule and revised construction schedule,
  - construction plan (method statement),
  - quality assurance and quality control documents,
  - health safety and environment management documents,
  - shop drawings, samples and catalogues,
  - other relevant document submitted by the Contractor,
- (d) Issuing notices, certificates and instructions as appropriate,
- (e) Carrying out research and investigations, if required, and issuing information and/or drawings, if necessary,
- (f) Interpreting and explaining ambiguities and/or discrepancies in the documents forming the Contract and issue necessary clarifications or instructions,

- (g) Supervising the Contractor to perform in efficient and appropriate manner,
- (h) Supervising the Contractor to perform his work all the time in safety and hygiene conditions,
- (i) Obtaining permissions, consent and/or approval from the Client, if required,
- (j) In coordination with the Client, obtaining permissions, consent and/or approval from the relevant authorities,
- (k) Reporting progress of the Project, As-built documents, and manuals as required in the contract to the Client and/or JICA,
- (l) Coordinating and organizing management meetings among the Client, Contractor and other relevant third parties,
- (m) Assisting the Client to modify or amend the Contract[ and/or any other contract concerning the Project to which the Client is a party except for Consultant Agreement],
- (n) Assisting the Client to manage and settle difference or claims of the Contractor and to resolve disputes between the Client and Contractor,
- (o) Performing Test on Completion,
- (p) Conducting search over the defects before the expiry of Defect Notification Period and inspection and/or confirmation of remedial work done by the Contractor during the Defect Notification Period, and  
*{for the project establishing the quality control meeting}*
- (q) *{Providing technical and secretarial services for conducting the construction quality control meeting among the Client, the Contractor and the relevant organizations.}*

*{For the project including procurement of equipment, insert the following clause in (4) 1)}* 機材案件の場合(4)1)に追加

(\*) Conducting a pre-shipment inspection of the equipment and materials procured which shall be carried out by an inspection agency assigned by the Consultant.

*{For the project including operation training by the Contractor, insert the following clause in (4) 1)}* 機材案件の場合(4)1)に追加

(\*) The Consultant shall supervise and confirm completion of the operation training by the Contractor.

(5) Assistance in the start-up or operation and maintenance stage

The Consultant shall assist the Client to ensure the smooth (operation and maintenance of the (機材)) (and/or) (operation, maintenance and management of the (name of target facilities)).

- (a) The Consultant shall submit the implementation plan to the Client for approval.
- (b) The Consultant shall conduct the activities in accordance with the plan and report to the Client regularly on the progress of the activities.
- (c) The Consultant shall submit the final report to the Client.

2. The scope of the Service prescribed in Paragraph 1 above shall be limited to the following items for the Project.

(1) Construction works

-

-

(2) Procurement works of the Equipment

-

-

(3) Installation works of the Equipment

-

-

(4) Operation training by the Contractor

-

-

(5) Assistance in the start-up or operation and maintenance

-

-

*Note: Describe the scope of the Project which will be the scope of the Work under the Contract.*

3. The scope of the Service prescribed in Paragraph 1 may not be modified without the written agreement of the Parties.

END

**Appendix 2: Schedule 4 [Obligations of the Recipient] of the G/A** *[Example]*

**Schedule 4**

**Obligations of the Recipient**

*Note: Attach the schedule 4 of the G/A for the Project. 各案件の実際の G/A を添付すること。*

**Appendix- 3: Payment Schedule** [Example: the project including construction and procurement]

**Note:** Breakdown and payment schedule shall be specified in accordance with the contents of the Service and the Project. Payment shall be made in accordance with the criteria stipulated by JICA. 各案件及び業務の内容に基づき、支払内訳及び条件を規定すること。支払いは JICA の定める基準に従って行うこと。

1. Breakdown of the Agreement Price covered by the Grant

The breakdown of the Agreement price from the Grant is shown as follows:

(1) The price for the Service for the design, bidding and supervision stages

(a) The price for the Service for the design, bidding and supervision stages other than (b)  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(b) The price for the Service for the search over the defects before the expiry of the Defect Notification Period  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(2) The price for the Service for the Assistance in the start-up or operation and maintenance Stage  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

2. Payment Schedule

(1) Payment for the price for the Service for the design, bidding and supervision stages

|   | Amount of Payment  | Terms of Payment                             | Required Document for Payment  |
|---|--|--|--|
| (a) The Service for the design, bidding and supervision stages other than (b) |  |  |  |
| Advance Payment   | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese Yen</u><br><u>(JPY***,***,***)</u><br>corresponding to forty percent (40%) of the price for the Service for the design, bidding and supervision stages other than (b) | Concurrence on the Agreement by JICA         | A photocopy of the certificate of concurrence of this Agreement by JICA        |
| First Interim Payment   | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese Yen</u><br><u>(JPY***,***,***)</u><br>corresponding to thirty percent (30%)   | Concurrence on (all) the Contract(s) by JICA | A photocopy of the certificate of concurrence of (all) the Contract(s) by JICA |

|   |   |   |  |
|---|---|---|--|
|   | of the price for the Service for the design, bidding and supervision stages other than (b)  |   |  |
| Second Interim Payment  | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,****,****)<br/>corresponding to twenty percent (20%) of the price for the Service for the design, bidding and supervision stages other than (b)</p> | <p><b>【マイルストーン方式】</b><br/>i) Completion of the shipment of all the equipment and/or delivery of all the equipment for the Project, and ii) completion of the following construction works<br/>-<br/>-<br/><b>【出来高払い方式】</b><br/>i) Completion of the shipment of all the equipment and/or delivery of all the equipment for the Project, and ii) completion of eighty five percent (85%) or more of the construction works</p> | <p>i) The required documents for shipment and delivery of all the equipment for the Project<br/>ii) The certificate of completion of the above-mentioned construction works issued by the Client</p> |
| Final Payment   | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,****,****)<br/>corresponding to ten percent (10%) of the price for the Service for the design, bidding and supervision stages other than (b)</p>    | <p>Completion of the Service for design, bidding and supervision stages other than (b)</p>  | <p>The certificate of completion of the Service for the design, bidding and supervision stages other than (b) issued by the Client</p>   |
| (b) The price for the Service for the search over the defects before the expiry of Defect Notification Period |   |   |  |
|   | <p>***** million<br/>***** thousand<br/>***** Japanese Yen</p>  | <p>Completion of the search over the defects before the expiry of</p>   | <p>The receipt of the report on the search over the defects before the expiry</p>  |

|  |                           |                               |                                  |
|--|---------------------------|-------------------------------|----------------------------------|
|  | Yen<br>(JPY****,***,****) | Defect Notification<br>Period | of Defect Notification<br>Period |
|--|---------------------------|-------------------------------|----------------------------------|

NOTE: The required documents for shipment and delivery shall include the following:

- (a) Required documents of the equipment paid upon the shipment;
- Signed Commercial Invoice (photocopy)
  - Report of Pre-shipment Inspection issued by the Consultant (one original)
- and/or
- (b) Required delivery documents of the equipment paid upon the delivery.
- Signed Commercial Invoice (photocopy)

(2) The price for the Service for the assistance in the start-up or operation and maintenance stage  
{with advance payment 前払がある場合}

|                 | Amount of Payment  | Terms of Payment  | Required Document for Payment   |
|-----------------|--|---|---|
| Advance Payment | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,***,****)<br>corresponding to thirty percent (30%) of the price for the Service for the assistance in the start-up or operation and maintenance stage  | Commencement of the the Service for the assistance in the start-up or operation and maintenance stage | The certificate of Commencement of the the Service for the assistance in the start-up or operation and maintenance stage issued by the Client |
| Final Payment   | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,***,****)<br>corresponding to seventy percent (70%) of the price for the Service for the assistance in the start-up or operation and maintenance stage | Completion of the Service for the assistance in the start-up or operation and maintenance stage       | The certificate of completion of the Service for the assistance in the start-up or operation and maintenance stage issued by the Client       |

{without advance payment 前払がない場合}

|  | Amount of Payment | Terms of Payment  | Required Document for Payment |
|--|-------------------|-------------------|-------------------------------|
|  | ***** million     | Completion of the | The certificate of            |

|  |   |   |   |
|--|---|---|---|
|  | <p>***** thousand<br/>***** Japanese<br/>Yen<br/>(JPY****,***,***)<br/>corresponding to<br/>hundred percent<br/>(100%) of the price<br/>for the Service for<br/>the assistance in the<br/>start-up or operation<br/>and maintenance<br/>stage</p> | <p>Service for the<br/>assistance in the start-<br/>up or operation and<br/>maintenance stage</p> | <p>completion of the Service<br/>for the assistance in the<br/>start-up or operation and<br/>maintenance stage issued<br/>by the Client</p> |
|--|---|---|---|

END

*{For the project whose budget of the Grant is appropriated in multiple Japanese fiscal years- 国庫債務負担行為案件 (国の予算において複数年度で予算計上されている案件) }*

## 1. Breakdown of the Agreement Price covered by the Grant

The breakdown of the Service and the Agreement Price from the Grant is shown as follows:

### 1.1 Breakdown of the Service

Term-1: Period between the effective date of the Agreement under Sub-Clause 2.2 and the end date of the Service Completion Period.

- The Service for the design and bidding stages
- The Service for the supervision stage for the following works:
  -
- The Service for the Assistance in the start-up or operation and maintenance stage for the following works

Term-2: Period between the commencement date of Term 2 specified in the Grant Agreement and the end date of the Service Completion Period.

- The Service for the supervision stage for the following works:
  -
- The Service for the assistance in the start-up or operation and maintenance stage for the following works

Term-3: Period between the commencement date of Term 3 specified in the Grant Agreement and the end date of the Service Completion Period.

- The Service for the supervision stage for the following works:
  - 
  -
- The Service for the assistance in the start-up or operation and maintenance stage for the following works

*{Describe the contents of the Service for each Term in accordance with the Sub-Clause 2.1. The Service for the search over the defects before the expiry of Defect Notification Period shall be specified, if any. 各タームの業務内容を2.1に従って記述すること。瑕疵通知期間満了前検査を実施する場合、明記すること}*

### 1.2 Breakdown of the Agreement Price

The breakdown of the Agreement Price of each Term is shown as follows:

Term-1: Period between the effective date of the Agreement under Sub-Clause 2.2 and the end date of the Service Completion Period.

(1) The price for the Service for the design, bidding and supervision stages

\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(2) The price for the Service for assistance in the start-up or operation and maintenance stage

\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

Term-2: Period between the commencement date of Term 2 specified in the Grant Agreement and the end date of the Service Completion Period

(1) The price for the Service for the design, bidding and supervision stages  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(2) The price for the Service for the assistance in the start-up or operation and maintenance stage  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

Term-3: Period between the commencement date of Term 3 specified in the Grant Agreement and the end date of the Service Completion Period

(1) The price for the Service for the design, bidding and supervision stages

(a) The price for the Service for the design, bidding and supervision stages other than (b)  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(b) The price for the Service for the search over the defects before the expiry of the Defect Notification Period  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

(2) The price for the Service for the assistance in the start-up or operation and maintenance stage  
\*\*\*\*\*million\*\*\*\*\*thousand Japanese Yen (JPY\*\*\*,\*\*\*,000)

## 2. Payment Schedule

(1) Payment for the price for the Service for the design, bidding and supervision stages

|  | Amount of Payment  | Terms of Payment                             | Required Document for Payment  |
|--|--|--|--|
| Term-1   |  |  |  |
| (a) The Service for the design, bidding and supervision stages |  |  |  |
| Advance Payment  | <u>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY***,***,***)</u><br>corresponding to forty percent (40%) of the price for the Service for the design, bidding and supervision stages for Term-1 | Concurrence on the Agreement by JICA         | A photocopy of the certificate of concurrence of this Agreement by JICA        |
| First Interim Payment  | <u>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY***,***,***)</u>  | Concurrence on (all) the Contract(s) by JICA | A photocopy of the certificate of concurrence of (all) the Contract(s) by JICA |

|                        |  |   |  |
|------------------------|--|---|--|
|                        | corresponding to thirty percent (30%) of the price for the Service for the design, bidding and supervision stages for Term-1   |   |  |
| Second Interim Payment | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,****,****)</p> <p>corresponding to twenty percent (20%) of the price for the Service for the design, bidding and supervision stages for Term-1</p> | <p><b>【マイルストーン方式】</b></p> <p>i) Completion of the shipment and/or delivery of all the equipment for Term-1, and ii) completion of the following construction works</p> <p>-</p> <p>-</p> <p><b>【出来高払い方式】</b></p> <p>i) Completion of the shipment and/or delivery of all the equipment for Term-1, and ii) completion of eighty five percent (85%) or more of the construction works for Term-1</p> | <p>i) The required documents for shipment and delivery of all the equipment for Term-1</p> <p>ii) The certificate of completion of the above-mentioned construction works issued by the Client</p> |
| Third Interim Payment  | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,****,****)</p> <p>corresponding to ten percent (10%) of the price for the Service for the design, bidding and supervision stages for Term-1</p>    | <p><b>【マイルストーン方式】</b></p> <p>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-1, and ii) completion of the following construction works</p> <p>-</p> <p>-</p> <p><b>【出来高払い方式】</b></p> <p>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-1,</p>                        | <p>i) The certificate of completion of the Service for the design, bidding and supervision stages for Term-1 issued by the Client</p>  |

|  |  |  |   |
|--|--|--|---|
|  |  | and ii) completion of the construction works for Term-1  |   |
| Term-2   |  |  |   |
| (a) The Service for the design, bidding and supervision stages |  |  |   |
| Forth Interim Payment  | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,***,****)<br/>corresponding to fifty percent (50%) of the price for the Service for the design, bidding and supervision stages for Term-2</p>  | <p>【マイルストーン方式】<br/>Completion of the following construction works<br/>-<br/>-<br/>【出来高払い方式】<br/>Completion of fifty percent (50%) or more of the construction works for Term-2</p>   | The certificate of completion of the above-mentioned construction works issued by the Client  |
| Fifth Interim Payment  | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,***,****)<br/>corresponding to thirty percent (30%) of the price for the Service for the design, bidding and supervision stages for Term-2</p> | <p>【マイルストーン方式】<br/>i) Completion of the shipment and/or delivery of all the equipment for Term-2, and ii) completion of the following construction works<br/>-<br/>-<br/>【出来高払い方式】<br/>i) Completion of the shipment and/or delivery of all the equipment for Term-2, and ii) completion of eighty five percent (85%) or more of the construction works for Term-2</p> | <p>i) The required documents for shipment and delivery of all the equipment for Term-2<br/>ii) The certificate of completion of the above-mentioned construction works issued by the Client</p> |
| Sixth Interim Payment  | <p>***** million<br/>***** thousand<br/>***** Japanese Yen<br/>(JPY****,***,****)<br/>corresponding to twenty percent (20%)</p>  | <p>【マイルストーン方式】<br/>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-2,</p>   | i) The certificate of completion of the Service for the design, bidding and supervision stages for Term-2 issued by the Client  |

|   |  |   |   |
|---|--|---|---|
|   | of the price for the Service for the design, bidding and supervision stages for Term-2   | and ii) completion of the following construction works<br>-<br>-<br><b>【出来高払い方式】</b><br>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-2, and ii) completion of the construction works for Term-2                                 |   |
| Term-3  |  |   |   |
| (a) The Service for the design, bidding and supervision stages other than (b) |  |   |   |
| Seventh Interim Payment   | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,***,****)<br>corresponding to fifty percent (50%) of the price for the Service for the design, bidding and supervision stages other than (b) for Term-3  | <b>【マイルストーン方式】</b><br>Completion of the following construction works<br>-<br>-<br><b>【出来高払い方式】</b><br>Completion of fifty percent (50%) or more of the construction works for Term-3  | The certificate of completion of the above-mentioned construction works issued by the Client  |
| Eighth Interim Payment  | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,***,****)<br>corresponding to thirty percent (30%) of the price for the Service for the design, bidding and supervision stages other than (b) for Term-3 | <b>【マイルストーン方式】</b><br>i) Completion of the shipment and/or delivery of all the equipment for Term-3, and ii) completion of the following construction works<br>-<br>-<br><b>【出来高払い方式】</b><br>i) Completion of the shipment and/or delivery of all the equipment for Term-3, and ii) completion of | i) The required documents for shipment and delivery of all the equipment for Term-3<br>ii) The certificate of completion of the above-mentioned construction works issued by the Client |

|   |   |   |   |
|---|---|---|---|
|   |   | eighty five percent (85%) or more of the construction works for Term-3  |   |
| Ninth Interim Payment   | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,****,****)<br>corresponding to twenty percent (20%) of the price for the Service for the design, bidding and supervision stages other than (b) for Term-3 | 【マイルストーン方式】<br>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-3, and ii) completion of the following construction works<br>-<br>-<br>【出来高払い方式】<br>i) Completion of the installation works and operation training by the Contractor of all the equipment for Term-3, and ii) completion of the construction works for Term-3 | i) The certificate of completion of the Service for the design, bidding and supervision stages other than (b) for Term-3 issued by the Client |
| (b) The price for the Service for the search over the defects before the expiry of Defect Notification Period |   |   |   |
| Final Payment   | ***** million<br>***** thousand<br>***** Japanese Yen<br>(JPY****,****,****)  | Completion of the search over the defects before the expiry of Defect Notification Period   | The photocopy of the receipt of the report on the search over the defects before the expiry of Defect Notification Period                     |

NOTE: The required documents for shipment and delivery shall include the following:

(a) Required documents of the equipment paid upon the shipment;

- Signed Commercial Invoice (photocopy)
  - Report of Pre-shipment Inspection issued by the Consultant (one original)
- and/or

(b) Required delivery documents of the equipment paid upon the delivery.

- Signed Commercial Invoice (photocopy)

(2) Payment for the price for the Service for the assistance in the start-up or operation and maintenance stage

{with advance payment for every term 各タームに前払がある場合}

|  | Amount of Payment | Terms of Payment | Document against Payment |
|--|-------------------|------------------|--------------------------|
|--|-------------------|------------------|--------------------------|

|                        |  |  |  |
|------------------------|--|--|--|
| Term-1                 |  |  |  |
| Advance Payment        | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese</u><br>Yen<br>(JPY <u>***,***,***</u> )<br>corresponding to thirty percent (30%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-1  | Commencement of the the Service for the start-up or operation and maintenance stage for Term-1                   | The certificate of Commencement of the Service for the assistance in the start-up or operation and maintenance stage for Term-1 issued by the Client |
| Second Interim Payment | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese</u><br>Yen<br>(JPY <u>***,***,***</u> )<br>corresponding to seventy percent (70%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-1 | Completion of the Service for the start-up or operation and maintenance stage for Term-1                         | The certificate of completion of the Service for the assistance in the start-up or operation and maintenance stage for Term-1 issued by the Client   |
| Term-2                 |  |  |  |
| Third Interim Payment  | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese</u><br>Yen<br>(JPY <u>***,***,***</u> )<br>corresponding to thirty percent (30%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-2  | Commencement of the the Service for the assistance in the start-up or operation and maintenance stage for Term-2 | The certificate of Commencement of the Service for the assistance in the start-up or operation and maintenance stage for Term-2 issued by the Client |
| Forth Interim Payment  | <u>***** million</u><br><u>***** thousand</u><br><u>***** Japanese</u><br>Yen<br>(JPY <u>***,***,***</u> )   | Completion of the Service for the assistance in the start-up or operation and maintenance stage for              | The certificate of completion of the Service for the assistance in the start-up or operation and maintenance stage for                               |

|                       |   |  |  |
|-----------------------|---|--|--|
|                       | corresponding to seventy percent (70%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-2  | Term-2   | Term-2 issued by the Client  |
| Term-3                |   |  |  |
| Fifth Interim Payment | ***** <u>million</u><br>***** <u>thousand</u><br>***** Japanese Yen<br>(JPY***,***,***)<br>corresponding to thirty percent (30%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-3  | Commencement of the the Service for the assistance in the start-up or operation and maintenance stage for Term-3 | The certificate of Commencement of the Service for the assistance in the start-up or operation and maintenance stage for Term-3 issued by the Client |
| Final Payment         | ***** <u>million</u><br>***** <u>thousand</u><br>***** Japanese Yen<br>(JPY***,***,***)<br>corresponding to seventy percent (70%) of the price for the Service for the assistance in the start-up or operation and maintenance stage for Term-3 | Completion of the Service for the assistance in the start-up or operation and maintenance stage for Term-3       | The certificate of completion of the Service for the assistance in the start-up or operation and maintenance stage for Term-3 issued by the Client   |

END

## **Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grants (Type I)**

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- A) I, [*insert name and position of authorized signatory*], being duly authorized by [*insert name of Consultant/members of joint venture("JV")*] (hereinafter referred to as “the Consultant”) to execute this Acknowledgement of Compliance with Procurement Guidelines for the Japanese Grants (Type I)(hereinafter referred to as “the Guidelines”), hereby certify on behalf of the Consultant and myself that all information provided by the Consultant for [*insert name of the Project*] (hereinafter referred to as “the Project”) is true, correct and accurate to the best of the Consultant’s and my knowledge and belief. I further certify, on behalf of the Consultant, that the Consultant has not, directly or indirectly, taken any action which is or constitutes a corrupt, fraudulent, collusive or coercive act or practice in violation of the Guidelines and is not subject to any conflict of interest as stipulated in the relevant section of the Guidelines.
- B) I certify that the Consultant and either sub-consultant having a direct contract with the Consultant or consultant member nominated by the Consultant, who are assigned to this Agreement, will not be engaged in any other assignment which may have time conflict with this Agreement.
- C) I certify, on behalf of the Consultant, that if selected to undertake services in connection with this Agreement, the Consultant shall carry out such services in continuing compliance with the terms and conditions of the Guidelines.
- D) I further certify, on behalf of the Consultant, that if the Consultant is requested, directly or indirectly, to engage in any corrupt or fraudulent action under any applicable law, such as the payment of a rebate, at any time during a process of consultant selection, negotiations, execution or implementation of this Agreement (including amendment thereof), the Consultant shall report all relevant facts regarding such request to the relevant section in JICA (details of which are specified below) in a timely manner.

JICA’s consultation desk on fraud and corruption (A report can be made to either of the offices identified below.)

(1) JICA Headquarters: Legal Affairs Division, General Affairs Department

URL: <https://www2.jica.go.jp/en/odainfo/index.php>

Tel: +81 (0)3 5226 8850

(2) JICA XX office

Tel:

The Consultant acknowledges and agrees that the reporting obligation stated above shall NOT in any way affect the Consultant’s responsibilities, obligations or rights, under relevant laws, regulations, contracts, guidelines or otherwise, to disclose or report such request or other information to any other person(s) or to take any other action, required to or allowed to, be taken by the Consultant. The Consultant further acknowledges and agrees that JICA is not involved in or responsible for the selection process in any way.

- E) If any of the statements made herein is subsequently proven to be untrue or incorrect based on facts subsequently determined, or if any of the warranties or covenants made herein is not complied with, the Consultant will accept, comply with, and not object to any remedies taken by the Client and any sanctions imposed by or actions taken by JICA.

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**Authorized Signatory**

*[name of signatory; title]*

**For and on behalf of** *[name of the Consultant]*

Date: