

ATTACHMENT A

GENERAL CONDITIONS OF CONTRACT

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1. DEFINITIONS

In this Contract, the following words and expressions shall have the meanings hereby respectively assigned to them except where the context requires otherwise.

- 1.1 “**Company**” shall mean Ministry of National Defense, Bolivia, a company organized and existing under the laws of Bolivia.
- 1.2 “**Contract**” shall the Contract Agreement, these Conditions, Appendixes and any further documents (if any) which are listed in the Contract Agreement.
- 1.3 “**Contractor**” shall mean the party with which the Company shall sign the Contract and whose tender has been accepted by the Company.
- 1.4 “**Contract Services**” or “**Scope of Services**” shall mean the entire Scope of Services representing the technical assistance services to be performed by the Contractor, which is further described in **Appendix D** attached hereto.
- 1.5 “**Contract Price**” shall mean the total sum to be paid by the Company as full and complete payment to the Contractor for performing the work in accordance with the Contract, whether the total sum be expressed as lump sum or as a sum resulting from the measurement of the work. All additions or deductions from the Contract Price as a result of Variation Order shall be based on rates or prices provided in the Contract Documents or on rates mutually agreed.
- 1.6 “**Day**” shall mean a calendar day, “**Month**” means a period of 30 consecutive days and “**Year**” a period of 365 consecutive days

- 1.7 **“Programme”** shall mean the detailed plan and time schedule stated in **Appendix D** hereto, for performance of the Contract Services, including key dates and Scheduled Completion Date, as may be modified only by Variation orders
- 1.8 **“Site”** shall mean the places or locations where the Contract Services are to be executed and any other places or locations as may be specifically designated in the Contract and/or approved by the Company for the purpose of the Contract, and as may be modified only by Variation orders
- 1.9 **“Scheduled Completion Date”** means the time for completing the Contract Works as stated in **Appendix D**.
- 1.10 **“Completion Certificate”** means the certificate issued under the clause 15.
- 1.11 **“Defects Liability Period”** shall mean the period for notifying defects in the Contract Services.
- 1.12 **“Permanent Works”** shall mean the structures or items being engineered, fabricated, constructed and/or provided by Contractor for incorporation into the Project pursuant to the Company

2. CONTRACTOR'S GENERAL OBLIGATIONS

- 2.1 The Contractor, in general, shall be needed to have obtained all necessary information, and to have fully satisfied himself, before entering into the Contract, as to the extent and nature of the Contract Services including but not limited to the services, personnel, materials, consumables and facilities required for the Contract Services, the correctness and sufficiency of the rates and prices stated in the Contract, general and local conditions including climate and weather conditions, and all other matters which may affect progress or performance of the Contract Services.
- 2.2 The Contractor shall be obligated to provide and maintain sufficient and appropriate resources, i.e. personnel, materials, supplies, facilities, and everything whether or not a permanent or temporary nature, necessary for the timely and satisfactory performance of the Contract Services. The Contractor shall not remove the same or any part thereof, without approval of the Company or as otherwise specified in the Contract.
- 2.3 The Contractor shall perform the Contract Services and shall re-perform any defective Contract Services thereof, in compliance with the Contract and to the satisfaction of the Company. When completed, the Contract Services shall be suitable for the purposes for which the Contract Services are defined in the Contract.
- 2.4 The Contractor shall be responsible for checking design calculations, drawings, specifications and other information relating to the Contract Services provided by the Company and for preparing such modifications to the same as the Company may consider necessary and/or desirable.

- 2.5 The Contractor shall notify, immediately upon discovery, the Company forthwith of all things, which in the opinion of the Contractor appear to be discrepancies, deficiencies, omissions, contradictions or ambiguities in the Contract, or conflicts with applicable laws.
- 2.6 The Contractor shall be responsible for the true and proper technical assistance of the Permanent Works and for the correctness of the position, dimensions, points, levels, orientations and alignment of all parts of the Permanent Works. If at any time during the execution of the Contract Services any error appears or arises in the technical assistance of position, levels, dimensions, orientations or alignment of any part of the Permanent Works, the Contractor, on being required to do so by the Company shall, at its own cost, re-perform such defective Contract Service to the satisfaction of the Company, unless such error is based on incorrect data supplied in writing by the Company.
- 2.7 Contractor shall make every reasonable effort, in executing the Contract Services, to meet all the requirements related to the safety and environmental laws, rules, and regulations which are relevant to the Contract Services.
- 2.8 Unless otherwise specified under the provisions of the Contract, all notices, applications or reports of any nature to be ultimately given to the Company shall be allowed sufficient time but at least 14days for the company to review.
- 2.9 Company shall provide the Contractor with dates on which documents or information are to be supplied to Company so that Company will have adequate time to prepare its own documents or information, after reviewing and/or incorporating the Contractor's documents or information, to comply with any timeframe requirements.

- 2.10 It shall be the responsibility of the Contractor to obtain the Company's approval of all those documents which originate from the Contractor and which are required to be approved by the Company.
- 2.11 The Contractor shall procure and pay for all permits, qualifications and licenses necessary for the execution of the Contract Services and shall comply with all laws and regulations relating to the performance of the Contract Services.
- 2.12 The Contractor shall in connection with the Contract Services comply with all direction, instruction or decision of the Company which are notified in writing by the Company to the Contractor.

If there is any adverse effect to the Contract Services due to such direction, instruction or decision, then the Contractor shall, promptly but not later than ten (10) working days, give notice to the Company stating the extra cost and/or extension of time with detailed calculations and contractual justification.

Then, the Company shall either withdraw the direction, instruction or decision, or issue a Variation order in accordance with clause 10, or confirm that the direction, instruction or decision constitutes a variation order to the Contract Services or not in which case the Contractor shall comply with the Company's direction, instruction or decision. Any delay by refusing to implement said directions, instructions or decision shall be to the Contractor's account.

Any disputes, if any, shall be settled in accordance with the relevant provisions of the Contract.

3. CONTRACTOR PERSONNEL

- 3.1 The Contractor undertakes to provide sufficient personnel at all times to ensure performance and completion of the Contract Services in accordance with the provisions of the Contract.
- 3.2 The Contractor warrants that all personnel employed on the Contract Services shall, for the work which they are required to perform, be competent, properly qualified, skilled and experienced in accordance with current industry practice in the **Engineering and Construction** industry and to meet the requirements under the Contract. The Contractor shall verify all relevant qualifications of such personnel. Upon request by the Company, the Contractor shall provide main engineer's CV's and/or other relevant documents related to the required qualifications for the proposed personnel to be employed on the Contract Services for the Company's prior approval. Such approval by Company shall not relieve the Contractor from its liabilities, warranties or obligations under this Contract.
- 3.3 The Contractor shall appoint and constantly keep a competent representative at the Site who shall be capable of receiving written as well as verbal instructions in English and any instructions given to him by the Company shall be deemed to have been issued to the Contractor. The key personnel specified to be provided by the Contractor shall not be replaced without the written prior consent of the Company, which shall not be unreasonably withheld or delayed. Any replacement shall work with the person to be replaced for a reasonable handover period.
- 3.4 The Contractor shall comply with the relevant laws applicable to all their employees and those of any Contractors, including laws relating to their employment, health, welfare, immigration and emigration, and shall allow them all their legal rights. The Contractor shall require their employees

and those of its Contractors to obey all applicable laws, including those concerning safety at work, and to respect local customs, cultures and traditions. The Contractor shall ensure that where required, their employees and those of its Contractors are in possession of a valid work permit and travel documents for the duration of the Contract. When requested, details of such work permits shall be submitted to the Company prior to the employee being engaged in the Contract Services. Also the Company shall assist to get work permission Visa of the Contractor for the Contract Service at site. The Contractor shall protect, defend, indemnify and hold harmless the Company from and against any liability or penalty which may be imposed by any authority (whether governmental, local or otherwise), by reason of any violation or alleged violation of the laws, rules or regulations by the Contractor, its Contractor or their agents or employees.

3.5 The Company may instruct the Contractor to remove from the Site any person engaged in any part of the Contract Services who in the reasonable opinion of the Company:

- (a) is incompetent, consistently below recognized standards or negligent in the performance of their duties; or
- (b) is engaged in activities which are contrary or detrimental to the interest of the Company; or
- (c) fails to comply with relevant safety standards or procedures, or
- (d) persists in any conduct likely to be prejudicial to safety, health or the environment.

3.6 Any such person shall be removed forthwith from the Site. Any person removed for any of the above reasons shall not be engaged again in the Contract Services without the prior written approval of the Company. The Contractor shall, at its cost, provide a suitable replacement for any such

person within twenty four(24) hours or such longer time as may be agreed by the Company.

- 3.7 The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or among his employees, and to preserve peace and protection of persons and property on and near the Site.

4. PERFORMANCE BANK GUARANTEE

- 4.1 Within fourteen(14) days from the date of Contract, the Contractor shall at its own expense provide the Company with a Performance Bond in an amount 10% of total contract sum and shall remain valid until the completion and the Company's acceptance of the Work. The Performance Bond shall be issued by a commercial bank in Korea through to Bolivia acceptable to the Company in the form stipulated in Company's Form or Bank's Form.
- 4.2 The said Performance Bond shall guarantee the performance and fulfillment of this Contract by the Contractor in accordance with the specifications, design requirement, drawings and terms and conditions of this Contract.
- 4.3 In the event of any amount of money becoming due to the Company from the Contractor under and as a result of the Contract, such amounts shall become payable when so demanded by the Company.

5. COMMENCEMENT AND EXECUTION

- 5.1 The Contractor shall commence the Contract Services upon award of the Contract from the Company and shall thereafter continuously proceed with the same with diligence and without delay (except such as may be expressly sanctioned or ordered in writing by the Company) in accordance with the Programme set out in **Attachment D** and shall complete the Contract Services on or before the Scheduled Completion Date.
- 5.2 The Contractor shall immediately, on becoming aware, bring to the attention of the Company any and all situations or conditions which might result in delays and/or disruptions to the progress or performance of the Contract Services.
- 5.3 If, solely due to Contractor default, the rate of progress of the Contract Services or any part thereof is, in the opinion of the Company's representative, too slow to comply with the Programme, the Company's representative shall so notify the Contractor who shall thereupon take such steps as are necessary, including overtime, additional personnel, subject to the consent of the Company's representative, to expedite progress so as to comply with the Programme. The Contractor shall not be entitled to any additional payment for taking such steps.
- 5.4 The Contractor shall keep the Company fully and currently informed as to the status and progress of the Contract Services and shall provide the Company, at its request, with full written reports on the Contract Services and all aspects thereof.
- 5.5 The Contractor shall submit the Company detailed reports of the progress of the Contract Services at such regular intervals and in such details as the Company may decide.

6. EXTENSION OF THE SCHEDULED COMPLETION DATE

- 6.1 The Contractor shall be entitled to an extension of the Scheduled Completion Date, if and to the extent that the Scheduled Completion Date is or will be delayed by any of the following causes:
- (a) a Variation order issued by Company;
 - (b) a specific and express cause of the Conditions of Contract granting an entitlement to extension of time;
 - (c) a delay, impediment or prevention caused by or attributable to the Company.
 - (d) a delay which is outside the Contractor's control
- 6.2 For the avoidance of doubt, no extension of the Completion Date shall be authorized to the extent that such delay has been caused by Contractor's fault, negligence or failure to comply with any requirement of the Contract.
- 6.3 If the Contractor considers itself to be entitled to an extension of the Scheduled Completion Date, the Contractor shall give notice to the Company, as soon as practicable but not later than seven(7) days after the Contractor becomes aware, or should have become aware, of the event or circumstances giving rising to an extension of the time.
- 6.4 If the Contractor fails to give notice of a claim within such period, such claim shall be deemed waived and the Contractor shall not be entitled to an extension of the time.
- 6.5 Any extension of the time under this clause shall be granted in accordance with the provisions of the clause 10.

7. LIQUIDATED DAMAGES FOR DELAY.

- 7.1 If the entire Contract Services are not completed on or before the Scheduled Completion Date (due to Contractor's fault), then the Contractor shall pay to the Company a sum of point one percent (0.10%) of the Technical Assistance Services portion of the total Contract Price as agreed liquidated damages and not as a penalty, for each day the completion of the Contract Services is delayed beyond the Scheduled Completion Date.

The maximum amount of the delay damages shall be five percent (5%) of the Technical Assistance Services portion of the Contract Price.

- 7.2 Any payment of the liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Contract Services, or from any other duties, obligations or responsibilities under the Contract.

8. CONTRACT PRICE AND PAYMENT

- 8.1 As full compensation for the Contractor's performance of the Contract Services and all obligations under the Contract, the Company shall pay the Contractor the Contract Price.
- 8.2 As stipulated in the **Appendix E**, the Contractor shall submit to the Company at its office in Seoul or Site an invoice (one original and six copies), including the supporting documentation for the portion of the Contract Price.
- 8.3 The Company shall make payment for the undisputed invoice amount by telegraphic transfer to the Contractor's bank account to be specified by the Contractor in the invoice within **Thirty (30)** days after receipt of the aforesaid invoice.
- 8.4 Payment, in whole or in part, by the Company shall not limit the Company's right to later dispute any of the charges invoiced, nor shall it be construed as the Company's acceptance of any part of the Contract Services.
- 8.5 Notwithstanding anything contained in the Contract, the Company shall be entitled to deduct from or set off against any monies due to the Contractor any sum or sums which the Contractor is liable to pay to the Company under the Contract.

9. TAXES AND CUSTOMS DUTY LIABILITY

- 9.1 The lump-sum cost of the work is exclusive any local Bolivia taxes (including V.A.T., if any) and bank costs.

10. VARIATIONS

- 10.1 The Company shall have the right at any time and without invalidating the Contract during the execution of the Contract by notice in writing to direct the Contractor to alter, amend, omit, or otherwise vary any part of the Contract Services pursuant to the Contract, or any part thereof (a "Variation").
- 10.2 The Contractor shall not make any such Variation without written instruction of the Company's representative.
- 10.3 Upon receiving instruction from the Company, the Contractor shall submit a Variation proposal together with the following;
- (a) Description of the proposed design and/or work to be performed and a programme for its execution; and
 - (b) it's proposal for any necessary modifications to the Programme and to the Scheduled Completion Date, and
 - (c) it's proposal for adjustment to the Contract Price.
 - (d) if any additional variation work instructed by Company, the unit price (unit rate) shall be considered and or inflation.
- 10.4 The Company shall, as soon as practicable after receiving such proposal, respond with approval, disapproval or comments. Once Contractor and Company agree adjustment to the Contract Price and/or the Program the Contractor shall proceed in accordance with such instruction or order, without delay or suspension of any Services.
- 10.5 Each Variation shall be valued in accordance with the lump sum price derived from mutually agreed manhours against unit rates.
- Where the varied services are not of similar character to or not executed under similar conditions to the Services lump sum priced, appropriate price(s) and rate(s) shall be established based upon the price(s) and

rate(s) included in the Contract, making such allowances thereto by way of addition or reduction as may be necessary to take account of any dissimilarity in the character for the services or the conditions under which the services are executed. Where the varied services cannot be properly valued in accordance with the above provisions, the services shall be valued at fair and reasonable rates as agreed between Company and Contractor.

For the avoidance of doubt, the above valuation methods shall be applied for any decrease of the Contract Price due to the variation.

- 10.6 In any case, if the issue of an instruction to vary the Contract Services is necessitated by some default of or breach of the Contract by the Contractor, such instruction shall not constitute a variation order hereunder and any additional cost arising from such instruction shall be borne by the Contractor.

11. INDEMNITIES

- 11.1 Contractor shall be responsible for and shall save, indemnify, defend and hold harmless Company and their respective personnel from and against any claims, losses, damages and costs (including legal fees), expenses and liabilities in respect of:
- (a) loss of damage to property of Contractor whether owned, hired, leased or otherwise provided by Contractor arising from the negligent act by the Contractor in the performance of the Contract Services; and
 - (b) personal injury, including death or disease, to any person employed by Contractor arising from the negligent act by the Contractor in the performance of the Contract Services; and
 - (c) subject to any other express provisions of the Contract, personal injury, including death or disease, or loss of or damage to the property of any

third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Contractor.

11.2 Company shall be responsible for and shall save, indemnify, defend and hold harmless Contractor, its Contractors, their respective personnel and their respective agents (the "Contractor") from and against any claims, losses, damages and costs (including legal fees), expenses and liabilities in respect of:

- (a) loss of or damage to property of Company, excluding the Contract Services, which is located at the Site arising from or relating to the performance of the Contract; and
- (b) personal injury, including death or disease, to any person employed by Company arising from or relating to the performance of the Contract; and
- (c) subject to any other express provisions of the Contract, personal injury, including death or disease, or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Company

11.3 If any methods or processes practiced or employed in the course of execution of the Contract Services are covered by a patent in respect of which the Contractor is not licensed, the Contractor shall, before using the method or process, as the case may be, obtain such license(s) and pay such royalty(ies) and licenses fee(s) as may be necessary.

The Contractor shall indemnify and hold harmless the Company, their respective personnel and their respective agents, against and from any claim or proceeding (including for infringement of any patent rights, design, trade mark, or name or other protected rights) which arises out of or in relation to the Contractor's design, engineering, or execution of the Contract Services, or the proper use of the Contract Services.

The Contractor may, at its cost, conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it.

- 11.4 If either Party becomes aware of any incident likely to give rise to a claim under the above indemnities, they shall notify the other and both Parties shall co-operate fully in investigating the incident.

12. FORCE MAJEURE

- 12.1 Neither the Company nor the Contractor shall be responsible for any failure to perform any terms or conditions of the Contract, if and to the extent that its performance has been prevented by an event of Force Majeure as hereunder defined,
- (a) which has been notified in accordance with the clause below; and
 - (b) which is beyond the control and without the fault or negligence of the Party affected; and
 - (c) which, by the exercise of reasonable diligence, such Party was unable to provide against or avoid; and
 - (d) which, having arisen, such party has used its best endeavors to minimize or overcome.
- 12.2 For the purposes of the Contract, Force Majeure shall include but not be limited to the circumstances listed below, subject to satisfaction of the conditions listed above :
- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (b) rebellion, terrorism, insurrection, military or usurped power or civil war,
 - (c) riot, commotion, disorder strike or lockout by persons other than the Subcontractor's personnel and other employees of the Contractor and its Contractors,
 - (d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Subcontractor's use of such munitions, explosives, radiation or radio-activity, and
 - (e) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

For the avoidance of doubt, any adverse weather conditions, regardless of severity, shall not constitute an event of Force Majeure.

- 12.3 12.3 If a party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented.

The notice shall be given within two (2) days after the party claiming Force Majeure becomes aware, or should have become aware, of the relevant event or circumstances constituting the Force Majeure.

- 12.4 The party claiming Force Majeure shall give notice to the other party when it ceases to be affected by the Force Majeure. The Contractor shall prepare a revised Programme of Contract Services including the rescheduling of the Contract Services so as to minimize the effects of the delay.
- 12.5 No adjustment to the Contract Price and no compensation for additional cost shall be made in respect of the Force Majeure. Only an extension of the Scheduled Completion Date shall be granted in accordance with the provisions of the clause 10.

13. ACCEPTANCE OF THE CONTRACT SERVICES

- 13.1 When the Contractor considers that the whole of the Contract Services have been fully completed, the Contractor shall so notify the Company and request the issue of a Completion Certificate.

Within ten (10) working days after receipt of such notice, the Company shall check the Contract Services, and if the Company finds any uncompleted or incorrect services the Company shall advise the same to the Contractor.

The Contractor shall immediately re-perform or complete such portion and shall again notify the Company that all the Contract Services have been accomplished.

The above procedure shall be repeated until all the Contract Services have been accomplished to the satisfaction of the Company.

- 13.2 In the event the Company accepts the whole of the Contract Services, the Company shall issue to the Contractor, the Completion Certificate for the Contract Services. The issuance of such certificate by the Company shall not deemed to be an acknowledgement that the Contract Services are free from defects nor it shall be deemed to be a waiver of any rights or claims by the Company against the Contractor.
- 13.3 Upon the issuance of the Completion Certificate for the Contract Services, care and custody of the Contract Services shall be transferred from the Contractor to the Company.

- 13.4 Upon expiry of the Defects Liability Period, the Contractor shall request Company to issue the Final Acceptance Certificate, subject to fulfillment by the Contractor of the following conditions:
- (a) The re-performance by the Contractor of any defects and the completion of any omitted or incomplete services discovered during the Defects Liability Period; and
 - (b) Re-performance of defective services shall be at the sole cost of the Contractor.
- 13.5 Notwithstanding the foregoing provisions of this clause and the issuance of any Certificate, the Contractor shall remain obligated under all those provisions of the Contract such as but not limited to defects liability, indemnity and taxes provisions hereof, which expressly or by their nature extend beyond and survive the Completion Certificate and/or the Final Acceptance Certificate, as the case may be.

14. WARRANTY AND DEFECTS LIABILITY

- 14.1 The Contractor shall warrant and guarantee that it will perform the Contract Services in accordance with the reasonable standards of care, due diligence normally practiced by internationally recognized engineering firms in performing services of a similar nature.
- 14.2 The Contractor shall warrant and guarantee that the Contract Services, as described in the **Appendix D**, shall meet all of the requirements set forth in the Contract and shall conform to the drawings and specifications and the Contract Services shall conform to the standards in paragraph one of this clause 14.
- 14.3 If during the Defects Liability, the Contract Services be discovered not to conform to the description and requirements aforesaid or the defects in Contract Services be discovered or the guarantees or warranties are found to have been breached, the Contractor shall promptly and at its cost, re-perform the Contract Services or part thereof to remedy the said breach.
- 14.4 The Company's right to require the Contractor to re-perform the Contract Services to the necessary to correct and breach as set forth in this clause shall be in addition to, and not a waiver, reduction or restriction of, the Company's other right and remedies at law or in equity. Nothing contained in this clause shall reduce or limit the otherwise applicable statutes of limitation for any action based upon the Contractor's breach of any guarantees or warranties. The Contractor's guarantees or warranties shall not be prejudiced by any approval made or given by the Company.

15. TERMINATION

15.1 Termination by Company due to default of the Contractor

15.1.1 Without derogating from any other right or remedy to which the Company is entitled under the provisions of the Contract or at law, the Company shall be entitled to immediately terminate the Contract, by written notice to the Contractor for any of the following:

- (a) If the Contractor fails to proceed with the Contract Services with due diligence within fourteen (14) working days after being required in writing to do so by the Company; or
- (b) If the Contractor abandons the Contract Services or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract; or
- (c) If the Contractor fails to execute the Contract Services or to perform any obligation under the Contract within fourteen (14) working days after being required in writing to do so by the Company; or
- (d) If the Contractor fails to take any and all necessary steps to ensure that performance of the Contract Services will comply with the provisions of the Contract within fourteen (14) working days after being required in writing to do so by the Company; or
- (e) If the Contractor fails to begin to re-perform, defective services within fourteen (14) working days after being required in writing to do so by the Company; or
- (f) If the Contractor Contracts all or part of the Contract Services or assigns the Contract without the required consent of the Company; or
- (g) If the Contractor becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver,

trustee or manager for the benefit of his creditors, or if any act or event occurs which has a similar effect.

15.1.2 After a notice of termination under the above clause has taken effect, the Contractor shall proceed in accordance with clause 15.3.

15.1.3 After the termination, the Contractor shall be entitled to be paid for all Contract Services completed to the date of termination calculated by reference to the Contract Price and to the rates and prices contained in the Appendix B, for all work properly done on the Site by the Contractor, together with his reasonable costs of removing his personnel or servants from the Site, but less such sums as the Contractor has already received on account of the Contract Price.

15.2 Termination for Company's Convenience

15.2.1 The Company shall be entitled to terminate the Contract, at any time for the Company's convenience, by giving notice of such termination to the Contractor.

15.2.2 Upon such termination, the Company shall pay to the Contractor:

- (a) the amount of the Contract Price payable for any of the Contract Services completed as of the date of the termination, less prior payments, if any, made on account thereof.

- (b) the cost of repatriation of the Contractor's personnel mobilized at the Site at the date of termination unless such cost has previously been paid.

- (c) an amount equal to five percent(5%) of the unachieved Contract Price until the termination of the Contract Services.

15.3 Upon a notice of termination under the above clauses 15.1, 15.2 has taken effect, the contractor shall promptly:

- (a) cease all further parts of the Contract Services, except for such work as may have been instructed by the Company.
- (b) deliver to the Company the parts of the Contract Services executed by the Contractor and accepted by the Company up to the date of termination.
- (c) as may be required by the Company, assign to the Company the Contract and all right, title and benefit of the Contractor to the Contract Services as of the date of termination, and in any Contracts concluded between the Contractor and its Contractors.
- (d) terminate all existing orders and Contracts of the Contractor except those to be assigned to the Company as may be required by the Company.
- (e) hand over to the Company, all the Contractor's documents, and any other documents made by or for him, and other works, for the purpose of completion of the Contract Services.
- (f) repatriate the Contractor's and its Contractor's personnel from the Site.

15.4 The Company's termination of the Contract under the above clause 15.1 and 15.2 shall not prejudice any other rights of the Company, under the Contract or otherwise, and nothing herein set forth above shall affect the rights of either party in respect of any breach of the Contract committed by the other party prior to such termination.

16. SUSPENSION

- 16.1 Upon receipt of any such notice, the Contractor shall comply with all the requirements of the Company contained therein. In connection with any such suspension, Contractor shall properly protect and secure the Contract Services or such part thereof so far as is necessary in the opinion of Company.
- 16.2 If the Contractor is entitled under the terms and conditions of the Contract, the Contractor shall submit notice of claims for extra cost and/or extension of time for the Scheduled Completion Date within fourteen (14) working days of the receipt of the Company's order for such suspension. If the Contractor fails to do so within the specified period, the Contractor is considered to have waived its rights for any extra cost and/or extension of time.
- 16.3 During the period of suspension, the Contractor shall not remove from the Site its personnel or other resources, without prior written consent of the Company, and shall properly preserve, protect and secure the Contract Services so far as is necessary in the reasonable opinion of the Company. The Contractor shall use best endeavor to minimize the costs associated with the suspension.
- 16.4 For any other suspension as ordered by the Company, the time for completion shall be extended and additional cost incurred by the Contractor calculated in accordance with the provisions of clause 10 of the Contract shall be paid by the Company, unless the suspension;

(a) arises in relation to a negligent act, omission or delay by Contractor,
or

(b) arises by reason of some default or breach of the Contract by the Contractor, or

(c) is desirable for the proper performance of the Contract Services in accordance with the Contract, or

(d) otherwise provided in the Contract.

17. LIMITATION OF LIABILITY

- 17.1 Notwithstanding any other clause of this Contract neither party shall be liable to the other for any special, indirect, incidental or consequential loss or damages of any character, including but not limited to loss of profit, loss of contract, loss of use, loss of opportunities, irrespective of whether claims of action for such damages are based on contract, warranty, tort (including negligence), strict liability or otherwise.
- 17.2 The total aggregate liability of the Contractor, warranty or implied warranties, tort (including negligence), strict liability or otherwise shall not exceed the sum of five percent (5%) of the Technical Assistance Services portion of the Contract Price.
- 17.3 These clauses shall not limit liability in any case of fraud, Gross Negligence or Willful Misconduct by the defaulting party.

“Gross Negligence” means any act or failure to act (whether sole, joint or concurrent) which seriously and substantially deviates from a diligent course of action and is a failure to perform a duty in reckless disregard of or indifference to the harmful consequences to life or property but does not include any omission, error of judgment or mistake made in the exercise, in good faith, of any function, authority or discretion conferred upon a party to this contract

“Willful Misconduct” means such wanton and reckless act or omission not justified by any special circumstances as amounts to a willful and utter disregard for the harmful and avoidable consequences thereof but does not include any error of judgment, mistake, act or omission made in good faith.

18. CLAIMS

- 18.1 If the Contractor is entitled to any extension of time and/or any additional compensation or payment under the terms and conditions of the Contract, the Contractor shall give notice of the same to the Company, describing the event or circumstances giving rise to the claim.

Except as specifically provided for elsewhere to the contrary, the notice shall be given as soon as practicable, but not later than three(3) days or such longer period as may be agreed by the Company, after the Contractor became aware, or should have become aware, of the event or circumstances giving rise to such claim.

Within seven (7) days thereafter, The Contractor shall submit to the Company a detailed claim, including full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed.

- 18.2 If the Contractor fails to give notice of, or details of, a claim within the relevant period, the Contractor shall be deemed to have waived its rights to the extension of time and additional payment, and the Company shall be released and discharged from all liability in connection with the same.
- 18.3 The Contractor shall also submit any other notices which are required by the Contract, continuing updates and all other documentation and information as may be relevant to such event or circumstances.

19. GOVERNING LAW AND LANGUAGE

- 19.1 This Contract shall be governed and construed in all respects according to the laws of the Bolivia excluding those conflicts of law rules and choice of law principles which would deem otherwise.
- 19.2 The language for communications and the ruling language for the Contract shall be English.

20. ARBITRATION

20.1 In the event of any dispute between the Company and the Contractor whether arising during the execution or after the completion or abandonment of the Contract Services or after the termination of the Contract (whether by breach or in any other manner), in regard to any matter or thing of whatsoever nature arising out of or in connection with this Contract including the breach thereof, unless settled amicably, then such disputes shall be finally settled and administered by and under the rules of conciliation and arbitration of the International Chamber of Commerce as in force as of the effective date of the Contract, by three(3) arbitrators. The place of arbitration shall be Seoul, Korea. The English language shall be used throughout the arbitral proceedings. The Parties agree that the award of the arbitrator(s):

- (a) shall be final and binding upon both parties and shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or accountings presented or pled to the arbitrator;
- (b) shall be made and shall promptly be payable in U.S. Dollars free of any tax, deduction or off-set;
- (c) any cost, fees (including reasonable attorney's fees) or taxes incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the Party resisting such enforcement; and
- (d) shall be enforceable in any court of competent jurisdiction and not be subject to attack unless otherwise by operation of law.

- 20.2 The award shall include interest from the date of any damages incurred for breach or other violation of this Agreement, and from the date of the award until paid in full, at a rate to be fixed by the arbitrator but in no event less than the London Interbank Offering Rate (LIBOR) plus five (5%) per annum quoted for the corresponding period by Citibank in the London Interbank Market of United States Dollars for immediately available funds. All notices by one Party to the other in connection with arbitration shall be in writing and shall be deemed to have been duly given or made if such notices are made in accordance with the clause 29(Notices) herein. Seems high The Contract Services shall be continued during arbitration.
- 20.3 The arbitrator shall award the costs, fees (including reasonable attorneys' fees) and expenses of any arbitration in accordance with the choice of law provisions applicable to the arbitration proceedings. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding.

21. ASSIGNMENT AND CONTRACTING

21.1 Assignment

The Contractor shall not transfer or assign the Contract or any part thereof, or any benefit of interest therein, without the prior consent of the Company.

Any consent by the Company shall not relieve the Contractor from any liability or obligation hereunder, and the Contractor shall be responsible for the acts, defaults and neglects of any Contractor, its agents, servants or workmen as fully as if they were the acts, defaults and neglects of the Contractor, its agents, servants or workmen.

The Company shall have the right to at any time to withdraw its consent to the employment of any Contractor previously given, if it thinks such action is desirable for the proper execution of the Contract Services and/or in the interest of the Company.

21.2 Contracting

Except where otherwise provided by the Contract, the Contractor shall not Contract all of the Contract Services or any part thereof without the prior consent of the Company. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of his Contractor, the agents, servants or workmen as fully as if they were the acts, defaults and neglects of the Contractor, his agents, servants or workmen.

22. CONFIDENTIAL INFORMATION

- 22.1 Any information supplied or communicated by Company to Contractor in connection with the Contract shall be regarded by Contractor as confidential and shall not, without the prior written approval of the Company, be published or disclosed, or made use of by Contractor except to the extent necessary for the purpose of implementing the Contract. Information may only be released to a third party, to the extent necessary for the performance of or control of the Contract Work. In such cases, Contractor shall ensure that the third party signs a written confidentiality agreement
- 22.2 No films or photographs of any of Company's equipment, facilities or property shall be made or taken without prior approval.
- 22.3 Contractor shall not mention Company's names in connection with the Contract or disclose any particulars of the Contract Services or the existence of the Contract in any publicity material or in any trade or technical paper or elsewhere or other similar communication to third parties without the prior written approval of the Company.
- 22.4 Contractor's obligation not to divulge information to a third party shall not apply to information which:-
- (a) is part of the public domain otherwise than in consequence of a breach by Contractor of its obligations under this Clause.
 - (b) was in Contractor's possession prior to award of the Contract and which the Company did not notify Contractor as being confidential.

(c) was received from third parties having the right to disclose such information.

(d) Contractor is obliged to submit to governmental or public authorities having jurisdiction over the Contract Services.

22.5 Any proprietary information and technology including patent right developed by Contractor shall remain the property of Contractor, provided Company shall have a royalty free license to use them.

22.6 This clause 22.0 shall survive the termination or expiry of the Contract for a period of two(2) years.

23. INTELLECTUAL PROPERTY

- 23.1 If any technical information or data used or methods, know-how, processes or services practiced or employed in the course of execution of the Contract Services are protected by patents or other intellectual or industrial property rights in respect of which Contractor is not licensed, Contractor shall, before using the technical information or data or method, know-how, processes or services, as the case may be, obtain such licenses and pay such royalties and license fees as may be necessary at its sole cost and risk.
- 23.2 Contractor shall be supported for and shall save, indemnify, defend and hold harmless Company, from and against any claim, allegation or proceeding (including for infringement of any patent, copyright, trade secret, trademark, service mark, trade name or other protected rights) which arises out of or in relation to Contractor's design, methods, know-how, processes, services or execution of the Contract Services.
- 23.3 Contractor may, at its cost, conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise therefrom, provided that no statement or result is prejudicial to the Company.

24. TITLE TO THE DOCUMENTS

- 24.1 Documents such as drawings, specifications, procedures, technical report or the similar documents prepared by Contractor pursuant to the Contract and/or all know-how, improvements, discoveries, inventions which Contractor, its employees or its Contractors may make as a result of the performance of the Contract Services or which are wholly or in part based on or derived from the documents or information provided by Company and any copyright thereof, shall be the property of the Company. Contractor shall return such documents to Company upon completion of the Contract Services.
- 24.2 Any technical data and know-how and processes including patents owned by Contractor prior to this Contract and not developed through and during the Contract Services shall remain the property of the Contractor.

25. INDEPENDENT COMPANY

25.1 The Contractor represents that it is fully experienced and properly qualified, licensed, equipped, organized and financed to perform the Contract Services.

25.2 The Contractor shall act as an independent contractor and not as the agent of the Company in performing the Contract Services and maintaining complete control over its employees.

26. AUDIT RIGHTS

- 26.1 During the course of the Contract Services and for a period of 2 years after the issuance of the Completion Certificate under the Contract, the Company shall have the right to audit at all reasonable times and, upon request, take copies of all of the Contractor's records (including data stored on computers), books, personnel records, accounts, correspondence, memoranda, receipts, vouchers and other papers of every kind pertaining to the performance of the Contract Services under the Contract.

The Company shall not generally be entitled to investigate the make up of rates and lump sums included in the Contract except to the extent necessary for the proper evaluation of any Variations.

27. NON-WAIVER

Failure or delay of the Company to enforce at any time any terms, provisions or conditions of the Contract, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein; and no waiver whatsoever by the Company shall be valid unless made in writing and signed by the Company.

28. SEVERABILITY

If any provision of the Contract is determined to be invalid, void or unenforceable, the remaining provisions of the Contract shall remain in full force and effect.

29. DESIGN STANDARD AND RULES

All design and drawing shall be followed BS Codes, Korean Standards and ASME Code. Otherwise, it shall be discussed between COMPANY and CONTRACTOR.

30. NOTICES

Any notice or other communication under the Contract shall be sent by facsimile transmission or mailed by registered or certified letter to the party at the address set forth below:

COMPANY : **Ministry of National Defense, BOLIVIA.**

Bolivia Government

Name:

Title:

Tel No. & Fax No.:

CONTRACTOR : **GMB CONSORTIUM**

Consortium Principal Contractor: GMB

586-1, Senonam-Dong, Nam-Gu, Ulsan # 680-819 , Korea

Name: Chong Ho,Kwak

Title: President

Tel No :82-(0)52-270-3500, Fax No :82-(0)52-256-8052

Partner of Engineering : ZENTECH ENGINEERING CO., Ltd.

135-080 6FL Cheong Am Bldg. 834-46 Yeoksam-Dong, Gangnam-Gu, Seoul,
Korea

Name: B.Y. CHOI

Title: President

Tel No. : 82 2 556 0781 , Fax No : 82 2 556 0796

or at such other address as either party shall previously have designated by a written notice to the other. Notice sent by facsimile transmission for which the

answerback has been received shall be deemed to have been given on the date sent. Notice sent by mail shall be deemed to have been given (5) days after posting.