

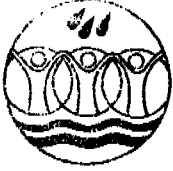
[Tender documents relating to
Clean Settlement Project - Sri
Lanka]

Battaramulla, Sri Lanka
Ministry of Housing, Construction & Public
Utilities

கிழவ. ஒடிக்கீர்தி கா மதகல ருபயோகிதா அமாதாங்கல

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Ministry of Housing, Construction & Public Utilities



சூய சரூபிதபடித கா ககிபாரணக விதபாதிச

சமூக நீர்வினியோக சுகாதார திட்டம்

COMMUNITY WATER SUPPLY & SANITATION PROJECT

864762, 864776, 864767

863906, 862583

கல்கிபரிபா. கு கல்கிபரிபா. கல்கிபரி. கல்கிபரி. 'செதிரிபய', ஸ்ரீ ஜயவர்தனபுர, கோட்டே, பத்தரமுலலை.

Sethsiripaya, Sri Jayawardenapura, Kotte, Battaramulla, Sri Lanka.

மலக குகல
கல்கிபரி. தி.ப.
My No:

மலக குகல
உகல்கிபரி. தி.ப.
Your No:

நிலக }
November 29, 1995
Date }

Mr. Graeme Lee, Task Manager
Infrastructure Operations Division,
Country Dept. I,
South Asia Region
The World Bank
1818 H Street, NW
Washington DC 20433

LIBRARY
INTERNATIONAL REFERENCE CENTRE
FOR COMMUNITY WATER SUPPLY AND
SANITATION (IRC)

Dear Mr. Lee,

As per your request we have prepared some material for use in the upcoming seminar on the role of women in infrastructure development.

Unfortunately, we were not quite clear on the exact focus, so you will have to bear with us if we sent you more material than expected.

We had some nice - enlargements on women involvement which we used in a recent exhibition, but these photographs were too large to include. All the same we send you some smaller copies, for display or illustration.

I hope you have a nice seminar and we look forward to any experience you would like to share with us.

At the same time I am sending you herewith the revised Letter of Invitation for proposals for the project preparatory consultancy services, Clean Settlement Project, together with the Letter of Interest for your early concurrence.

All other information on CSP referred to in your fax is being finalized now and will be sent to you by next week by Mr. A.V.G.C. Karunathilake, Addl. Director/CSPU, as I will be away from the office.

Warm regards,

Yours sincerely,

H.T. Hewawasam
Director

Community Water Supply and Sanitation Project

- cc: 1. Mr. K.M Minnathullah - Programme Coordinator for Pakistan
2. Mr. A.V.G.C. Karunathilake - Addl. Director/CSPU - Please send all documents to Mr. Lee, as discussed.

**MINISTRY OF HOUSING CONSTRUCTION AND
PUBLIC UTILITIES**

CLEAN SETTLEMENT PROJECT

Notice of Request for Statements of Interest

The Government of Sri Lanka has requested the International Development Association (IDA) for the establishment of Project Preparation Facility (PPF) towards financing the preparation of Clean Settlement Project (CSP). A portion of this PPF is to be applied to the engagement of a preparatory consulting firm to provide advisory services in refinement of project design. These services will be provided to the Clean Settlement Programme Unit (CSPU) within the Ministry of Housing, Construction & Public Utilities, for which this invitation for proposal is issued. This assignment is expected to commence in January 1996 and to be completed for a period of six months.

The Ministry of Housing, Construction and Public Utilities, therefore, proposes to recruit a panel of preparatory consultants (consultant firm or a consortium of consultants) for the preparation of Clean Settlement Project.

The Clean Settlement Project will be designed to improve the physical, social, economical, political and institutional and environmental in about 200 Low Income Settlements benefiting about 20,000 people living in Western Provincial Council Area. This project, which is being formulated at the moment, is planned to be implemented over a five year period and will have an innovative community-based approach to planning, installation and operation of the facilities, placing the communities in the center of the process. The respective Community Based Organizations will have the ultimate responsibilities for the infrastructural services provided through the project.

The lead agency of this project will be the Clean Settlement Programme Unit (CSPU), presently being established in the Ministry of Housing, Construction and Public Utilities. Planning, designing and construction of infrastructural facilities and services will be carried out by CBOs in partner-ship with Support Organizations (NGOs), Local Government Institutions and Service Agencies within the parameters laid down by, and under the supervision of, the CSPU.

The project preparation activities would involve in reviewing and refinement of methodologies and procedures of the project design in the light of the experience gain from the pilot projects implementation, development of policies and procedures for transferring clear land titles, preparation of EIA guidelines, settlement dislocation/adjustment plans, uniform policies and undertake economic and financial analysis.

Approximately 18 staff months (3 Foreign and 15 Local consultants), will be requested to work, under the overall direction of the Director/CSPU. The major discipline required will include project planning, urban/settlement planning, land/legal matters and monitoring, evaluation and management information system, economic and financial analysis etc.,

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Interested consultants are hereby requested to submit on or before
Statements of Interest which should include information on their experience (both
geographical and professional) and curricula vitae of key personnel available to be assigned
to this project. The Ministry of Housing, Construction and Public Utilities will draw up a
short list of not more than six suitable Consultants from amongst those who submitted
Statements of Interest. The Ministry of Housing, Construction and Public Utilities will then
invite proposals only from those short listed Consultants. More detailed information can be
obtained, if necessary, from Director/Clean Settlement Programme, Ministry of Housing,
Construction and Public Utilities (Tel: 867773, Fax:864765).

Statement of Interest should be sent to:

K. A. S. Gunasekara
Secretary,
Ministry of Housing, Construction and Public Utilities
"Sethsiripaya"
Sri Jayawardenapura
Battaramulla

HNK\add.csp

REQUEST FOR PROPOSAL

CLEAN SETTLEMENTS PROGRAMME (CSP)

LETTER OF INVITATION FOR PROPOSALS FOR THE PROJECT PREPARATORY CONSULTANCY SERVICES CLEAN SETTLEMENT PROJECT.

I. INTRODUCTION

1. The Government of Sri Lanka has applied the International Development Association (IDA) for the establishment of Project Preparation Facility towards financing for the preparation of Clean Settlement Project (CSP). A portion of the credit is to be applied to the engagement of a preparatory consulting firm to provide advisory services in refinement of project design. These services will be provided to the Clean Settlement Programme Unit (CSPU) within the Ministry of Housing, Construction & Public Utilities, for which this invitation for proposal is issued. The scope, timing and manpower requirements for the consultancy are set out in the attached terms of reference (Appendix I). The assignment is expected to commence in January 1996 for period of nine months.
2. Your firm is invited, as one of the (.....) shortlisted firms, to submit a proposal for the providing of Preparatory Consultancy Services for the preparation of "Clean Settlement Project" on or before 12 noon (Sri Lanka standard time) at the address given below to provide the prescribed consultancy services as per the Terms of Reference of this document.

Director,
Clean Settlement Programme,
Ministry of Housing, Construction & Public Utilities, (9th floor)
"Sethsiripaya",
Battaramulla, SRI LANKA.

The submission should consist of the original and five copies of a Technical Proposal and the original and five copies of the Financial Proposal with the contents clearly marked, separately.

II. CONTENTS OF PROPOSALS

3. The **Technical Proposal** (original and 5 copies) shall be prepared in the English language. Your Technical Proposal should demonstrate your firm's knowledge of the project requirements and its understanding of the requisite tasks set forth in the scope of work and terms of reference. The requested information, in full, must be set forth in the following sequence:
 - (a) Background, organisation and experience of your firm and of any firm with which you would be associated for the purpose of providing the services for this project. A list (with individual projects in the format shown in Appendix II) of (completed within the last 10 years) past and present major work of similar nature carried out, or being carried out, by your firm (and your associate firm(s) if any is to be submitted. The experience claimed should be limited to those projects for which your firm (or your associate

firm(s)) as corporate entities were legally contracted by clients. Assignment(s) completed earlier by individual experts working privately or through other firms cannot be claimed as the experience of your firm, or your associate(s), but can be claimed by the individuals themselves (refer (f) below).

- (b) Information on the workload of your firm at the time the proposal is made. The information should be presented in the format shown in Appendix III.
 - (c) General approach and methodology which you propose for carrying out the services including such detailed information as you deem relevant.
 - (d) Work programme including an organisation chart and graphical presentation of work plan (bar chart) and staffing schedule. The staffing schedule should indicate clearly the estimated duration (separately in the home, office and in the field) and the probable timing of the assignment of each professional to be used (both foreign and domestic). The format to be used for the staffing schedule is shown in Appendix IV.
 - (e) Comments, if any, regarding the terms of reference designed to improve performance in carrying out the assignment are welcome.
 - (f) Name, age, nationality, background, employment records and detailed professional experience of each expert to be assigned for providing the proposed services, with particular reference to the kind of experience required for the project. The proposed experts must be citizens from the Bank's member countries. A copy of the biodata format that must be used is attached as Appendix V.
 - (g) Proposed association arrangement (if any).
 - (h) Estimate for office space, vehicles, office and field equipment, local counterpart support, etc. required for carrying out the proposed services.
4. **The Financial Proposal** (original and five copies) shall be submitted in a sealed envelope separate from the technical proposal. The costs shall be presented in foreign and in local currency. The costs that are expected to be incurred in Sri Lanka shall be quoted in Rupees. The costs that are expected to be incurred outside Sri Lanka shall be quoted in foreign currency.

The following information should be provided :

- (a) Personnel
In general, personnel costs shall be presented as described in Appendix VI.
- (b) Facilities, Supplies and Equipment
 - i. To be provided by contractor (provide a description of the facilities, supplies and equipment to be provided at no additional cost to the GOSL, i.e. which are included as a personnel overhead cost)

ii. To be provided by the GOSL (provide a complete list of all facilities, supplies and equipment which you will require the GOSL to provide or which you believe to be needed to undertake the assignment which are not included in Item (i) above.)

(c) Cost Adjustments

(Provide your proposed methodology for making annual adjustments for inflation)

(d) Expense Reimbursements

(Provide the amount of mark-up (if any) you propose to charge in addition to the actual cost for expenses you incur for which direct reimbursement is expected).

(e) Summary

(Provide any other financial information needed to ensure that the financial proposal can be clearly understood and interpreted correctly).

(f) The Financial Proposal should be prepared using the Forms given in Appendix VI to Appendix X, preparing separate Forms for foreign currency and local currency components.

5. Other Requirements

i. The Consultants shall be subject to the taxation rules and regulations of the Government of Sri Lanka. The Consultants shall be responsible for the payment of any taxes which might be due and are advised to take appropriate advice on this matter from Sri Lankan Missions abroad or from the Department of Land Revenue, Government of Sri Lanka, regarding government taxes. The Consultants' prices should include an amount to cover taxes.

ii. Any manufacturing or construction firms in which the Consultants have an interest will not be eligible to participate in any project resulting from, or associated with this consulting assignment.

iii. If the firms invited consider that they do not have all the expertise for the assignment, there is no objection to their associating with another firm to enable a full range of expertise to be presented.

iv. Firms are encouraged to associate with domestic firms if needed expertise is available locally. Firms are also encouraged to employ national experts if available.

6. The proposal, and in particular the rates and total price shall be valid for a period of 90 days, commencing from the date for delivery of the proposals, during which time the firm shall maintain without change the personnel proposed for the assignment.

III. EVALUATION OF PROPOSALS

7. Criteria for Evaluation

A two staged procedure will be adopted in evaluating the Proposals with the evaluation of the Technical Proposal being completed prior to opening the Financial Proposals of the bidders whose Technical Proposals are not acceptable will not be opened. Upon completion of evaluation of the relevant Financial Proposals, both Technical and Financial Proposals will be taken into account and evaluated using the framework given in item 10 below.

8. Technical Evaluation

The technical proposal will be evaluated according to the following points criteria :

i.	Relevant prior experience of the firm (previously submitted information)	15 points
ii.	Merits of the proposed method for undertaking the project	35 points
iii.	Capability and experience of the proposed consultant personnel	50 points
	T O T A L	100 points

The assessment of the qualifications and experience of the individual experts shall be rated based on the Curriculum Vitae of senior personnel in each discipline which should be included with the proposal in the format to the sample C.V. This assessment will be taken into account to arrive at the score under (iii) above. These personnel will be rated generally in accordance with the following criteria :

i.	General experience in low income urban sector	10 points
ii.	Experience in community based project design and management	15 points
iii.	Adequacy for project	10 points
iv.	Community based infrastructure experience in developing countries in Asia	15 points
	TOTAL	50 points

9. Selection Procedure

After the Evaluation of the Technical Proposals is completed, firms scoring above 80% on technical evaluation will be acceptable for the evaluation of Financial Proposals. At the final evaluation a weightage of 80% will be given to the score of Technical Proposal evaluation and 20% to the score of the Financial Proposal evaluation. For the purpose of evaluating Financial Proposals of the technically acceptable firms the lowest Financial Proposal will be given 100 marks and the others on pro-rata basis.

The final selection will be subject to the approval of the GOSL, however the GOSL is not bound to make a selection or enter into a contract as a result of this solicitation.

IV. NEGOTIATIONS

- 10. After selection, the selected firm will be invited to negotiate financial and other terms of the contract without delay. A draft contract is shown in Appendix V. The representative(s) conducting negotiations on behalf of the consulting firm must have written authority to negotiate financial and other terms, and to conclude a binding agreement. Should the negotiations prove unsuccessful, the firm next ranked will be invited for negotiations (and so on, if necessary, until an agreement is concluded). As soon as the contract is signed with the finally selected consulting firm, other shortlisted firms will be advised.
- 11. The successful bidder will be expected to commence work within 30 days of signing the contract.

V. INTENTION TO SUBMIT PROPOSAL

- 12. You are requested to acknowledge within 7 days of receipt of this letter by fax/cable/telex to the Director, CSPU, Ministry of Housing & construction & Public Utilities, Sethsiripaya, Sri Jayawardanapura Kotte, Battaramulla, Sri Lanka and to indicate whether or not you intend to submit a proposal and the intended mode of delivery of the proposal.

For the purpose of obtaining any further information and for arranging visit of project site you may contact:
Project Director
Clean Settlement Project Unit
Ministry of Housing, Construction & Public Utilities
Sethsiripaya, Battaramulla, Sri Lanka.
Tel:
Fax:

VI. VISIT OF PROJECT SITE

- 13. In order to familiarize yourselves with the Project and to assess the extent of services to be provided by your firm, you may visit the Project area and review available project documents. However, it should be clearly understood that any costs of liabilities incurred by the Consultants in preparing a proposal and of negotiating a contract, including trips to Sri Lanka, is not reimbursable as a direct or indirect cost of the assignment.

VII. REQUEST FOR ADDITIONAL INFORMATION

14. In the event that you desire additional information, we would endeavor to provide such information expeditiously but any delay in providing such additional information will not be considered as a reason for extending the submission date of the proposal. Following documents could be made available on prior requests.

A P P E N D I X I

PROJECT PREPARATORY CONSULTANCY SERVICES CLEAN SETTLEMENT PROJECT TERMS OF REFERENCE

1. BACKGROUND

- 1.1 The Government of Sri Lanka has long been assisting the shelter needs of rural and urban poor communities particularly through public sector housing programmes. Currently the main programmes in the Western Provincial council are Electoral Housing Programme, and Urban Housing Programme (UHP) which are implemented and assisted by a number of government agencies led by the National Housing Development Authority (NHDA), Urban Local Authorities (ULAs), private, civic, and non-government organizations (NGOs).
- 1.2 Under the impetus of the recently launched Metropolitan Environmental Improvement Programme (MEIP) and the Colombo Environment Improvement Project (CEIP) a review has been carried out of past and on-going urban low income settlement programmes, of the Colombo Metropolitan Area, as an initial step towards preparation of a Clean Settlement Project. The following issues and constraints in programme implementation have been identified;
- a. poor linkages and lack of coordination between programmes of Central and Local Governments programmes;
 - b. limited coverage and inadequate funds available for home improvement loans and for the providing basic infrastructure;
 - c. lack of attention and allocation of inadequate fund for community development programmes to organize communities, and provide support to women and youth;
 - d. inadequate community participation in many areas due to weak organizational capacity, over dependency on grants and free goods from government and donor agencies;
 - e. low loan repayment performance for housing improvement loans and no cost recovery strategies introduced for community infrastructure facilities;
 - f. insufficient tenure arrangements for many residents resulting in their reluctance to invest in infrastructure and sanitation facilities; and

- g. limited absorptive capacity of many Local Governments due to constraints in funding, and non availability of motivated staff who are oriented toward a community based development approach.
- 1.3 To address the issues and constraints described above, GOSL through the Ministry of Housing and Construction and Public Utilities (MHCPU) has proposed to expand the existing housing programmes by establishing a Clean Settlement Programme (CSP) based upon a new strategy focussed on Low Income Settlements (LIS) within the Western Province. The key element in this strategy is the "community based approach" whereby the community itself has a central decision making and lead participation role in the planning, implementation and management process.
 - 1.4 In order to gain a better understanding of issues and constraints as well as to prepare a foundation for implementing a viable project to overcome them, a preliminary Project Preparatory Study was carried out in the Colombo Metropolitan Area. Further preparatory work is being undertaken by selecting 6 communities as pilot schemes. These communities have been mobilized to the point where each has prepared a prioritized development plan (CAP) and has undertaken initial community development activities.
 - 1.5 The project area perceived as at present covers the Western Province comprising the Colombo, Kalutara, and Gampaha Districts. Within this area of approximately (100,000 hectares) lives a population of some (3.6 million) people. Within the Colombo Metropolitan Area (CMA) approximately 600,000 people, or 35-40% of the total population, live in some 1,500 Low Income Settlements. Such settlements consist of shanties, slum gardens, slum tenements, unserviced semi urban neighbourhoods, local authority labour quarters and relocated new settlements.
 - 1.6 Pre Project Implementation Phase of the Clean Settlement Programme since its commencement in March 1994 under the Colombo Environmental Improvement Project (CEIP) has undertaken the following activities as of 30th June 1995:
 - a. Establishment of Clean Settlement Programme Unit (CSPU) as the Intermediary Agency including office establishment, recruitment of key staff members, procurement of basic office equipments etc.,
 - b. Establishment and functioning of National Steering Committee (NSC) for CSP
 - c. Development of Partnership Development Concept.
 - d. Development of a draft policy framework
 - e. Carrying out of Programme Development Activities such as preparation of site selection criteria, SO and CBO assessment procedure and selection criteria, formulation of guidelines for planning, design, Operation and Maintenance of Community Infrastructure Services.
 - f. Development of detailed project development process and mode of operation

- g. Commencement of the Implementation of six pilot projects and successful completion of the project development phase
- h. Development of training strategy, training manuals and guidelines
- i. Establishment of a coordination mechanism for pilot project implementation at community and LGA levels.
- j. Carrying out of awareness and orientation programmes for CSP partners .
- k. Development of draft participatory Monitoring and Evaluation mechanism
- l. Implementation of Low Cost Sanitation Component providing sanitation facilities and hygiene education services to about 7,000 families.

1.7 It has now been decided that the Clean Settlement Programme be implemented as a separate project expanding its geographical area and the scope. Therefore, Phase II of the pre project implementation of CSP has been launched in July 1995. An agreement was reached at the wrap-up meeting of the World Bank Mission held on 30th June 1995 that the continuation of pre-project phase activities of CSP will be funded under a separate Project Preparation Facility (PPF). Subsequent to the agreements reached with the World Bank Project Preparation Mission the pre-project activities of the Clean Settlement Project have been redesigned and detailed budget has been prepared for a period of one year commencing from July 1995.

1.8 The work items to be undertaken within Phase II of the pre-project implementation phase of the CSP to be funded under the proposed PPF of IDA are being identified and designed in terms of 5 broad areas, namely:

- Programme Development
- Community Development
- Community Infrastructure Development
- Programme Management and Administration
- Technical Assistance

1.8.1 Programme Development

The CSPU will undertake a series of activities during this period essential for the preparation and smooth implementation of the project under this component, which would finance:

- Procurement of office equipment such as furniture, vehicles, computers and accessories and technical equipments
- Development of information and awareness campaign and production of related materials.
- Provide training for CSPU staff and SO Community project staff and development of training materials.
- Policy development and research activities.
- Development of participatory Monitoring and Evaluation System

- Undertake project preparatory phase activities such as development of procedures criteria, bidding documents, manuals and
- Capacity building of CSP partners especially support organizations, Local Government Agencies, Service Agencies and CBOs.

1.8.2 Community Development

Community development is the central theme of the programme and hence the CSP would focus much attention on development of appropriate methodologies, procedures and systems for community mobilization and active involvement of user communities in planning, designing, construction and management of infrastructure services through development of participatory techniques by implementing pilot projects during this period.

This component would support following soft ware activities:

- Community mobilization and organization* - This includes a package of activities for mobilization of user communities, capacity building at grass root level and formation of Community Based Organizations (CBOs) to prepare, plan, implement and manage their own development programmes in pilot project areas. Complementary non formal education with specific reference to women's education, savings and credit funds including assistance to individual households, assistance for land regularization, settlement of ownership and access to home improvement loan etc., to user communities would also be facilitated under their component.
- Health and Hygiene Education* - To assist communities especially the women to organize, identify and to solve existing health and hygiene related problems through participatory and promotional methods and approaches which are to be implemented during this period in pilot projects.
- Income generating activities* - Primarily Promotional activities including delivery of opportunities for employment and livelihood, opportunities for general and specific skill training, small business management and marketing, credit assistance etc.,

1.8.3 Community Infrastructure Development

The project will adopt participatory and adoptive learning approach in formulating the project and, hence, implementation of pilot projects for obtaining working experiences and training of Partners of the programme would be of paramount importance. Six pilot projects are now being implemented and project development phase of this project has been completed. Construction activities have to be commenced after the detailed design and feasibility studies are completed.

This component will support to undertake pre feasibility studies, initial and detailed designs of the 06 pilot projects being implemented and 30 projects to be undertaken during the phase II of the pre project implementation and to construct community infrastructure facilities and services in water supply, sanitation, drainage, road and small footpaths, garbage collections, street lighting facilities including the development of community centres, landscaping and open space

development of six pilot projects already being implemented. Part finance for this infrastructural facilities will be provided by the beneficiaries as agreed with the World Bank.

1.8.4 Programme Management and Administration

The scope of the project cuts-across boundaries of various agencies at National, Provincial and Local Government levels and therefore, institutional factors would play a critical role in successful accomplishment of targets of the project. Having realized, above, the establishment of the project administration and coordination mechanism for the implementation of the project considered essential pre-requisites. The CSPU has already been established as an intermediary agency. Further strengthening of this unit by recruiting the minimum staff required purchasing essentials are to be undertaken during this period.

Therefore, this component would fund for the functioning and strengthening of CSPU including expenses for staff, communication, equipment, vehicles, office equipment and office maintenance etc.,

1.8.5 Technical Assistance

The experience gained from the pilot projects has revealed that indepth studies in some areas such as land regularization, legal framework, establishment of a uniform policy framework and planning procedures are required for the formulation of more realistic project design. Therefore, short term specialist inputs in these areas are needed during this period and Technical Assistance component would provide funds for Consultants required during the project preparation phase.

2. **PROJECT PREPARATORY CONSULTANCY SERVICES**

2.1 **GENERAL**

- 2.1.1 The Government of Sri Lanka has applied to the International Development Association for the establishment of Project Preparation Facility towards financing the project preparation cost of the Clean Settlement Project. (CSP). It is intended that part of the proceeds of this PPF Funds would be utilised for eligible payments for the consultancy services of the project preparatory work described in this document.
- 2.1.2 The Ministry of Housing, Construction and Public Utilities proposes to recruit a Consultant (Consulting Firm or Consortium of Consultants) for the preparation of the CSP. Which is designed to provide basic infrastructure consisting of drainage and solid waste collection to about 20,000 households in approximately 200 Low Income Communities (LIS) in the Western Province Area. The project is planned to be implemented over a five year period and will utilize a community based approach to planning, installation and operation of the facilities.
- 2.1.3 The lead GOSL agency for this project will be the Clean Settlement Programme Unit (CSPU), established in the Ministry of Housing, Construction and Public Utilities. Planning, designing, installation and operation of water supply and sanitation systems will be carried out by Community Based Organizations, in partnership with Support Agencies (NGOs), Service Agencies (e.g National Water Supply & Drainage Board, National Housing Development Authority) and Urban Local Authorities. All work will be carried out within the parameters laid

down by, and under the general overview of, the CSPU. The Project will have a major institutional development component, including both the consolidation of the CSPU and extensive training and capacity development within the collaborating agencies and the Community Based Organizations which have the ultimate responsibility for the services provided through the project.

In order to overcome constraints on project implementation capacity in the sector, the existing capacity of all support and service agencies and local authorities needs to be strengthened in their ability to work with low income communities and to better co-ordinate inputs. The programme must therefore help the implementing agencies to expand the scale of operations and build upon their existing expertise. This will take the form of both technical training and the development of methods which will assist collaborating agencies to harness the resources and energy of communities in project implementation and on-going operation and maintenance.

At the community level, the key agencies are the Community Based Organizations (CBOs) who will be responsible for coordinating community inputs to project implementation and management, and for taking formal responsibility for the projects. Their skills must be developed, mainly through the Support Organizations. This development will include such diverse matters as financial management participatory planning and Operation & Maintenance of basic infrastructure.

Key areas for development particularly for Service Agencies and Urban Local Authorities will be the identification of community demand, provision of low cost services and improved coordination. Service Agencies and Local Authorities may have limited experience or understanding of the social dimensions of the community-oriented approach employed, and will need orientation to make them effective.

Support will be provided to all the institutions mentioned to help them to identify their institutional and human resource development needs. The CSPU will play the primary role in arranging training programmes, carrying out the training of trainers, and facilitating exchanges. The Unit will also develop and distribute training materials and resources.

2.2 OBJECTIVE

- 2.2.1 The main objective of the proposed Project Preparatory Consultancy Services is to provide competent technical assistance to the CSPU through experienced professionals who are well acquainted with different aspects of expertise demanded by project preparatory work of this community based settlement project. The Consultant will assist in formulating the project including settling land titles and legal matters, refinement of project approach in the light of the experience of the pilot project, preparation of sectoral Environmental Impact Assessment on a programme basis and formulation of site specific guidelines and development of Environmental Management Plans for pilot projects covering human waste management, water pollution, flooding on improvement of lands and other sensitive natural land areas; preparation of resettlement plans and guidelines; undertake financial and economic analyses in the light of new project cost; and institutional development and Strengthening for subsequent project implementation.

2.3 SCOPE OF PROJECT PREPARATORY CONSULTANCY SERVICES

2.3.1 Key Tasks to be Performed

In order to meet the above objective the key tasks to be undertaken by the consultants will be:

- a) Review of all project preparatory work carried out so far by the CSPU including the experience gained from the Pilot Projects;
- b) Refinement of the Project Implementation Methodology on the basis of the pilot programme work currently in progress;
- c) Refinement and documentation of CSPU policies, procedures and criteria for all Programme Development Activities;
- d) Establishment of an adequate management information systems for CSPU to function effectively;
- e) Undertake detailed study on land issues and develop legal procedures in settling land issues, and providing clear land titles;
- f) Undertake a comprehensive economic analysis of the Clean Settlement Project;
- g) Provide Technical Assistance for capacity building of CSPU and its partners such as support organisations, LAs, Service Agencies and CBOs;
- h) Assist CSPU to institutionalise procedures and functional methods for immediate functioning.

Once the initial experiment/ evaluation/ revision has been completed, the basic procedures and methods of the CSPU will be institutionalized as the basis for an immediate implementation of the project.

2.3.2 Team of Consultants to be Employed

The consultancy services to be provided in terms of the earlier mentioned key tasks by employing the Team of Consultants specified below. The Consultant is requested to submit the Technical Proposal by nominating both local and international consultants.

International Consultants

- Specialist in Community Based Project Preparation.

The team will also include the following local consultants;

Local Consultants

- Legal/land specialist.
- Environmental specialist
- Financial Advisor
- Economic Specialist

2.3.3 Expected Consultancy Outputs

The expected outputs of the consultants for project preparation as per this Terms of Reference will be in the following four main areas:

- Programme development
- Environmental Impact Assessment
- Land title and legal ownership
- Finalization of Project Preparation Documents

2.3.3.1 *Programme development will include:*

- Establishing working methods and procedures, with special emphasis on efficient administrative and contracting systems.
- Development of programme plans and planning procedures
- Planning and assisting in the implementation of a Co-ordination programme between Service Agencies, Local Government Authorities and communities.
- Establishing effective working relationships among all partners of the CSPU.
- Assist in the establishment of good personnel management, incentive systems and working conditions in the CSPU.
- Provide direct inputs into publicity campaigns, Community and Supporting Organizations agency support and project development and implementation.
- Assist in the provision of intensive training support to the Support Organization and through them to the communities.
- Preparation of operational and procedures manuals.
- Development of resource and training materials for use by the Support Organizations.
- Assist in establishing operation and maintenance support linkages to back up community maintenance of infrastructure.

2.3.3.2 *Environmental Impact Assessment will include*

- Preparation of sectoral EIA on a programme basis which would apply to all LIS sites.
- Development of site specific EIA guidelines
- Assess in preparation of 06 Community Environmental Management Plans for ongoing Pilot Projects, covering (i) human waste Management; (ii) Water Pollution (surface and ground water); (iii) flooding; and (iv) any improvement on land or other sensitive natural areas.
- Prepare resettlement/dislocation/adjustment policy criteria and guidelines.

2.3.3.3 *Land title and legal ownership will include*

- Undertake detailed study of providing land issues of ongoing pilot project and identify constraints or bottlenecks in issuing clear and transferable titles to the human needs.
- Prepare different optimal procedures/methodologies packages for accelerated settling of land issues.

2.3.3.4 *Finalization of Project Preparation Documents*

- Refine community based methodologies of the CSPU being implemented in Pilot Projects.
- Revised of different types of Low Income sites and investigate the suitability of providing methodologies in all types of low income settlements.
- Develop Financial Systems for the implementation of Community Projects.
- Undertake economic analysis of the project.
- Refine the project design in the light of new changes and lessons learned from Pilot Project Implementation

3. **TIME FRAME OF CONSULTANCY SERVICES**

The contract for this consultancy services will extend throughout the entire period of phase II of the Pre project Implementation stage, commencing approximately from January 1996 to March 1996. The Consultants are required to propose the specific time frame of specific activities of the consultancy services to be provided, which the Ministry of Housing, Construction and Public Utilities will revise and approve with necessary amendments.

4. REPORTING REQUIREMENTS

The consultant shall assist the CSPU in the preparation of quarterly progress reports of the project preparatory work which describe activities in each major element of the assignment, identify milestones achieved and difficulties encountered, and propose remedial strategies.

The Consultant will prepare and submit a Draft Final Report by the end of 7 months from the date of commencement which should be a compilation of Project Preparation Documents in terms of the scope of work described earlier. By the end of Month 9 a Final Report by improving the Draft Final Report should be presented.

The Consultant shall in his proposal set out details of the proposed reporting formats.

5. FACILITIES TO BE PROVIDED BY THE CLIENT

The Ministry of Housing, Construction and Public Utilities shall make the following available to the Consultant for the duration of the assignment:

- (a) designated, suitably qualified CSPU staff as shown below, with whom the consultants will work on a full time basis; and
- (b) access to all available relevant reports and data required to undertake the assignment.
- (c) Office space in the MHCPU (Sethsiripaya)
- (d) Office supplies, equipment and vehicles as mutually determined to be necessary (may be provided directly by GOSL or by the contractor who would be then reimbursed).

6. FACILITIES TO BE PROVIDED BY THE CONSULTANT

The Consultant shall include in his financial proposal the following items for the duration of the assignment:

- (a) All personnel costs including international and local travel and subsistence allowance.
- (b) All other costs anticipated to be billed to the GOSL (provide in detail).

7. EXECUTION OF ASSIGNMENT

7.1 Consultant Inputs

The consultant will be required to assign qualified and experienced staff for the period of pre-project implementation which is expected to extend over a period of nine months from September 1995. The consultants are expected to associate with and make full use of the national consulting expertise. This work should be undertaken in close conjunction with the counterpart staff nominated by the Director/CSPU, Ministry of Housing, Construction and Public Utilities.

The estimated Consultant Inputs are:

Position Designation	No. Man-months	
	International	Local
Specialist in Community Based Project Preparation	3	
Legal/Land specialist		3
Environmental Specialist		3
Community Infrastructure Engineering Specialist		3
Financial Analyst		3
Environmental Analyst		3
TOTAL INPUT (MAN-MONTHS)	3	15

7.2 Government Inputs

7.2.1 Staffing

Ministry of Housing, Construction and Public Utilities will make available during the assignment to the project, the following staff, for implementation of the programme

- CSPU Director;
- Addl. Director
- Deputy Director/M&E/MIS;
- Deputy Director/CD and Training;
- Deputy Director/ Infrastructure;
- Training Officer;
- Hygiene Education Officer
- MIS Analyst
- Accountant;
- Support staff

7.2.2 Other

All available information required to undertake the project will be provided by the appropriate government Departments, together with assistance in liaison and field visit coordination.

8. MODE OF PAYMENT

Fees will be paid monthly on submission of progress claims listing staff, time worked and charge rates. The Consultant's staff will keep time-sheets and financial records which will be subject to audits.

9. LOCAL LAWS, RULES & REGULATIONS

The consultants shall be subject to all laws, rules and regulations of the Government of Sri Lanka and Local Authorities, including taxation legislation.

10. LANGUAGE

The language for this consultancy shall be English. Each of the proposed Consultant staff must have the capability to undertake his or her assignment completely and proficiently in the English language.

APPENDIX II

(EXAMPLE)

Bio data Format to be submitted with Proposal

1. Position :
 2. Name :
 3. Date of Birth :
 4. Nationality :
 5. Education :
 6. Other Training :
 7. Language Degree of Proficiency :
 8. Membership of Professional Societies :
 9. Key Qualification : State experience of different projects
 10. Number of years employed by the firm :
 11. Period of contract/ : Provide a letter executed by individual professional and the firm service agreement to work on this project
 12. Employment Record : (Starting with present position. List in the reverse order every employment held)
From : To :
Employer :
Position Held and Description of Duties :
 13. Detailed Tasks : Work Undertaken which best illustrates handle the tasks assigned capability assigned in this Project
- (List project name, location, year, position held, i.e Team Leader, Legal Advisor, Financial specialist, etc. exact duties and time spent on each project).
14. Signature with date :

APPENDIX 111

(EXAMPLE)

Breakdown of Staff Charges

Consultancy Firm :
Assignment :
Country :
Date :

Breakdown of Proposed Fixed Rates in Consultants Contract

We hereby confirm that we have agreed to pay to the staff members listed, who will be involved in this assignment, the basic salaries and overseas allowances (if applicable) indicated below:

Name	Position	1 Basic salary per working Month	2 Social Charges (% of 1)	3 Overhead	4 Sub- Total	5 Fee (% of 4)	6 Overseas allowance (% of 1)	7 Agreed fixed rate per working Month (\$)	8 Agreed fixed rate (% of 1)

Signature
Date
Name :
Title :

APPENDIX IV

JOB DESCRIPTION AND EXPERIENCE REQUIREMENT OF KEY PERSON.

As a guideline the following is an indication of the preparatory consultant team positions and level of inputs that are expected to be required to carry out this assignment of project preparation. Later substitutions of staff will not be permitted unless requested in writing, with reasons given for the substitutions together with the CVs of the substitute staff. This substitute staff must have approval of the Project Director. Failure to comply with their requirements may cause termination of the consultants contract.

JOB DESCRIPTION OF PREPARATORY CONSULTANT

- I. 1. **Job title** : **Specialist in Community based Project Preparation**
2. **Reports to** : **Director CSPU**
3. **Location** : **Colombo**
4. **Time inputs** : **Three Months**
5. **Scope of work** :
- Review and Revise the basic methodology and approach being adopted in the project or community development and infrastructural improvement
 - Refine project implementation procedures and systems in the light of experience gained from pilot project and other studies.
 - Assess support organization capacity and review existing contractual agreement with the SOs. A complete manual for SOs be prepared. Training packages for strengthening PO capabilities be developed. Establish a SO performance evaluation system.
 - Undertake comprehensive analysis of implementation arrangements of CSP based upon cash contributions from various partners eg., beneficiaries (CBOs and Local Government Agencies) with joint arrangements for contracting, contract supervision and contract management.
 - Development of appropriate methodologies for, establishment and functioning of community development funds as a tool for resource mobilization for capital contribution O&M and other community development activities, formulation and strengthening of CBOs, preparation of women development programmes including the establishment of small scale savings and credit schemes on trial basis, develop community training packages on fund managements and simple book keeping and financial managements.
 - Coordinate all activities pertaining to total refinement of project design.

6. Background and qualifications

- A relevant recognized university degree in social science with experience and qualifications in community based project planning and project preparation
- At least five years of relevant community based sector experience in project planning formulation and implementation, of which minimum of three years should be in developing countries preferably in Aisa.

- II.
1. **Job title** : **Legal / Land Specialist**
 2. **Reports to** : **Director CSPU /Team Leader**
 3. **Location** : **Colombo**
 4. **Time inputs** : **Three Months**
 5. **Scope of work** :

- Study the legal system related to land in urban areas with special references to lands in urban low income settlements. UDA Law No. 41 of 1978 and amendment Act No. 4 of 1982, Town and Country Planning Ordinance, Greater Colombo Economic Commission Act, (G.C.E.C. Board of Investment), Rent Acts, ceiling on housing property law, Apartment ownership law No. 11 of 1973, Common Amenities Board Law and National Housing Development Authority Act. No. 17 of 1979 and other relevant acts and ordinances should be basically covered. He will have to study and take into account the basic findings of the land commission in 1990.
- Compile and record the relevant information derived from those studies as the CSP information and background data and documentation. Also identify specific areas where indepth studies and analysis are necessary.
- Advice and direct the Clean Settlement Programme in getting the lands in urban low income settlements cleared in coordination with CSP partners, Government Agencies and expedite the issue of lease hold rights to the settlers.
- Study the types of land ownership and squatter rights under the prevailing legal system and take appropriate actions to develop and preserve tenure rights of the urban low income settlers in consultation and co-ordination with other government organizations.
- Review the general building standards and guide lines applicable to urban areas under the UDA law and relate them into urban low income settlement development ensuring a healthy environment.
- Under the UDA low areas which consist of predominantly low income housing can be declared as special project areas and the normal building

and planning standards could be relaxed for such areas to facilitate high density development.

- Provide legal advice and guidance to the CSP partnership development process enabling to strengthen it and smooth functioning.

CBOs will take the leading role in the development process taking decisions and identifying their priorities. The SOs will mobilize them and create awareness among them to get them strengthen. The other partners such as ULAs, SAs and CSPU will assist them where necessary. It is the responsibility of the legal consultant to facilitate this process and provide legal provision to consider CSP partnership development as an accepted viable process.

- Provide direct legal assistance to the CSPU Staff including Additional Director, DD(CD,T & IG), DD(I) and DD(P&M) in getting the CSP into a firm footing.
- Assist the CSPU Staff in training, workshops documentation and other efforts as a resource person.

6. Back ground and qualifications :

- A recognized university degree in law with relevant experience in legal matters.
Should be a member of a recognized professional legal body
- At least five years of working experience in land activities

and planning standards could be relaxed for such areas to facilitate high density development.

- Provide legal advice and guidance to the CSP partnership development process enabling to strengthen it and smooth functioning.

CBOs will take the leading role in the development process taking decisions and identifying their priorities. The SOs will mobilize them and create awareness among them to get them strengthen. The other partners such as ULAs, SAs and CSPU will assist them where necessary. It is the responsibility of the legal consultant to facilitate this process and provide legal provision to consider CSP partnership development as an accepted viable process.

- Provide direct legal assistance to the CSPU Staff including Additional Director, DD(CD,T & IG), DD(I) and DD(P&M) in getting the CSP into a firm footing.
- Assist the CSPU Staff in training, workshops documentation and other efforts as a resource person.

6. Back ground and qualifications :

- A recognized university degree in law with relevant experience in legal matters.
Should be a member of a recognized professional legal body
- At least five years of working experience in land activities

- III. 1. Job title : Community Infrastructure Engineering Consultant
2. Reports : Director/CSPU
3. Location : Colombo
4. Time Inputs : 03 months
5. Scope of work

Services of the Community Infrastructure Engineering Consultant is required for the provision of necessary technical services needed for the preparation of CSP Project Implementation proposal.

He/She shall be responsible for structuring the technical context of CSP Planning, Implementation and O & M Interms of project strategy.

Key functions are :

- Undertake a comprehensive study of data relating to Infrastructure development available with the project and develop simple approaches for facilitating the communities to select infrastructure options through use of formats.
- Develop a series of manuals to be used in technical training through the knowledge gained from the pilot projects.
(Technical training is for CBO's, SO's, CSPU Staff Service Agency Staff).
- Develop a series of simple design manuals to be used by the CSPU Staff and SO staff.
- Develop bid documents for construction of on site and off site infrastructure through the experience gained from the pilot projects.
- Assisting CSP and other consultants in the development of overall project plan of CSP.

6. Background qualifications.

- Should be a qualified engineer with a degree in Civil Engineering from a recognized university with post graduate qualifications in urban related infrastructure development with extensive experience in dealing with community based infrastructure development programmes for urban low income groups.
- Membership from a recognized engineering institution.

- IV. 1. **Job title** : **Environmental Specialist**
2. **Reports to** : **D/CSPU**
3. **Location** : **Colombo**
4. **Time inputs** : **Three Months**
5. **Scope of work** :

- Undertake comprehensive study on environmental and impact of redevelopment of MIS and prepare
 - a. A sectoral EIA on a programme basis which should be applied to all LIS sites
 - b. Prepare community environmental management plans for each pilot projects covering human waste management, water pollution surface and ground, Water Pollution surface and ground flooding and any improvement on land or other sensitive natural areas.
 - c. Develop and Compile EIA guidelines for the preparation of site specific EIAs.
 - d. Prepare develop resettlement / dislocation adjustment policy for LIS
 - e. Develop guidelines for resettlements dislocation / adjustment plans
 - f. Formulate overall policy framework and programme for sectoral EIA and dislocation adjustment plan on the basis of bank guidelines for EIA and

6. **Back ground and qualifications**

- A relevant recognized university degree and experience in the field of environmental management and at least 2 years experience in environmental impact assessment

- V. 1. **Job title** : **Financial Analyst**
2. **Reports to** : **D/CSPU**
3. **Location** : **Colombo**
4. **Time inputs** : **Three Months**
5. **Scope of work** :

- Design and establishment of accountancy systems for CSPU PSOs and community levels advising and assisting counter part staff in CSPU
- Training CSPU Staff and PO staff at programme level
- Establishment of financial monitoring and reporting system

- Development of training packages for CBOs in financial management and book keeping

6. Background and Qualification

- A recognized degree / professional qualification such as chartered or certified accountant and at least 10 years of relevant experience.
- Proven experience in working with government and NGO sector.

VI.	1.	Job title	:	Economic Advisor
	2.	Reports to	:	D/CSPU
	3.	Location	:	Colombo
	4.	Time inputs	:	Three Months
	5.	Scope of work	:	

- Undertake a comprehensive study of the net economic benefit of the project based upon and analysis of increase property values in low income settlements as a result of upgrading in the light of revised project cost and acquisition of land ownership.
- Prepare financial analysis of the project using different type of criterias such as cost benefit analysis internal rate of return etc.,

6. Background and qualifications :

- A recognized degree in relevant field with qualifications in economic analysis
- At least five years experience of working in economic analysis / project economist project planning and preparation

APPENDIX V

SAMPLE CONTRACT FOR CONSULTANT'S SERVICES

This CONTRACT (hereinafter, together with all Appendices attached hereto and forming an integral part thereof, called the "Contract") is made the----- day of the month----- 19-----, between, on the one hand, the Ministry of Housing Construction & Public Utilities, Government of Sri Lanka (GOSL), (hereinafter called the "Client") and, on the other hand, a firm of ----- consultants (hereinafter called the "Consultants"), who will be liable to the Client for all the Consultants' obligations under this Contract.

WHEREAS

- (A) the Client intends to employ a consulting firm to fulfill the responsibilities of the Preparatory Consultants to the Clean Settlement Programme Unit (CSPU), (hereinafter called the "Project") as defined hereinafter;
- (B) the Client has requested that the Consultants provide specific consulting services required for the Project (hereinafter called the "Services"), as defined hereinafter;
- (C) the Consultants, having represented to the Client that they have the required professional skills, personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;
- (D) the Client has funds under PPF from the International Development Association (hereinafter called the Association) for the purpose of preparing the Project comprising the consultancy services. The Client's obligations to the Association are being guaranteed by the Government of Sri Lanka. The Client intends to apply a portion of the PP Funds for eligible payments under this Contract, it being understood ;
 - i) that the payment by the Association will be made only at the request of the Client and upon approval by the Association;
 - ii) that such payments will be subject in all respects, to the terms and conditions of the agreement providing for the credit; and
 - iii) that no party other than the Client shall derive any rights from the agreement providing for the credit or have any claims to the credit proceeds.

NOW THEREFORE the parties hereto hereby agree as follows:

1. General Provisions

1.1 Definitions

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

- (a) "Applicable Law" means the laws and any other instruments having the force of law in Sri Lanka as they may be issued and enforced from time to time;
- (b) "Association" means the International Development Association, Washington, DC, U.S.A.;
- (c) "Contract" means this Contract between the Client and the Consultants;
- (d) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause 2.1. hereof;
- (e) "Foreign Currency" means any currency other than the currency of the Government of Sri Lanka;
- (f) "Government" means the Government of Sri Lanka;
- (g) "Local Currency" means Sri Lankan Rupees;
- (h) "Personnel" means persons hired by the Consultants or by any Sub-Consultants as employees and assigned to the performance of the Services or any part thereof; "Foreign Personnel" means such persons who at the time of being so hired had their domicile outside Sri Lanka and "Local Personnel" means such persons who at the time of being so hired had their domicile inside Sri Lanka;
- (i) "Party" means the Client or the Consultants, as the case may be;
- (j) "Project" means the Clean Settlement Programme Technical Support Cell, the objectives of which are to provide advisory services to strengthen the Ministry of Housing, Construction and Public Utilities the Clean Settlement Programme Unit;
- (k) "Services" means the work to be performed by the Consultants pursuant to the contract for the purposes of the Project;
- (l) "Starting Date" means the date referred to in Clause 2.3 hereof;
- (m) "Sub-Consultant" means any entity to which the Consultants sub-contract any part of the Services in accordance with the provisions of Clause 3.8 hereinafter; and

(n) "Third Party" means any person or entity other than the Government, the Client, the Consultants or any Sub-Consultants.

1.2 Relationship between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Client and the Consultants. The Consultants, subject to this Contract, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law of Sri Lanka.

1.4 Language

This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

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

For the Client : Director,
CSPU
Ministry of Housing, Construction and Public Utilities. (9th Floor)
Sethsiripaya,
Sri Jayawardanepura Kotte,
Battaramulla,
Sri Lanka.

For the Consultants:

1.6.2 Notice will be deemed to be effective as follows:

(a) in the case of personal delivery or registered mail, on delivery;

- (b) in the case of telexes, end of second working day following confirmed transmission;
- (c) in the case of telegrams, end of second working day following confirmed transmission; and
- (d) in the case of facsimiles, end of second working day following confirmed transmission.

1.6.3 A Party may change its address for notice hereunder, by giving the other Party notice of such change pursuant to this Clause.

1.7 Location

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

1.8 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract may be taken or executed:

- (i) on behalf of the Client :
- (ii) on behalf of the Consultant :

1.9 Taxes and Duties

1.9.1 Taxation - General

The Consultant, and their staff shall be subjected to and required to pay all taxes, fees permits, assessments of whatever nature levied or assessed by the Government of Sri Lanka or other Local Bodies or Corporations whether collected in cash, by stamps or by other means and whether called contract tax, corporate tax, capital tax, income tax, remittance tax, levies, licenses or otherwise applying to payments made under the contract to the Consultant or to any profit derived by the Consultants as a result of the contract.

For the purpose of payment of personal income tax and company taxation, the Employer shall make payment against income tax demand assessments. All other duties and taxes shall be made against receipts.

1.9.2 With-holding Tax

If required the client shall deduct with-holding tax from payments to the Consultants, and provide the Consultant with a tax payment receipt.

2. Commencement, Completion, Modification and Termination of Contract

2.1 Effectiveness of Contract

This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultants confirming that the Contract has been approved by the Client.

2.2 Termination of Contract for Failure to Become Effective.

If this Contract has not become effective within the specified period contained in the letter of Invitation, either Party may, by not less than four (4) weeks written notice to other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 Commencement of Services

The date (the "Start Date") after the Effective Date by which the Consultants shall begin carrying out the Services shall be not more than 30 days after the Effective Date, or as agreed in writing by the Parties for each of the elements of the Services referred to in 1.1 (k), to suit the timetable of the Project.

2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause 2.9 hereof, this Contract shall terminate when, pursuant to the provisions hereof, the Services have been completed and the payments or remuneration and reimbursable expenditure have been made.

2.5 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

2.6 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement

between the authorized representatives of the Parties. When the details of the modifications have been agreed upon the No Objection Certificate (NOC) of the Association shall be obtained before the modification becomes effective. Pursuant to Clause 7.2 hereof, however, each party shall give due consideration to any proposals for modification made by the other Party. If the Services are delayed by the Client or his Contractors so as to increase by ten percent the amount or duration of the Services, the Consultant shall inform the Client of the circumstances and the possible effects. The increase shall not be regarded as Additional Services, and only the time for completion of the Services shall be allowed accordingly.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purpose of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible, or so impractical as reasonably to be considered impossible in the circumstances, and includes, but it is limited to, war, riots, civil disorder, earthquake, fire, explosions, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation, or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultants, or agents, or employees; nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Contract and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure. Provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such an event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such an event, providing evidence of the nature and cause of such an event, and shall similarly give notice of the construction of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to continue to be paid under the terms of this Contract if the services of the consultants are retained, or if not retained they will be reimbursed for actual costs in reactivating towards the Services after the end of such period.

2.7.6 Consultation

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

2.8 Suspension

The Client may, by written notice of suspension to the Consultants, suspend payments in respect of those Services which the Consultant has failed to perform provided that such notice of suspension: (i) shall specify the nature of the failure; and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension. If the Consultants remedy the failure the notice shall be deemed to be withdrawn.

2.9 Termination

2.9.1 By the Client

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

- (a) if the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.7 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- (b) if the Consultant becomes insolvent or bankrupt or enters into any agreement with their creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) if the consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant of Clause 8 hereof;
- (d) if the Consultants submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultants know to be false;
- (e) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- (f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 By the Consultants

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

- (a) if the Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 8 hereof within forty five (45) days after receiving written notice from the Consultants that such payment is overdue;

- (b) if the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty five (45) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by the Client of the Consultants notice specifying such a breach;
- (c) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause 8 hereof.

2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses 2.2. or 2.9 hereof upon expiration of the Contract pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultants obligations to permit inspection, copying and auditing of their accounts and records set forth in Clause 3.7 (ii) hereof; and (iv) any right which a Party may have under the Applicable Law.

2.9.4 Cessation of Services

Upon termination of the Contract by notice of either party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultants shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively, by Clauses 3.10 or 3.11 hereof.

2.9.5 Payment upon Termination

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

- i) remuneration pursuant to clauses 6 hereof for Services satisfactorily performed prior to the effective date of termination;

- ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditure actually incurred prior to the effective date of termination; and
- iii) except in the case of termination pursuant to paragraphs (a) through (d) of clause 2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Consultants personnel and their eligible dependents.

2.9.6 Disputes about Events of Termination

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

3. Obligations of the Consultants

3.1 General

3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted techniques and practices and consulting standards recognised by international professional bodies. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisors to the Client, and shall at all times support and safeguard the Client's interests in any dealings with Sub-Consultants or Third Parties.

3.1.2 Law Governing Services

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

3.2 Conflict of Interests

3.2.1 Consultants are not to benefit from Commissions Discounts

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

3.2.2 Procurement Rules of Funding Agencies

If the Consultants, as part of the Services, have the responsibility of advising the Client on the procurement of goods, works or services, the Consultants shall comply with any applicable procurement guidelines of the Association and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultants in the exercise of such procurement responsibility shall be for the account of the Client.

3.2.3 Consultants and Affiliates not to be otherwise Interested in the Project

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any Sub-Consultant and any entity affiliated with such Sub-consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for the Project.

3.2.4 Prohibition of Conflicting Activities

Neither the Consultants nor their Sub-Consultants nor the Personnel of either of them shall engage, either directly or indirectly, in any business or professional activities in Sri Lanka which would conflict with the activities assigned to them under this Contract.

3.3 Confidentiality

The Consultants, their Sub-Consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of the Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 Liability of the Consultants

The Consultants shall be liable to the Client for the performance of the services in accordance with the provisions of their Contract and for any loss suffered by the Client as a result of a default of the Consultants in such performance, subject to the following limitations:

- (a) The Consultants shall not be liable for any damage or injury caused by or arising out of the act, neglect, default or omission of any persons other than the Consultants, its Sub-Consultants, or the Personnel of either of them; and
- (b) the Consultants shall not be liable for any loss or damage caused by or arising out of circumstances over which the Consultants had no control.

3.5 Indemnification of the Client by the Consultants

The Consultants shall keep the Client, both during and after the term of this Contract, fully and effectively indemnified against all losses, damage, injuries, deaths expenses, actions, proceedings, demands, costs and claims, including, but not limited to, legal fees and expenses, suffered by the Client or any Third Party, where such loss, damage, injury or death is the result of a wrongful action, negligence or breach of contract of the Consultants or their Sub-Consultants; or the Personnel or agents of either of them. including the use or violation by the Consultant of any copyright work or literary property of patented invention, article or appliance.

3.6 Insurance to be taken out by the Consultants

The Consultants: (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain at their (or the Sub-Contractors, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, set forth below; and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid:

- (a) Third Party motor vehicle liability insurance in respect of motor vehicles, except site vehicles, operated by the Consultants or their Personnel or any Sub-Consultants or their Personnel, in accordance with Government Regulations;
- (b) Third party liability insurance up to a limit of fifteen million rupees:

- (c) Professional liability insurance in accordance with the Institute of Engineering - Sri Lanka:
- (d) Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate: and
- (e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract; (ii) the Consultants' property used in the performance of the Services; and (iii) any documents prepared by the Consultants in the performance of the Services.

3.7 Accounting, Inspection and Auditing

The Consultants; (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs, and the bases thereof including the bases of the Consultants' representations referred to in Clause 6.3 (b) hereof; and (ii) shall permit a reputable firm of accountants nominated by the Client, at notice of not less than three working days and up to one year from the expiration or termination of this Contract, to inspect the same at the office where the records are maintained during normal working hours.

3.8 Consultants' Actions Requiring Client's prior Approval

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

- (a) Appointing key members to the Project to carry out any part of the services:
- (b) Entering into a sub-contract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Consultant and the terms and conditions of the sub-contract shall have been approved in writing by the Client prior to the execution of the sub-contract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Contract:

3.9 Reporting Obligations

The Consultants shall submit to the Client the reports and documents in all areas under their purview as and when necessary.

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

All reports and other documents prepared by the Consultants in performing the Services shall become and remain the property of the Client, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents. Neither party shall use these documents for purposes unrelated to this Contract or for purposes other than intended without the prior written approval of the other Party.

3.11 Equipment and Materials Furnished by the Client

Equipment and materials made available to the Consultants by the Client or purchased by the Consultants with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultants shall make available to the Client an inventory of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultants shall insure them at the expense of the Client for an amount equal to their full replacement value. The cost of such insurance shall be reimbursed in the currency of the actual payment of insurance, as referred to in clauses 6.3 and 6.4.

3.12 All equipment, vehicles and other direct project costs incurred by the consultants with prior approval of the GOSL to be : (a) reimbursed by the Ministry of Housing, Construction and Public Utilities, Government of Sri Lanka, at cost; (b) of a type approved by the National Project Director CSP; (c) of a type maintained and serviced in Colombo; and (d) become the property of the Ministry of Housing, Construction and Public Utilities on completion of the assignment.

4. Consultants' Personnel

4.1 General

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

4.2 Description of Personnel

- (a) The titles, or job descriptions, and estimated periods of engagement in the carrying out of the Services of each of the Consultants' Personnel are described in the Appendix IV of the TOR.
- (b) If required, to comply with the provision of Clause 3.1.1. of this Contract, adjustments with respect to the estimated periods of engagement of Personnel may be made by the Consultants by written notice to the Client, provided: (i) that such adjustments shall not after the originally estimated period of engagement of any individual by more than 10%; and (ii) that the aggregate of such adjustment shall not cause payments under this Contract

to exceed the ceilings set forth in Clause 6.1 (b) of this Contract. Any other adjustments shall only be made with the Client's written approval.

- (c) If additional work is required beyond the scope of the Services specified, the estimated periods of engagement of Personnel may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceiling set forth in Clause 6.1 (b) of this Contract.

4.3 Approval of Personnel

The Personnel (and Sub-Consultants) listed by title as well as by name are hereby approved by the Client. In respect of other Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the Client for review and approval a copy of their biographical data and (in the case of Personnel to be used within Sri Lanka) a copy of a satisfactory medical certificate. If the client does not object in writing (stating the reason for objection) within twenty one (21) calendar days from the date for receipt of such biographical data and (if applicable) such certificate, such Personnel shall be deemed to have been approved by the Client.

4.4 Working Hours, Overtime, Leave etc.

- (a) Working hours and holidays for Foreign Personnel will be provided at the time of the negotiation. To account for travel time, foreign Personnel carrying out Services inside Sri Lanka shall be deemed to have commenced (or furnished) work in respect of the Services one full day (not to exceed in any event two days per trip) before the date of their arrival in (or after the date of their departure from) Sri Lanka.
- (b) The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except the Consultants, remuneration shall be deemed to cover these times. All leave to be allowed to the Personnel is included in the man-months of services. Any taking of leave by Personnel shall be subject to the prior approval of the Consultants who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and/or Replacement of Personnel

- (a) Except as the Client may otherwise agree, no changes shall be made in the Personnel. If for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any other personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications, subject to the approval of the client.
- (b) If the Client: (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action;

or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds thereof, forthwith provide as a replacement a person with qualification and experience acceptable to the Client.

- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement shall be subject to the prior written approval of the Client. Except as the Client may otherwise agree: (i) the Consultants shall bear all additional travel and other costs arising out of, or incidental to any removal and/or replacement; and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced, unless approval is given by the client.

5. Obligations of the Client

5.1 Assistance and Exemptions

The Client warrants that the Government shall:

- (a) provide the Consultants, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-Consultants or Personnel to perform the Services;
- (b) arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visa, residence permits, exchange permits and any other documents required for their stay in Sri Lanka;
- (c) Provide the necessary letters to facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (e) exempt the Consultants and the Personnel and any Sub-Consultants employed by the Consultants for the Services from any requirement to register or obtain any permit to practice the profession of engineering or to establish themselves either individually or as a corporate entity according to the Applicable Law; and
- (f) grant to the Consultants, and Sub-Consultants and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing in reasonable amounts of foreign currency for the purposes of the services or

for the Personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Consultant, Sub-Consultant and the Personnel in the execution of the Services.

5.2 Access to Land

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

5.3 Change in the Applicable Law

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

5.4 Services, Facilities and Property of the Client

The Client shall make available to the Consultants and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property in the manner to be agreed provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree: (i) on an appropriate time extension to be granted to the Consultants for the performance of the Services; and/or (ii) that the Consultants shall procure any such services, facilities and property from other sources; and (iii) that the cost thereof shall be paid to the Consultants as additional payments pursuant to Clause 6.1 (c) hereinafter.

5.5 Payment

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

5.6 Indemnification of the Consultants by the Client

The Client shall keep the Consultants, both during and after the term of this Contract, fully and effectively indemnified against all losses, damage, injuries, deaths, expenses, actions, proceedings, costs and claims, including, but not limited to, legal fees and expenses suffered by the Consultants or any Third Party where such loss, damage, injury or health is the result of a wrongful action, negligence or breach of contract of the Client or its employees or agents.

5.7 Decisions

The Client shall give his decision in writing in good time on all matters properly referred to him by the Consultant in writing.

6. Payments to the Consultants

6.1 Cost Estimates; Ceiling amount

- (a) Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1(c) and 6.3(c), payments for the services to be provided under this Contract as referred to in Clause 1.1(1) shall not exceed a ceiling of ----- & a ceiling of Sri Lankan Rupees ----- in accordance with the Summary of Costs on page '-----'. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of this ceiling.
- (b) Notwithstanding Clause 6.1(b) hereof, the Client will additionally make available free of charge to the Consultants the services, facilities and property referred to in Clause 5.4 hereof. If any of such services, facilities or property, are not supplied as so provided: (i) the Parties shall agree on the manner in which the Consultants shall procure any such services, facilities or property, and on what additional payments (if any) in local and/or foreign currency, as the case may be, shall be made to the Consultants, as a result thereof, in order to cover any necessary additional expenditure not envisaged in the cost estimates referred to in Clause 6.1(a) above; and (ii) the ceiling or ceilings as the case may be, set forth in Clause 6.1(b) shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Currency of Payment

Except as may be otherwise agreed between the Client and the Consultants:

- (a) Payments in foreign currency pursuant to Clause 6.3 hereinafter shall be made in US\$ or in the currencies agreed between the two parties; and
- (b) Payments in local currency pursuant to Clause 6.3 shall be made in Sri Lankan Rupees.

6.3 Payment in Foreign Currency

- (a) Subject to the ceilings specified in Clause 6.1(b) hereof, the Client shall pay to the Consultants in foreign currency: (i) remuneration as set forth in Clause 6.3(b); and (ii) expenses as set forth in Clause 6.3(c), each as adjusted by the provisions of Clause 6.3(d).
- (b) Remuneration for the Personnel engaged on reimbursable components shall be determined on the basis of time actually spent by the Personnel in the

performance of the Services at the rates specified in respect of such Personnel, subject to adjustments in accordance with sub-clause (d) below, and to the following:

- (1) Remuneration for periods of less than one month shall be calculated on a calendar day basis for actual time spent in the Consultants home office and directly attributable to the Services (one day being equivalent to the reciprocal of the total number of weekdays, Monday to Friday, in the month) and on a calendar day basis for time spent away from home office (one day being equivalent to 1/30th of a month).
 - (2) Any rates specified for persons not yet appointed shall be provisional and shall be subject to the written approval of the Client, once the applicable charge rate is known.
 - (3) The remuneration rates have been agreed upon based on the representations made by the Consultants during the negotiation of this Contract as given by the Form "Breakdown of Agreed Fixed Rates" in Consultant's proposal dated ----- . Should these representation be found by the Client (either through inspections or audits pursuant to Clause 3.7 hereof or thorough other means) to be materially incomplete or inaccurate, the Client shall be entitled to introduce appropriate modifications: in the remuneration rates affected by such materially incomplete or inaccurate representations. Any such modifications shall have retroactive effect and, in case remuneration has already been paid by the Client before any such modifications, (i) the Client shall be entitled to offset any excess payment against the next monthly payment to the Consultants; or (ii) if there are no further payments to be made by the Client to the Consultants, the Consultants shall reimburse to the Client any excess payment within forty five (45) days of receipt of a written claim from the Client. Any such claim by the Client must be made within twelve (12) calendar months after receipt by the Client of the final invoice.
- (c) Expenses for reimbursable components, shall be reimbursed at the given rates, as adjusted.

(TO BE NEGOTIATED)

- (d) Adjustments for inflation shall be negotiated.

6.4 Payments in Local Currency

- (a) Subject to the ceilings specified in Clause 6.1(b) hereof, the Client shall pay to the Consultants in local currency: (i) remuneration as set forth in Clauses 6.4(b); and (ii) expenses as set forth in Clause 6.4(c).

6.5 Mode of Billing and Payment

- (a) An advance payment against Bank Guarantee shall be made to the Consultants within thirty (30) days of the commencement of the Services of 10% of Foreign Currency Cost and 10% of Local Currency Cost. Repayment of the advance payment will be in 12 equal monthly deductions from the monthly invoices of foreign currency bills and Sri Lankan Rupees of local currency bills commencing with ----- 1995 invoice and finishing with ----- 1996 invoice.
- (b) Itemised monthly invoices will be submitted within 15 days after the end of each calendar month. Separate invoices for each currency will be submitted. Payment in Foreign Currency and Sri Lankan Rupees shall be effected within forty five (45) days following submission.
- (c) If the Client disputes the whole or any portion of the amount claimed in an invoice submitted by Consultant, he shall pay that portion of the amount stated in the invoice which is not disputed and he shall notify the Consultant in writing the reasons for disputing the balance. If the parties are unable to reach agreement before submission of the next invoice, the dispute may be settled in accordance with the provision for settlement of disputes in the Agreement. If it is resolved as a result of settlement of disputes in accordance with the Agreement that some or all of the amounts in dispute ought to have been paid at the time they were first claimed, then the Client shall pay the outstanding amounts.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client, and the final report and final statement shall be deemed approved by the Client as satisfactory, ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90) day period, gives written notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.

(e) All payments under this Contract shall be made to the account of the Consultants with:

(i) For Foreign Currency Payments:

Sort Code:-----

Account No:-----

(ii) For Local Currency Payments:

Account No.:-----

7. Fairness and Good Faith

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7.2 Operation of the Contract

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

8. Settlement of Disputes

8.1 Amicable Settlement

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

8.2 Right to Arbitration

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement, may be submitted by either Party to arbitration in accordance with the provisions of Clauses 8.3 through 8.7 hereinafter.

8.3 Selection of Arbitrators

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

- (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either party may apply to the Institute of Engineers - Sri Lanka for a list of not fewer than three nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the Institute of Engineers - Sri Lanka shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.
- (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultants shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by the Secretary General of the International Centre for Settlement of Investment Disputes, Washington, D.C.
- (c) If, in a dispute subject to Clause 8.3(b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary General of the International Centre for Settlement of Investment Disputes, Washington, D. C; to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

8.4 Rules of Procedure

Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) in force on the date of this Contract.

8.5 Substitute Arbitrators

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

8.6 Nationality and Qualifications of Arbitrators

The sole arbitrator, or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Clause 8.3 hereof, shall be an internationally recognised legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultants home country or of the Government. For the purposes of this Clause. "home country" means any of:

- (a) the country of incorporation of the Consultants;
- (b) the country in which the Consultants' (or any of their Members') principal place of business is located; or
- (c) the country of nationality of a majority of the consultants' (or of any members) shareholders; or
- (d) the country of nationality of the Sub-Consultant concerned, where the dispute involves a subcontract.

8.7 Miscellaneous

In any arbitration

- (a) proceedings shall unless otherwise agreed by the Parties, be held in Colombo, Sri Lanka;
- (b) the English language shall be the official language for all purposes; and
- (c) the decision of the sole arbitrator or a majority of the arbitrators shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

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

FOR AND ON BEHALF OF (CLIENT)

By -----
Authorized Representative

FOR AND ON BEHALF OF THE CONSULTANTS
(XYZ Consultants Limited)

By -----
Authorized Representative

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