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**Folder ID:** 193911

**Project ID:** P000666

**Dates:** 06/30/1972 - 06/30/1972

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**ISAD Reference Code:** WB IBRD/IDA AFR

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**PUBLIC DISCLOSURE AUTHORIZED**

MINISTRY OF EDUCATION AND FINE ARTS

Terms Of Reference For

Consultants

To Be Employed In

SECONDARY EDUCATION EXPANSION PROJECT.

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MINISTRY OF EDUCATION AND FINE ARTS

Terms Of Reference For

Consultants

To Be Employed In

SECONDARY EDUCATION EXPANSION PROJECT.

I N D E X

	Pages
Agreement.....	1
I. Definitions.....	1
II. Retention of Services.....	4
II.1 Planning and Preparation.....	4
II.2 Supervision of Construction.....	4
III. Obligation of CONSULTANTS.....	4
III.1 Planning and Preparation.....	4
III.2 Design - Sketch Scheme.....	6
III.3 Final Design.....	7
III.4 Contract Preparation.....	9
III.5 Tender.....	9
III.6 Contract Mobilization.....	9
III.7 Supervision of Construction.....	10
III.8 Completion.....	12
IV. Services Outside Agreement.....	13
IV. Separate Agreement to be Concluded....	13
V. Obligations of MINISTRY.....	14
V.1 Assistance and Approval.....	14
V.2 Compensation for Services.....	15
V.3 Computation of Net Construction Project Cost.....	16
V.4 Schedule of Payment.....	16
V.5 Reimbursement for Certain Expenses....	17
V.6 Compensation for Delays.....	18
V.7 Responsibility for Payments.....	19
V.8 Publications.....	20

	Pages
VI. Rights to Use of Specifications and Drawing.....	20
VII. Settlement of Disputes.....	20
VIII. Prohibition Against Assignment.....	21
IX. CONSULTANTS' Performance.....	21
IX.1 Capacity of CONSULTANTS.....	21
IX.2 Manner of Performance.....	21
IX.3 Liability for Damages.....	22
X. Postponement or Termination of Agreement.....	23
X.1 Termination for CONSULTANTS' Failure to Perform.....	23
X.2 Termination due to Cancellation of Project during Planning & Preparation	23
X.3 Postponement or Termination during Supervision.....	23
X.4 Failure of Compensation.....	24
X.5 Force Majeure.....	25
X.6 Payments on Premature Termination.....	25
X.7 Compensation and Reimbursement for Postponement during Supervision.....	26
XI. Terms of Agreement.....	27
XII. Communications and Notice.....	27
XII.1 Official Communications to be in writing.....	27
XII.2 Addresses of the Parties.....	28
XII.3 Proof of Receipt.....	28
XIII. Applicable Law.....	28
XIII.1 Agreement Subject to Ethiopian Law...	28

This Agreement, made and entered at ADDIS ABABA, ETHIOPIA this twenty-fifth day of August 1966 between the MINISTRY OF EDUCATION AND FINE ARTS (hereinafter "MINISTRY") of the Imperial Ethiopian Government and MESSRS. Z. ENAV M. TEDROS & ASSOCIATES (hereinafter "CONSULTANTS").

WITNESSETH

WHEREAS, MINISTRY desires that CONSULTANTS undertake as engineers and/or architects the planning and preparation necessary to enable construction of the Project hereinafter described and desires that CONSULTANTS undertake the supervision of such construction, all in accordance with the terms and conditions hereinafter set forth; and

WHEREAS, CONSULTANTS are prepared to undertake all such planning, preparation and supervision in accordance with such terms and conditions;

NOW, THEREFORE, MINISTRY and CONSULTANTS, for and in consideration of the premises and the mutual covenants herein contained, do hereby agree as follows:

Article I

Definitions

In this Agreement, unless the context otherwise requires:

(1) "additional services" shall mean services of CONSULTANTS, including, without limitation, the services specified in Section IV.2 hereof, related to but in addition to those specified under Article III hereof:

Z. ENAV M. TEDROS

Messrs.

(2) "Basic Fee" shall mean the fee payable to CONSULTANTS under Section V.2 hereof, subject to such additions thereto and subtraction therefrom as may be made in accordance with other provisions hereof;

(3) "Construction Contract" shall mean the contract between MINISTRY and the Contractor providing for the construction, completion, maintenance and warranty of the Project;

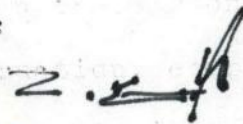
(4) "Contractor" shall mean the person or organisation or firm charged with the construction, completion, maintenance and warranty of the Project, or parts thereof;

(5) "Days" shall mean calendar days;

(6) "Estimated Construction Cost" shall mean the total construction cost of all schools, hostels and directors' houses, new as well as extensions, indicated in Art.I.7 hereunder, including building site work as has already been estimated by The International Development Association (I.D.A.), but not including Consultant fees and provisions for contingencies;

(7) "Project" shall mean the provision execution, establishment and maintenance during the "Defects and Liability Period" of the following:

Construction of the following in the sites provided by MINISTRY as indicated below:



Code Number	Province Or City	Location or Site		Estimated construction Cost
2/ESJ	Addis Ababa	Prince Mekonen Sch.	Ext. of school	140000
4/RSJ	" "	Medhane Alem Sch.	New School	392000
6/ESJ	" "	Empress Menen Sch.	Ext. of School	40000
8/NSJ	" "	Kolfe	New School	340000
9/NJ	" "	City Hall area	New School	126000
11 <del>a</del> /RSJ	" "	Asfaw Wosen	New School	416000
12/RSJ	Arussi	Assela	New School & hostel	484000
13/NJ	"	Sire	New School, hostel & director's house	154000
15/NJ	"	Robi	New School	87000
16/ESJ	Bale	Gobba	extention of exist- ing schools & hostel	190000
42/ES	Harar	Medhane Alem	Extension of school	35000
43/NSJ	"	Asbe Teferi	New school, hostel & director's house	258000
44/ESJ and 88/N	Harar	Dire Dawa	Extension of school	151000
45/NJ	"	Jigjiga	New School	87000
46/NJ	"	Harar Town	New School, hostel & director's house	240000
53/ESJ	Shoa	Ambo	Ext. of sch. & hostel	177000
54/ESJ	"	Ghion	extension of school	270000
55/NSJ	"	Endeber	New School & Dir, hs	272000
56/NSJ m	"	Hosanna	New Sch. Dir. house	298000
57/NJ	"	Shashemane	New school, hostel & director's house	186000
58/ESJ	"	Debre Birhan	Extension of school	143000
59/NJ	"	Debre Sina	New School	126000
60/ESJ and 89/N	"	Nazareth	Extension of school	191000
61/NSJ	"	Debre Zeit	New School	256000
62/NJ	"	Addis Alem	New School	175000
63/Nj	"	Fitche	New school, hostel & director's house	240000
64/RSJ	Sidamo	Yirgalem	New Schookm hostel & director's house	470000
65/NSJ	"	Soddo	New School & director's house	339000
66/NJ	"	Dilla	New school	169000
67/Nj	"	Neghelli	New School, hostel & directors house	186000
68/NJ	"	Wondo	New School	169000

While it is agreed that the entire project will be completed before September 1970, the year by year programme of construction will be supplied by MINISTRY to CONSULTANTS in writing, for the first year at the time of the signing of this agreement and for the following years at least six months before the commencement of the year in Ethiopian Calendar.

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Article II

Retention of Services

Section II.1 Planning and Preparation

MINISTRY hereby retains the services of CONSULTANTS to perform all such work of planning and preparation hereinafter described as may be necessary to enable the sound and proper construction of the works comprising the Project, and CONSULTANTS hereby agree to perform such services.

Section II.2 Supervision of Construction

MINISTRY shall retain the services of CONSULTANTS to supervise actual construction of the Project, and CONSULTANTS hereby agree to perform such services.

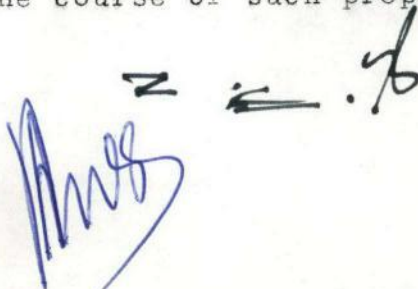
Article III

Obligations of CONSULTANTS


Section III.1 General Planning and Preparation: Preliminary investigation and studies to determine the standard room units and elements which will constitute the schools and in-principle planning of the composition of a school from such units, to ensure that the Project is feasible functionally, technically and financially.

The services hereunder to be provided by CONSULTANTS in the planning and preparation necessary to enable construction of the Project shall, in general and without limitation as to particular services, consist of the following:

Preparation of such plans, descriptions, estimates and other engineering, architectural and related documents as will provide an adequate basis for the evaluation and approval by MINISTRY of the standard room units and elements and of their integration capabilities. In the course of such preparation CONSULTANTS shall:

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- (a) consult with MINISTRY to ascertain that all available data and information relating to the Project have been received by CONSULTANTS in writing, whether contained in the Preliminary Programme submitted by MINISTRY in accordance with the law or otherwise, and are accurate and reliable;
- (b) prepare a report for MINISTRY, including all basic information, data and MINISTRY's specific requests for services received by CONSULTANTS in writing and accompanied by a detailed schedule showing the dates of presentation to MINISTRY of the documents required from CONSULTANTS under III (1) and (2);
- (c) prepare the design of an economical pilot school project on a scale of 1:200, including plans, sections, elevations and an acceptable model for one of the sites under the project to be selected by MINISTRY;
- (d) prepare on basis of the pilot plan, architectural drawings and specifications including plans, sections and elevations on a scale of 1:50 or other appropriate scale of all standard room units and elements to be used for the Project, as well as detailed drawings at larger scale as may be found necessary;
- (e) prepare structural, sanitary and electrical calculations, drawings and specifications of the standard room units in appropriate scales;
- (f) the CONSULTANT prepares for approval (i) Procedures to be followed for cost estimating and cost control (ii) Proposals for necessary contracts for the implementation of the Project.

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Section III.2 Preliminary Design: Preliminary calculations, drawing, estimates, outline specifications, schedules and other architectural and engineering documents regarding the individual schools which are necessary to approve basic design, costs and programme of such schools.

Following approval by MINISTRY of the material submitted under Section III.1 above,

(a) the CONSULTANT shall draw up and present to MINISTRY for approval all preliminary designs and sketches necessary to indicate the scheme of each school and the architectural conception recommended and accompanied by appropriate explanatory notes and descriptions; the documents submitted under this item (a) shall consist of but not limited to the following sketch schemes:

- (i) comprehensive site plan (scale: 1:500 or 1:1000);
- (ii) comprehensive floor plans (scale 1:200);
- (iii) elevations of all facades (scale 1:200);
- (iv) necessary sections (scale 1:200);
- (v) technical description of the individual schools;
- (vi) functional scheme of rooms, areas and volumes;
- (vii) estimate of total cost;


(b) perform a general survey of the site and prepare topographic maps with appropriate contour intervals, showing existing boundaries, roads, fences, buildings, power and telephone lines and trees and indicating where any special works for protection of the project from storms and surface water may be required;

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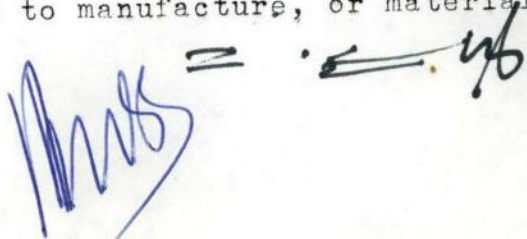

- (c) report to MINISTRY as to the necessity for special surveys or investigations of the subsoil and of underground or surface water; arrange for complete testing of soils at the site, utilising borings, trial pits, piling models, laboratory analyses and such other means as may be agreed to be necessary; and recommend an adequate foundation to be employed for the project on the basis of the surveys and investigations thus performed;
- (d) discuss the Preliminary Design with MINISTRY, make such adjustments as required and obtain MINISTRY's approval of such design;
- (e) prepare all necessary application forms for any building permits which may be required in respect of the Project; provided, however, that CONSULTANTS shall not themselves furnish any of said applications to any person other than MINISTRY.

Section III.3 Final Design: Calculations, drawings, estimates, draft-specifications, draft-schedules and other architectural and Engineering documents necessary to approve the final design and estimate of costs which, once approved, shall not be changed except for reasons of technical necessity or expediency.

After approval by MINISTRY of the documents submitted pursuant to Section III.2 hereof, the preparation of any and all such further plans and drawings in appropriate scales, estimates of quantities and costs, reports and other relevant documents as may be necessary to enable MINISTRY to invite submission of bids for construction of the project in accordance with the normal practice in the construction industry; such documents shall include, but not be limited to, the following:

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- (a) necessary completion of all such drawings and specifications regarding the various standard room units to be used for the particular schools as are already submitted to MINISTRY under Section III.1 hereof and completion of all such drawings and specifications regarding the composition of the schools from the said standard room units as are already submitted to MINISTRY under Section III.2 hereof, and prepare general and special conditions and Bills of Quantities pertaining to the implementation of the individual schools, including excavation and foundation plan;
- (b) structural designs based on appropriate engineering analyses of loads, stresses and deflection and strength of materials, taking into account earthquake factors and including detailed statical scheme and calculations;
- (c) full and detailed designs for sanitary and electrical installations;
- (d) detailed specifications as to materials to be used and means of construction to be employed;
- (e) bills of quantities detailed both by category and item of work and specifying each item required as precisely as possible;
- (f) a detailed cost estimate based on the documents required;
- (g) a statement of the special conditions applicable to construction of the individual schools in the Project;
- (h) drawings, specifications, schedules and other documents for obtaining sub-contractor's quotations;
- (i) documents for placing advance orders for materials in short supply, building and instructional materials requiring long time to manufacture, or materials and

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equipment to be imported having a long delivery period.

Section III.4 Contract Preparation: Preparation of drawings and architectural and engineering documents to enable the work to be tendered for or otherwise ordered.

- (a) the CONSULTANT will consult the MINISTRY on reports on quotations he gave and get the approval of nominated sub-contractors and suppliers, along with submission and approval of the prequalification of bidders;
- (b) prepare advertisements to be used in connection with invitation to submit bids for construction of the Project;
- (c) prepare the invitation to submit bids for construction of the Project;

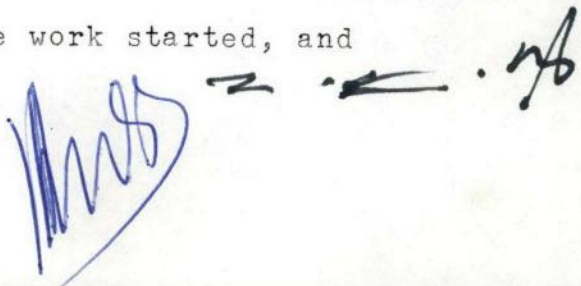
provided, however, the CONSULTANTS shall not themselves furnish any of said documents to any person other than MINISTRY.

Section III.5 Tender: Tendering Procedures for selecting contractors and placing contracts.

- (a) the CONSULTANT should be prepared to be present during the opening of the bids by the Project Implementation Committee;
- (b) preparation, (in accordance with all documents previously submitted and approved as final hereunder and the bid or proposal accepted by MINISTRY, and final verification prior to execution thereof) of the Construction Contract.

Section III.6 Contract Mobilisation: Provision of the necessary additional information and instructions to enable the contractors and all concerned to make proper preparations before starting work on the site.

- (a) the CONSULTANT gets the necessary approval from the MINISTRY to get the work started, and

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transmit this order to Contractor, who shall arrange for the necessary facilities for the starting of construction works;

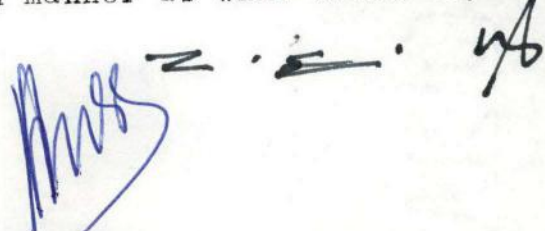
- (b) the CONSULTANT prepares Time Construction Schedule for the whole project.

Section III.7 Supervision of Construction: Provision of regular supervision to ensure that the architectural and engineering works are executed strictly in accordance with the conditions of contract.

(1) MINISTRY shall have the services of CONSULTANTS as described in this Section III (7) in supervision of the Project.

(2) The services of CONSULTANTS in supervision of the construction of the Project shall, in general and not limited to as to particular services, consist of the following:

- (a) preparation of such further plans, designs and drawings as may be necessary to enable the Contractor to carry out and complete construction of the individual schools in the Project, including all necessary working drawings and reinforced concrete bar lists;
- (b) examination and approval jointly with MINISTRY of all drawings and charts provided by the Contractor;
- (c) checking and certification as valid and proper of the Contractor's requests for payments;
- (d) execution of close quality control on materials used and work performed or to be performed under Construction Contract to ascertain that all specifications and standards set forth therein are satisfied and that all such work meets proper standards of workmanship, and rejection in such manner as will avoid any financial

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handicap, loss or liability to MINISTRY, of all such work and materials as substantially fail to meet such specifications and standards;

- (e) preparation, at regular intervals and upon specific request, of quantity and cost reports, progress reports, construction schedules and estimates of payments to be made and all such other reports and data as may be requested by MINISTRY, or as may appear to CONSULTANTS to be desirable;
- (f) preparation and transmission to the Contractor of necessary variation orders in accordance with such changes in the Project as may be ordered by MINISTRY or approved by MINISTRY on recommendation of CONSULTANTS together with an analysis of appropriate payments to be made to the Contractor in respect of such changes;
- (g) CONSULTANT, when in charge of supervision of Works under construction shall have authority to make minor alterations to design as may be necessary or expedient, but he shall obtain the prior approval of MINISTRY to any more substantial modification of the design and costs of the said Works and to any instruction to a Contractor which constitutes a major variation, omission or addition to the Contract. In the event of any emergency however which in the opinion of the CONSULTANT requires immediate action in MINISTRY's interests the CONSULTANT shall have authority to issue such orders as required on behalf of and at the expense of MINISTRY;

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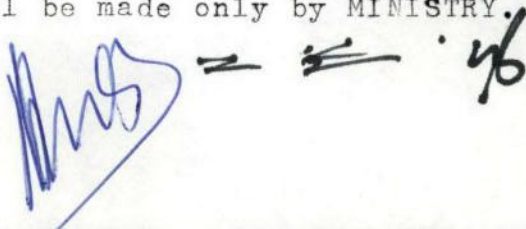
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- (h) provision of all such other similar construction supervision services incidental to completion of the Project as may be necessary;
- (i) conducting and supervising necessary tests and reporting to MINISTRY in connection with provisional acceptance of the Project; provided, however, that the official provisional acceptance shall be made only by MINISTRY;
- (j) attending formal monthly progress meetings with the MINISTRY, and reporting the general progress of the work.

Section III.8 Completion: Continued provision of supervision as necessary during the defects liability period to ensure that defects of materials and workmanship are put right after the building has settled down and that details of designs are adjusted when the occupants have settled in.

- (a) upon provisional acceptance of the Project, preparation of three (3) complete sets of "Record Drawings of the Completed Project";
- (b) submit for approval by MINISTRY of the final accounts for settlement;
- (c) at any time during the period of Guarantee established under the Construction Contract, recommendation, preparation, supervision and approval, whether upon request by MINISTRY or at CONSULTANTS own initiative, of all necessary and appropriate repairs, demolitions and reconstruction or other work of whatever kind in connection with the Project which the Contractor may be required to perform by law or under the terms of the Construction Contract;
- (d) conducting and supervising necessary tests and reporting to MINISTRY in connection with final acceptance of the Project; provided, however, that the official final acceptance shall be made only by MINISTRY.

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Article IV

Services Outside Agreement

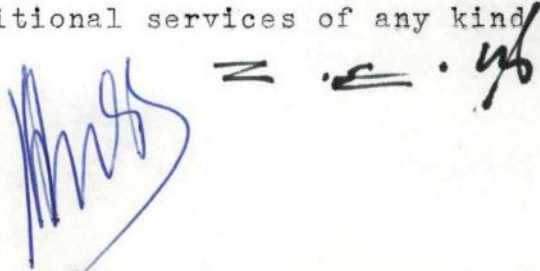
Section IV. Separate Agreement to be Concluded

(1) Where MINISTRY determines that additional services are required in connection with <sup>the</sup> Project, the performance by CONSULTANTS of any such additional services shall be subject to the conclusion of a separate agreement between MINISTRY and CONSULTANTS, which separate agreement shall provide for the payment to CONSULTANTS of appropriate compensation for such additional services, and such compensation shall be in addition to all compensation and payments required to be made to CONSULTANTS under the terms of the present Agreement.

(2) All services in connection with the Project which are performed by CONSULTANTS in the absence of a separate agreement relating thereto, other than services the obligation to perform which is, prior to such performance, notified by CONSULTANTS to MINISTRY in writing as constituting a disputed matter subject to Article VII hereof, shall, except as provided in paragraph (4) of this Section IV be conclusively presumed to be services under the present Agreement.

(3) Where additional services under Section IV hereof are requested by MINISTRY in writing and the parties fail, following negotiations in good faith, to conclude within a reasonable time a separate agreement relating thereto, MINISTRY may waive the provisions of paragraph (2) of this Section IV in respect of the requested services and may then require CONSULTANTS to perform such services subject to payment of appropriate compensation as determined by proceedings pursuant to Article VII of the present Agreement.

(4) The provisions of paragraph (3) of this Section IV notwithstanding, where additional services of any kind are

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requested by MINISTRY in writing and the parties fail, following negotiations in good faith, to conclude within a reasonable time a separate agreement relating thereto, MINISTRY shall be free to conclude a separate agreement for performance of the requested services with any other person or persons.

Article V

Obligations of MINISTRY

Section V.1 Assistance and Approval

- (1) MINISTRY shall furnish to CONSULTANTS in writing all relevant data and information and shall provide or arrange for provision to CONSULTANTS of all such other assistance as they may reasonably require in the proper performance of their obligations under this Agreement. MINISTRY shall:
- (a) furnish to CONSULTANTS all such data and information as may be necessary for the preparation and supervision of the Project in accordance with the requirements of MINISTRY, including statements of the particular needs which the Project is intended to satisfy;
  - (b) assist in the issuance of necessary visas and work permits for all foreign nationals employed by CONSULTANTS in the performance of their obligations hereunder.
- (2) MINISTRY shall approve, or make recommendations for appropriate changes prior to approval of, all documents received from CONSULTANTS in performance of their obligations hereunder within a time following receipt of each such documents which is reasonable, having regard to all relevant circumstances.

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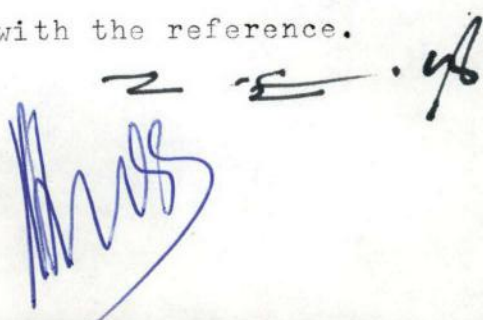

Section V.2-A Compensation for Services

MINISTRY shall pay or arrange for payment to CONSULTANTS as compensation for their services performed under Article III of this Agreement of a Basic Fee comprised of the following sum:

- (1) for services under paragraphs of Section III.1 and 2, hereof, a sum equal to one point five percent (1.5 %) of the Estimated Construction Cost of the individual schools of the Project;
- (2) for services under item (a) and items (c) through (i) of Section III.3 and items (a) through (c) of Section III.4 hereof and under paragraphs of Section III.5 hereof, a sum equal to one point twenty-five per cent (1.25 %) of the Estimated Construction Cost of the individual schools of the Project;
- (3) for services under item (b) of Section III.3 hereof, a sum equal to zero point seventy-five per cent (0.75 %) of the Estimated Construction Cost of the individual schools of the Project;
- (4) for services under paragraphs of Section III.7 and 8 hereof, a sum equal to two point zero per cent (2.0 %) of the Estimated Construction Cost of the individual schools of the Project.

Section V.2-B

(a) The remuneration of the CONSULTANT charged to MINISTRY according to Section V.2-A shall constitute his only remuneration in connection with the Agreement, which inter alia implies that he shall not accept any trade commission, discount, allowance or indirect payment or other consideration in connection with the reference.

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(b) CONSULTANT shall not have the benefit, whether directly or indirectly, of any royalty on or of any gratuity or commission in respect of any patented or protected article or process used on or for the purpose of the Agreement unless it is mutually agreed that he may.

Section V.3 Computation of Net Construction Project Cost

The actual Net Construction Project Cost shall be the actual Cost of the Construction of the individual schools of the Troject to MINISTRY at the time of final acceptance thereof, as such cost is established by the addition of all payments actually made by or due from or on behalf of MINISTRY.

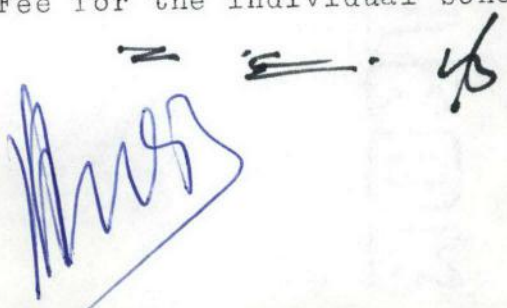
Section V.4 Schedule of Payment

(1) All payments to CONSULTANTS by way of compensation hereunder shall be made in accordance with the schedule set forth in paragraph (3) of this Section V.4. Such payments shall become due and payable upon presentation by CONSULTANTS to MINISTRY of their written statement or request for such payments in five (5) copies.

(2) Ten per cent (10 %) of each payment due to be made to CONSULTANTS under items (a) through (c) of said paragraph (3) shall be retained by or on behalf of MINISTRY and except as otherwise expressly provided in this Agreement shall not immediately be paid over to CONSULTANTS but shall be included in the payment made, as appropriate, pursuant to item (d) of the said paragraph (3).

(3) Payments to CONSULTANTS shall be made according to the following schedule:

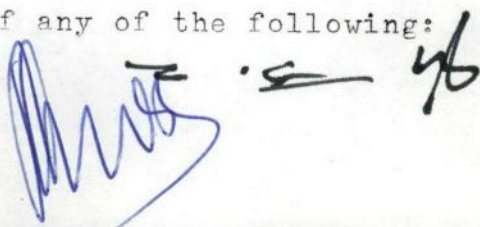
(a) upon approval by MINISTRY of the services performed by CONSULTANTS pursuant to paragraphs of Section III.1 and 2 hereof, a sum equal to twenty-five per cent (25 %) of the Basic Fee for the individual schools;

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- (b) upon approval by MINISTRY of the services performed by CONSULTANTS pursuant to paragraphs of said Section III.3 and 4 and following examination of bids and submission by CONSULTANTS of a report pursuant to paragraphs of said Section III.5, a sum sufficient to increase the total of payments made or due to CONSULTANTS under the present paragraph (3) to fifty per cent (50%) of the Basic Fee for the individual schools;
- (c) upon completion of fifty per cent (50%) of the construction of the Project as determined by the relation of actual expenses of construction to the total anticipated expenses of construction, a sum sufficient to increase the total of payments made or due to CONSULTANTS under this paragraph (3) to seventy per cent (70%) of the Basic Fee for the individual schools;
- (d) upon provisional acceptance of the Project, a sum sufficient to increase the total of payments made or due to CONSULTANTS under this paragraph (3) to ninety per cent (90%) of the Basic Fee for the individual schools;
- (e) upon final acceptance of the Project, a sum sufficient to increase the total of payments made to CONSULTANTS under this paragraph (3) to one hundred per cent (100%) of the Basic Fee for the individual schools computed on the basis of the Estimated Construction Cost.

Section V.5 Reimbursement for Certain Expenses

(1) MINISTRY shall pay or arrange for payment to be made to CONSULTANTS as reimbursement for expenses incurred by CONSULTANTS directly in respect of any of the following:

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- (a) topographic survey of the Project sites;
- (b) necessary laboratory tests;
- (c) soil tests, including borings and trial pits;
- (d) the supply of more than three (3) copies of any documents required to be submitted in discharge of CONSULTANTS' obligations under this Agreement; except where greater number of such copies is specified in the Agreement;
- (e) local travel and hotel accommodations where required for purposes of this Agreement to any place not proximate either to the Project Site or to offices of CONSULTANTS established either permanently or in connection with the Project;
- (f) the justifiable costs of postage, telephones and telegrams in so far as they are not local;
- (g) the costs of printing tender documents and advertising for tenders;

provided, however, that no reimbursement of any such expenses of major nature shall be paid unless CONSULTANTS shall have obtained the written consent of MINISTRY to the incurring of such expenses prior to incurring the same.

(2) Any payment by way of reimbursement of any such expense shall become due and payable upon presentation by CONSULTANTS to MINISTRY of their written statement or request for such payment.

Section V.6 Compensation for Delays

(1) Where any delay in construction causes a prolongation of the services of CONSULTANTS beyond the date for completion of construction as the said date shall initially be set forth in the Construction Contract, CONSULTANTS shall receive additional compensation in the amount of the salaries of employees of CONSULTANTS occupied at the Project during the delay provided the delay is caused by MINISTRY or by Contractor if the Contractor pays to MINISTRY liquidated damages for the delay.

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(2) No additional compensation shall be payable in respect of any such delay resulting from the performance of additional services by CONSULTANTS or other persons under a separate agreement therefor concluded pursuant to Article IV hereof.

(3) Where the whole or any part of this Agreement is postponed pursuant to any provision of Article X hereof, the date for completion of construction as said date shall initially be set forth in the Construction Contract shall, for purposes of this Section V.6 and without reference to or effect on the other provisions hereof or of said Contract, be deemed extended by the period of all such postponements, and the period of such extension shall not be considered as delay.

(4) Where any such delay is directly caused by CONSULTANTS in any manner, no compensation shall be paid under this Section V.6 and liquidated damages shall be paid to MINISTRY by CONSULTANTS in accordance with Section IX.3.

(5) Additional compensation under this Section V.6 shall be paid in accordance with Section V.4 hereof.

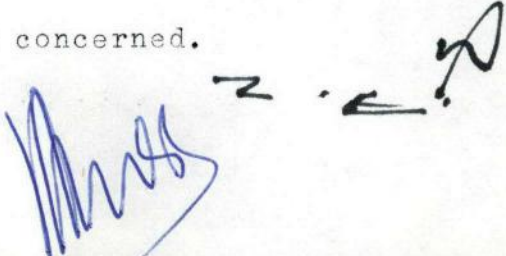
Section V.7 Responsibility for Payments

(1) All payments required to be made to CONSULTANTS under this Agreement, for whatever purpose, shall be made by or on behalf of MINISTRY:

(2) All payments to CONSULTANTS shall be made into the Bank Account of CONSULTANTS in Ethiopia.

Section V.8 Publications

The CONSULTANTS shall have the right, subject to the MINISTRY'S approval, which shall not be withheld unduly, to publish descriptive articles with or without illustrations, relevant to the references either on his own account or in conjunction with other parties concerned.





Article VI

Rights to Use of Specifications and Drawings

The rights to the use of all specifications and drawings prepared by CONSULTANTS pursuant to or in conjunction with the performance of their obligations under this Agreement shall be and remain the property of CONSULTANTS subject to the use of such specifications and drawings in connection with the Project, and no such specification or drawing shall be used for any purpose not related to the construction, modification, maintenance or repair of the Project without the express written permission of CONSULTANTS. If the Contract is terminated because of the default of the CONSULTANTS, MINISTRY shall have the right to use all specifications, drawings and other documents prepared in connection with the Project so as to facilitate the completion of the Project.

Article VII

Settlement of Disputes

All disputes, disagreements and controversies which shall hereafter arise between the parties to this Agreement during the term hereof or in the event of the postponement or termination hereof which are related to the execution, interpretation or performance hereof and are not resolved by negotiations within ninety (90) days following the receipt by one of the parties of the notification of the other party that such dispute, disagreement or controversy exists, shall at the request of either party be submitted to the Court of Law of The Imperial Ethiopian Government, competent to try the case.

In no event shall CONSULTANTS interrupt or refuse to undertake the performance of their services in connection with the completion or acceptance of the project by reason of an unsettled question relating to such services and eligible for submission to the Court of Law under this Article VII . *Handwritten initials and marks*

Article VIII

Prohibition Against Assignment

(1) CONSULTANTS shall not be entitled to assign or transfer any portion of the rights, duties, obligations or entitlements herein recited as appertaining to CONSULTANTS to any third party. Nothing contained in this Agreement shall be deemed to preclude CONSULTANTS from admitting into their enterprise new partners or associates and that any person so admitted shall thereafter be deemed included in the term "CONSULTANTS" wherever the same appears in this Agreement unless the context requires otherwise.

(2) Should the CONSULTANTS be a partnership or legal entity, the Agreement shall not be dissolved by the death or retirement of a member of the partnership or a director of the legal entity.

Article IX


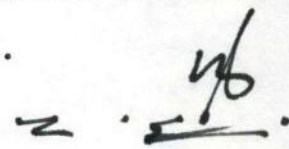
CONSULTANTS' Performance

Section IX.1 Capacity of CONSULTANTS

CONSULTANTS stipulate that they possess all qualification experience, abilities, personnel, equipment, resources and facilities effectively to perform their obligations under this Agreement; CONSULTANTS agree to provide MINISTRY with a full list of the Personnel with their qualifications used by them for the Project work. Should a need arise that CONSULTANTS should replace a person so listed, they should do so with a person equally qualified for the job as the person replaced.

Section IX.2 Manner of Performance

CONSULTANTS agree to perform their obligations under this Agreement with all due diligence and to the best of their abilities and energies according to the highest standards of professional competence and responsibility.

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Section IX.3 Liability of CONSULTANTS

(1) The CONSULTANTS are liable for the consequences of errors and omissions on their part or on the part of their employees in so far as specified in the Agreement and to the extent mentioned therein and with the limitations referred to hereunder, and the indemnification to be paid by the CONSULTANTS shall only be based on the seriousness in character thereof and shall be determined in relation to the CONSULTANTS' fee for each school in the Project and shall never be in excess of that fee.

(2) Acceptance or approval by MINISTRY of plans, drawings, statical and other calculations, schedules, reports and other documents prepared by CONSULTANTS shall in no way affect or diminish the responsibility and liability of CONSULTANTS as recited in this Section IX.3.

(3) The liability of the CONSULTANTS do not cover costs other than those for the reinstatement of the Project. All liability for consequential damages is excluded.


(4) The liability of the CONSULTANTS expires after two years from the date of completion of the relevant part of the Project.

(5) The CONSULTANTS have no liability whatsoever for any part of the Project not designed by them or under their responsibility or which have not been constructed under their supervision.

(6) The CONSULTANTS have no liability whatsoever for any part of the Project for which the liability rests with the Contractor or the Supplier.

(7) The CONSULTANTS have no liability whatsoever for any damage resulting form any act of Contractors or Suppliers which is not in accordance with the contract documents or the CONSULTANTS' instructions.

(8) The CONSULTANTS have no liability whatsoever for any violation of legal provisions or rights of third parties unless these provisions or rights have been specifically brought to the notice of the CONSULTANTS' by MINISTRY in writing.

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Article X

Postponement or Termination of Agreement

Section X.1 Termination for CONSULTANTS' Failure to Perform

(1) MINISTRY shall have the right to terminate this Agreement on four weeks' notice to CONSULTANTS where the performance by CONSULTANTS of their obligations hereunder is substantially unsatisfactory or where CONSULTANTS substantially fail to fulfil such obligations.

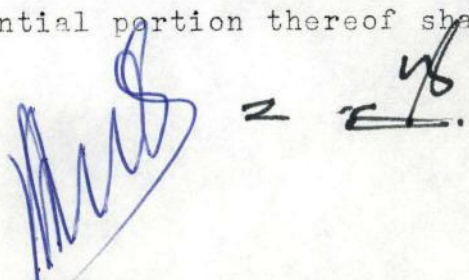
(2) Upon termination of this Agreement pursuant to paragraph (1) of this Section X.1 CONSULTANTS shall be entitled to compensation computed in accordance with Section V.2 hereof for services performed by them prior to such termination; provided, however, that in the event of any such termination, MINISTRY shall be entitled to withhold from any sums then due to CONSULTANTS an amount equal to the value of damages sustained by MINISTRY or for which MINISTRY may be liable as a result of CONSULTANTS' failure to satisfactorily perform their obligations.

Section X.2 Termination due to Cancellation of Project during Planning and Preparation

Where MINISTRY for any reason determines that the Project or any portion thereof shall be cancelled, MINISTRY shall notify CONSULTANTS of such determination and upon receipt by CONSULTANTS as such notification and in accordance with the particular directives therein contained, this Agreement shall be wholly or in part terminated as appropriate.

Section X.3 Postponement or Termination during Supervision

(1) Where MINISTRY for any reason determines that CONSULTANTS should suspend performance of all or any substantial portion of their obligations hereunder until further notice or that the Project or any substantial portion thereof shall be

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postponed, cancelled or abandoned, MINISTRY shall notify CONSULTANTS of such determination, and, upon receipt by CONSULTANTS of such notification and in accordance with the directives therein contained, CONSULTANTS shall immediately suspend performance of their obligations hereunder, and this Agreement shall be wholly or in part postponed or terminated as appropriate.

(2) For purposes of paragraph (1) of this Section X.3, a portion of CONSULTANTS' obligations hereunder shall be deemed "substantial" where the estimated Net Construction Cost attributable to such portion exceeds seventy five per cent (75%) of the Estimated Construction Cost for the entire Project.

(3) Where this Agreement is wholly or in part postponed pursuant to paragraph (1) of this Section X.3, it may immediately be resumed on receipt by CONSULTANTS of notice from MINISTRY; provided, however, that where such postponement continues for more than thirty (30) days following the effective date thereof, this Agreement shall not resume until ten (10) days following the receipt by CONSULTANTS of such notice, unless CONSULTANTS shall be earlier prepared to resume performance of their obligations hereunder and communicate to MINISTRY their intention to do so.

(4) Where this Agreement or a portion hereof remain postponed for more than ninety (90) days pursuant to paragraph (1) of this Section X.3 and no notice of its resumption has been received by CONSULTANTS during such period, the CONSULTANTS shall have the right to stop work.

#### Section X.4 Failure of Compensation

Where any sum remains due and payable to CONSULTANTS for more than sixty (60) days following presentation to MINISTRY of the appropriate statement and the payment of such sum is not

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the subject of a dispute which is nor may be subject to proceedings under Article VII hereof, then CONSULTANTS shall have the right to postpone this Agreement until payment of such sum by submitting to MINISTRY notice to such effect.

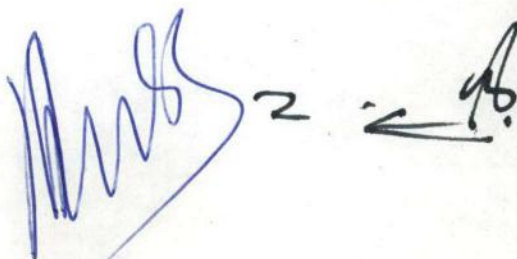
Section X.5 Force Majeure

(1) Where circumstances defined by law as force majeure, excluding labour disputes of any kind, prevent the performance by CONSULTANTS of all or any part of their obligations hereunder, this Agreement shall be postponed wholly or in part, as appropriate, on receipt by MINISTRY of such notice from CONSULTANTS indicating which of their obligations hereunder are prevented by force majeure.

(2) Where this Agreement is wholly or in part postponed pursuant to this Section X.5, the whole or any relevant part hereof shall subsequently be resumed on ten (10) days notice to CONSULTANTS by MINISTRY, after the cause to apply the provision of force majeure has been removed.

Section X.6 Payments on Premature Termination

(1) Where the whole or any part of this Agreement is terminated pursuant to any of Sections X.2 through X.5 hereof, all sums due to CONSULTANTS for their services with respect to the portion of this Agreement so terminated shall be computed in accordance with Section V.2 hereof on the basis of the Estimated Construction Cost as of the date of such termination with such adjustments in the sums specified in said Section V.2 as will provide to CONSULTANTS a fair compensation for the services actually performed by them with respect to such portion so terminated in relation to the total of services which they would have been required to perform with respect thereto had this Agreement not been so terminated.

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(2) In the event of any termination of this Agreement to which paragraph (1) of this Section X.6 applies receipt by the CONSULTANTS of the sums specified in said paragraphs shall constitute full and complete discharge of all obligations to CONSULTANTS under the portion of this Agreement so terminated including all sums due in the event of unilateral termination of a contract under the Civil Code of 1960.

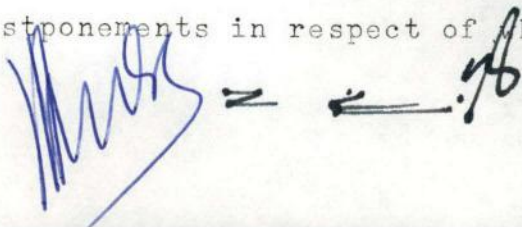
(3) All sums due to CONSULTANTS in respect of the portion of this Agreement so terminated including all sums retained pursuant to paragraph (2) of Section V.4 hereof prior to such termination and all sums due to CONSULTANTS under paragraph (1) of this Section X.6 shall be paid over to CONSULTANTS within ninety (90) days following the effective date of such termination.

Section X.7 Compensation and Reimbursement for Postponement during Supervision

(1) Where this Agreement is postponed either pursuant to any of Sections X.2 through X.5 hereof or for any other reason not due to or arising from any fault, defect or delict of or attributable to CONSULTANTS, they shall be entitled to receive for such period of postponement an amount as agreed upon.

(2) No compensation or reimbursement shall be paid under this Section X.7 for any period over and above ninety (90) days of any postponement hereof.

(3) Compensation and reimbursement under Section X.7 (1) hereof shall be added to the Basic Fee and paid in accordance with Section V.4 hereof; provided, however, that where construction of the Project is completed prior to the date initially set forth for such completion in the Construction Contract, any amount so added shall thereupon be deducted from the Basic Fee, and where the period of all postponements in respect of which

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such amounts were paid or payable exceeds the period by which construction of the Project is prolonged beyond the set date, a proportion of the amounts so paid or payable equal to the proportion of such periods in respect of which such amounts were paid or payable shall be so deducted.

Article XI

Terms of Agreement

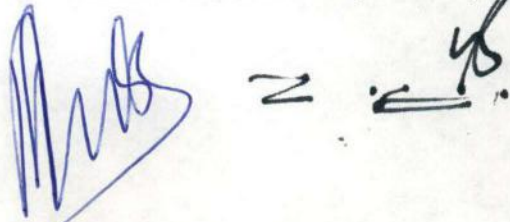
This Agreement shall enter into force on the date first above written and, unless earlier terminated pursuant to Article X hereof, shall terminate upon final acceptance of the Project; provided, however, that no such termination hereof, for any reason, shall limit or affect the provisions of Article VII hereof relating to disputes or of Section IX.3 hereof relating to CONSULTANTS' liability for damages or any other rights, liabilities or obligations of either party accrued as of such termination or the right to enforce same in accordance with the terms hereof.

Article XII

Communications and Notice

Section XII.1 Official Communications to be in Writing

Every report, notice, order, request correspondence, approval or other communication required or permitted under this Agreement to be made by either party hereto to the other party shall be made in writing and in any other manner whereby such other party shall actually receive same at its address as specified in Section XII.2 hereof, and no verbal report, notice, order, request, correspondence, approval or other communication so made shall be valid unless expressly permitted hereunder.





Section XII.2 Addresses of the Parties

The addresses of the parties are as follows:

(a) MINISTRY'S address: MINISTRY OF EDUCATION AND FINE ARTS  
IMPERIAL ETHIOPIAN GOVERNMENT  
P.O. BOX 1367  
ADDIS ABABA, ETHIOPIA

(b) CONSULTANT'S address: MESSRS, Z. ENAV, M. TEDROS & ASSOCIATES  
ARCHITECTS AND TOWN PLANNERS  
P. O. BOX 219  
ADDIS ABABA, ETHIOPIA

Section XIII.3 Proof of Receipt

For purposes of this Agreement, the receipt by either party of any such report, notice, order, correspondence, approval or other communication shall be indicated by signature of an agent of such party on a copy thereof retained by the other party, or on an informal or registered mail receipt, and no further proof of such receipt shall be required for purposes hereof.

Article XIII

Applicable Law

Section XII.1 Agreement Subject to Ethiopian Law

The validity, interpretation and application of this Agreement and each and every part or portion hereof shall be governed by the laws of the Empire of Ethiopia.

Section XIII.2 Agreement not an "Administrative Contract"

MINISTRY and CONSULTANTS hereby expressly declare and agree that this Agreement does not constitute an "Administrative Contract" as that term is used in the Civil Code of 1960, and the parties hereby waive and declare of no force or effect, insofar as concerns this Agreement, any provisions governing "administrative contracts"

**CANCELLED**

EXECUTED in eight (8) copies in the English language,  
of which MINISTRY retains six (6) copies and CONSULTANTS two  
(2) copies, as of the date first above written, by the  
following respective representatives of the parties heretofore  
hereunto duly authorised:

For MINISTRY:

For CONSULTANTS:

Signed by: BEKELE GEYID

Signed by: Michael Tedros

ASSISTANT MINISTER & PROJECT MANAGER

MANAGER

MINISTRY OF EDUCATION & FINE ARTS

Z. ENAY, M. TEDROS  
AND ASSOCIATES

Architects & Town Planners.

Witness: [Signature]

Witness: [Signature]

