



**State of Kuwait
Ministry of Public Works**

Consultancy Agreement

NO.:

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FOR :

..... :

(VOLUME II)

()

**(Particular Conditions And Form of Agreement)
DOCUMENT (II)**

(II)

AUDITIUG AND REVIEW SECTOR

CONTRACTS AND DOCUMENT

(Edition 2006)



:

**DEPARTMENT
(2006)**

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Statement (1)

(1)

**Agreement No..... For the Study, Design and
Construction Supervision**

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Agreement Documents

**The following documents form an integrated part of this
Agreement :**

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Document I : General Conditions for the standard Consultancy
agreement year 2006.

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I

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II

Document II : Particular conditions and Form of Agreement :

1-II

II-1Particular Conditions

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2-II

II-2Form of Agreement and Declarations (if any)

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III

Document III: Technical And Financial Conditions :

(T.O.R)

1-III

III-1 Technical Requirements and Terms of Reference

)

2-III

III-2 Approved Final Technical Proposal (submitted by
Consultant)

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III-3 Approved Final Financial Proposal (submitted by
consultant)

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3-III

III-4 Appendices if any.

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4-III

Statement (2)

(2)

Agreement No. For the Study, Design and Construction Supervision

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2/1 The Agreement Objective:

The objective of this agreement is for the Consultant to provide all necessary services needed for Stage One - " The Study and Preliminary Design" , Stage Two "The Final Design, Preparation of Tender and Contract Documents (Optional), and the Stage Three-"The Construction Supervision (Optional) for _____.

The **Technical Requirements and Terms of Reference** are considered the basis for the invitation issued by Ministry of Planning (Consultants and Master Plan Department) dated / / 200 .

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2/1/1 Stage One : Study and Preliminary Design

Phase one : _____

Phase Two : _____

Phase Three : _____

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Statement (2) Cont.

(2)

Agreement No. For the Study, Design and Construction Supervision

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2/1/2 Stage Two Final Design and Preparation of Tender and Contract Documents (Optional)

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Phase one : _____

Phase Two : _____

Phase Three : _____

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2/1/3 Stage Three : Construction Supervision (Optional)

() : 3/1/2

(3)

Agreement No. For the Study, Design and Construction Supervision

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3/1 Guide and Instructions for the performance of work stages

1/3

3/1/1 Scope of work

1/1/3

The consultant's scope of work shall be as mentioned in article (3) of Document I of the Agreement and in the Terms of Reference dated / / 200 and as set forth in the approved Consultant's Technical Proposal dated / / 200 , and as mentioned in Statements (1) and (2) in this document.

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The list of documents, numbering, defining system, and scale and sample of drawings, must be submitted to MPW, after signing the agreement and before each submittal for review and approval.

Statement (4)

(4)

Agreement No. For the Study, Design and Construction Supervision

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4. Period of Agreement and Time Schedule

4

The Consultant will carry out all the works assigned to him according to the conditions of this Agreement and as per the periods shown herewithin, also he has to obtain the Engineer's approval on the detailed work programme for each phase before starting it .

4/1 Stage One : Study and Preliminary Design

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1/4

Phase	Consultant's Duration (Day)	Ministry's Review (Day)
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()

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- First

- Second

- Third

:	-
:	-
:	-

Statement (4) Cont.

(4)

Agreement No. For the Study, Design and Construction Supervision

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4/2 Stage Two : Final Design, Preparation of Tender and Contract Documents (Optional)

: **2/4**
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Phase	Consultant Duration	Ministry's review
	(Day)	(Day)

First :

() ()

Second :

Third :

:
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:

4/3 Stage Three : Construction Supervision (Optional)

If the Supervision works were assigned to the Consultant, then he shall provide all required services starting from the date specified in the assignment Letter and according to the conditions mentioned in Document I, and the attached Table (A) " Time Schedule for executing the agreement works".

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Agreement No. For the Study, Design and
Construction Supervision

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Approved Consultants , specialists and Sub-Consultants

1 - _____ for the works

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Address :

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P.O. Box :

: .

Tel :

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Fax :

:

2 - _____ for the works

..... -2

Address :

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P.O. Box :

: .

Tel :

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Fax :

:

3 - _____ for the works

..... -3

Address :

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P.O. Box :

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Tel :

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Fax :

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Statement (6)

(6)

**Agreement No. For the Study, Design and
Construction Supervision**

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6- Financial Matters

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6/1 Fees and Method of Payment

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6/1/1 Stage One Fees : Study and Preliminary Design

According to the condition mentioned in Article (18/1) in
document I (General Conditions)

I (1/18) : **1/1/6**
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The Ministry will pay to the consultant for the
accomplishment of this stage a lump sum amount of
_____. The Method of payment will be as
follows:-

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2 -

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Statement(6) Cont.

(6)

Agreement No. For the Study, Design and Construction Supervision

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6/1/2 Stage Two Fees : Final Design, Preparation of Tender and Contract Documents (Optional)

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According to the condition mentioned in Article (18/2) in document I (General Conditions)

I (2/18)

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If this stage was assigned to the Consultant, then the Ministry will pay him a lump sum amount of for the accomplishment of the works. The method of payment will be as follows:-

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- 1 -
- 2 -
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6/1/3 Stage Three Fees : Construction Supervision (Optional)

-3

The Consultant, when assigned to the supervision work, shall employ a supervision staff as detailed in Table -‘ B’ and according to clause 18/3 in Document – I .

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Statement (6) Cont.

(6)

**Agreement No. For the Study, Design and
Construction Supervision**

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The consultant will submit monthly payment certificates for his remunerations or any fees due to him according to this agreement and that fees will be paid within 30 days starting from approving the due payment certificate by the Ministry.

6/1/4 Value Engineering (optional)

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If the Ministry assigned the Consultant to perform the value Engineering , then he shall execute all the required works according to the technical and financial conditions and as per the conditions of the agreement. The consultant's fees for this work shall be a lump sum amount of

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Statement (6) Cont.

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Agreement No. For the Study, Design and Construction Supervision

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6/1/5 Interior Furnishing Design Works (optional)

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If the Ministry assigns the interior furnishing design works to the Consultant, then he shall execute all the works according to Statement No. (3) of this document . The Consultant's fees for this stage shall be a lump sum amount of

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6/1/6 Training Programe (Optional)

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If the Ministry requests the Consultant to provide training program for the Ministry's employees then the consultant shall carry out the works according to the mentioned program in Statement (8) of this document and as per Document III, (Technical and Financial Conditions) .

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Fees for these works will be per month per trainee () only .

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Statement (6) Cont.

(.....)

Agreement No. For the Study, Design and Construction Supervision

(6)

6/1/7 Other optional services

6/2 Performance Bond

7/1/6

6/2/1 Stage One : Study and Preliminary Design

2/6

The performance bond will be max 10 % from the first stage total value for ministey of public works as per article 19 in Document I (General Conditions) with an amount of _____ KD only. As a certified cheque or bank Guarantee The Bond will remain valid originally or after extension, for twelve months from the date of the final approval for stage 1 works.

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No interests will be paid for the amount of this bond and creditor of the second party shall have no right to withhold its amount.

6/2/2 Stage Two Fees : Final Design, Preparation of Tender and Contract Documents (Optional)

2/2/6

The performance bond will be max 10 % from the total value of the second stage for ministey of public works as per article (19) of Document I (General Condition) in an amount of () KD only. As a certified cheque or bank Guarantee The performance bond shall be valid originally or after extension up to the date/dates of contract(s) execution. It will be released after issuing the substantial completion certificate by the Ministry to the contractor(s) or after (18) months from submitting the tender documents in case of non-construction of the project .

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Agreement No. For the Study, Design and Construction Supervision

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No interests will be paid for the amount of this bond and creditor of the second party shall have no right to withhold its amount

6/2/3 Stage Three : Construction Supervision

The percentage of the performance bond will be 10 % max of the total value of stage three for ministry of public works as per Article (19) of document I (General Condition) in an amount of () KD only . As a certified cheque or bank Guarantee and the bond shall remain valid originally or after extension till the date of issuing final completion certificate from the Ministry to the Contractor(s) .

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No interests will be paid for the amount of this bond and creditor of the second party shall have no right to withhold its amount

Agreement No. _____ For the Study, Design and Construction Supervision _____

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6/3 Advance Payment and bank guarantee and method of recovery

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According to Article (20) of document I General Conditions, the advance payment shall be 10 % of the value of each stage and the recovery method will be 10 % from each payment due to the consultant. The ministry has the right to adjust this percentage in order to guarantee the full recovery of the advance payment at least one month before the completion date of each stage.

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6/4 Visits

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6/4/1 Approved visits

The visits shall be according to Article (10) of Document I and to the conditions mentioned in this agreement. The approved visits for the consultant and consultant specialists and sub-consultants will be determined as follows :-

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Statement (6) Cont.

Agreement No. _____ For the Study, Design and Construction Supervision _____

(6)

Stage One : Study and Preliminary design

Phase No.

Max. No. of visits ()

Stage Two : Final Design, Preparation of Tender and Contract Documents (Optional)

Phase No.

Max No. of visits ()

Stage Three : Construction Supervision (Optional)

Max No. of visit ()

Cost of these visits will be included in the total fees for the Study and Design and/or supervision for the project. If any of these visits is not utilized then its cost will be deducted from the final payment of the related stage .

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Statement (6) Cont.

Agreement No. _____ For the Study, Design and Construction Supervision _____

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6/4/2 Additional visits

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For each extra visit at the Ministry requests, or the Consultant request and the Ministry approves, The ministry will pay the consultant an amount of KD _____ only per day for local expenses plus airline tickets on economy class.

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6/5 Penalty for Delay

According to Article (24) of Document I the penalty for delay will be as follows:-

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6/5/1 Stage One - Study and Preliminary Design

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The penalty value is _____ for each day of delay.

This penalty shall be payable whenever delay occurs without the need for any notification or warning or any judicial proceedings and without the need to prove the occurrence of damage or loss which will in all cases be considered as ascertained.

: **1/5/6**

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Statement (6) Cont.

Agreement No. _____ For the Study, Design and

Construction Supervision _____

6/5/2 Stage Two : Final Design, Preparation of Tender and Contract Documents (Optional)

The penalty is _____ for each day of delay .
This penalty shall be payable whenever delay occurs without the need for any notification or warning or any judicial proceedings and without the need to prove the occurrence of damage or loss which will in all cases be considered as ascertained.

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6/5/3 Stage Three : Construction Supervision (Optional)

If the consultant failed to provide the supervision staff as per the Ministry's request or any of the staff members was absent from work without an accepted excuse by the ministry, then the Ministry has the right to charge the following penalties :-

- _____ KD for each day of absence for the resident engineer.
- _____ KD for each day of absence for any engineer or quantity surveyors .
- _____ KD for each day of absence for any technical inspectors .
- _____ KD for each day of absence for any of the administrative staff .

This penalty shall be payable whenever delay occurs without the need for any notification or warning or any judicial proceedings and without the need to prove the occurrence of damage or loss which will in all cases be considered as ascertained.

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Statement (6) Cont.

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Agreement No. _____ For the Study, Design and

Construction Supervision _____

6/6 Insurance limits

Insurance will be according to Article (21) of Document I and as follows:-

6/6/1 Insurance certificate on Stage Two : Final Design, Preparation of Tender and Contract Documents

If the Ministry assigns the works of this stage to the Consultant then this certificate value will be _____ and is to be submitted with the final tender documents. The Certificate shall be valid for 5 years from the date of submitting the tender documents.

The insurance certificate should be issued from one of the registered insurance company approved by local Kuwaiti bank.

And no interests will be paid for the amount of this insurance and creditor of the second party shall have no right to withhold its amount.

Statement (6) Cont.

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Agreement No. _____ For the Study, Design and Construction Supervision _____

**6/6/2 Insurance Certificate for Stage Three :
Construction Supervision**

If the Consultant was assigned the supervision works then he shall, before the date of enterprise, submit the insurance certificate for a value equal max 10 % of the total project cost. It shall remain valid till the of date issuing final completion certificate from Ministry to the Contractor(s) work, taking into consideration that the insurance policy must, in all cases, cover all the consultant responsibilities as per the agreement conditions.

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The insurance certificate should be issued from one of the registered insurance company approved by local Kuwaiti bank.

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And no interests will be paid for the amount of this bond and creditor of the second party shall have no right to withhold its amount

Statement (7)

Agreement No. _____ For the Study, Design and

Construction Supervision _____

**Amendments on general conditions according to terms of
reference of the agreement**

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Statement (8)

Agreement No. _____ For the Study, Design and Supervision Construction _____

8/1 Training Program

The training program must be in accordance with Article (29) of Document I and Document III of this agreement and the consultant will be paid an amount of () KD trainee/month.

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The training will be only for Kuwaiti Technicians according to the Cabinet decree No. 2/85 issued on 13/1/1985 regarding the training of Kuwaiti Technicians cadre.

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Statement (9)

Agreement No. _____ For the Study, Design and Construction Supervision _____

9/1 Priority of National Products

The Ministerial Decree No. (6) for the year 1987, modified by the Decree No. (23) for the year 1987, regarding the priority in Government purchases to the National Products and Products of National Origin , And the ministerial Decree No. (282) for the year 2000 concerning the amendments of some of the conditions of the ministerial decree No. (6) for the year 1987, regarding the procedures of giving the priority to the national products & the products of national origin in the governmental purchases.

Priority in the Government purchase should be given to the National Products and Products of National Origin for each of : Kingdom of Saudi Arabia, State of Bahrain, State of Qatar, State of United Arab Emirates and Oman, in the State of Kuwait according to the following definitions :

(Definitions considering the condition of the cabinet decree No. 412 issued through meeting No. 23/99 held on 13/6/1999 regarding the priority of national products and contractors without breaching Minister of Commerce and Industry issued decision No. 6 for 1987 and its modifications regarding national products or those incorporating products of national origin).

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(282)			2000
1987 (6)			
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Statement (9) Cont.

Agreement No. _____ Study, Design and

Construction Supervision _____

1987 6

9/1/1 Definitions :

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a. National Product :

Any product produced in Kuwait according to the applied laws and regulations.

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b. Products of National Origin :

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Those products where the added value, resulting from its production, in one of the member countries is not less than 40% of its final value at completion of production , and where the native of the council countries own not less than 51% according to the certificate of origin.

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Statement (9) Cont.

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Agreement No. _____ Study, Design and

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Construction Supervision _____

2-a. The National Products are given the preference in prices over the similar ones of the foreign products, by a percentage not less than 10 % and the similar products of National Origin by a percentage not more than 5 %. In case of non-availability of national Product, the products of the National Origin will be given preference of 10 % over foreign similar products.

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2-b. In case of shortage of National Products to satisfy requirements of Governmental Departments from a certain product, then such departments shall cover the rest of their requirements from the products of the National Origin, and after that from the foreign products, taking into consideration the above item (2.a) and the conditions of quality and delivery.

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% 5
% 10

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Statement (9) Cont.

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Agreement No. _____ Study, Design and

Construction Supervision _____

2-c. The prices, mentioned in item (2-a), are calculated based on the prices of delivery at buyers stores. In cases where the foreign products are exempted from custom's charger or any other. The later charges shall be added for the purpose of comparison.

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2-d. The National Products, the Products of National Origin and the Foreign Products should comply with the specifications of Authority of Specifications and Measurements of the Gulf Council Counties, approved by the buying country or specifications used in that country, if any, otherwise international specifications should be followed .

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2-e. All governmental agencies should insure that the contractor or supplier have strict himself to the ministerial decree no.6 for 1987 mentioned above. the contractor should complies, when qualifying the products, between those considered national products and those products of national origin with the conditions mentioned in the concerned decree.

-2

The governmental agencies should insure that the prices of the qualified selected products is accurate and real in anyway they find suitable.

Statement (9) Cont.

-2

To insure that the contractor and the supplier has to strict himself to the conditions of the ministerial decree # 6, He should present to the governmental agencies an evidence of the products final

1987 6

price supported by technical specifications approving that it satisfy the required technical specifications

The contractor is subjected , if proven not in compliance with the above article (2-e), to requitals dictated in ministerial decree No (6), for the year 1987. And the governmental authority should collect those penalties by deducting its value from any amount due to the contractor by this authority or any other governmental authorities without the need of any prior notice or any legal measures.

(9)

All Governmental Departments (Ministries, Governmental Organizations and companies that the Government participates at least 51% of its capital) must secure their purchase requirements from the National Products or the Products of National Origin, including all reproduced, agricultural, animal, and industrial products in its preliminary form or at any stage of production or manufacture, considering the conditions of pricing, quality and delivery.

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Statement (9) Cont.

Agreement No. _____ Study, Design and Construction Supervision _____

4- All Governmental Departments when preparing their contracts for supply or public works or maintenance or operation or any others, should include in their contracts a clear statement that the supplier or the Contractor will be bound to buy his requirements or materials or tools from the National Products or the Products of National Origin, according to the above mentioned item (2-a). Failure to comply with this clause, will be considered a failure to comply with the Contract. A penalty not less than 20% of the purchase value of the materials will be applied to the Contractor as well as applying conditions stated in the Contract and any regulations in this regard.

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Statement (9) Cont.

Agreement No. _____ Study, Design and Construction Supervision _____

5- All Governmental Departments which have agreement with Consultant to perform design work and prepare the general and particular specification of their projects, should state clearly in the contract forms and work specifications that the supply of all requirements should be from the National Products or the Products of National Origin available and which satisfy the required objective . The Consultant or the Technical Departments in the Governmental shall define the specification in away that match the available National Products or the Products of National Origin.

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Statement (9) Cont.

**Agreement No. _____ Study, Design and
Construction Supervision _____**

6- It is not allowed for any foreign Contractor constructing Governmental Project whether main or Sub-contractor, to construct any producing unit to supply the constructional requirements of the projects. He is bound to buy such requirements from the National Products or from the Products of National Origin if available. This condition should be stated in the contract forms prepared by Government Authorities. In case of failure to comply with this, the same proceedings specified in item (5) above, shall apply.

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7- The Governmental Departments shall state in the advertisements of supply or purchasing tenders or projects or maintenance works or operation and in contract forms for such purposes, to be subjectd to the standard regulations of giving the priority to the National Products and the Products of National Origin.

Statement (9) Cont.

-7

Agreement No. _____ Study, Design and Construction Supervision _____

8- Without breaching to any other ruling punishment , it is possible to cancel the contract with the supplier or the Contractor and preventing him from dealing with any other Governmental Department, for a period of two years, in case of being dishonest or have provide false in formations concerning products including fixing tags of National Products or Products of National Origin on a foreign product. The country for the certificate of origin will be notified to take necessary action against the persons who made the forgery, also the member countries will be notified to take the necessary proceedings.

The Consultant should take into consideration Ministerial Assembly Decree No.(412) issued at Meeting No. 23/99 dated 13/06/1999 for supporting the National product and the local Contractor. And decree no (282) of the Year (2000) concerning modification of some rules of ministerial decree no. (6) of the year (1987).

The Consultant should state the above Ministerial Decree in the Tendering and Contracting Documents.

Statement (9) Cont.

(412)

Agreement No. _____ Study, Design and Construction Supervision _____

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9/2 Ministerial Decree for labor Traveling and Transport of Materials

The Consultant, approved sub-consultants and specialists, in the case of air freight and employee travel, shall use Kuwait Airways and other carriers which have the right to transport passengers and goods according to the mutual agreement committed by the State of Kuwait, and according to the conditions of the Cabinet Decree No. 21 for the year 1985 amended by a decree made in the Cabinet's Meeting No. 18/87 held on 13/4/1987.

The consultant shall coordinate with Kuwait airways (Marketing & sales department) in all cases of air shipment and that is in head Quarter at Kuwait – Airways company. If the penalty equal to (5%) of the value of the shipped materials.

The Consultant should state the above Ministerial Decree in the Tendering and Contracting Documents.

Statement (9) Cont.

Agreement No. _____ Study, Design and Construction Supervision _____

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9/3 Reveal of Commission

The Consultant has to comply with Law No. (25) for the year 1996, published in "Kuwait Al-Yoom" No. 270 dated 18/8/1996 regarding the reveal of commission given in the government contracts as per circular from audit Bureau No. 1 of 1996 in this respect .

This should be also stated in Tendering and Contracting Documents which should be fulfilled by contractors.

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4/9 Tax Law

The Consultant shall follow in all matters the laws and regulations related to the works assigned to him in this Agreement, and shall be required to pay at the local and general taxes financial stamps and costs of whatever it is and as suggested in these laws and regulations. The Ministry shall have the right to hold 5 % of the total fees subjected to income taxes and due to the consultant till the issuance of a certificate from the Ministry of Finance stating his compliance with all his responsibilities in this regard.

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Statement (9) Cont.

Agreement No. _____ Study, Design and
Construction Supervision _____

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5/9 National Workers Support

The Consultant has to comply with Law No. (19) for the year 2000, regarding the support of national workers to work at un government authorities .and to comply with the decision of ministries council No. (904) for the year 2002 of the year 2005 regarding the definition of national workers percentage at non government authorities and any modifications may be carried out thereon and has to submit a certificate issued by the Ministry of Social affairs and Labour certifying the employment of the required percentage of national workers before signing the agreement.

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Form of Agreement II-2

State of Kuwait

Ministry of Public Works

Form of Agreement (II-2)

Agreement No. :

For :

This Agreement was signed in the day of _____ which is _____
Month _____ year 200__

2- II

Between

Ministry of Public Works in the state of Kuwait and represented by

Mr. _____ as _____ called

“ The Ministry “

First Party

(2-II)

And

Mr. _____

called “ The Consultant “

Second Party

..... :

Address:

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Preamble :

Whereas the Ministry desires to sign with the Consultant to study,
design and Construction Supervision of _____ later known as “ The
Project “ and whereas the Ministry intends to enter into an

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	II-1 Particular Condition.		
	II-2 Form of Agreement and Declarations (if any).		-2
Document (III)	Technical and Financial Conditions :-		
	III-1 Technical Requirements and Terms of Reference.	:	-3
	III-2 Final Technical Proposal submitted by the Consultant.		
	III-3 Final Financial Proposal submitted by the Consultant.		I
	III-4 Appendices (if any).		
4 -	The Consultant confirms according to this agreement to perform all required works and duties according to the conditions stated in the documents of this agreement.	:	II
			1-II
5 -	The Ministry will pay the consultant all sums due to perform all the works as per the conditions of this agreement.	. ()	2-II
6 -	Execution of this agreement will be according to the stages, periods, and time sequence of the executing schedule for works and according to the sums shown herein after.	:	III
			1-III
		. (T.O.R)	
	Stage One : Study and Preliminary Works		2-III
	For a period of _____ and a lump sum amount of _____ KD. (_____ Kuwaiti Dinars)	. ()	
			3-III
		()	
	Stage Two : Final design and Preparation of Tender and	()	4-III

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