Any reply or subsequent reference to this communication should be addressed to the **Contractor-General** and the following reference quoted:-

No. :

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OFFICE OF THE CONTRACTOR-GENERAL
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KINGSTON 5
JAMAICA, W.I.

VERY URGENT

December 16, 2008

The Editors
The Jamaica Observer
40-42 ½ Beachwood Avenue
Kingston 5
Jamaica

Dear Sirs:

False Statements Attributed to the OCG that were Published in The Daily Observer, Tuesday, December 16, 2008 – Demand Immediate Apology and Retraction

Reference is made to an article, entitled "Concerns raised about contractor general's JUTC probe", which was published in *The Daily Observer*, today, Tuesday, December 16, 2008.

We write to you in the captioned regard, and to express our dismay and utter astonishment at the contents of the above-referenced article.

Your article contains words which have been deliberately inserted into statements that have been attributed to the Office of the Contractor-General (OCG). These subtly manufactured statements were then further used to lay the foundation upon which the credibility and impartiality of the Contractor-General, and the Office that supports his role and functions, have been questioned and impugned.

These falsehoods that have been represented to be factual are of so egregious and injurious a nature that we are compelled to demand an immediate apology and retraction in your news media, inclusive of your newspaper's internet publication. The apology should be published in a manner that is, at least, as prominent as that which has been given to the referenced article.

Specifically, the article attributes the following statements to the OCG:

"According to the Office of the Contractor General, on July 30, 2008 Bindley Sangster was asked to provide a copy of the minutes of all JUTC Finance and Procurement Committee meetings which were held between August 1, 2007, and the present."

"Sangster's response was: "One meeting of the (JUTC) Finance and Procurement Committee has been held since August 1, 2008."

In fact, contrary to these published statements which were attributed to the OCG, the statements that were contained in the Media Statement that was issued, on Wednesday, December 10, 2008, by the OCG, to the local media, inclusive of *The Daily Observer*, actually read as follows:

> "On July 30, 2008, Mr. Sangster was asked the following question by the OCG: "***Please provide a copy of the Minutes of all (JUTC) Procurement Committee Meetings which were held between 1 August 2007 and present***". The verbatim response that was provided by Mr. Sangster, to the OCG, was as follows: "***One meeting of the (JUTC) Procurement Committee has been held since 1 August 2008. Copy of the minutes attached***".

Please note that the verbatim question and response both read "**Procurement Committee**". The writer of the above-referenced Observer article, however, apparently felt it expedient to insert words into these statements to make them read **"Finance and Procurement Committee"**, and then to attribute them to the OCG.

This is not only patently dishonest and reprehensible but it also violates the fundamental cannons of journalistic ethics. This apparent penchant for distorted reporting may have been dismissed as an inadvertent error but for several facts: i) it is repeated more than once throughout the article; ii) the article reprises earlier published criticisms by unnamed sources that are clearly calculated to question the merits of the OCG's JUTC Investigation Report and deflate its impact whilst hiding behind the contemptible guise of anonymity; and iii) these mangled and ultimately false attributions were used to lay the predicate to pointedly raise suggestive questions about the Contractor-General's thoroughness, credibility and impartiality of not only the last report issued by the OCG but of others.

The ultimate result is an Observer article which is rife with inaccuracies and innuendo and its fundamental smear is that it suggests that the Contractor-General and his office are not thorough or, for that matter, is neither credible nor impartial.

The OCG wishes to place the following upon record:

(1) Rule 1.5.2.3 of the Government Procurement Procedures Handbook (GPPH) requires each procuring (public) entity to establish "***a Procurement Committee***";

(2) The JUTC, as far as up to Wednesday, February 27, 2008, when a Board of Directors' Meeting was held, in its official Minutes, described the JUTC's "***Procurement Committee***" and the "***Finance Committee***" as discrete committees;

(3) The apparent conflation of these Committees and the point at which this was effected has obviously become a question of acute importance as the OCG seeks to determine whether it should make formal referrals to the Director of Public Prosecutions (DPP), for criminal proceedings to be instituted against one or more of the company's directors and officers for perjury;

(4) All Members of the JUTC Procurement Committee and all Members of the Board of Directors of the company were asked the same question that was posed to Mr. Bindley Sangster, *viz.*, "***Please provide a copy of the Minutes of all (JUTC) Procurement Committee Meetings which were held between 1 August 2007 and present***";

It is instructive that you note that all of these individuals, with the exception of the Chairman of the JUTC's Procurement Committee, Mr. Bindley Sangster, deflected the question and/or referred the OCG, in their responses, to the JUTC.

Mr. Bindley Sangster, who more than anyone else should have been in a position to provide the requisitioned information, he having held the position of Chairman of the Procurement Committee, declared, in a sworn statutory statement, before a Justice of the Peace, that only "***One meeting of the (JUTC) Procurement Committee has been held***" for the relevant period.

Mr. Sangster's written testimony to the OCG, was declared to be "***true***" and was made under the pain of criminal prosecution under the Voluntary Declarations Act, Section 8 of the Perjury Act and Section 29 of the Contractor General Act.

(5) Further, all members of the JUTC Board and Procurement Committee were asked the following question, under the pain of criminal prosecution:

> "*Are you aware of any additional information which you believe could prove useful to this Investigation or is there any further statement in regard to the Investigation which you are desirous of placing on record? If yes, please provide full particulars of same*".

Curiously, all members of the JUTC Board and Procurement Committee, with the exception of two (2) members, answered a verbatim "***No***" to the above-referenced question.

The verbatim answer that was provided by one of the remaining two (2) members was: "***Not aware of anything right now***", while the verbatim answer that was given by the other member was: "***I am not aware of any additional information that could prove useful to this investigation***".

(6) It is interesting to note that notwithstanding the sudden proliferation in your publications of statements by an unnamed "***government source***" on the newly discovered nine (9) meetings that were held by the JUTC's "***Finance and Procurement Committee***", the Observer, to date, has apparently not asked Mr. Sangster to clarify or substantiate the sworn statement that he gave to the OCG.

Instead, the Observer has curiously sought to discredit the integrity of the OCG for reporting the content of the sworn statements of Mr. Bindley Sangster.

Finally, the OCG wishes to record that despite these amorphous and reckless attacks on its thoroughness, credibility and impartiality by unnamed "***government***" and other sources, it will continue to fearlessly discharge its statutory mandates and functions, forthrightly and impartially, within the bounds of the law.

Ultimately, the inaccuracies and false innuendoes that have been disseminated in the referenced Observer article elide the substance of the OCG's last issued Investigation Report.

The OCG's Report has found that there were, in fact, wide-scale breaches of the Government Procurement Procedures and several Acts of Parliament, inclusive of the Corruption Prevention Act, the Public Bodies Management and Accountability Act and the Contractor General Act, in the award of Government contracts by the JUTC.

Sincerely,

Dale Austin (Signed)

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Dale Austin
Communications Officer